

PATENT ASSIGNMENT COVER SHEET

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Stylesheet Version v1.2

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
EARLENS CORPORATION	12/23/2009
RECEIVING PARTY DATA	
Name:	SOUNDBEAM LLC
Street Address:	200 CHESAPEAKE DRIVE
City:	REDWOOD CITY
State/Country:	CALIFORNIA
Postal Code:	94063
PROPERTY NUMBERS Total: 1	
Property Type	Number
Application Number:	16680867
CORRESPONDENCE DATA	
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<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>	
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ATTORNEY DOCKET NUMBER:	33999-716.305
NAME OF SUBMITTER:	JOHN BEREZNAK
SIGNATURE:	/John Bereznak/
DATE SIGNED:	11/12/2019
Total Attachments: 28	
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ASSIGNMENT AND LICENSE AGREEMENT

This ASSIGNMENT AND LICENSE AGREEMENT (“**Agreement**”) is made as of December 23, 2009 (the “**Effective Date**”) by and between EarLens Corporation, a Delaware corporation with its principal place of business at 200 Chesapeake Drive, Redwood City, CA 94063 (“**Corp**”), and SoundBeam LLC, a Delaware limited liability company with its principal place of business at 200 Chesapeake Drive, Redwood City, CA 94063 (“**LLC**”). LLC and Corp are each referred to herein as such or, individually, as a “**Party**” or, collectively, as “**Parties.**”

BACKGROUND

- A. Corp owns or has rights to the Patent Rights (as defined below);
- B. Corp desires to assign such Patent Rights to LLC; provided that Corp obtains an exclusive license back under such Patent Rights for use in the Field (as defined below) and LLC desires to grant such exclusive license, all on terms and conditions set forth herein;
- C. Corp also desires to obtain an exclusive license under certain LLC Improvement Patents (as defined below) for use in the Field (as defined below), and LLC desires to grant such exclusive license, all on terms and conditions set forth herein; and
- D. In addition, LLC desires to obtain an exclusive license under certain Corp Improvement Patents (as defined below) for use outside the Field, and Corp desires to grant such exclusive license, all on terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements provided herein below and other consideration, the receipt and sufficiency of which is hereby acknowledged, Corp and LLC hereby agree as follows:

ARTICLE 1 **DEFINITIONS**

The following capitalized terms shall have the following meanings as used in this Agreement:

1.1 “**Affiliate**” shall mean with respect to either Party, any Person controlling, controlled by or under common control with such Party, for so long as such control exists. For purposes of this Section 1.1, “control” shall mean (i) direct or indirect ownership of more than 50% (or, if 50% or less, the maximum ownership interest permitted by applicable law) of the stock or shares having the right to vote for the election of directors of such corporate entity or (ii) the possession, directly or indirectly, of the power to direct, or cause the direction of, the management or policies of such entity, whether through the ownership of voting securities, by contract or otherwise.

1.2 “**Grant Back Period**” shall mean the period commencing on the Effective Date and ending five (5) years thereafter, unless terminated earlier pursuant to Section 8.3.

1.3 “**Corp Improvement Patents**” shall mean any and all Patents that claim Improvements owned by Corp that are conceived and reduced to practice during the Grant Back Period.

1.4 “**Field**” shall mean non-implantable otologic applications.

1.5 “**Improvement**” shall mean any invention, including a device, component, method of use or method of manufacture owned by either Party that constitutes an improvement of any invention claimed by the Patent Rights.

1.6 “**Corp Change of Control**” means, with respect to Corp, either: (i) the acquisition of Corp by a third party by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation or stock transfer, but excluding any such transaction effected primarily for the purpose of changing the domicile of Corp), unless Corp’s stockholders of record immediately prior to such transaction or series of related transactions hold, immediately after such transaction or series of related transactions, at least 50% of the voting power of the surviving or acquiring entity (provided that the sale by Corp of its securities for the purposes of raising additional funds shall not constitute a Corp Change of Control hereunder); or (ii) a sale of all or substantially all of the assets of Corp to a third party. Notwithstanding the foregoing, in no event shall a sale by Corp of capital stock (whether voting or otherwise) in any offering made pursuant to an effective registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, as amended, covering the offer and sale of such capital stock, or any foreign equivalent thereof, constitute a Corp Change of Control.

1.7 “**LLC Improvement Patents**” shall mean any and all Patents that claim Improvements owned by LLC that are conceived and reduced to practice during the Grant Back Period.

1.8 “**Patent**” shall mean any patents and patent applications (including provisional applications), and all patents issuing thereon (including utility, model and design patents and certificates of invention), together with all reissue patents, patents of addition, divisions, continuations, continuations-in-part, substitutions, re-examinations, extensions (including supplemental protection certificates), registrations, confirmations, renewals, foreign counterparts and the like of any of the foregoing.

1.9 “**Patent Rights**” shall mean any and all Patents listed in Exhibit A hereto.

1.10 “**Person**” shall mean any individual, corporation, partnership, association, joint-stock company, trust, unincorporated organization or government or political subdivision thereof.

1.11 “**Prosecution and Maintenance**” shall mean, with respect to a Patent, the preparing, filing, prosecuting and maintenance of applications therefor, as well as re-examinations, reissues, requests for term extensions and the like with respect to such Patent, together with the conduct of interferences, the defense of oppositions and other similar proceedings with respect to such Patent.

ARTICLE 2
ASSIGNMENT AND LICENSES

2.1 Assignment to LLC. In consideration of the issuance to Corp of 7,342,421 Units of LLC pursuant to that certain Unit Purchase Agreement between the Parties of even date herewith, Corp hereby assigns, transfers and conveys to LLC any and all of Corp's right, title and interest in and to: (i) the Patent Rights and any subject matter claimed therein, (ii) except as otherwise provided in Article 4 below, all causes of action and enforcement rights for the Patent Rights including all rights to pursue damages, injunctive relief and other remedies for past and future infringement of the Patent Rights and (iii) except as otherwise provided in Article 3 below, all rights to Prosecute and Maintain the Patent Rights.

