

PATENT ASSIGNMENT

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
Warren D. Gregory Jr.	04/05/2007
RECEIVING PARTY DATA	
Name:	Sidney Acquisition, LLC
Street Address:	803 Indiana Street
City:	Sidney
State/Country:	IOWA
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PROPERTY NUMBERS Total: 2	
Property Type	Number
Application Number:	11410760
Patent Number:	6601891
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NAME OF SUBMITTER:	Kristine L. Kappel
Total Attachments: 11 source=patentassignment1#page1.tif source=patentassignment1#page2.tif source=patentassignment1#page3.tif	

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PATENT ASSIGNMENT

This PATENT ASSIGNMENT dated as of April 5, 2007 ("**Patent Assignment**"), is between Warren D. Gregory Jr., an Iowa resident ("**Assignor**"), and Sidney Acquisition, LLC, an Iowa limited liability company ("**Assignee**"). All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement (as defined in *Recital A* below).

RECITALS

A. Concurrent herewith Assignor and Assignee are entering into that certain Asset Purchase Agreement dated April 5, 2007 (the "**Asset Purchase Agreement**") relating to the purchase and sale of Purchased Assets.

B. This Assignment is being executed and delivered pursuant to the Asset Purchase Agreement whereby the Assignor is assigning all of his right, title, and interest in and to any and all registered patents and pending patent applications including, without limitation, all other proprietary, industrial and invention rights of any type or nature and all copies and tangible embodiments of the foregoing relating to the Business in the United States and all Other Nations (as both such terms are defined in Section 1 below) that constitute the Purchased Assets, including, without limitation, those set forth on *Exhibit A* attached hereto and by this reference incorporated herein as US Patent 6,601,891 (**Grapple Patent**) and US Patent Application Number 10/774,740 and US Patent Application 11/410,760 (**Shear Applications**) (collectively, "**Purchased Patent Assets**").

C. This Assignment is absolute but is subject to the terms and conditions of the Asset Purchase Agreement and the Escrow Agreement executed and delivered in connection with the Asset Purchase Agreement and shall not be recorded in the office of the United States Patent Office until the conditions set forth herein are satisfied but in all respects shall be deemed to be an assignment of all of the Assignor's rights in the Purchased Patent Assets as of the date hereof subject to the fulfillment of the conditions hereinafter set forth and provided that the Assignor shall retain title to the Purchased Patent Assets solely as security of the payment of the Patent Consideration.

CLAUSES

NOW, THEREFORE, in consideration of the premises, mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which Assignor specifically acknowledge, Assignor assign, transfer and sell the Purchased Patent Assets to Assignee and the parties further agree as follows:

1. **Governmental Authority Definitions.** For purposes of this Patent Assignment, the following terms will have the following meanings: (i) the term "**United States**" will mean the United States of America, and all geographical territories and subdivisions of the United States of America; (ii) the term "**Other Nations**" will mean each country, principality or other

independent territory and each subdivision thereof, which is not a part of the United States; (iii) the term **"Supra-National Authority"** will mean the European Union, the United Nations, the World Court, the World Intellectual Property Organization, the Commonwealth, the North Atlantic Treaty Organization, the General Agreement on Tariffs and Trade, the Berne Convention, the North American Free Trade Agreement and all other multi-national authorities or treaties which have or may have from time to time jurisdiction over any of the parties to or any performance under this Agreement; and (iv) the term **"Governmental Authority"** will mean any subdivision, agency, branch, court, administrative body, legislative body, judicial body, alternative dispute resolution authority or other governmental institution of (A) the United States, (B) any state, municipality, county, parish, subdivision or territory of the United States, (C) all Other Nations, (D) any state, territory, county, province, municipality, parish or other subdivision of any Other Nations, and (E) all Supra-National Authorities.

