

## PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1  
 Stylesheet Version v1.2

EPAS ID: PAT3169434

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT	
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT	
<b>CONVEYING PARTY DATA</b>		
	<b>Name</b>	<b>Execution Date</b>
	MARCTEC, LLC	05/05/2009
<b>RECEIVING PARTY DATA</b>		
<b>Name:</b>	P TECH, LLC	
<b>Street Address:</b>	PO BOX 1387	
<b>City:</b>	EFFINGHAM	
<b>State/Country:</b>	ILLINOIS	
<b>Postal Code:</b>	62401	
<b>PROPERTY NUMBERS Total: 1</b>		
	<b>Property Type</b>	<b>Number</b>
	Patent Number:	6908466
<b>CORRESPONDENCE DATA</b>		
<b>Fax Number:</b>		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>		
<b>Email:</b>	nbueker@bonuttitechnologies.com	
<b>Correspondent Name:</b>	LUCAS WENTHE	
<b>Address Line 1:</b>	PO BOX 1387	
<b>Address Line 4:</b>	EFFINGHAM, ILLINOIS 62401	
<b>ATTORNEY DOCKET NUMBER:</b>	ULT-01-9	
<b>NAME OF SUBMITTER:</b>	LUCAS L. WENTHE	
<b>SIGNATURE:</b>	/Lucas L. Wenthe/	
<b>DATE SIGNED:</b>	01/05/2015	
	This document serves as an Oath/Declaration (37 CFR 1.63).	
<b>Total Attachments: 6</b>		
source=2009-05-05 Marctec-PTech License & Assignment of Prior Agreements#page1.tif		
source=2009-05-05 Marctec-PTech License & Assignment of Prior Agreements#page2.tif		
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## **LICENSE AND ASSIGNMENT OF PRIOR AGREEMENTS**

This License and Assignment of Prior Agreements (collectively the "Agreement"), effective as of May 5, 2009, is made and entered into by and between MarcTec, LLC, an Illinois limited liability company with a principal place of business at 1303 West Evergreen Avenue, Effingham, Illinois 62401 ("MarcTec"), and P Tech, LLC, a Delaware limited liability company with a principal place of business at 1303 West Evergreen Avenue, Effingham, IL 62401 ("P Tech").

WHEREAS, MarcTec is the owner of the US Patent Applications and US Patents listed in Appendix A and otherwise in this Agreement;

WHEREAS, a Research and Development Agreement ("MarcTec-BRI Agreement"), dated December 15, 2006, was entered into by and between MarcTec and Bonutti Research, Inc., a Delaware corporation with a principal place of business at 1303 West Evergreen Avenue, Effingham, Illinois 62401 ("BRI"). MarcTec desires to assign this MarcTec-BRI Agreement, including all the rights and obligations thereof, to P Tech;

WHEREAS, a Research and Development Agreement ("MarcTec-Multitak Agreement"), dated as of December 15, 2006, was entered into by and between MarcTec and Multitak, Inc., an Illinois corporation with a principal place of business at 1303 West Evergreen Avenue, Effingham, Illinois 62401 ("Multitak"). MarcTec desires to assign this MarcTec-Multitak Agreement, including all the rights and obligations thereof, to P Tech;

WHEREAS, a License Agreement ("MarcTec-Unity Agreement"), dated January 31, 2008, was made and entered into by and between MarcTec and Unity Ultrasonic Fixation, LLC, a Delaware limited liability company with a principal place of business at 1303 West Evergreen Avenue, Effingham, IL 62401 ("Unity"). MarcTec desires to assign this MarcTec-Unity Agreement, including all the rights and obligations thereof, to P Tech;