2.2 Further Assurances. Corp agrees to assist LLC, or its designee, at LLC's expense, in every proper way to secure LLC's rights in the Patent Rights in any and all countries, including the execution of all applications, specifications, oaths, assignments and all other instruments which LLC shall deem necessary or appropriate in order to apply for and obtain such rights and in order to assign and convey to LLC, its successors, assigns, and nominees the sole and exclusive right, title and interest in and to such Patent Rights.

2.3 License Back to Corp. In consideration of the foregoing assignment and subject to the terms and conditions of this Agreement, LLC agrees to grant and hereby grants to Corp a worldwide, exclusive, perpetual, fully paid-up, royalty-free license (with the right to grant and authorize sublicenses) under the Patent Rights to: (i) make, have made, use, sell, offer for sale and import products, (ii) practice any method, process or procedure in connection with its exercise of the activities described in clause (i), and (iii) otherwise exploit the Patent Rights, in each case solely in the Field.

2.4 Improvements.

(a) License to Corp. LLC shall disclose to Corp any and all LLC Improvement Patents promptly following its decision to file a Patent thereon. LLC agrees to grant and hereby grants to Corp a worldwide, exclusive, perpetual, fully paid-up, royalty-free license (with the right to grant and authorize sublicenses) under any such LLC Improvement Patents to: (a) make, have made, use, sell, offer for sale and import products, (b) practice any method, process or procedure in connection with its exercise of the activities described in clause (a), and (c) otherwise exploit the LLC Improvement Patents, in each case solely in the Field.

(b) License to LLC. Corp shall disclose to LLC any and all Corp Improvement Patents promptly following its decision to file a Patent thereon. Corp agrees to grant and hereby grants to LLC a worldwide, exclusive, perpetual, fully paid-up, royalty-free license (with the right to grant and authorize sublicenses) under any such Corp Improvement Patents to: (a) make, have made, use, sell, offer for sale and import products, (b) practice any method, process or procedure in connection with its exercise of the activities described in clause (a), and (c) otherwise exploit the Corp Improvement Patents, in each case solely outside the Field.

2.5 Sublicenses. The licenses granted in Sections 2.3 and 2.4 include the right to assign such licenses or grant and authorize sublicenses, without further consent; provided that such assignee or sublicensee, as applicable, agrees in writing to be bound by the terms and condition of this Agreement. Without limiting the foregoing, each Party shall promptly notify the other Party of any sublicense such Party grants. Each Party shall provide to the other Party a copy of all sublicense agreements executed by such Party, each such agreement appropriately redacted for information not applicable to this Agreement.

2.6 Retention of Rights. LLC shall retain all rights in and to the Patent Rights and the LLC Improvement Patents for all uses outside the Field. Similarly, Corp shall retain all rights in and to the Corp Improvement Patents for all uses in the Field. No rights are granted to either Party by this Agreement, except as expressly provided herein.

ARTICLE 3 **PROSECUTION AND MAINTENANCE**

3.1 Prosecution by Corp. As between the Parties, Corp shall have the right, but not the obligation, to control the Prosecution and Maintenance of the Patent Rights and Corp Improvement Patents, at Corp's sole expense (except as otherwise provided in Section 3.3(a) below). Upon Corp's reasonable request, LLC shall cooperate with and assist Corp in connection with such activities. Corp shall keep LLC reasonably informed as to the status of the Patent Rights and Corp Improvement Patents, and shall in good faith incorporate any comments LLC may provide concerning (i) the scope and content of patent applications within the Patent Rights and Corp Improvement Patents prior to filing such patent applications, and (ii) the content of and proposed responses to official actions of the United States Patent and Trademark Office and foreign patent offices during prosecution of such patent applications. Additionally, in the event Corp decides to abandon any Patent within the Patent Rights or Corp Improvement Patents, then Corp shall provide LLC reasonable advance notice thereof (but in no case later than sixty (60) days prior to any required action relating to the Prosecution and Maintenance of such Patent(s)) and LLC shall have the right to undertake Prosecution and Maintenance of such Patent Rights and Corp Improvement Patent(s) at its sole expense.

3.2 Prosecution by LLC. As between the Parties, LLC shall have the right, but not the obligation, to control the Prosecution and Maintenance of the LLC Improvement Patents at LLC's sole expense (except as otherwise provided in Section 3.3(b) below). Upon LLC's reasonable request, Corp shall cooperate with and assist LLC in connection with such activities. LLC shall keep Corp reasonably informed in a timely manner as to the status of the LLC Improvement Patents, and shall in good faith incorporate any comments Corp may provide concerning (i) the scope and content of patent applications within the LLC Improvement Patents prior to filing such patent applications, and (ii) the content of and proposed responses to official actions of the United States Patent and Trademark Office and foreign patent offices during prosecution of such patent applications. Additionally, in the event LLC decides to abandon any Patent within the LLC Improvement Patents, then LLC shall provide Corp reasonable advance notice thereof (but in no case later than sixty (60) days prior to any required action relating to the Prosecution and Maintenance of such Patent(s)) Corp shall have the right to undertake Prosecution and Maintenance of such LLC Improvement Patent(s) at its sole expense.

3.3 Reimbursement of Patent Expenses.

(a) Reimbursement by LLC. LLC agrees to reimburse Corp the LLC Cost Share with respect to the Prosecution and Maintenance of Corp Improvement Patents, including without limitation, filing fees, attorneys fees, and maintenance fees. Similarly, as of the date LLC enters into a license agreement with any third party, pursuant to which LLC grants such third party a license under the Patent Rights, LLC agrees to reimburse Corp the LLC Cost Share for Corp's on-going expenses with respect to the Prosecution and Maintenance of the Patent Rights. For purposes of this Section 3.3(a), "**LLC Cost Share**" shall mean the expenses incurred by Corp for the Prosecution and Maintenance of the Corp Improvement Patents divided by the number of licenses under which Corp has granted rights under such Corp Improvement Patents as of the time such expenses are incurred plus one (1). LLC may elect to stop paying Prosecution or Maintenance expenses related to any Patent within the Patent Rights or Corp Improvement Patent by providing Corp with sixty (60) days prior written notice of such election. Upon the expiration of such sixty (60) day period, LLC's payment obligations with respect to such Corp Improvement Patent, as well as LLC's license under such Corp Improvement Patent, shall terminate.

