

PATENT ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
International Business Machines Corporation	03/15/2013
RECEIVING PARTY DATA	
Name:	Ultratech, Inc.
Street Address:	3050 Zanker Road
City:	San Jose
State/Country:	CALIFORNIA
Postal Code:	95134
PROPERTY NUMBERS Total: 2	
Property Type	Number
Patent Number:	6686664
Patent Number:	7703199
CORRESPONDENCE DATA	
Fax Number:	4089785873
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	650 324 1677
Email:	ajones@petersverny.com
Correspondent Name:	Allston L. Jones
Address Line 1:	425 Sherman Avenue, Suite 230
Address Line 4:	Palo Alto, CALIFORNIA 94306
ATTORNEY DOCKET NUMBER:	3521.52
NAME OF SUBMITTER:	Allston L Jones
Total Attachments: 16 source=image2013-03-15-130936#page1.tif source=image2013-03-15-130936#page2.tif source=image2013-03-15-130936#page3.tif	

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Form of Recordable Patent Assignment and Reservation

For good and valuable consideration, the receipt of which is hereby acknowledged, and subject to the reservations stated in the Patent Assignment Agreement Reference No. L136882 between the parties with an effective time and date of 11:59pm United States Eastern Time on March 15, 2013 ("Effective Time and Date") ("Patent Assignment Agreement"), International Business Machines Corporation, a New York corporation having a place of business at Armonk, New York, (hereinafter "ASSIGNOR"), hereby grants and assigns to ULTRATECH, a Delaware corporation having a place of business at San Jose, CA, (hereinafter "ASSIGNEE"), all of IBM's right, title and interest in and to the United States Letters Patents identified in Exhibits A and D, attached hereto, (hereinafter, collectively, "ASSIGNED PATENTS"), to have and to hold the same, unto ASSIGNEE for its own use and enjoyment and for the use and enjoyment of its successors and assigns, including all damages for infringement of any of the Assigned Patents, including, but not limited to, any damages for past infringement accruing prior to the Effective Time & Date, and the sole right to sue therefore under such Assigned Patents, for the full term or terms of all such ASSIGNED PATENTS, subject to all rights granted under the ASSIGNED PATENTS to third parties prior to said Effective Time & Date.

ASSIGNOR hereby reserves and retains, for the benefit of itself and its subsidiaries and its and their successors and assigns, the rights and licenses set forth in the Patent Assignment Agreement.

IN WITNESS WHEREOF, ASSIGNOR has caused this Patent Assignment and Reservation to be duly signed on its behalf.

Signature: [Signature]

Date: 15 March 2015

Name: Mark S. Petersen
Title: Director of Finance, IP

State of NEW YORK
 WESTCHESTER
County of WESTCHESTER

Before me this 15th day of MARCH, 2015, personally appeared Mark S Petersen, to me known to be the person who is described in and who signed the foregoing Assignment and acknowledged to me that he/she signed the same of his/her own free will for the purpose therein expressed.

[Signature]

Notary Public

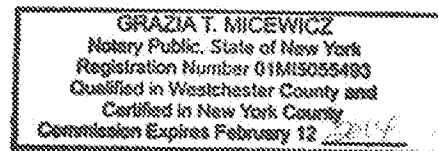


EXHIBIT A

ASSIGNED PATENTS

Country	IBM Docket Number	Patent Number	Patent Issue Date
US	END920000190US1	6686664	02/03/04
US	END920000190US3	7703199	04/27/10

END OF EXHIBIT A

EXHIBIT D

Assigned Patents

Country	IBM Docket Number	Patent Number	Patent Issue Date
US	END920000190US2 (LAPSED)	7086147	08/08/06

END OF EXHIBIT D

PATENT ASSIGNMENT AGREEMENT ("Agreement") with an Effective Time & Date as defined below, between INTERNATIONAL BUSINESS MACHINES CORPORATION, a New York corporation ("IBM"), and ULTRATECH ("BUYER"), a Delaware corporation.