2. **Assignment of Purchased Patent Assets.** Through this instrument and effective as of the Closing, Assignee purchases and Assignor transfers, assigns and conveys to Assignee, all of the Purchased Patent Assets. All of the Purchased Patent Assets shall be conveyed to Assignee on the Closing free and clear of all liens, titles, claims, encumbrances, charges, security interests or other interests of any nature or type or other restrictions whatsoever. The Purchased Patent Assets are wholly owned by Assignor and no other person, firm or entity has any interest therein of any nature whatsoever. Assignor is the sole inventor of the Purchased Patent Assets and has full right, power and authority to execute and deliver this Assignment and upon such assignment, Assignee shall have good and marketable title to the Purchased Patent Assets free and clear of any lien, security interest, claims or equities whatsoever; provided however, that notwithstanding the foregoing, Assignor shall retain title to the Purchased Patent Assets solely for the purpose of security for payment of the Patent Consideration as herein defined.

3. **Grant of Rights to Purchased Patent Assets.** Subject to the Assignor's retention of title for security purposes only, effective as of the Closing Date, Assignor hereby sells, grants, conveys, transfers, alienates and assigns to Assignee, for and throughout the United States and all Other Nations, Assignor's entire right, title and interest (legal, equitable, use and otherwise) in and to the Purchased Patent Assets and improvements thereof made during the life of this Agreement relating to the inventions, including but not limited to (i) the right to make, use, sell, and license the Purchased Patent Assets and improvements and file patent applications thereon throughout the world, and in and to any and all Letters Patent which may issue on the Purchased Patent Assets and improvements through the world; (ii) the right to record the assignments made under this Patent Assignment in the United States Patent and Trademark Office and in any other public offices of any Governmental Authority throughout the world; (iii) the right to sue for, collect and retain damages predicated on past, present or future infringements of the preceding, as well as all other claims and rights to damages associated with the preceding, whether predicated on past, present or future actions or omissions, and whether or not currently known or unknown; and (iv) rights to distribute, copy, reproduce, display, rent, lend, lease, license and preclude others from using the Purchased Patent Assets in all media (now or subsequently existing) and languages (human or computer).

4. **No Retained Rights.** Except for the retention of title for security purposes pursuant to Section 9 hereof, the parties specifically agree that Assignor is not retaining any

ownership, patent or other intellectual property right or any right, title or interest whatsoever in the Purchased Patent Assets, and upon execution and delivery, this Patent Assignment shall constitute a complete, absolute and exclusive transfer of all rights in their entirety (legal, equitable, use and otherwise) in the Purchased Patent Assets, whether currently existing or arising or recognized in the future to Assignee. Assignor further acknowledges and agrees that the Purchased Patent Assets constitute the sole and exclusive property of Assignee. It is mutually understood and agreed that each modification and improvement relating to Purchased Patent Assets now or hereafter conceived, made or developed by Assignor, or which shall become the property of Assignor in any manner whatsoever, shall be deemed to be included in the terms of this Agreement to the same extent as though originally included herein.

5. Patent Consideration. In addition to the Initial Payment made to Assignor pursuant to the Asset Purchase Agreement, Assignee agrees to make payments to Assignor as follows:

(a) Assignee shall pay to Assignor an amount equal to 50% of EBITDA (as herein defined) of Assignee for each year during the Term (as defined herein) not to exceed the aggregate amount of \$1,500,000. The amount of each payment for and in respect of any year during the Term shall not be less than \$250,000 nor more than \$500,000. The amount of each payment in respect of any year during the Term shall be made within ninety (90) days after the last day of each year of the Term. For purposes hereof, the Term shall be the period from the Closing through the date upon which the Assignor shall have been entitled to receive the aggregate amount of \$1,500,000 and each year of the Term shall be the period from the Closing through the anniversary thereof and thereafter on ending on the same day of the year.

(b) A Patent Issuance Payment in the amount of \$200,000 upon the final issuance by the United States Patent and Trademark Office of the Shear Applications, such Payment to be made within ninety (90) days after the date of issuance of such Patent.

(c) A Royalty Payment in the amount of 2% of the Gross Sales during any year of the five year period commencing on the Closing to the extent that such Gross Sales in any such year exceed \$1,953,000.00 (the "Royalty Period"), such payment to be made within ninety (90) days after the end of each year during the Royalty Period.