(b) Reimbursement by Corp. Corp agrees to reimburse LLC the Corp Cost Share with respect to the Prosecution and Maintenance of LLC Improvement Patents, including without limitation, filing fees, attorneys fees, and maintenance fees. For purposes of this Section 3.3(b), "**Corp Cost Share**" shall mean the expenses incurred by LLC for the Prosecution and Maintenance of the LLC Improvement Patents divided by the number of licenses under which LLC has granted rights under such LLC Improvement Patents as of the time such expenses are incurred plus one (1). Corp may elect to stop paying Prosecution or Maintenance expenses related to any LLC Improvement Patent by providing LLC with sixty (60) days prior written notice of such election. Upon the expiration of such sixty (60) day period, Corp's payment obligations with respect to such LLC Improvement Patent, as well as Corp's license under such LLC Improvement Patent, shall terminate.

ARTICLE 4 **ENFORCEMENT RIGHTS**

4.1 Notification of Infringement. If either Party learns of any infringement or threatened infringement of (i) any Patent within the Patent Rights, Corp Improvement Patents or LLC Improvement Patents by a third party with respect to the manufacture, use, development or commercialization of any product solely in the Field (each, a "**Corp Infringement Claim**"), or (ii) any Patent within the Patent Rights, Corp Improvement Patents or LLC Improvement Patents by a third party with respect to the manufacture, use, development or commercialization of any product solely outside the Field (each, a "**LLC Infringement Claim**"), such Party shall promptly notify the other Party describing such infringement. Subject to this Section 4.1, the Parties shall discuss such infringement and appropriate steps to be taken with regard to such infringement and shall share available evidence thereof. As between the Parties, the right to enforce such Patent with respect to such infringement, or to defend any declaratory judgment action with respect thereto (each, an "**Enforcement Action**") shall be as set forth in Section 4.2.

4.2 Enforcement.

(a) Corp Infringement Claim. Except to the extent otherwise provided in this Section 4.2(a), Corp (or its designee) shall have the first right, but not the obligation, to institute, prosecute and control any Enforcement Action with respect to each Corp Infringement Claim, at its sole expense. If Corp (or its designee) fails to initiate an Enforcement Action with respect to a Corp Infringement Claim within 180 days after a request by LLC to do so, then LLC shall have the right, upon notice to Corp, to institute, prosecute and control such Enforcement Action, at its sole expense (subject to reimbursement as set forth below).

(b) LLC Infringement Claim. Except to the extent otherwise provided in this Section 4.2(b), LLC (or its designee) shall have the first right, but not the obligation, to institute, prosecute and control any Enforcement Action with respect to each LLC Infringement Claim, at its sole expense. If LLC (or its designee) fails to initiate an Enforcement Action with respect to such LLC Infringement Claim within 180 days after a request by Corp to do so, then Corp shall have the right, upon notice to LLC, to institute, prosecute and control such Enforcement Action, at its sole expense (subject to reimbursement as set forth below).

4.3 Cooperation; Recoveries.

(a) If a Party (the “**Controlling Party**”) brings any Enforcement Action pursuant to Section 4.2, then the other Party (the “**Cooperating Party**”) shall cooperate as reasonably requested, at such Controlling Party’s expense, in the pursuit of such Enforcement Action, including by joining as a party to any such Enforcement Action if it is a necessary or indispensable party or taking such other actions as are necessary for standing or for the Controlling Party to otherwise maintain or pursue the Enforcement Action. The Controlling Party for an Enforcement Action shall: (i) have the right to use counsel of its choice in such Enforcement Action, (provided that the Cooperating Party shall have the right, even if not required to be joined, to participate in such Enforcement Action with its own counsel, at its own expense); and (ii) keep the Cooperating Party reasonably informed with respect to the progress or disposition of such Enforcement Action, including reasonable consultation regarding any settlements. The Controlling Party for an Enforcement Action shall also have the right to control settlement of such Enforcement Action; provided, however, no settlement shall be entered into without the consent of the Cooperating Party if such settlement would materially and adversely affect the interests of the Cooperating Party. The Parties understand and agree that they have common legal interests with respect to Enforcement Actions and it is their desire, intention and mutual understanding that the sharing of information with respect to any such Enforcement Action under this Article 4 is not intended to, and shall not, waive or diminish in any way the confidentiality of such information or its continued protection under the attorney-client privilege, work product doctrine or other applicable privilege. All information provided by the Enforcing Party to the Cooperating Party that is entitled to protection under the attorney-client privilege, work product doctrine or other applicable privilege shall remain entitled to such protection under these privileges and under the joint defense doctrine.

(b) Any damages or other monetary awards recovered from the settlement of or judgment from an Enforcement Action shall be allocated first to reimburse the Controlling Party for the costs and expenses incurred by it in connection with such Enforcement Action (including any

expenses or costs incurred by the Controlling Party to reimburse the Cooperating Party pursuant to Section 4.3(a)), and then to reimburse the Cooperating Party for the costs and expenses incurred by it in connection with such Enforcement Action to the extent not previously reimbursed. Any amounts remaining shall be paid: (i) seventy-five percent (75%) to the Controlling Party; and (ii) twenty-five percent (25%) to the Cooperating Party.