WHEREAS, IBM and BUYER are parties to a Patent Assignment Agreement with an effective date on or about June 27, 2012 (IBM Agreement Reference Number L126670) (the "Existing Agreement");

WHEREAS, under the Existing Agreement, IBM sold, transferred and assigned to BUYER all right, title and interest in and to certain patents and patent applications, including US 6,297,559, US 6,297,140 and US RE 40,983 (the "Subject Patents");

WHEREAS, US 6,297,559 is subject to a terminal disclaimer over previously issued patents which are now either lapsed or assigned to a third party;

WHEREAS, US 6,297,140 and US RE 40,983 are subject to a terminal disclaimer over a previously issued patent which is now lapsed and currently owned by IBM;

WHEREAS, IBM does not admit any liability with regard to the sale, transfer and assignment of the Subject Patents to BUYER under the Existing Agreement;

WHEREAS, IBM and BUYER desire to settle any potential dispute between them regarding the sale, transfer and assignment of the Subject Patents to BUYER under the Existing Agreement;

WHEREAS, BUYER desires to release IBM from any potential liability arising from the sale, transfer and assignment of the Subject Patents to BUYER under the Existing Agreement;

WHEREAS, IBM has the right to assign its interest in the Assigned Patents as defined below; and

WHEREAS, subject to the reservation by IBM of certain rights, IBM desires to assign its ownership interest in the Assigned Patents and BUYER desires to acquire such ownership interest in the Assigned Patents;

Now therefore, in consideration of the premises and mutual covenants herein contained, IBM and BUYER agree as follows:

Section 1. Assignment

1.1 Subject to all rights granted to others prior to the Effective Time & Date, to IBM's reservation of rights set forth in Section 2, and to the terms in Section 3.1, IBM sells, transfers and assigns to BUYER on the Effective Time & Date all right, title and interest in and to the Assigned Patents and Exhibit D Patents that IBM has as of the Effective Time & Date, including the right to sue for injunctive relief and damages for infringement of any of the Assigned Patents, including, but not limited to, any damages for past infringement accruing prior to the Effective Time & Date.

1.2 Except as expressly set forth in this section, BUYER shall be solely responsible for all actions and all costs whatsoever, including but not limited to taxes, attorneys' fees and patent office fees in any jurisdiction, associated with the perfection of the BUYER's right, title, and interest in and to each Assigned Patent and recordation thereof.

On or before the Effective Time & Date, IBM shall deliver to BUYER a copy of an executed document having the form and substance of Exhibit B and its referenced Exhibit A (attached hereto and also titled Exhibit A). IBM's execution of such documents and their timely delivery to BUYER shall fully satisfy IBM's obligations under this Section 1.2 with respect to Assigned Patents that are pending or issued in the United States.

1.3 BUYER shall be solely responsible for all actions and all costs, including attorneys' fees and patent office fees in any jurisdiction, having a Due Date on or after the Effective Time & Date and associated with: (i)

maintaining the enforceability of any of the Assigned Patents and Exhibit D Patents (if any); or (ii) further prosecution of any of the Assigned Patents and Exhibit D Patents. IBM inventors of the Assigned Patents and Exhibit D Patents shall not be obligated to assist in prosecution or maintenance of the Assigned Patents or Exhibit D Patents or to execute or have executed additional oaths or declarations after the Effective Time & Date except as required to complete any Exhibit D Patents, if any, filed with missing parts.

1.4 Except with respect to the Assigned Patents and Exhibit D Patents as expressly set forth in this Agreement, no license, immunity, ownership interest, or other right is granted under this Agreement, either directly or by implication, estoppel, or otherwise.

Section 2. Reserved Rights

2.1 IBM reserves and retains for the benefit of itself and its Subsidiaries and its and their successors and assigns, an irrevocable, nonexclusive, worldwide, fully paid-up, royalty free, right and license under the Assigned Patents and Exhibit D Patents, to make, have made, use, have used, import, have imported, license, offer to sell, sell, lease, and otherwise transfer any product or service, and to practice and have practiced any method. Such reserved right and license includes the right to grant, without notice or accounting, sublicenses and releases of the same or lesser scope to: (a) any entities that are on the Effective Time & Date, or thereafter become, a Subsidiary of IBM or a Subsidiary of one of IBM's Subsidiaries, such sublicenses including the right of sublicensed Subsidiaries to sublicense their Subsidiaries and surviving in the event any such Subsidiary is Spun Out and ceases to be a Subsidiary of IBM; (b) any third parties with respect to which IBM or any of its Subsidiaries has or incurs a duty or obligation to grant or otherwise provide a license, immunity, covenant not to sue, or similar right under any Assigned Patents and Exhibit D Patents, where such duty or obligation is based upon any agreement existing prior to the Effective Time & Date or upon any promise, representation, conduct or action occurring prior to the Effective Time & Date, but only to the extent necessary to meet the pre-existing duty or obligation; and (c) any third parties to which, on or after the Effective Time & Date, IBM or any of its Subsidiaries transfers a Non-Designated Product or a Designated Product where the Designated Product has either:

a) been in existence at least 3 (three) years prior to any transfer of said product line, service line or Subsidiary to a third party; or

b) IBM has indemnified the third party against suit and IBM would be liable for any cost, expenses, judgments, settlements or other remedy incurred by the third party if sued by Ultratech.

2.2 IBM reserves and retains, for the benefit of itself and its Subsidiaries and its and their successors and assigns, an irrevocable, nonexclusive, worldwide, fully paid-up, royalty free right to grant third parties an immunity from suit under each Assigned Patent and Exhibit D Patent, where: (a) the suit is based on products or services provided by IBM or its Subsidiaries, or designees of IBM or its Subsidiaries, (b) the suit is based on product or service designs created by IBM or its Subsidiaries prior to the Effective Time & Date, (c) the suit is based on product or service designs created by IBM or its Subsidiaries pursuant to an agreement existing prior to the Effective Time & Date or (d) where such suit, if brought by IBM, would breach a promise or covenant not to sue made by IBM prior to the Effective Time & Date. Notwithstanding the foregoing, nothing in this Section 2.2 shall limit in any way Section 2.1 of this agreement.

2.3 IBM reserves and retains, for the benefit of itself and its Subsidiaries and its and their successors and assigns, all rights to past, present, and future royalties and other consideration given or to be given in exchange for rights with respect to any Assigned Patent or Exhibit D Patent arising or accruing under agreements executed by IBM or IBM's Subsidiaries prior to the Effective Time & Date. IBM further reserves and retains all such royalties and other consideration arising out of or accruing under any release, license, sublicense, immunity or other right granted by IBM or its Subsidiaries pursuant to Sections 2.1, 2.2 and 2.6.

2.4 BUYER shall not interfere with: i) any contract or contractual relationship between IBM and its

Licensees in regard to the Assigned Patents and Exhibit D Patents (but only with respect to those contracts and contractual relationships which entitle the Licensee to the status of Licensee) or the receipt of any right, or the performance of any duty or obligation, by or between IBM and its Licensees in regard to the Assigned Patents and Exhibit D Patents (where such right, duty or obligation exists as of the Effective Time & Date, or arises from any rights retained by or granted to IBM hereunder) and (ii) any benefits that IBM or any Licensee of IBM gains through such contract or contractual relationship, the receipt of any right, or the performance of any duty and obligation thereunder,

provided however, the assertion of a claim for infringement against a third party for activity which is not licensed or otherwise immune under a contract or contractual relationship pursuant to rights reserved by IBM hereunder shall be deemed for purposes of this Section 2.4 (i) and (ii) not to be interference with such contract or contractual relationship;

BUYER, for itself, its Subsidiaries, and its and their successors and assigns, agrees not to challenge the validity and enforceability of such contracts, duties or obligations on the grounds that they were not of record, or that BUYER, its Subsidiaries, or its or their successors in interest or assigns had no notice of or were otherwise unaware of such contracts, duties or obligations.

BUYER shall make all rights granted and all assignments made by BUYER with respect to the Assigned Patents and Exhibit D Patents subject to the licenses and other rights reserved by IBM under this Agreement and to the agreements, rights, duties, and obligations between IBM and its Licensees.

2.5 With respect to the licenses and other rights reserved by IBM, the obligations of BUYER under this Agreement, and the agreements, rights, duties, and obligations between IBM and its Licensees, BUYER agrees to compel its successors in interest and assigns of each Assigned Patent and Exhibit D Patent to abide by terms that are the same as the terms of this Agreement and to ensure that IBM and its Licensees are designated as third party beneficiaries with respect to said terms in all subsequent transfer of rights and assignments regarding each Assigned Patent and Exhibit D Patent.

2.6 IBM reserves the right to license or re-license any Licensees that, by operation of law or for any other reason, lose rights under the Assigned Patents and Exhibit D Patents due to a transfer of rights or assignment of any Assigned Patent and Exhibit D Patents if the rights granted pursuant to such license or re-license are no broader than the original rights that were lost.