(d) Assignee agrees to make the payments required under Section 5(b) and 5(c) hereof quarter-annually within 15 days after the end of each quarterly period during the Royalty Period. Assignee agrees to keep proper records with respect to the sales of the Products, and permit Assignor, through an accountant or other representative selected by Assignor, to inspect and copy such records with thirty (30) days prior written notice.

(e) For purposes hereof, the term "EBITDA" shall mean the earnings before interest, taxes, depreciation and amortization of the Assignee determined in accordance with generally accepted accounting principles applied on a consistent basis by the Assignee's regularly employed certified public accounting firm, and the term "Gross Sales" shall mean gross sales of the Products less returns and allowances and discounts determined in accordance with generally accepted accounting principles consistently applied on the full absorption basis. Product Sales

shall be determined on the accrual basis of accounting and shall include a reasonable reserve for uncollectible accounts as determined in accordance with generally accepted accounting principles consistently applied. For purposes hereof, Products shall mean products manufactured and sold utilizing the Grapple Patent or the Shear Applications

6. **Further Instruments.** Assignor shall execute, acknowledge and deliver to Assignee, such further instruments and documents which relate to the Purchased Patent Assets as set forth in this Patent Assignment as Assignee may reasonably request from time to time to facilitate registration of any such filings or to record the transfers made in this Patent Assignment in any public office or Governmental Authority, or otherwise to give notice or evidence of Assignee's exclusive rights to the Purchased Patent Assets and all claims or rights thereunder. In the event that Assignor fails or refuses to execute such instruments and documents, Assignee may execute such documents and instruments in the name of Assignor and in furtherance thereof, Assignor hereby grants to Assignee a power of attorney which power of attorney shall be deemed to be coupled with an instrument to execute such instruments and documents as may be necessary, appropriate or advisable and to file or record the same as may be necessary appropriate or advisable to fully vest in Assignment all right title and interests in and to the Purchased Patent Assets upon the payment in full of the Patent Consideration. In addition to the foregoing, Assignee shall have the right in the name of Assignor and at Assignee's sole cost and expense, to prosecute any actions for infringement of the Purchased Patent Assets and to defend in the name of Assignor and at Assignee's sole cost and expense, any action or proceeding for infringement.

7. **Assignor Obligations.** Assignor shall pay all cost and expenses, including attorneys fees in connection with the Shear Applications and shall prosecute the issuance of such Applications in accordance with applicable law, including without limitation the appeal of any denial thereof and as may be requested from time to time by Assignee. Assignor shall defend the Grapple Patent and the Shear Applications and patents issued pursuant thereto against any suit or other proceeding and shall at times save, defend, indemnify and hold harmless Assignee from and against any such claim, judgment, damages and fines and penalties, including without limitation attorneys fees, costs and expenses. In the even any claim for infringement is made at any time relating to the Shear Application or any Patent issued pursuant thereto or the Grapple Patent, Assignor shall jointly and severally save, defend, indemnity and hold harmless Assignee from and against any and all such claims, judgments, damages and fines and penalties, including without limitation, attorneys fees, and costs and expenses.

8. **Authorization.** In addition to the representations and warranties of the Assignor set forth in the Asset Purchase Agreement, Assignor represents and warrants that he has full power and authority: (i) to enter into this Patent Assignment; (ii) to grant to Assignee all rights in and to the Purchased Patent Assets; and (iii) to perform all of its obligations under this Patent Assignment. Assignor further represent and warrant that he has taken all corporate actions necessary to authorize the preceding.

9. **Retention of Title.** Solely for the purpose of securing payment of the Patent Consideration to Assignor, title to the Purchased Patent Assets shall be retained by Assignor; provided, however, that Assignor shall have no other rights or interest in or to the Purchased

Patent Assets and Assignor shall execute and deliver such documents and instruments as Assignee may reasonably request to evidence the foregoing.

