

Form PTO-159 (Rev. 03-11)
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U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

RECORDATION FORM COVER SHEET

PATENTS ONLY

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies):

James P. Murphy

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance/Execution Date(s):

Execution Date(s): October 31, 2005

☐ Assignment ☐ Merger ☐ Change of Name

☐ Security Agreement ☐ Joint Research Agreement

☐ Government Interest Assignment

☐ Executive Order 9424, Confirmatory License

☒ Other Confidentiality and Non-Disclosure Agreement

2. Name and address of receiving party(ies)

Name: Orthovita, Inc.

Internal Address: _____

Street Address: _____

77 Great Valley Parkway

City: Malvern

State: Pennsylvania

Country: United States of America Zip: 19355

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application or patent number(s):

A. Patent Application No.(s)

13/426,208

☐ This document is being filed together with a new application.

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address to whom correspondence concerning document should be mailed:

Name: Kelly Y. Hwang
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP

Internal Address: Atty. Dkt.: OSTEONICS 3.3-895 DIV

Street Address: 600 South Avenue West

City: Westfield

State: NJ Zip: 07090

Phone Number: 908-654-5000

Fax Number: 908-654-7866

Email Address: mcormier@ldlkm.com

6. Total number of applications and patents involved:

1

7. Total fee (37 CFR 1.21(h) & 3.41) \$ 40.00

☒ Authorized to be charged to deposit account

☐ Enclosed

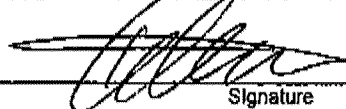
☐ None required (government interest not affecting title)

8. Payment Information

Deposit Account Number 12-1095

Authorized User Name Kelly Y. Hwang

9. Signature:



Signature

September 10, 2013

Date

Kelly Y. Hwang - 51,831

Name of Person Signing

Total number of pages including cover sheet, attachments, and documents:

10

COPY**CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

AGREEMENT made as of the 31st of October 2005 (the "Agreement"), between Orthovita Inc, a Pennsylvania corporation, with offices at 45 Great Valley Parkway, Malvern, Pennsylvania 19355 (the "Company") and James P Murphy ("Employee")

WITNESSETH

In consideration of the mutual covenants and agreements herem contained, the parties hereto agree as follows

1 Secrecy During the term of his or her employment with the Company and at all times thereafter, Employee shall keep secret and confidential and shall not divulge, disclose or communicate either directly or indirectly in any manner whatsoever to any person or entity, any information, knowledge or data (i) which relate to the Company or its past, current or prospective customers, suppliers, partners, employees, agents or other parties privy to the Company in contract, (ii) which Employee receives, develops or otherwise has access to during the course of his or her employment with the Company, and (iii) which Employee would not have learned of but for his or her employment by the Company and thus knows or should know are of a secret or confidential nature, whether or not any such information, knowledge or data are actually novel or known to others and whether or not in writing (collectively "Proprietary Information") Proprietary Information shall include, but not be limited to technology, discoveries, designs, formulae, compositions, trade secrets, machines, methods, information systems, information regarding customers and suppliers, agents and proposals made to customers or prospective customers, business or financial plans or reports, the plans, findings and conclusions of research and development and all products and technology researched, developed, licensed or marketed by the Company Employee agrees to abide by such policies or procedures as the Company may now have in place or may in future establish to preserve all Proprietary Information as secret and confidential

2 Company Documents During Employee's employment with the Company and at all times after termination thereof, regardless of the reason therefor, Employee shall hold in a confidential and fiduciary capacity for the benefit of the Company all Company documents and things, including but not limited to information regarding customers and suppliers, quotes and proposals, programs, data, drawings, reports, memoranda, disks, diaries, notes, laboratory notebooks, records, blueprints, sketches, letters, manuals and all other writings, printouts and graphic reports of the Company, and shall not disclose the same to others, unless specifically authorized to do so in writing by the Company (collectively, "Company Documents") Company Documents shall include not only documents prepared by others in the Company and made available to Employee but also documents prepared in whole or in part by Employee in the course of his or her employment by the Company Upon the termination of Employee's employment with the Company, Employee shall deliver all Company Documents to the Company, including any and all copies thereof, immediately upon termination Employees agrees to abide by such policies and procedures as the Company may now have in place or may in future establish to preserve all Company Documents as secret and confidential