2.7 BUYER shall execute all documents and instruments, and shall do all lawful acts, in each case as may be reasonably necessary, at IBM's request, to record or perfect the reserved rights of IBM and its Licensees under this agreement. Any acts undertaken by BUYER solely under this section 2.7 shall be at IBM's expense.

2.8 In the event Buyer, or any successor in interest or assignee of any Assigned Patent or Exhibit D Patent, files any patent application that claims, or is entitled to claim, priority from any Assigned Patent or Exhibit D Patent, then such patent application and any patent issuing thereon shall be deemed to be an "Assigned Patent" but only for purposes of interpreting the obligations of BUYER (including its successors and assignees) under this Agreement and the rights and licenses reserved by, granted to, or otherwise provided for IBM under this Agreement (including those rights and licenses reserved hereunder on behalf of its Subsidiaries, successors, and assigns). In no event shall this Section 2.8 be interpreted to expand the rights assigned to BUYER under this Agreement.

2.9 The term of rights and licenses reserved hereunder shall be from the Effective Time & Date until the date that the last Assigned Patent expires.

Section 3. Consideration and Communication

3.1 As consideration for the assignment of rights from IBM hereunder, BUYER hereby releases IBM and its Subsidiaries from any potential past, present and future liability arising from the sale, transfer and assignment of the Subject Patents to BUYER under the Existing Agreement and from any liability for any breach of the Existing Agreement of which BUYER is aware as of the Effective Time & Date.

3.2 Each party shall pay all taxes imposed by the government, including any political subdivision thereof, of any country in which said party is doing business, as the result of said party's furnishing consideration hereunder. In the event such a tax becomes payable as a result of a party's furnishing consideration in respect of a sublicense granted to any of its Subsidiaries, said party shall be responsible for determining the amount of and paying, or causing said sublicensed Subsidiary to pay, said tax.

3.3 Notices and other communications relevant to this Agreement or to any of the Assigned Patents or Exhibit D Patents shall be sent by facsimile, by registered or certified mail or by reputable courier to the following address. Notices and other communications sent by facsimile shall be effective upon sending if followed within twenty-four (24) hours by a mailed confirmation. Notices and other communications sent by mail or courier shall be effective upon deposit with the postal service or with the courier.

For IBM:
Director of Licensing
IBM Corporation
North Castle Drive, MD-NC119
Armonk, NY 10504-1785
United States of America
Facsimile: 01-914-765-4380

For BUYER:
Chief Financial Officer
Ultratech, Inc.
3050 Zanker Road
San Jose, CA 95134
United States of America
Facsimile: 01-408-577-3379

3.4 An Agreement Reference Number will be assigned to this Agreement upon execution. This number should be included in all communications and wire transfer payments.

Section 4. Miscellaneous

4.1 Nothing contained in this Agreement shall be construed as conferring any right to use in advertising, publicity, or other promotional activities any name, trade name, trademark, trade dress or other designation of either party hereto or of any of its Subsidiaries. Each party hereto agrees not to use or refer to this Agreement or any provision hereof in any promotional activity without the express written approval of the other party.

4.2 As between IBM and BUYER, and subject to restrictions appearing above, BUYER, as the acquirer of IBM's right, title, and interest in each Assigned Patent and Exhibit D Patent, has sole discretion whether or not to institute any action or suit against third parties for infringement of any Assigned Patent or Exhibit D Patent or to defend any action or suit which challenges or concerns the validity of any Assigned Patent or Exhibit D Patent.

4.3 BUYER shall indemnify and hold IBM harmless against all losses, costs and expenses (including employee time and attorneys' fees) arising from BUYER's activities relating to defense, enforcement or licensing of any Assigned Patent or Exhibit D Patents. If BUYER brings or maintains a claim under any Assigned Patent or Exhibit D Patent against any third party, knowing that such third party is a Licensee, BUYER shall indemnify such third party from all losses, costs and expenses arising therefrom.

