

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

EPAS ID: PAT7628695

SUBMISSION TYPE:	NEW ASSIGNMENT	
NATURE OF CONVEYANCE:	ASSIGNMENT	
CONVEYING PARTY DATA		
	Name	Execution Date
	ARC MEDICAL DESIGN LIMITED	10/29/2021
RECEIVING PARTY DATA		
Name:	KEYMED (MEDICAL & INDUSTRIAL EQUIPMENT) LIMITED	
Street Address:	KEYMED HOUSE, STOCK ROAD	
City:	SOUTHEND-ON-SEA	
State/Country:	UNITED KINGDOM	
Postal Code:	SS2 5QH	
PROPERTY NUMBERS Total: 5		
Property Type	Number	
Patent Number:	D846732	
Patent Number:	D846733	
Patent Number:	10835650	
Patent Number:	11399712	
Application Number:	17849743	
CORRESPONDENCE DATA		
Fax Number:	(540)428-1720	
<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>		
Phone:	5404281701	
Email:	lkilyk@kbpattentlaw.com	
Correspondent Name:	LUKE A. KILYK	
Address Line 1:	8141 OPAL ROAD, BLDG. #3	
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ATTORNEY DOCKET NUMBER:	3015-017,-018,-023,-029	
NAME OF SUBMITTER:	LUKE A. KILYK	
SIGNATURE:	/luke a kilyk/	
DATE SIGNED:	11/04/2022	
Total Attachments: 13		

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ASSIGNMENT OF INTELLECTUAL PROPERTY

Dated: 29 October 2021

Between:

- (1) **KEYMED (MEDICAL & INDUSTRIAL EQUIPMENT) LIMITED** of KeyMed House, Stock Road, Southend-On-Sea, SS2 5QH, United Kingdom, Company No. 00966736 ("**Olympus KeyMed**") and
- (2) **ARC MEDICAL DESIGN LIMITED** of KeyMed House, Stock Road, Southend-On-Sea, SS2 5QH, United Kingdom, Company No. 06717387 ("**Arc Medical**").

BACKGROUND

- (A) Arc Medical owns the Assigned Rights.
- (B) Arc Medical is a whole owned subsidiary of Olympus KeyMed.
- (C) By the Main Agreement Arc Medical has agreed to assign to Olympus KeyMed the Assigned Rights on the terms set out in this Agreement.

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions:

Assigned Rights: all the Intellectual Property Rights in the Patents, Registered Designs and Trade Marks as set out in Schedule 1.

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Main Agreement: an asset purchase agreement dated on or about the date of this Agreement between Arc Medical and Olympus KeyMed.

Medivators Complaint: refers to the claim filed by Arc Medical and Olympus KeyMed known as *Arc Medical Design Ltd. v. Medivators Inc.*, Case No. 4:21-cv-00929 (S.D. Texa) against Medivators Inc. for infringement of certain patents in a case pending in the US District Court for the Southern District of Texas, and the subsequently filed cancellation of the claims of the patents assets in the District Court Action by Medivators Inc in the claim known as *Medivators Inc. v. Arc Medical Design Limited*, Case Nos. IPR2021-00706 and IPR2021-00707 (Patent Trial & Appeal Board).

Patents: the patents and the applications, short particulars of which are set out in Part 2 of Schedule 1.

Registered Designs: the registered designs and the applications short particulars of which are set out in Part 1 of Schedule 1.

Trade Marks: the registered trade marks and the applications, short particulars of which are set out in Part 3 of Schedule 1.

VAT: value added tax chargeable in the UK.

VATA 1994: the Value Added Tax Act 1994.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 References to clauses and Schedules are to the clauses and Schedules of this agreement.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 This agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.9 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.10 A reference to writing or written includes email.

- 1.11 Where any statement is qualified by the expression so far as such party is aware or to such party's knowledge (or any similar expression), that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 1.12 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

2. Assignment

- 2.1 In consideration of the sum of £1.00 (receipt of which Arc Medical expressly acknowledges), Arc Medical hereby assigns to Olympus KeyMed absolutely with full title guarantee all its right, title and interest in and to the Assigned Rights, including:
- (a) the absolute entitlement to any registrations granted pursuant to any of the applications comprised in the Patents, Registered Designs and Trade Marks;
 - (b) all goodwill attaching to the Trade Marks and in respect of the business relating to the goods or services for which the Trade Marks are registered or used; and
 - (c) the right to bring, make, oppose, defend or appeal proceedings, claims or actions, and obtain relief and to retain any damages recovered, in respect of any infringement, or any other cause of action arising from ownership, of any of the Assigned Rights, whether occurring before, on, or after the date of this agreement.

