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U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

DM Technologies, Ltd.

2-9-04

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

3. Nature of conveyance:

- ☐ Assignment ☐ Merger
- ☐ Security Agreement ☐ Change of Name
- ☒ Other Exclusive Patent License

Execution Date: 11.13.2003

2. Name and address of receiving party(ies)

Name: NexGen Highwall Mining Systems, LLC

Internal Address: _____

Street Address: 3300 S. Parker Road, Suite 520City: Aurora State: CO Zip: 80014Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s) _____

B. Patent No.(s) 5,836,658Additional numbers attached? ☐ Yes ☒ No

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

Name: Kara L. RigneyInternal Address: Holme Roberts & Owen LLPStreet Address: 1801 13th Street, Suite 300City: Boulder State: CO Zip: 803026. Total number of applications and patents involved: ☒7. Total fee (37 CFR 3.41).....\$ 40.00☒ Enclosed☐ Authorized to be charged to deposit account

8. Deposit account number: _____

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9. Signature.

Kara L. Rigney

Name of Person Signing

Kara L. Rigney

Signature

2.9.04

Date

02/12/2004 DBYRNE

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Total number of pages including cover sheet, attachments, and documents: ☒ 5

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents & Trademarks, Box Assignments
Washington, D.C. 20231PATENT
REEL: 014964 FRAME: 0155

EXCLUSIVE PATENT LICENSE AGREEMENT

This Exclusive Patent License Agreement (this "Agreement"), dated effective as of May 7, 2003 (the "Effective Date"), is between DM TECHNOLOGIES, LTD, a corporation incorporated under the laws of the Province of Saskatchewan, Canada ("DMT"), with an address of 149-2002 Quebec Avenue, Saskatchewan, Canada S7K 1W5, and NEXGEN HIGHWALL MINING SYSTEMS, LLC, a Colorado limited liability company ("NexGen"), 3300 S. Parker Road, Suite 520, Aurora, Colorado 80014.

Recitals

DMT (as the successor in interest to Dennis Mraz) is the owner of United States Patent No. 5,836,658, "Method and Apparatus for Boring and Shearing of Rock," granted on November 17, 1998. DMT hereby desires to grant NexGen an exclusive license in and to such patent pursuant to the terms herein.

Agreement

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by DMT, the parties agree as follows:

1. **Patent.** DMT is the owner of United States Patent No. 5,836,658, "Method and Apparatus for Boring and Shearing of Rock," granted on November 17, 1998, including without limitation, all reissues, divisionals, continuations, renewals, substitutions, extensions and continuations-in-part thereof whether now or hereafter existing (the "Patent").

2. **License.** Mraz hereby grants to NexGen a perpetual, irrevocable, transferable license under such Patent to make, have made, use and sell mining systems or other mining apparatus embodying the invention of the Patent ("Licensed Products") throughout the United States and its territories (the "License"). The License shall be exclusive, and NexGen shall have the right to sublicense under this License.

3. **Royalties.**

(a) With respect to License Products sold or otherwise disposed of by NexGen that do not constitute "HM Systems" (as defined in that certain Amended and Restated Exclusive License Agreement (Highwall Mining Systems), dated as of November 15, 2001, as amended or supplemented from time to time (the "HM System License"), DMT shall be entitled to a royalty at the rate of five percent (5%) of the Net Sales actually received by NexGen; provided, that sales between NexGen and an affiliate of NexGen, or a sublicensee, shall not be included in such computation; and, provided further, in the event a patent or patents of a third party should exist during the term of this Agreement that covers the manufacture, use or sale of any such Licensed Product, and if in NexGen's reasonable judgment it is impractical or impossible for NexGen to continue make, have made, use or sell such Licensed Product without obtaining a license from such third party, then NexGen shall be entitled to a credit against the payments due hereunder of an amount equal to the royalty paid to such third party, not to exceed twenty-five percent (25%) of the royalty payment due under this paragraph.

(b) With respect to License Products sold or otherwise disposed of by NexGen that do constitute HM Systems, DMT shall be not be entitled to any royalty or compensation under this Agreement; and compensation, if any, to DMT would be payable in accordance with the HM System License.

(c) It is the intent of the parties that any compensation due DMT with respect to HM Systems, if any, be under and pursuant to the HM System License; and that any compensation due DMT with respect to Licensed Products that do not constitute HM Systems, if any, be under and pursuant to this Agreement.

(d) "Net Sales" shall mean the amounts received by NexGen for the sale of Licensed Products that incorporate one or more inventions protected by the Patent, less trade discounts, credits for claims or allowances and returns, costs of warranty claims, prepaid freight and less taxes and other governmental taxes.

(e) NexGen's obligations under the Agreement shall terminate upon the termination of the last Patent covering Licensed Products.

4. **Right to Payments.** NexGen shall have the sole and exclusive right to receive all income, royalties, damages and payments now or hereafter due or payable under and with respect to the Patent, including without limitation, damages and payments for past, present and future infringements thereof, all rights corresponding, incident or relating thereto.

5. **Right to Bring Suit.** NexGen shall have the sole and exclusive right to sue for past, present and future infringements of the Patent, and DMT grants to NexGen the right (but not the obligation) to bring, at its own expense, an action (in its own name or in the name of DMT) against any party that infringes upon the Patent. Each of the parties hereto shall notify the other party of any suspected infringement of the Patent. The parties hereto agree to cooperate in all respects, to testify when requested, and to make available any records, papers, information, specimens, and the like.


6. **Representations and Warranties.** DMT represents and warrants that: (a) DMT has the full power and authority to enter into this Agreement and to grant the License stated herein, and (b) DMT has good, absolute and marketable title to the Patent, free and clear of all liens, security interests, burdens, claims and other encumbrances or charges on the Patent, and has not assigned, granted or transferred to any other person or entity any right, license or privilege in and to the Patent.

7. **DMT Assistance.** DMT agrees to execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, all such other documents and instruments as may be necessary to carry out the intent of this Agreement, including without limitation, taking all such actions as may be necessary in the applicable offices and records to fully grant the License to NexGen on such instruments and forms as may be necessary or appropriate under the laws, rules and regulations of applicable government bodies, authorities and agencies, which instruments and forms shall be deemed to include all of the rights, powers and privileges set forth herein as if set forth therein. In addition, DMT agrees upon request of, and at the cost and expense of NexGen to do at all times such acts and execute and deliver to NexGen such papers, instruments

and documents, as from time to time may be necessary, advisable or useful to register, apply for, secure, maintain, transfer, extend or defend the Patent so as to secure to NexGen the full benefits thereof. DMT hereby appoints NexGen as his attorney in fact to execute any documents or instruments it deems necessary or advisable to carry out the foregoing in NexGen's name or in the name of DMT. Such appointment is coupled with an interest and shall be irrevocable.

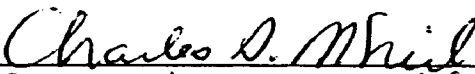
This Agreement has been executed on the dates set forth below, to be effective between DMT and NexGen as of the Effective Date.

DM TECHNOLOGIES, LTD.

By: 
Dennis Z. Mraz (a/k/a Dennis Mraz)
President

Date: 11/13/03

NEXGEN HIGHWALL MINING SYSTEMS, LLC
a Colorado limited liability company

By: 
Name: CHARLES D. McNEIL
Title: PRESIDENT
Date: 11/17/03