In the event a third party against which Buyer files a claim for infringement of an Assigned Patent or Exhibit D Patent alleges it has been licensed or otherwise immunized from suit by IBM under such Assigned Patent or Exhibit D Patent for the activity upon which the claim for infringement is based, IBM agrees that, upon written request from Buyer which includes a detailed description of such activity and all documentation

relied upon by such third party to support its allegations, it will, unless prohibited by law or contract from doing so, review such description and documentation and based only on the information provided by Buyer, provide Buyer with a confidential written statement of IBM's position as to whether it agrees with such third party. Buyer agrees to reimburse IBM for all outside out of pocket expenses (including attorney fees) it incurs in connection with such review, and also agrees to pay IBM for time spent by IBM employees in connection with such review, at IBM's then current rates for consulting services. IBM shall have the right to request additional information if it reasonably believes the information provided by Buyer is insufficient to enable IBM to determine its position with respect to the third party's allegation. If Buyer does not or cannot provide such additional information, IBM shall have no obligation to provide Buyer with a statement of IBM's position. IBM shall have no obligation to accept confidential information.

4.4 IBM represents and warrants that:

- (a) it has the full right and power to assign its rights in each Assigned Patent as set forth in Section 1.1;
- (b) To the knowledge of Michele Baumgartner-Bonanno, Director of Patent Licensing and IP Programs, (but without any personal liability attributed to such individual) based solely on a good faith search of an IBM corporate patent maintenance database (Dossier) that each of the inventors assigned all of their rights in the Assigned Patents to IBM upon filing and all maintenance fees for the Assigned Patents which would be overdue as of the Effective Time & Date have been fully paid. No change in assignment has been documented in Dossier or the USPTO for any of the Assigned Patents since the filing of the patent applications that have become the Assigned Patents.
- (c) To the knowledge of Michele Baumgartner-Bonanno, Director of Patent Licensing and IP Programs, (but without any personal liability attributed to such individual) based only on a good faith search of an IBM corporate patent portfolio database Dossier there is no adjudicated order outstanding, to which IBM is a party, adversely affecting the ownership, validity, or enforceability of the Assigned Patents,
- (d) To the knowledge of Michele Baumgartner-Bonanno, Director of Patent Licensing and IP Programs, (but without any personal liability attributed to such individual) based only on a good faith search of a corporate patent tracking database (WPTS) and Dossier, as of the Effective Time & Date, neither IBM nor its Subsidiaries own or control any patents or patent applications, other than the Assigned Patents and Exhibit D Patents, filed with the United States Patent and Trademark Office that have claimed priority from an Assigned Patent;
- (e) To the knowledge of Michele Baumgartner-Bonanno, Director of Patent Licensing and IP Programs, (but without any personal liability attributed to such individual) based only on a good faith search of an IBM corporate patent portfolio database Dossier, neither IBM nor its Subsidiaries has granted any exclusive right or license in or to the Assigned Patents to any person or entity; and
- (f) To the knowledge of Michele Baumgartner-Bonanno, Director of Patent Licensing and IP Programs, (but without any personal liability attributed to such individual) based only on a good faith search of an IBM corporate patent licensing database (LFMS) on January 23, 2013 using a list of company names provided by BUYER to IBM, neither IBM nor its Subsidiaries has executed a patent license agreement with the third parties identified in Exhibit C under which IBM expressly granted a license under the Assigned Patents listed in Exhibit A;

The above representations do not apply to any license or right under the Assigned Patents granted: (i) by operation of law or equity, (ii) implicitly, (iii) through the sale or other transfer of products or services, (iv) by or through a third party, including but not limited to grants from a standards organization or a licensee of IBM, (v) appurtenant to development, services or technology license agreements, or (vi) to any company not

identified in Exhibit C. Notwithstanding the foregoing, IBM makes no representation of any kind (including any of the representations in this section 4) to the specific lapsed IBM docket or US patent listed in Exhibit D.

IBM MAKES NO OTHER REPRESENTATIONS, WARRANTIES, OR COVENANTS, EXPRESS OR IMPLIED, NOR SHALL IBM HAVE ANY LIABILITY WITH RESPECT TO INFRINGEMENT BY BUYER OF PATENTS OR OTHER RIGHTS OF THIRD PARTIES.

4.5 This Agreement shall not be binding upon the parties until it has been signed by or on behalf of each party. No amendment or modification hereof shall be valid or binding upon the parties unless made in writing and signed as aforesaid.