10. **Notices.** All notices concerning this Patent Assignment shall be given in writing in accordance with the Asset Purchase Agreement.

11. **Binding Effect.** This Patent Assignment shall be binding upon and inure to the benefit of Assignee and Assignor as well as their respective successors. The terms of this Patent Assignment shall govern if there is any conflict between this Patent Assignment and any other written instrument which concerns or affects the subject matter of this Patent Assignment. In the event of the assignment, voluntary or by operation of law, of Assignor's interest to more than one party, Assignor shall designate a trustee to receive any sums due to such additional parties. Notwithstanding anything to the contrary contained herein, Assignee shall have the absolute right without Assignor's consent to assign his rights hereunder and to the Purchased Patent Assets to any person, firm or entity that continues the Business as defined in the Asset Purchase Agreement.

12. **Complete Understanding.** This Patent Assignment constitutes the complete understanding among the parties. No alteration or modification of any of this Patent Assignment's provisions shall be valid unless made in a written instrument which both parties sign. This Patent Assignment supersedes any prior understandings, written agreements or oral arrangements among the parties which concerns the subject matter of this Patent Assignment.

13. **Applicable Law.** Except to the extent that federal law governs, the laws of the state of Iowa (without regard to its conflicts of law principles) will govern all aspects of this Patent Assignment, irrespective of the fact that one of the parties now is or may become a resident of a different state or country. The parties acknowledge the aforesaid courts will have exclusive jurisdiction over this Patent Assignment, and specifically waive any claims which they may have that involve jurisdiction or venue, including but not limited to forum non conveniens. Service of process for any claim which arises under this Patent Assignment shall be valid if made in accordance with the notice provisions set forth in Section 8 above. If service of process is made as aforesaid, the party served agrees that such service shall constitute valid service, and specifically waives any objections the party served may have under any state or federal law or rule concerning service of process. Service of process in accordance with this Section shall be in addition to and not to the exclusion of any other service of process method legally available.

14. **Severability.** If a court of competent jurisdiction holds that any one or more of this Patent Assignment's provisions are invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any of this Patent Assignment's other provisions, and this Patent Assignment shall be construed as if it had never contained such invalid, illegal or unenforceable provisions.

15. **Waiver.** A party's attempted waiver, consent or authorization of any kind, whether required pursuant to the terms of this Patent Assignment or granted pursuant to any breach or default under this Patent Assignment, shall not be effective or binding upon such party unless the same is in a written instrument which such party has signed. Any such waiver,

consent or authorization will be valid solely to the extent specifically set forth in such written instrument. No failure or delay on the part of any party to this Patent Assignment to exercise any right, remedy, power or privilege shall preclude or limit any other or further exercise of such right or the exercise of any other right, remedy, power or privilege with respect to the same or any other matter.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Patent Assignment by and through their duly authorized officers as of the Closing Date.

(Signature page follows)

ASSIGNOR:

Warren D. Gregory, Jr.
Warren D. Gregory, Jr.

ASSIGNEE:

Sidney Acquisition, LLC,
an Iowa limited liability company

By: Ron F. Gault, Sr.

Title: President/CEO

EXHIBIT A

U.S. AND FOREIGN PATENTS

Grapple Patent

US Patent 6,601,891

Shear Applications

US Patent Application Number 10/774,740

US Patent Application Number 11/410,760

AMENDMENT TO PATENT ASSIGNMENT

This Agreement is made and entered into as of this 12 day of June, 2009 (the "Execution Date"), effective April 5, 2009 (the "Effective Date") between Warren D. Gregory Jr., an Iowa resident ("Assignor"), and Sidney Manufacturing Company LLC f/k/a Sidney Acquisition, LLC, an Iowa limited liability company ("Assignee"). All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Asset Purchase Agreement (as defined in *Recital A* below).