3. VAT

- 3.1 Olympus KeyMed and Arc Medical intend that article 5 of the Value Added Tax (Special Provisions) Order 1995 (*SI 1995/1268*) shall apply to the transfer of the Assigned Rights under this agreement and agree to use all reasonable endeavours to ensure that the assignment is treated as neither a supply of goods nor a supply of services under that article.
- 3.2 If, despite **Error! Bookmark not defined.**3.1, VAT is chargeable in connection with the transfer of the Assigned Rights under this agreement, Olympus KeyMed shall pay Arc Medical the amount of that VAT immediately on receipt of the relevant VAT invoice together with a copy of confirmation from HM Revenue & Customs that VAT is payable.

4. Warranties

- 4.1 Arc Medical warrants that:
- (a) it is the sole legal and beneficial owner of, and owns all the rights and interests in, the Assigned Rights;

- (b) for each of the applications and registrations listed in Schedule 1, it is properly registered as the applicant or registered proprietor, and all application, registration and renewal fees have been paid;
- (c) other than as permitted within the Olympus Group of Companies, it has not licensed or assigned any of the Assigned Rights;
- (d) the Assigned Rights are free from any security interest, option, mortgage, charge or lien;
- (e) other than the Medivators Complaint, it is unaware of any infringement or likely infringement of any of the Assigned Rights;
- (f) as far as it is aware, all the Assigned Rights are valid and subsisting and there are and have been no claims, challenges, disputes or proceedings, pending or threatened, in relation to the ownership, validity or use of any of the Assigned Rights, and there is nothing that might prevent any application listed in Schedule 1 proceeding to grant;
- (g) as far as it is aware, exploitation of the Assigned Rights will not infringe the rights of any third party;
- (h) all previous assignments of the applications and registrations listed in Schedule 1 are valid and were registered within applicable time limits.

5. Indemnity

- 5.1 Arc Medical shall indemnify Olympus KeyMed against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Olympus KeyMed arising out of or in connection with
 - (a) any breach of the warranties contained in clause 4;
 - (b) the enforcement of this Agreement.
- 5.2 At the request of Olympus KeyMed and at Arc Medical's own expense, Arc Medical shall provide all reasonable assistance to enable Olympus KeyMed to resist any claim, action or proceedings brought against Olympus KeyMed as a consequence of any breach referred to in clause 5.1(a).
- 5.3 This indemnity shall apply whether or not Olympus KeyMed has been negligent or at fault.
- 5.4 If a payment due from Arc Medical under this clause is subject to tax (whether by way of direct assessment or withholding at its source), Olympus KeyMed shall be entitled to receive from Arc Medical such amounts as shall ensure that the net receipt, after tax, to Olympus KeyMed in respect of the payment is the same as it would have been were the payment not subject to tax.

5.5 Nothing in this clause shall restrict or limit Olympus KeyMed's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

6. Further assurance

Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this agreement.

7. Waiver

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

8. Entire agreement

8.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

8.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

9. Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

10. Severance

10.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

10.2 If any provision or part-provision of this agreement is deemed deleted under clause 11.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

11. Counterparts

11.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

11.2 Transmission of an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) by email shall take effect as the transmission of an executed "wet-ink" counterpart of this agreement.

12. Third-party rights

12.1 This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

13. Notices

13.1 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be sent by email.

13.2 Any notice or communication shall be deemed to have been received by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 13.2, business hours means 9.00 am to 5.00 pm on a Business Day.

13.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

14. Governing law

This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

15. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

The Intellectual Property Rights

Registered or unregistered Design	Description of Design	For registered designs, registration number
Endocuff	Single use cap-like device attached to the distal tip of the colonoscope to improve adenoma detection rates during colonoscopy	EM 001856121-0001 GB 90018561210001
Endocuff Vision	Single use device attached to the distal end of a colonoscope, designed to maintain and maximize the viewable mucosa during endoscopic therapy	EM 002523191-0001 GB 90025231910001
Wide Eye Polyp Trap	Single use transparent lid design that provides enhanced visualization and verification of trapped polyp	EM 004383917-0001 GB6010378 GB90043839170001 USD846732
Poly Trap (4 Basket)		EM 004383917-0002 GB6010379 GB90043839170002 USD846733
Multi-Trap	Single-use multi-chamber polyp trap	GB6090954 PCT (App No WIPO099783 in EM, JP, US) designs filed CN App No 202030723982.3