ARTICLE 5 **CONFIDENTIALITY**

5.1 Confidentiality; Exceptions. Except to the extent expressly authorized by this Agreement or otherwise agreed in writing, the Parties agree that a Party receiving (the “**Receiving Party**”) any confidential or proprietary information and materials furnished to it by the other Party (the “**Disclosing Party**”) pursuant to this Agreement (collectively, “**Confidential Information**”) shall keep confidential and shall not publish or otherwise disclose or use for any purpose other than as provided for in this Agreement, except to the extent that it can be established by written documentation by the Receiving Party that such Confidential Information:

(a) was already known to the Receiving Party, other than under an obligation of confidentiality, at the time of disclosure;

(b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;

(c) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the Receiving Party in breach of this Agreement;

(d) was independently developed by the Receiving Party as demonstrated by documented evidence prepared contemporaneously with such independent development; or

(e) was disclosed to the Receiving Party, other than under an obligation of confidentiality, by a third party who had no obligation to the disclosing Party not to disclose such information to others.

5.2 Authorized Disclosure. Except as expressly provided otherwise in this Agreement, the Receiving Party may use and disclose Confidential Information of the Disclosing Party as follows: (i) under appropriate confidentiality provisions substantially equivalent to those in this Agreement, in connection with the performance of its obligations or exercise of rights granted or reserved in this Agreement (including the right grant licenses and sublicenses hereunder); (ii) to the extent such disclosure is reasonably necessary in filing or prosecuting Patent, copyright and trademark applications, complying with the terms of agreements with third parties in existence as of the Effective Date or thereafter pursuant to which the Receiving Party first obtains rights to Patents licensed hereunder, prosecuting or defending litigation, complying with applicable governmental regulations, obtaining regulatory approvals, marketing products, or otherwise required by law, provided, however, that if a Receiving Party is required by law to make any such disclosure of a Disclosing Party’s Confidential Information it will, except where impracticable for exigent

disclosures (for example, in the event of medical emergency), give reasonable advance notice to the Disclosing Party of such disclosure requirement and, except to the extent inappropriate in the case of patent applications, will use its reasonable efforts to secure confidential treatment of such Confidential Information required to be disclosed; (iii) in communication with existing and potential investors, acquirers, consultants, advisors (including attorneys and accountants) or others on a need to know basis, in each case under appropriate confidentiality provisions substantially equivalent to those of this Agreement; or (iv) to the extent mutually agreed to by the Parties.

5.3 Confidential Terms. Each of the Parties agrees not to disclose to any third party the terms and conditions of this Agreement without the prior approval of the other Party, except: (i) to potential investors, acquirers, consultants, advisors (including attorneys and accountants) or others on a need to know basis, in each case under circumstances that reasonably ensure the confidentiality thereof; or (ii) under circumstances that reasonably ensure the confidentiality of the information, to the extent necessary (A) to comply with the terms of agreements with third parties or (B) in connection with the performance of its obligations or exercise of rights granted or reserved in this Agreement (including the right grant licenses and sublicenses hereunder); or (iii) to the extent required by applicable law, provided, however, that if a Party is required by law to make any such disclosure of the terms or conditions of this Agreement, it will give reasonable advance notice to the other Party of such disclosure requirement and will use its reasonable efforts to seek confidential treatment of such terms and conditions.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES

6.1 Mutual Representations. Each Party hereby represents and warrants to the other Party that: (i) it has the legal power, authority and right to enter into this Agreement and to perform all of its obligations hereunder; (ii) it has the right and power to assign and/or grant the rights and licenses assigned or granted by it hereunder, as applicable; (iii) it has not previously granted, and will not grant, any rights which are in conflict with the rights and licenses granted to the other Party herein; (iv) as of the Effective Date, the intellectual property rights assigned and/or licensed by it to the other Party herein, as applicable, are free and clear of any lien, charges, encumbrances and security interests; and (v) to the best of its knowledge as of the Effective Date, there are no threatened or pending actions, suits, investigations, claims or proceedings in any way relating to the intellectual property rights assigned and/or licensed by it, as applicable, to the other Party herein.

6.2 Disclaimer. EXCEPT AS PROVIDED IN THIS ARTICLE 6, NEITHER PARTY MAKES ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS (EXPRESS, IMPLIED, STATUTORY OR OTHERWISE) WITH RESPECT TO THE SUBJECT MATTER HEREOF, AND EACH PARTY SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

ARTICLE 7

INDEMNIFICATION

7.1 Indemnification of LLC. Subject to Sections 7.2 and 7.3, Corp shall indemnify, defend and hold LLC and its respective directors, officers, employees, agents (collectively, the “**LLC Indemnitees**”) harmless from and against any and all liabilities, losses, costs, damages, fees or expenses (including reasonable legal expenses and attorneys’ fees) payable to a third party (collectively, “**Losses**”) incurred by any LLC Indemnitee as a result of any claim, demand, action or suit brought by a third party against an LLC Indemnitee to the extent arising out of or related to: (i) the exercise or the practice by or under authority of Corp of the rights or licenses granted to Corp hereunder, including product liability claims; or (ii) Corp’s breach of Corp’s express representations and warranties set forth herein. Notwithstanding the foregoing, Corp’s obligation to indemnify under this Section 7.1 shall not extend to Losses to the extent they arise from any LLC Indemnitee’s gross negligence, recklessness or willful misconduct or material breach of this Agreement.

7.2 Indemnification of Corp. Subject to Sections 7.1 and 7.3, LLC shall indemnify, defend and hold Corp and its respective directors, officers, employees, agents (collectively, the “**Corp Indemnitees**”) harmless from and against any and all Losses incurred by any Corp Indemnitee as a result of any claim, demand, action or suit brought by a third party against a Corp Indemnitee to the extent arising out of or related to: (i) the exercise or the practice by or under authority of LLC of the rights or licenses granted to LLC hereunder, including product liability claims; or (ii) LLC’s breach of LLC’s express representations and warranties set forth herein. Notwithstanding the foregoing, LLC’s obligation to indemnify under this Section 7.2 shall not extend to Losses to the extent they arise from any Corp Indemnitee’s gross negligence, recklessness or willful misconduct or material breach of this Agreement.