WHEREAS, an Amended and Restated Inventor-Consultant Agreement ("Howmedica Agreement") entered into as of October 1, 2003 by and between Howmedica Osteonics Corp., a New Jersey Corporation, having a place of business at 300 Commerce Court, Mahwah, New Jersey 07430 ("Howmedica Osteonics"), and Peter Bonutti, M.D., an individual with an address at 1303 West Evergreen, Effingham, Illinois 62401. The Howmedica Agreement was assigned to MarcTec. The Howmedica Agreement includes an exclusive license to certain technologies in several of the patents and applications listed in Appendix A. To the extent not otherwise licensed or otherwise assigned, MarcTec desires to grant an exclusive license of all remaining rights to P Tech;

WHEREAS, an Assignment ("MarcTec-P Tech Assignment"), dated May 5, 2009, was entered by and between MarcTec and P Tech;

WHEREAS, MarcTec desires to license to P Tech the patents and applications in Appendix A and all other MarcTec patents and applications not subject to the MarcTec-P Tech Assignment;

and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, MarcTec and P Tech hereby agree as follows.

### **1. DEFINITIONS.**

1.1. "Assigned Right(s)" shall have the same meaning as respectively set forth in Section 2 hereof.

1.2. "Dr. Bonutti's Intellectual Property" shall collectively include all patents and applications in the MarcTec-BRI Agreement, MarcTec-Multitak Agreement, MarcTec-Unity Agreement, remaining rights from the Howmedica Agreement, all patents and applications in Appendix A, and all other MarcTec patents and applications not subject to the MarcTec-P Tech Assignment.

2. **GRANT OF RIGHTS.** MarcTec hereby assigns the MarcTec-BRI Agreement, MarcTec-Multitak Agreement, MarcTec-Unity Agreement, and remaining rights from the Howmedica Agreement, including all the rights and obligations thereof, to P Tech. The Assigned Rights hereunder are intended to mirror the rights respectively granted in the MarcTec-BRI Agreement, MarcTec-Multitak Agreement, and MarcTec-Unity Agreement. Furthermore, to the extent not otherwise assigned and consistent with prior MarcTec agreements, MarcTec hereby grants to P Tech an exclusive, worldwide license to make, use, sell, distribute, sublicense, import, export and otherwise exploit the remaining rights from the Howmedica Agreement, the patents and applications in Appendix A, and all MarcTec patents and applications not subject to the MarcTec-P Tech Assignment.
3. **FEES.** In consideration for this license and assignment, P Tech accepts all the rights and obligations under the MarcTec-BRI Agreement, MarcTec-Multitak Agreement, MarcTec-Unity Agreement, and the rights and obligations under the exclusive license to the remaining rights of the Howmedica Agreement, all patents and applications in Appendix A, and all other MarcTec patents and applications not subject to the MarcTec-P Tech Assignment.
4. **INTELLECTUAL PROPERTY.** P Tech shall pay all filing, application, maintenance, renewal and all other fees relating to Dr. Bonutti's Intellectual Property.
5. **REPRESENTATIONS AND WARRANTIES**
- 5.1. **Representations and Warranties of Each Party.** MarcTec and P Tech each represents and warrants to the other that: (i) it has the full right and authority to enter into this Agreement and grant the rights granted herein; and (ii) this Agreement has been duly authorized, is binding on such party and enforceable in accordance with its terms.
- 5.2. **No Additional Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5, NEITHER PARTY MAKES ANY WARRANTY, EXPRESS, STATUTORY OR OTHERWISE, WITH RESPECT TO A PARTY'S DR. BONUTTI'S INTELLECTUAL PROPERTY OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, AND HEREBY EXPRESSLY DISCLAIMS ANY OTHER FORM OF WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. THIS STATED WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES PROVIDED BY LAW.
6. **TERM AND TERMINATION**
- 6.1. **Term.** This Agreement shall become effective upon May 5, 2009 and shall continue in full force and effect until termination.
- 6.2. **Survivability.** The termination or expiration of this Agreement shall not affect rights of any party hereto existing as of the date of such termination or expiration, or other obligations expressly intended to survive the termination or expiration hereof.
7. **MISCELLANEOUS**
- 7.1. **Relationship of Parties.** Nothing in this Agreement shall be construed or interpreted as creating a joint venture or partnership between the parties. Except as expressly set forth in this Agreement, neither party is by virtue of this Agreement authorized as an agent, employee or legal representative of the other party or to act in any way in such capacity. Neither party shall have any right or authority to bind the other party in any way, except as expressly set forth in this Agreement, and the relationship of the parties has at all times and will continue to be that of independent contractors.
- 7.2. **Entire Agreement.** Except as expressly stated herein, this Agreement is the entire understanding of the parties, and supersedes all prior agreements or understandings, whether written or oral, with respect to this