3 Noncompetition

(a) Employee agrees that, during the term of his or her employment with the Company, with an option for the Company, in its sole discretion, to extend this period for up to an additional twelve (12) months after the termination of Employee's employment (the "Post Employment Restrictive Period"), neither Employee nor any firm or corporation in which he or she may be interested as a partner, trustee, director, officer, employee, agent, shareholder, lender of money or guarantor, or for which performs services in any capacity (including as a consultant or

independent contractor) shall, at any time during such period, be engaged, directly or indirectly, in any competitive business (as defined in Section 3(b)), provided, however, that nothing herein contained shall be deemed to prevent Employee from investing in or acquiring 1% or less of any class of securities of any company if such class of securities is listed on a national securities exchange or is quoted on the NASDAQ system

(b) For purposes of this Section 3, the term "competitive business" shall mean a business which, directly or indirectly, designs, manufactures, sells, licenses or markets any technologies or competing products of the Company or any of its subsidiaries or affiliates as defined below. Such products or technologies include those products and technologies which the Company or any of its subsidiaries or affiliates has developed, manufactured, sold, licensed or marketed now or, at the time of termination of Employee's employment, may be in the process of developing, manufacturing, selling, licensing or marketing and includes such other products and technologies into which it would not be unreasonable for the Company or any of its subsidiaries or affiliates to expand in view of its or their ongoing business activities. The term "subsidiary" shall mean an entity of which 50% or more of whose equity securities having ordinary voting power to elect a majority of its governing body shall be owned by the Company or by any subsidiary of the Company. The term "affiliate" shall mean an entity controlling, controlled by or under common control with the Company.

(c) Employee shall abide during his or her employment by the policies and rules from time to time reasonably established in writing by the Company, shall devote his full business time, attention and energies to the business of the Company and shall not, during his employment, be engaged in any other business activity, whether or not such business activity is

pursued for gain, profit or other pecuniary advantage. Employee shall not engage in any activity or investment, whether or not permitted by this Section 3, if such activity or investment substantially interferes with the performance of his duties hereunder. In no case shall Employee receive any compensation or other reward from any other party for activities related to his or her employment where such compensation or reward would be in violation of Federal or State laws or at variance from applicable canons of professional ethics, including but not limited to receiving bribes or kickbacks or offering the same in furtherance of business interest.

(d) The obligations upon Employee under this Section 3 are in addition to, and not in diminution or derogation of, the obligations set forth in Sections 1 and 2.

4 Noninterference Employee agrees that during his or her employment with the Company and for a period of one year following termination of Employee's employment with the Company, Employee will not, directly or indirectly, for himself or herself or on behalf of any third party at any time in any manner, request for cause any of the Company's customers to cancel or terminate any existing or continuing business relationship with the Company, solicit, entice, persuade, induce, request or otherwise cause any employee, officer or agent of the Company to refrain from rendering services to the Company or to terminate his or her relationship, contractual or otherwise, with the company, induce or attempt to influence any supplier to cease or refrain from doing business or to decline to do any business with the Company, divert or attempt to divert any supplier from the Company, or induce or attempt to influence any supplier to decline to do any business with any businesses of the Company as such businesses are constituted immediately prior to the date hereof. The obligations upon Employee under this Section 4 are in addition to, and not in diminution or derogation of, the obligations set forth in Sections 1, 2 and 3.

5 Nonsolicitation Employee agrees that during his or her employment with the Company and for a period of one year after the termination of Employee's employment, Employee will not, directly or indirectly, for himself or herself or on behalf of any third party, solicit or accept any business from or otherwise do, or contract to do, business with any person or entity who is a customer of the Company or who has been a customer of the Company during Employee's employment or the twelve (12) months prior to the commencement of Employee's employment. For purposes of this paragraph 5, a customer shall include the Company's customers and those persons or entities who were actively solicited by the Company according to the books and records of the Company and within the knowledge, actual or constructive, of Employee, provided, however, that nothing herein shall prohibit Employee from transacting business which is not competitive with services or products offered, furnished or sold by the Company. The obligations upon Employee under this Section 5 are in addition to, and not in diminution or derogation of, the obligations set forth in Sections 1, 2, 3 and 4.

6 Consideration

(a) Employee acknowledges that a principal inducement for entering into this Agreement is his or her employment by the Company.