4.6 If any section of this Agreement is found by competent authority to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such section in every other respect and the remainder of this Agreement shall continue in effect so long as the Agreement still expresses the intent of the parties. If any of the reserved rights of IBM are found to be invalid, illegal or unenforceable in any respect for any reason, at IBM's option this Agreement shall be renegotiated.

4.7 This Agreement shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with the law of the State of New York, USA, as such law applies to contracts signed and fully performed in such State, without regard to the principles of conflicts of law thereof. As part of the consideration received hereunder, each of the parties consents to the jurisdiction of any New York State court located in the County of New York and any federal court of the United States of America located in the Southern District of New York. Each of the parties: (i) waives all rights to trial by jury; (ii) waives all objections to New York venue for any action instituted hereunder; and (iii) consents to the granting of such legal and equitable relief as is deemed appropriate by any aforementioned court.

4.8 The headings of sections are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

4.9 Each party may disclose the existence of this Agreement and the fact that the Assigned Patents and Exhibit D Patents were assigned hereunder by IBM to BUYER. Each party may use similar terms and conditions in other agreements. However, subject to the exceptions provided herein, until the date that the last Assigned Patent and Exhibit D Patent expires, each party agrees not to disclose the terms of this Agreement to any third party (other than its Subsidiaries) without the prior written consent of the other party. This obligation is subject to the following exceptions: disclosure is permissible: (a) if required by government or court order or otherwise required by law or any applicable securities exchange rules or regulations; (b) if required to enforce rights under this Agreement; (c) by either party on a confidential basis, to anyone the discloser reasonably determines has a legitimate need to know; (d) to the extent required to record the assignment of the Assigned, Exhibit D Patents and the reserved rights and licenses contained herein; (e) by IBM to any third party to which IBM has a duty or obligation to grant a license, covenant not to sue, immunity or other right under any Assigned Patent or Exhibit D Patent.

4.10 This Agreement and its Exhibits and their attachments, embody the entire understanding of the parties with respect to the Assigned Patents or Exhibit D Patents and merges all prior discussions between the parties. Neither party shall be bound by any condition, definition, warranty, understanding or representation with respect to the subject matter hereof other than as expressly provided herein.

4.11 This Agreement may be executed by the parties in one or more counterparts, each of which shall be an original and all of which shall together constitute one and the same instrument.

4.12 IN NO EVENT SHALL IBM'S CUMULATIVE LIABILITY TO BUYER FOR i) ALL BREACHES OF THIS AGREEMENT AND OF THE EXISTING AGREEMENT OTHER THAN A BREACH OF SECTION 4.4(a) OF BOTH AGREEMENTS, INCLUDING BUT NOT LIMITED TO BREACHES OF THE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 4.4 b-f OF BOTH AGREEMENTS, EXCEED 50% OF THE TOTAL CONSIDERATION PAID BY BUYER TO IBM AT THE TIME OF THE BREACH AS SET FORTH IN SECTION 3.1 OF THE EXISTING AGREEMENT. ii) FOR ALL BREACHES OF SECTION 4.4 (a) OF BOTH AGREEMENTS EXCEED 50% OF THE TOTAL CONSIDERATION PAID BY BUYER TO IBM AS SET FORTH IN SECTION 3.1 OF THE EXISTING AGREEMENT. THE CUMULATIVE LIABILITY OF IBM FOR ALL CAUSES OF ACTIONS UNDER 4.12 (i) AND (ii) OF THIS AGREEMENT AND 4.12 (i) AND (ii) OF THE EXISTING AGREEMENT SHALL NOT EXCEED 50% OF THE TOTAL CONSIDERATION PAID BY BUYER TO IBM AT THE TIME OF THE BREACH AS SET FORTH IN SECTION 3.1 OF THE EXISTING AGREEMENT. EXCEPT AS SET FORTH IN SECTION 4.3, NEITHER BUYER NOR IBM SHALL BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING HEREUNDER, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR GOODWILL, BUSINESS INTERRUPTIONS AND CLAIMS OF CUSTOMERS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

4.13 Nothing contained herein, or done pursuant to this Agreement, will constitute the parties hereto entering into a joint venture or partnership or will constitute either party hereto being the agent of the other party for any purpose or in any sense whatsoever.

4.14 The last signature of this Agreement will be made by IBM in the United States and the parties agree that the Agreement has been executed in the United States.