Invention/Title	Date of Invention	Patent/Patent application number	Territory
Covering for medical scoping device	24 May 2011	ATGM2872015	Austria
		202011110721.7	Germany
		GB1108723.6	United Kingdom
		HK13106112.5	Hong Kong
		AU2011256957	Australia
		AU2013263814	Australia
		AU2015203443	Australia
		AU2017219017	Australia
		BR1120120300539	Brazil
		CA2800198	Canada
		CN201180026078.5	China
		EP11722861.9	Europe
		P11722861.9	Albania
		EP11722861.9	Austria
		EP11722861.9	Belgium
		EP11722861.9	Bulgaria
		EP11722861.9	Switzerland
		EP11722861.9	Cyprus
		EP11722861.9	Czech Republic
		EP11722861.9	Germany
EP11722861.9	Denmark		
EP11722861.9	Estonia		
EP11722861.9	Spain		
EP11722861.9	Finland		
EP11722861.9	France		
EP11722861.9	United Kingdom		

Arc Endocuff (Stylised)	3585364 2016000061151 580102	Spain Italy Portugal
Endocuff	1135994 TMA980915 1135994 UK00002586962 1135994 1135994 4492954 1135994	Australia Canada China United Kingdom Japan Singapore United States of America PCT/IR
Endocuff Glide	TMA1038872 1350480 UK00003216599 UK00801350480 1350480 5314448 1350480	Canada European Union (EUIP) United Kingdom United Kingdom Japan United States of America PCT/IR
Endocuff Vision	1223474 TMA1033012 1223474 1223474 13177019 UK00913177019 304068919 DID2017057993 (App No) DID2017057993 (App No), 1223474 1223474 1223474 2017011492 (App No) 1223474 1223474 1223474 1223474 1438017495 2017/05834 1223474 1223474 1901117 4829414 1223474 1223474 2017/05834 (App No)	Australia Canada Switzerland China European Union (EUIP) United Kingdom Hong Kong Indonesia India Japan South Korea Malaysia Norway New Zealand Philippines Saudi Arabia South Africa Singapore Thailand Taiwan United States of America Vietnam PCT/IR South Africa
Endocuff Vision (Stylised)	1299094 TMA1072957 1299094 1208766 14107189 UK00914107189 1299094 1299094 1299094 1299094 1299094 1299094 5238720 1299094	Australia Canada Switzerland Chile European Union (EUIP) United Kingdom Iceland Japan South Korea New Zealand Singapore Turkey United States of America PCT/IR
Endocuff Vision (Stylised) II	1351043 1351043 1351043 1351043 UK00003216185 UK00801351043	Australia Switzerland China European Union (EUIP) United Kingdom United Kingdom

	1351043 295713 1351043 1351043 1351043 1351043 1351043 1351043 5348363 1351043	Israel Israel Iceland Japan South Korea Norway New Zealand Singapore Turkey United States of America PCT/IR
Endoloc	UK00003294805	United Kingdom
Enterocuff	1303164 TMA1037042 1303164 1303164 1303164 UK00003136925 UK00801303164 1303164 1303164 1303164 1303164 1303164 1303164 5253106 1303164	Australia Canada Switzerland China European Union (EUIP) United Kingdom United Kingdom Iceland Japan South Korea Norway New Zealand Singapore United States of America PCT/IR
Wide-Eye	1814503 TMA1038209 1323121 1251042 1323121 15874795 UK00003160136 UK00915874795 1323121 1323121 1323121 1323121 1323121 1323121 1323121 1323121 1323121 524371 1323121	Australia Canada Switzerland Chile China European Union (EUIP) United Kingdom United Kingdom Israel Iceland Japan South Korea Liechtenstein Norway New Zealand Singapore Turkey United States of America PCT/IR
Wide-Eye Illuminator	1323277 TMA1038207 1323277 1238919 1323277 1323277 UK00003188357 UK00801323277 1323277 1323277 1323277 1323277 1323277 1323277 1323277 1323277	Australia Canada Switzerland Chile China European Union (EUIP) United Kingdom United Kingdom Israel Iceland Japan South Korea Liechtenstein Norway New Zealand Singapore

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In witness whereof, the parties hereto have executed this Agreement with effect from the date shown above.

Signed for and on behalf of **KeyMed (Medical and Industrial Equipment) Limited:**

Sign: Constantin Zangemeister

Name: Constantin Zangemeister

Date: 29 October 2021

Position: Managing Director

Kamaljit Hunjan

Name: Kamaljit Hunjan

Date: 29 October 2021

Position: UI Regional Managing Director

Signed for and on behalf of **Arc Medical Designs Limited:**

Sign: Constantin Zangemeister

Name: Constantin Zangemeister

Date: 29 October 2021

Position: Managing Director



Katie Glackin Adams

Senior Legal Counsel

29 October 2021