7.3 Claim for Indemnification. Whenever any claim shall arise for indemnification under this Article 7, the Party entitled to indemnification hereunder (the “**Indemnified Party**”) shall promptly notify the Party from which it is seeking indemnification (the “**Indemnifying Party**”) of the claim and, when known, the facts constituting the basis for the claim. The Indemnifying Party may, upon notice to the Indemnified Party, assume defense thereof at its own expense. The Indemnified Party shall not settle or compromise any claim for which it is entitled to indemnification without the prior consent of the Indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed. In no event shall the Indemnifying Party settle any claim without the prior consent of the Indemnified Party if such settlement does not include a release from liability on such claim or if such settlement would involve undertaking an obligation other than the payment of money that would bind or impair the Indemnified Party.

ARTICLE 8

TERM AND TERMINATION

8.1 Term. Unless earlier terminated pursuant to a provision of this Article 8, this Agreement shall be deemed effective as of the Effective Date and shall continue in full force and effect until the expiration, revocation, invalidation of the last patent or the abandonment of the last patent application within the Patent Rights, Corp Improvement Patents or the LLC Improvement Patents, whichever is later.

8.2 Termination for Breach. In the event that a Party (the “**Breaching Party**”) has materially breached or defaulted in the performance of any of its material obligations hereunder, the other Party (the “**Harmed Party**”) may terminate this Agreement (or the Surviving Corp License (as defined below) or Surviving LLC License (as defined below), as applicable) by providing 60 days notice referencing this Section 8.2 and specifying such breach or default. Any termination shall become effective at the end of such 60 day period unless the Breaching Party (or any other Person on its behalf) has cured any such breach or default prior to the expiration of the 60 day period; provided, however that if the Breaching Party promptly provides (but at least prior to the expiration of such 60 day period) to the Harmed Party notice disputing in good faith such alleged breach or default, then the Harmed Party alleging such breach or default shall not have the right to terminate this Agreement (or the Surviving Corp License (as defined below) or Surviving LLC License (as defined below), as applicable) unless and until it has been determined by a court of competent jurisdiction that the Breaching Party had materially breached or defaulted in the performance of any of its material obligations hereunder to the Harmed Party, and the Breaching Party fails to comply with its obligations hereunder within 60 days after such determination.

8.3 Termination of Grant Back Period for Corp Change of Control. The Grant Back Period shall terminate upon a Corp Change of Control by giving LLC at least thirty (30) days prior notice referencing this Section 8.3 and specifying the effective date of such termination.

8.4 Effects of Termination of Agreement.

(a) Termination by Corp for LLC’s Breach. In the event of a termination of this Agreement by Corp pursuant to Section 8.2 as a result of LLC’s material, uncured breach, the following terms and conditions shall apply from and after the effective date of such termination:

(1) LLC’s rights and licenses under the Corp Improvement Patents shall terminate, including those rights pursuant to Sections 2.4(b), 3.1 (solely with respect to the Corp Improvement Patents) and 4.2(a) (solely with respect to the Corp Improvement Patents);

(2) The Grant Back Period shall terminate;

(3) In addition to the provisions that survive pursuant to Section 8.5 below, the following provisions shall survive subject to the remaining provisions of this Section 8.4(a): Sections 2.3 and 2.4(a) (collectively, the “**Surviving Corp License**”; for clarity, only Patent Rights and LLC Improvement Patents shall be subject to the Surviving Corp License), 3.2, 4.1 (with respect to LLC’s obligation to notify Corp with respect to Corp Infringement Claims), 4.2(b), 4.3, 8.2 (from and after a subsequent termination by LLC of the Surviving Corp License for Corp’s material, uncured breach only those terms and conditions set forth in Section 8.5 shall survive and all other terms and conditions shall terminate including the Surviving Corp License and associated rights as set forth in this Section 8.4(a).

(b) Termination by LLC for Corp’s Breach. In the event of a termination of this Agreement by LLC pursuant to Section 8.2 as a result of Corp’s material, uncured breach, the following terms and conditions shall apply from and after the effective date of such termination:

(1) Corp's rights and licenses under the Patent Rights and LLC Improvement Patents shall terminate, including those rights pursuant to Sections 2.3, 2.4(a), 3.1 (solely with respect to the Patent Rights), 3.2 4.2(a) (solely with respect to the Patent Rights) and 4.2(b);

(2) The Grant Back Period shall terminate;

(3) In addition to the provisions that survive pursuant to Section 8.5 below, the following provisions shall survive subject to the remaining provisions of this Section 8.4(b): Sections 2.4(b) (the "**Surviving LLC License**"; for clarity, only Corp Improvement Patents shall be subject to the Surviving LLC License), 3.1 (solely with respect to the Corp Improvement Patents, all rights with respect to the Prosecution and Maintenance of the Patent Rights will revert to LLC), 4.1 (solely with respect to Corp's obligation to notify LLC with respect to LLC Infringement Claims; for clarity all rights with respect to Enforcement Actions of the Patent Rights will revert to LLC), 4.2(a) (solely with respect to Enforcement Actions concerning the Corp Improvement Patents; for clarity all rights with respect to Enforcement Actions of the Patent Rights will revert to LLC), 4.3, 8.2 (from and after a subsequent termination by Corp of the Surviving LLC License for LLC's material, uncured breach only those terms and conditions set forth in Section 8.5 shall survive and all other terms and conditions shall terminate including the Surviving LLC License and associated rights as set forth in this Section 8.4(b).

8.5 General Effects of Expiration or Termination. Expiration or termination of this Agreement for any reason shall not release either Party hereto from any liability that at the time of such termination or expiration has already accrued to the other Party. Upon the expiration or any termination of this Agreement, (i) the provisions of Article 1, Article 5, Article 6, Article 7 and Article 9 and Sections 2.2, 2.6 and 8.5 shall survive, and (ii) any sublicenses granted by a Party in accordance with this Agreement shall survive, provided that the applicable sublicensee agrees in writing to be bound by the applicable terms of this Agreement. Except as otherwise expressly provided in this Article 8, all other terms and conditions of this Agreement shall terminate upon expiration or termination of this Agreement.

ARTICLE 9 **GENERAL**

9.1 Governing Law. This agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of California, United States of America, without reference to principles of conflicts of law.