4.15 Neither party shall be considered the author of this Agreement for the purpose of interpreting any provision herein.

4.16 Absent a suit or threatened suit of patent infringement based on the Assigned Patents against IBM, its Subsidiaries or any third party, IBM shall not initiate an action in any patent office, court or other applicable tribunal, in any country against BUYER asserting that the Assigned Patents are invalid or unenforceable. For avoidance of doubt, IBM is not prohibited from testifying to facts pertaining to validity or enforcement in any proceeding, nor shall this obligation preclude IBM from complying with the laws of any country.

4.17 IBM's liability for breach of Section 4.4 with respect to a given Assigned Patent shall be limited to an equally prorated portion of the amount set forth in Section 3.1 of the Existing Agreement attributable to such Assigned Patent based on the total number of Assigned Patents under both this Agreement and the Existing Agreement. IBM shall have no liability under the representation and warranty set forth in Section 4.4 with respect to a particular target product or service unless BUYER would have, but for such breach, succeeded in obtaining damages or an injunction in an action for patent infringement against such product or service.

4.18 IBM shall be liable under Section 4.4 for only so long as the total benefit received by BUYER for the Assigned Patents and Exhibit D Patents of this Agreement and for the Assigned Patents and Exhibit J Patents of the Existing Agreement does not exceed the consideration paid in section 3.1 of the Existing Agreement.

Each party acknowledges that its legal counsel has reviewed and approved this Agreement including its Exhibits and attachments.

Section 5. Definitions

"Assigned Patents" shall mean (subject to Section 2.8) the Listed Patents and patents that may reissue from any of the Listed Patents on or after the Effective Time & Date.

"Due Date" shall mean the latest date on which a payment can be made or an action taken without incurring a penalty, surcharge or other additional payment.

"Effective Time & Date" shall mean 11:59PM United States Eastern Time on the day upon which this Agreement has been signed by the second party to so sign.

"Designated Product(s)" shall mean a product line, service line or Subsidiary that competes (such determination based on facts existing at the time of transfer and made by Ultratech) with an existing Ultratech product or service, or a product or service that Ultratech can demonstrate is planned for release within an 18 month period of the Spin Out.

"Exhibit D Patents" shall mean the patent listed or any patent that may reissue from the patent listed in Exhibit D. An Exhibit D Patent shall remain an Exhibit D patent only for so long as it and the claims therein are subject to all of the IBM rights granted to and/or reserved by IBM under this Agreement for Assigned Patents.

"Licensee" shall mean any third party (including Subsidiaries of IBM) to which IBM: (i) has granted or is obligated to grant licenses, immunities, covenants not to sue or any other rights under an Assigned Patent as of the Effective Time & Date; or (ii) reserves the right under this Agreement to grant licenses, immunities, covenants not to sue or any other rights under an Assigned Patent.

"Listed Patents" shall mean the patents listed in Exhibit A, hereto.

"Non-Designated Product" shall mean any product line, service line or Subsidiary which is not a Designated Product.

"Spin Out" or "Spun Out" shall mean when subsequent to the Effective Time & Date, IBM or its Subsidiaries (the "Transferring Party") either: (i) transfers a product or service line to a third party without transferring a Subsidiary to said third party; or (ii) spins off a Subsidiary (either by disposing of it to a third party or in some other manner reducing ownership or control so that the spun-off entity is no longer a Subsidiary of the Transferring Party); and if such transfer or spin off includes at least one marketable product or service in a product or service line and tangible assets having a net value of at least ten million US dollars (\$10,000,000.00), then after written notice to BUYER jointly by the Transferring Party and either: (i) such third party in the case of a transfer; or (ii) such ex-Subsidiary in the case of a spin off; and where, in either case, such notice is within sixty (60) days following the transfer or spin off, the Transferring Party may grant a royalty-free, non-exclusive license (of the same or lesser scope as the license reserved by the Transferring Party herein) under the Assigned Patents for the field of such product or service line to such third party or the products and services of such ex-Subsidiary as of the transfer or spinoff, as applicable, (such third party or ex-Subsidiary, the "Recipient") provided that:

- (a) such field shall not be defined more broadly than the scope of the license granted herein to the Transferring Party, nor more broadly than necessary to cover the particular product or service line being transferred or products and services of the Subsidiary spun off, as of the transfer or spinoff, as applicable, including extensions thereto based on the same technology (the "Licensed Products"); and
- (b) the license granted shall be limited in the twelve (12) months immediately following such transfer or spin off to a volume of Licensed Products having an aggregate selling price equal to no more than the aggregate selling prices of such Licensed Products by said Transferring Party in the twelve (12) months

preceding such transfer or spin off plus ten percent (10%); and shall be limited, in each of the successive twelve-month periods following such transfer or spin off, to a volume of Licensed Products having an aggregate selling price equal to no more than the limit for the immediately preceding twelve-month period plus ten percent (10%).