subject matter, but not including (a) MarcTec-BRI Agreement, (b) MarcTec-Multitak Agreement, (c) MarcTec-Unity Agreement, (d) MarcTec-P Tech Assignment, and (e) Howmedica Agreement, each of which is in full force and effect and each speaks for itself Except as expressly stated herein, no terms, conditions, or warranties, other than those written in this Agreement, and no amendments or modifications of this Agreement will be binding on the parties unless in writing and signed by the parties. The language of this Agreement shall for all purposes be construed as a whole, according to its fair meaning, not strictly for or against either party, and without regard to the identity or status of any person who drafted all or any part of it.

- 7.3. **Further Actions.** The parties hereto hereby agree to take or cause to be taken such further actions as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms, and conditions of this Agreement.
- 7.4. **Waiver.** No waiver hereunder shall be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of the waiver is sought. Neither the waiver by either of the parties hereto or a breach of, or a default under, any of the provisions of this Agreement, nor the failure or delay of either of the parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder shall thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any of such provisions, rights, or privileges hereunder. All rights and remedies conferred under this Agreement or by any other instrument or Law shall be cumulative and may be exercised singularly or concurrently.
- 7.5. **Severability.** Should any part or provision of this Agreement be held unenforceable or in conflict with the Law of any jurisdiction, the validity of the remaining part or provisions shall not be affected by such holdings. Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.
- 7.6. **Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.
- 7.7. **Execution in Counterparts; Facsimile Signatures.** This Agreement and any amendments hereto may be executed in several counterparts, and when executed, shall constitute one agreement binding on all the parties hereto, notwithstanding that all signatures are not on the same counterpart. A facsimile signature of this Agreement or any amendments thereto shall be valid and have the same force and effect as a manually signed original.
- 7.8. **Amendments.** This Agreement shall not be amended, altered, or modified except by a written instrument duly executed by the parties hereto.
- 7.9. **Assignment.** This Agreement, or any of the rights and obligations created herein, shall not be assigned or transferred, in whole or in part, except as provided herein, by either party hereto without the prior written consent of the other party (which shall not be unreasonably withheld or delayed); provided, however, either party may assign this Agreement, along with all such party's rights and obligations herein, (i) upon a Change in Control of such party, without the other party's consent, and (ii) to any entity which is wholly-owned, directly or indirectly, by an entity which wholly owns such party, without the other party's consent, provided that prompt written notice of such assignments shall be provided. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the permitted assignees of the parties hereto.
- 7.10. **Notices.** All notices to be given hereunder shall be sent by facsimile transmission (with regular mail follow-up), overnight delivery (fare prepaid), electronic mail or certified mail, return receipt requested to the respective addresses set forth hereinafter; provided, however, that such addresses may be changed by two (2) weeks written notice hereof to the other party. Any notices given by facsimile transmission, overnight or

electronic shall be effective one (1) business day after delivery and any notices given by certified mail shall be effective five (5) business days after delivery.