(b) As additional consideration for Employee's continuing obligations to the Company under Section 3(a) of this Agreement during the Post-Employment Restrictive Period, the Company will pay the Employee an amount equal to his or her weekly base salary (but not unearned commissions or other fringe benefits). The length of the Post-Employment Restrictive Period, if any, shall be determined by the Company in its discretion. At any time during the Post-Employment Restrictive Period, the Company may end the Post-Employment Restrictive Period and

thereby terminate Employee's obligations in paragraph 3(a) and the Company's obligations under this paragraph 6(b) Employee shall not be deemed an employee during such Post-Employment Restrictive Period and shall not be entitled to any other compensation or benefits from the Company, nor shall Employee represent to others that he or she is an employee of the Company

7 Disclosures and Assignment of Discoveries Employee shall (without any additional compensation) promptly and fully disclose in writing to the Board of Directors of the Company all ideas, formulae, programs, systems, improvements, devices, processes, business concepts, discoveries and inventions (hereinafter referred to singly as a "Discovery" and collectively as "Discoveries"), whether or not suitable for patent or copyright, which Employee, while employed by the Company, conceives, makes, develops, acquires or reduces to practice, whether alone or with others and whether during or after usual working hours, and which are related in any respect to the Company's business, research and development, or interests, or are used or usable by the Company, whether such Discovery is a machine, apparatus, process, article, device, biomaterial or other subject Employee hereby transfers and assigns to the Company and/or its designees, all right, title and interest in and to each of said Discoveries, including any and all domestic and foreign patent rights or copyrights therein and any renewals thereof On request of the Company, Employee shall (without any additional compensation), from time to time during or after the termination of his or her employment, execute such further instruments (including, without limitation, copyright registrations, applications for letters patent, declarations, formal assignments, assignment of priority rights and powers of attorney) and do all such other acts and things as may be deemed necessary or desirable by the Company to protect and/or enforce its rights in respect of said Discoveries All expense of filing or prosecuting or defending and copyright or any patent application shall be borne by the Company,

but Employee shall cooperate in filing, prosecuting or defending such application

8 Agreement Not a Contract of Employment Employee understands that this Agreement does not constitute a contract of employment for any specific period of time and does not affect either the Company's right to terminate Employee's employment at any time within the Company's discretion without liability, except for those wages and other emoluments, which Employee has earned to date of such termination

9 Remedies Damage The Company and Employee agree that the provisions of this Agreement are reasonable and that any breach of any of the terms of this Agreement will cause irreparable harm to the Company, that actual damage may be difficult to ascertain and that, in the event of any such breach, the Company shall be entitled to injunctive relief in addition to such other legal or equitable remedies as may be available. If the period of time range, range of restricted activities or territory of any restriction set forth in this Agreement should be adjudged unreasonable in any proceeding, then the period of time shall be reduced by the number of months or the range of restricted activities or the territory shall be reduced by the elimination of such unreasonable portion thereof, or both, so that such restrictions may be enforceable for such time and in the manner adjudged to be reasonable. If Employee violates any of the restrictions contained in Sections 3, 4 or 5, then, in addition to any other remedies available to the Company, Employee shall not be entitled to the payment set forth in paragraph 6(b) from the time of commencement of any such violation until such time as such violation shall be cured by Employee

10 Miscellaneous

10.1 Governing Law The rights of the Company under this Agreement are in addition to, not in lieu of, the rights afforded to it by law, which shall in no way be affected hereby

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to the conflicts of laws provisions thereof

10.2 Binding Agreement. Assignment This Agreement shall inure to the benefit of and becoming binding upon the Company, its successors and assigns, and Employees, his or her heirs, executors, administrators and legal representatives, provided, however, that the obligations of Employee hereunder may not be delegated

10.3 Amendment Headings This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and may not be changed or terminated orally. The descriptive headings of the several sections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement

10.4 Waiver No waiver by any party of any breach of any term hereof shall be construed as a waiver of any subsequent breach of that term or any other term of the same or of a different nature

10.5 Notices Any notices or other communications given pursuant to this Agreement shall be in writing and shall be deemed given when delivered or mailed in any general or branch office of the United States Postal Service by registered or certified mail, return receipt requested, to the parties' respective addresses set forth in this Agreement. Either party to this Agreement may change the aforesaid address by notice to the other party hereto given in the manner prescribed in this paragraph, provided, however, that notice of change of address will be effective only upon receipt


10.6 Severability If any court of competent jurisdiction determines that it is not possible to construe any provision of this Agreement consistently with a law or public policy, and

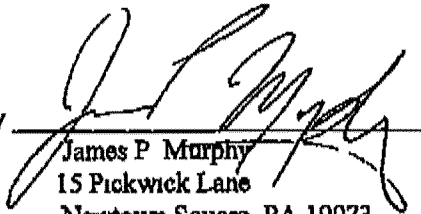
consequently holds that said provision is invalid, such holding shall in no way affect the validity of the other provisions of this Agreement

10.7 Counterparts This Agreement may be executed in one or more counterparts, each of which shall be original and all of which taken together shall constitute one and the same instrument

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written

ORTHOVITA INC

By 
Antony Koblish, President & CEO

By 
James P. Murphy
15 Pickwick Lane
Newtown Square, PA 19073