"Subsidiary" shall mean a corporation, company or other entity: (a) more than fifty percent (50%) of whose outstanding shares or securities (representing the right to vote for the election of directors or other managing authority) are now or hereafter owned or controlled, directly or indirectly, by a party hereto; or (b) which does not have outstanding shares or securities, as may be the case in a partnership, joint venture or unincorporated association, but more than fifty percent (50%) of whose ownership interest representing the right to make the decisions for such entity is now or hereafter owned or controlled, directly or indirectly by a party hereto. For avoidance of doubt, a corporation, company or other entity shall be deemed a "Subsidiary" hereunder only during the time the conditions set forth in (a) or (b) above exist.

Agreed to:

ULTRATECH

By Bruce R. Wright
Name Bruce Wright
Title Chief Financial Officer
Date March 5, 2013

Agreed to:

INTERNATIONAL BUSINESS
MACHINES CORPORATION

By Mark S. Petersen
Name Mark S. Petersen
Title Director of Finance, IP
Date 15 March 2013

EXHIBIT A

ASSIGNED PATENTS (United States)

Country	IBM Docket Number	Patent Number	Patent Issue Date
US	END920000190US1	6686664	02/03/04
US	END920000190US3	7703199	04/27/10

END OF EXHIBIT A

EXHIBIT B

Form of Recordable Patent Assignment and Reservation

For good and valuable consideration, the receipt of which is hereby acknowledged, and subject to the reservations stated in the Patent Assignment Agreement Reference No. I. _____ between the parties with an effective time and date of 11:59pm United States Eastern Time on _____, 20____ ("Effective Time and Date") ("Patent Assignment Agreement"), International Business Machines Corporation, a New York corporation having a place of business at Armonk, New York, (hereinafter "ASSIGNOR"), hereby grants and assigns to BUYER, a ABC corporation having a place of business at _____, (hereinafter "ASSIGNEE"), all of IBM's right, title and interest in and to the United States Letters Patents identified in Exhibit A, attached hereto, (hereinafter, "ASSIGNED PATENTS"), to have and to hold the same, unto ASSIGNEE for its own use and enjoyment and for the use and enjoyment of its successors and assigns, including all damages for infringement of any of the Assigned Patents, including, but not limited to, any damages for past infringement accruing prior to the Effective Time & Date, and the sole right to sue therefore under such Assigned Patents, for the full term or terms of all such ASSIGNED PATENTS, subject to all rights granted under the ASSIGNED PATENTS to third parties prior to said Effective Time & Date.

ASSIGNOR hereby reserves and retains, for the benefit of itself and its subsidiaries and its and their successors and assigns, the rights and licenses set forth in the Patent Assignment Agreement.

IN WITNESS WHEREOF, ASSIGNOR has caused this Patent Assignment and Reservation to be duly signed on its behalf.

Signature: _____

Date: _____

Mark Petersen, Director of Finance
Technology & Intellectual Property

State of _____)
) S.S.
County of _____)

Before me this _____ day of _____, 20____, personally appeared _____, to me known to be the person who is described in and who signed the foregoing Assignment and acknowledged to me that he/she signed the same of his/her own free will for the purpose therein expressed.

Notary Public

END OF EXHIBIT B

EXHIBIT C

Applied Materials
TSMC
SPIL
UTAC
Mattson
Jiangsu Changjiang Electronics Technology
STS Semiconductor
J-Devices
Bosch
Advanced Semiconductor Engineering Inc.
Altera
Analog Device
AT&T
KLA-Tencor

End of Exhibit C

EXHIBIT D

Assigned Patents

Country	IBM Docket Number	Patent Number	Patent Issue Date
US	END920000190US2 (LAPSED)	7086147	08/08/06

END OF EXHIBIT D