Any notices to either party shall be addressed to:

P Tech. LLC  
c/o Dr. Peter M. Bonutti  
1303 West Evergreen Avenue  
Effingham, IL 62401  
Facsimile No.: 217-342-3400

With a copy (which shall not constitute notice) to:

Paul D. Bianco, PhD, Esq.  
21355 East Dixie Highway, Suite 115  
Miami, FL 33180


- 7.11. Force Majeure.** Neither party shall be liable to the other for any failure to perform as required by this Agreement, to the extent such failure to perform is caused by any reason beyond that party's control, or by reason of any of the following: civil disorders, acts of aggression, terrorism, acts of God, strikes, fires, floods, embargoes, war, or any similar cause beyond the control of, or occurring without the fault of the party whose performance is excused under this Section 7.11 (the "Excused Party"). The Excused Party shall give notice to the other party detailing the force majeure event that the Excused Party claims excuses performance hereunder and the time period during which the Excused Party desires to have its performance excused. As soon as possible after cessation of the force majeure event upon which the Excused Party is relying, the Excused Party shall once again be obligated to perform in accordance with the terms and conditions of this Agreement. Notwithstanding the foregoing, a force majeure event shall not relieve any person of any monetary obligation hereunder.
- 7.12. Specific Performance.** Each party agrees that monetary damages may not be a sufficient remedy for any breach of this Agreement by the other party and that the non-breaching party shall be entitled to seek equitable relief, including injunction and specific performance, as a remedy for such breaches. Such remedy shall not be deemed to be the exclusive remedy for a breach by the breaching party of this Agreement but shall be in addition to all other remedies available at Law or equity to the non-breaching party.
- 7.13. Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR FOR LOST PROFITS, SAVINGS OR REVENUES OF ANY KIND, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING.
- 7.14. Governing Law.** This Agreement shall be governed by and construed in accordance with the Laws of the United States and the State of Illinois (not including the choice of law rules thereof). This Agreement shall not be governed by the United Nations Convention on Contracts for the Sale of International Goods. All actions brought to interpret or enforce this Agreement shall be brought in the exclusive forums of the courts located in Effingham, Illinois and each party agrees not to assert any defense of lack of personal jurisdiction, inappropriate venue or/forum non conveniens.
- 7.15. Confidentiality.** The Dr. Bonutti's Intellectual Property and its various components are the trade secrets (except for public disclosures made in filed Patents) (the "Confidential Information") are the confidential and proprietary information of MarcTec. Each party shall keep all Confidential Information confidential, use such Confidential Information only for the purposes set forth herein, restrict access to the Confidential Information to assure that only those persons who "need to know" such information have access to it and are made aware of the restrictions and limitations contained herein and shall be responsible for any breaches or defaults. The

terms hereof may be specifically enforced by the non-breaching party, it being acknowledged that any breach hereof would cause irreparable harm, and the non-breaching party shall be entitled to an injunction, without the necessity of posting a bond or other security, in addition to its other remedies at law or in equity, and shall also be entitled to reimbursement for its reasonable attorneys fees and expenses in enforcing its rights to preserve the confidentiality of the Confidential Information.


- 7.16. No Third-Party Rights.** It is the explicit intention of the parties hereto that no person or entity other than the parties hereto is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the parties hereto, and that the covenants, undertakings and agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the parties hereto and their respective successors and assigns as permitted hereunder.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first set forth above.

MARCTEC, LLC

By:   
Name: Peter Bowin  
Title: President

P TECH, LLC

By:   
Name: Peter Bowin  
Title: President

# APPENDIX A

Serial No.	Patent No.
08/453,631	5,593,425
08/782,595	5,735,875
09/019,511	5,928,267
09/267,555	6,059,817
09/362,279	6,203,565
09/735,836	6,464,713
09/737,380	6,503,267
10/347,855	7,208,013
10/347,854	6,908,466
09/941,185	6,702,821
10/795,887	
11/747,304	
09/976,396	6,770,078
10/191,751	7,104,996
10/681,526	
10/684,904	
10/722,102	
10/727,290	
10/888,783	
11/037,855	
11/037,535	7,510,557
11/171,700	
11/170,969	
11/171,902	
11/171,676	
11/684,103	
11/684,178	
11/928,898	

**For the avoidance of doubt, Licensed Patents includes all other patents and applications currently owned by MarcTec including all continuations and divisionals.**