9.2 Arbitration. The Parties agree that any dispute or controversy arising out of, in relation to, or in connection with this Agreement, or the making, interpretation, construction, performance or breach hereof, shall be finally settled by binding arbitration in San Mateo County, California under the then current rules of the Judicial Arbitration and Mediation Services (JAMS) by one (1) arbitrator appointed in accordance with such rules. The arbitrator may grant injunctive or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the Parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court of competent jurisdiction. The Parties agree that, any provision of applicable law

notwithstanding, they will not request and the arbitrator shall have no authority to award, punitive or exemplary damages against either Party. The costs of the arbitration, including administrative and arbitrator's fees, shall be shared equally by the Parties. Each Party shall bear the cost of its own attorneys' fees and expert witness fees. Nothing in this Section 9.2 shall preclude either Party from seeking interim or provisional relief in the form of a temporary restraining order, preliminary injunction, or other interim relief concerning a dispute prior to or during an arbitration pursuant to this Section 9.2 necessary to protect the interests of such Party.

9.3 Assignment. This Agreement may not be assigned by either Party without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may, without such consent, assign this Agreement and its rights, obligations and interests, in whole or in part, to any of its affiliates or to a third party that succeeds to all or substantially all of its business or assets relating to this Agreement whether by sale, merger, operation of law or otherwise; provided that such assignee promptly agrees in writing to be bound by the terms and conditions of this Agreement.

9.4 Force Majeure. In the event either Party hereto is prevented from or delayed in the performance of any of its obligations hereunder by reason of acts of God, war, strikes, riots, storms, fires, earthquake, power shortage or failure, failure of the transportation system, or any other cause whatsoever beyond the reasonable control of the Party ("**Force Majeure Event**"), the Party so prevented or delayed shall be excused from the performance of any such obligation during a period that is reasonable in light of the Force Majeure Event, but no less than the duration of the Force Majeure Event itself.

9.5 Notices. Any notice, request, delivery, approval or consent required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been sufficiently given if delivered in person, transmitted by facsimile (receipt verified) or by express courier service (signature required) or five days after it was sent by registered letter, return receipt requested (or its equivalent), provided that no postal strike or other disruption is then in effect or comes into effect within two days after such mailing, to the Party to which it is directed at its address or facsimile number shown below or such other address or facsimile number as such Party will have last given by notice to the other Party.

If to Corp:

EarLens Corporation
200 Chesapeake Drive
Redwood City, CA 94063
Attention: Rodney Perkins
Fax: (650) 529-0220

with a copy to:

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050
Attention: Scott Murano
Fax: (650) 493-6811

If to LLC:

Soundbeam, LLC
2995 Woodside Road, Suite 100
Woodside, CA 94062
Attention: Rodney Perkins
Fax: (650) 529-0220

9.6 No Waiver. A waiver, express or implied, by either LLC or Corp of any right under this Agreement or of any failure to perform or breach hereof by the other Party hereto shall not constitute or be deemed to be a waiver of any other right hereunder or of any other failure to perform or breach hereof by such other Party, whether of a similar or dissimilar nature thereto.

9.7 Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, STATUTORY OR PUNITIVE DAMAGES (INCLUDING LOST OR ANTICIPATED REVENUES OR PROFITS RELATING TO THE SAME), ARISING FROM ANY CLAIM RELATING TO THIS AGREEMENT, OR THE SUBJECT MATTER HEREOF, WHETHER SUCH CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SAME.

9.8 Severability. If any provision of this Agreement shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of the remainder of this Agreement, and the remainder of the Agreement shall remain in full force and effect.

9.9 Interpretation. The captions and headings in this Agreement are for convenience only and are to be of no force or effect in construing or interpreting any of the provisions of this Agreement. Unless specified to the contrary, references to Articles, Sections or Exhibits mean the particular Articles, Sections and Exhibits to this Agreement and references to this Agreement include all Exhibits hereto. Unless context otherwise clearly requires, whenever used in this Agreement: (i) the words "include" or "including" shall be construed as incorporating, also, "but not limited to" or "without limitation;" (ii) the word "day" or "year" shall mean a calendar day or year unless otherwise specified; (iii) the word "notice" shall mean notice in writing (whether or not specifically stated) and shall include notices, consents, approvals and other written communications contemplated under this Agreement; (iv) the words "hereof," "herein," "hereby" and derivative or similar words refer to this Agreement (including all Exhibits); (v) the word "or" shall be construed as the inclusive meaning identified with the phrase "and/or;" (vi) provisions that require that a Party or the Parties "agree," "consent" or "approve" or the like shall require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter; or otherwise; (vii) words of either gender include the other gender; (viii) words using the singular or plural number also include the plural or singular number, respectively; and (ix) references to any specific law or article, section or other division thereof, shall be deemed to include the then current amendments thereto or any replacement thereof. For purposes of this Agreement, neither Party shall be deemed to be acting "under authority of" the other Party.

9.10 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes any and all

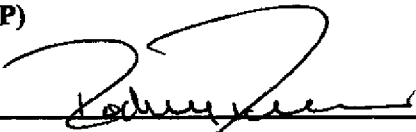
prior and contemporaneous negotiations, representations, agreements, and understandings, written or oral, that the Parties may have reached with respect to the subject matter hereof. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of each of the Parties hereto.

9.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

[remainder of page left blank intentionally; signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals by their duly authorized representatives as of the Effective Date.