RECITALS

A. Assignor and Assignee are parties to that certain Asset Purchase Agreement dated as of April 5, 2007, (the "Asset Purchase Agreement") relating to the purchase and sale of Purchased Assets, including the Purchased Patent Assets described therein and in the Patent Assignment executed concurrently with the execution and delivery of the Asset Purchase Agreement (the "Patent Assignment"). The Asset Purchase Agreement is being amended of even date herewith pursuant to Amendment to Asset Purchase Agreement (the "Amendment")

B. The Amendment requires the execution and delivery of this Agreement.

C. Assignor and Assignee desire to amend the Patent Assignment as set forth herein.

CLAUSES

NOW, THEREFORE, in consideration of the premises, mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which Assignor specifically acknowledge, Assignor assign, transfer and sell the Purchased Patent Assets to Assignee and the parties further agree as follows:

1. The recitals set forth above are hereby incorporate herein by this reference. All capitalized terms shall have the meanings set forth in the Asset Purchase Agreement or the Patent Assignment as applicable.

2. Section 5 of the Patent Assignment is hereby amended to read as follows:

"5. Patent Consideration. In addition to the Initial Payment made to Assignor pursuant to the Asset Purchase Agreement, Assignee agrees to pay to Assignor the amount of \$350,000 in sixty (60) equal monthly installments (the "Term") of \$5,833.33 each, without interest, (each a "Payment") during the period from the Effective Date through the end of the Term. On the Execution Date, Assignee agrees to pay to the Assignor an amount equal to the Payments that were due from the Effective Date to the Execution Date (the "Initial Payments"). The remaining payments shall be due on the fifth day of each calendar month thereafter commencing on the fifth calendar day in the first calendar month following the Execution Date (each a "Payment Due Date"). In the event any such Payment following the Initial Payments is not made within two (2) business days after the applicable Payment Date, Assignee shall pay to Assignor an additional amount of \$583.33. In the event a Payment is not made within thirty (30)

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days after the applicable Payment Date of such Payment as set forth above, interest shall accrue on such Payment at the per annum interest rate of 15% until such Payment is made.

(c) Except as hereinabove set forth, no further, additional or other payments shall be made to Assignor under this Agreement.

3. Section 9 of the Patent Assignment is hereby amended to add the following sentence at the end thereof:

"Notwithstanding anything to the contrary contained herein, upon payment of the amounts set forth in Section 5 by Assignee to Assignor, all rights and interests granted in and to the Assignor pursuant to the provisions of this Section 9 shall terminate without further action and the Patent Assignment shall be released from the Escrow established by the Escrow Agreement."

4. Except set forth hereinabove, the Patent Assignment shall remain in full force and effect as originally executed and delivered.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Patent Assignment by and through their duly authorized officers as of the date first above written.

ASSIGNOR:

Warren D. Gregory, Jr.

ASSIGNEE:

Sidney Manufacturing Company LLC, f/ka/
Sidney Acquisition, LLC,
an Iowa limited liability company

By: 

Title: Director

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days after the applicable Payment Date of such Payment as set forth above, interest shall accrue on such Payment at the per annum interest rate of 15% until such Payment is made.

(c) Except as hereinabove set forth, no further, additional or other payments shall be made to Assignor under this Agreement.

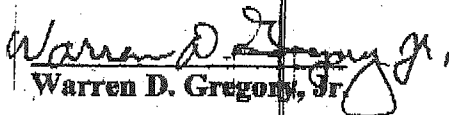
3. Section 9 of the Patent Assignment is hereby amended to add the following sentence at the end thereof:

"Notwithstanding anything to the contrary contained herein, upon payment of the amounts set forth in Section 5 by Assignee to Assignor, all rights and interests granted in and to the Assignor pursuant to the provisions of this Section 9 shall terminate without further action and the Patent Assignment shall be released from the Escrow established by the Escrow Agreement."

4. Except set forth hereinabove, the Patent Assignment shall remain in full force and effect as originally executed and delivered.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Patent Assignment by and through their duly authorized officers as of the date first above written.

ASSIGNOR:


Warren D. Gregory, Jr.

ASSIGNEE:

Sidney Manufacturing Company LLC, f/ka/
Sidney Acquisition, LLC,
an Iowa limited liability company

By: _____

Title: _____