**EARLENS CORPORATION
(CORP)**

By: 
Name: Rodney Perkins
Title: President and CEO
Date: December 23, 2009

**SOUNDBEAM, LLC
(LLC)**

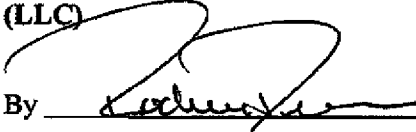
By: 
Name: Rodney Perkins
Title: Managing Member
Date: December 23, 2009

Exhibit A
Patent Rights
(see attached)

Title	Inventor	App No. Filing Date	Pat No. Issue Date	Pub No. Pub Date
Improved Transmitter and Transducer for Electromagnetic Hearing Devices	Rodney C. Perkins Sunil Puria Jonathan P. Fay John H. Winstead	200580029776 .5 07/25/2005		CN101073288 A 11/14/2007
Improved Transmitter and Transducer for Electromagnetic Hearing Devices	Rodney C. Perkins Sunil Puria Jonathan P. Fay John H. Winstead	05775522.5 07/25/2005		1787492 05/23/2007
Improved Transmitter and Transducer for Electromagnetic Hearing Devices	Rodney C. Perkins Sunil Puria Jonathan P. Fay John H. Winstead	2007-523711 07/25/2005		2008-508039 03/21/2008
Transducer for Electromagnetic Hearing Devices	Rodney C. Perkins Sunil Puria Jonathan P. Fay John H. Winstead	10/902660 07/28/2004	7421087 09/02/2008	US-2006- 0023908-A1 02/02/2006
Systems and Methods for Photo-Mechanical Hearing Transduction	Vincent Pluinage	11/248459 10/11/2005		US-2006- 0189841-A1 08/24/2006
Hearing System Having Improved High Frequency Response	Sunil Puria Rodney C. Perkins	200680020181 .8 04/21/2006		CN101208992 A 06/25/2008
Hearing System Having Improved High Frequency Response	Sunil Puria Rodney C. Perkins	06758467.2 04/21/2006		1880574 01/23/2008
Hearing System Having Improved High Frequency Response	Sunil Puria Rodney C. Perkins	2008-510027 04/21/2006		2008-541560 11/20/2008
Hearing System Having Improved High Frequency Response	Sunil Puria	11/121517 05/03/2005		US-2006- 0251278-A1 11/09/2006
Output Transducers for Hearing Systems	Rodney C. Perkins Sunil Puria Jonathan P. Fay John H. Winstead	11/264594 10/31/2005		US-2007- 0100197-A1 05/03/2007
Energy Delivery and Microphone Placement Methods for Improved Comfort in an Open Canal Hearing Aid	Jonathan P. Fay Sunil Puria Paul Rucker John H. Winstead Rodney C. Perkins	PCT/US2008/0 78793 10/03/2008		WO2009/0463 29 04/09/2009
Energy Delivery and Microphone Placement Methods for Improved Comfort in an Open Canal Hearing Aid	Jonathan P. Fay Sunil Puria Paul Rucker John H. Winstead Rodney C. Perkins	12/244266 10/02/2008		US-2009- 0092271-A1 04/09/2009

Title	Inventor	App No. Filing Date	Pat No. Issue Date	Pub No. Pub Date
Multifunction System And Method For Integrated Hearing And Communication With Noise Cancellation And Feedback Management	Sunil Puria Rodney C. Perkins Jonathan P. Fay	PCT/US2008/0 79868 10/14/2008		WO2009/0493 20 04/16/2009
Multifunction System and Method for Integrated Hearing and Communication with Noise Cancellation and Feedback Management	Sunil Puria Rodney C. Perkins Jonathan P. Fay	12/251200 10/14/2008		US-2009- 0097681-A1 04/16/2009
Flextensional Output Actuators for Surgically Implantable Hearing Aids	Sunil Puria	09/430213 10/29/1999	6629922 10/07/2003	
Flextensional Microphones for Implantable Hearing Devices	Sunil Puria	09/429894 10/29/1999	6554761 04/29/2003	
Optical Electro-Mechanical Hearing Devices with Combined Power and Signal Architectures	Lee Felsenstein James Stone Jonathan P. Fay Sunil Puria	61/139522 12/19/2008		
Optical Electro-Mechanical Hearing Devices With Combined Power and Signal Architectures	Lee Felsenstein James Stone Jonathan P. Fay Vincent Pluvinage Sunil Puria	61/177047 05/11/2009		
Optical Electro-Mechanical Hearing Devices With Combined Power and Signal Architectures	Jonathan P. Fay Sunil Puria Lee Felsenstein James Stone Vincent Pluvinage	PCT/US2009/0 47685 06/17/2009		
Optical Electro-Mechanical Hearing Devices With Combined Power and Signal Architectures	Jonathan P. Fay Sunil Puria Lee Felsenstein James Stone Vincent Pluvinage	12/486100 06/17/2009		
Optical Electro-Mechanical Hearing Devices with Separate Power and Signal Components	Lee Felsenstein James Stone Jonathan P. Fay Vincent Pluvinage Sunil Puria	61/139520 12/19/2008		
Optical Electro-Mechanical Hearing Devices with Separate Power and Signal Components	Sunil Puria Jonathan P. Fay Lee Felsenstein James Stone Mead C. Killion Vincent Pluvinage	PCT/US2009/0 47682 06/17/2009		

Title	Inventor	App No. Filing Date	Pat No. Issue Date	Pub No. Pub Date
Optical Electro-Mechanical Hearing Devices With Separate Power and Signal Components	Sunil Puria Jonathan P. Fay Lee Felsenstein James Stone Mead C. Killion Vincent Pluinage	12/486116 06/17/2009		
Transducer Devices and Methods for Hearing	Paul Rucker Sunil Puria Jonathan P. Fay Micha Rosen	PCT/US2009/0 57716 09/21/2009		
Balanced Armature Device and Methods for Hearing	Sunil Puria Micha Rosen Jonathan P. Fay Paul Rucker James Stone	PCT/US2009/0 57719 09/21/2009		
Balanced Armature Devices and Methods for Hearing	Sunil Puria Micha Rosen Jonathan P. Fay Paul Rucker James Stone	61/217801 06/03/2009		
Optically Coupled Cochlear Actuator Systems and Methods	Rodney C. Perkins Sunil Puria	61/219861 06/24/2009		
Optically Coupled Active Ossicular Replacement Prosthesis	Sunil Puria Rodney C. Perkins	61/187166 06/15/2009		
Optically Coupled Bone Conduction Systems and Methods	Rodney C. Perkins Sunil Puria	61/219282 06/22/2009		
Optically Coupled Acoustic Middle Ear Implant Systems and Methods	Sunil Puria Rodney C. Perkins	61/184563 06/05/2009		
Optically Coupled Cochlear Implant Systems and Methods	Sunil Puria Rodney C. Perkins Paul C. Rucker	61/218377 06/18/2009		
Eardrum Implantable Devices for Hearing Systems and Methods	Rodney C. Perkins Sunil Puria	61/218380 06/18/2009		
Round Window Coupled Hearing Systems and Methods	Rodney C. Perkins Sunil Puria	61/219286 06/22/2009		
Optical Cochlear Stimulation Devices and Methods	Rodney C. Perkins Sunil Puria	61/220122 06/24/2009		

Title	Inventor	App No. Filing Date	Pat No. Issue Date	Pub No. Pub Date
Transdermal Photonic Energy Transmission Device and Methods	Rodney C. Perkins Sunil Puria	61/220124 06/24/2009		

AMENDMENT NO. 1 TO ASSIGNMENT AND LICENSE AGREEMENT

This AMENDMENT NO. 1 TO ASSIGNMENT AND LICENSE AGREEMENT (this “**Amendment**”) is made as of February 3, 2010 (the “**Effective Date**”) by and between EarLens Corporation, a Delaware corporation with its principal place of business at 200 Chesapeake Drive, Redwood City, CA 94063 (“**Corp**”), and SoundBeam LLC, a Delaware limited liability company with its principal place of business at 200 Chesapeake Drive, Redwood City, CA 94063 (“**LLC**”). LLC and Corp are each referred to herein as such or, individually, as a “**Party**” or, collectively, as “**Parties**.”

BACKGROUND

A. The Parties entered into that certain Assignment and License Agreement as of December 23, 2009 (the “**Agreement**”); and

B. The Parties desire to amend certain provisions of the Agreement on terms and conditions set forth herein, in accordance with Section 9.10 of the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements provided herein below and other consideration, the receipt and sufficiency of which is hereby acknowledged, Corp and LLC hereby agree as follows:

ARTICLE 1 AMENDMENTS

1.1 Patent Rights. Exhibit A of the Agreement is hereby amended and restated in its entirety to read as set forth in Exhibit A to this Amendment.

ARTICLE 2 GENERAL

2.1 Full Force and Effect. To the extent not expressly amended hereby, the Agreement shall remain in full force and effect.

2.2 Governing Law. This Amendment shall be governed by, and construed and interpreted in accordance with, the laws of the State of California, United States of America, without reference to principles of conflicts of law.

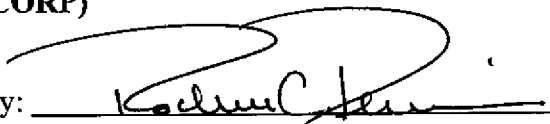
2.3 Entire Agreement. This Amendment together with the Agreement (to the extent not amended hereby) constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and thereof and supersedes any and all prior and contemporaneous negotiations, representations, agreements, and understandings, written or oral, that the Parties may have reached with respect to the subject matter hereof and thereof. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of each of the Parties hereto.

2.4 Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

[remainder of page left blank intentionally; signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 to Assignment and License Agreement in duplicate originals by their duly authorized representatives as of the Effective Date.

**EARLENS CORPORATION
(CORP)**

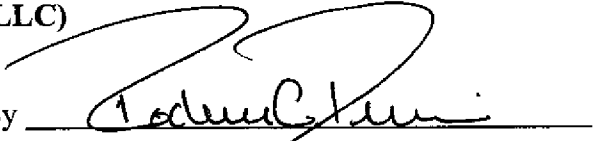
By: 

Name: Rodney C. Perkins

Title: President and Chief Executive Officer

Date: 2/3/10

**SOUNDBEAM, LLC
(LLC)**

By: 

Name: Rodney C. Perkins

Title: Managing Member

Date: 2/3/10

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Patent Rights
(see attached)

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Hearing System Having Improved High Frequency Response	Sunil Puria Rodney C. Perkins	06758467.2 04/21/2006		1880574 01/23/2008
Hearing System Having Improved High Frequency Response	Sunil Puria Rodney C. Perkins	2008-510027 04/21/2006		2008-541560 11/20/2008
Hearing System Having Improved High Frequency Response	Sunil Puria	11/121517 05/03/2005		US-2006- 0251278-A1 11/09/2006
Output Transducers for Hearing Systems	Rodney C. Perkins Sunil Puria Jonathan P. Fay John H. Winstead	11/264594 10/31/2005		US-2007- 0100197-A1 05/03/2007
Energy Delivery and Microphone Placement Methods for Improved Comfort in an Open Canal Hearing Aid	Jonathan P. Fay Sunil Puria Paul Rucker John H. Winstead Rodney C. Perkins	PCT/US2008/0 78793 10/03/2008		WO2009/0463 29 04/09/2009
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Flextensional Microphones for Implantable Hearing Devices	Sunil Puria	09/429894 10/29/1999	6554761 04/29/2003	
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Optical Electro-Mechanical Hearing Devices with Separate Power and Signal Components	Sunil Puria Jonathan P. Fay Lee Felsenstein James Stone Mead C. Killion Vincent Pluvinage	PCT/US2009/0 47682 06/17/2009		

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Balanced Armature Devices and Methods for Hearing	Sunil Puria Micha Rosen Jonathan P. Fay Paul Rucker James Stone	61/217801 06/03/2009		
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Title	Inventor	App No. Filing Date	Pat No. Issue Date	Pub No. Pub Date
Transdermal Photonic Energy Transmission Device and Methods	Rodney C. Perkins Sunil Puria	61/220124 06/24/2009		
Inconspicuous communication method utilizing remote electromagnetic drive	Adnan A. Shennib	08/292066 08/17/1994	5425104 06/13/1995	
Energy recovering hearing system	William Buchele	07/759164 09/13/1991	5276910 01/04/1994	
Contact transducer assembly for hearing devices	Rodney C. Perkins Adnan A. Shennib	07/791088 11/12/1991	5259032 11/02/1993	