

## PATENT ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
Rakvere Limited	02/13/2004
RECEIVING PARTY DATA	
Name:	Dwight Cavendish Systems Limited
Street Address:	The Icon, Lytton Way
City:	Stevenage, Herts
State/Country:	UNITED KINGDOM
Postal Code:	SF1 1AH
PROPERTY NUMBERS Total: 1	
Property Type	Number
Patent Number:	7471479
CORRESPONDENCE DATA	
Fax Number:	(303)629-3450
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	303-629-3435
Email:	brown.valerie@dorsey.com
Correspondent Name:	Valerie H. Brown
Address Line 1:	370 17th Street
Address Line 2:	Suite 4700
Address Line 4:	Denver, COLORADO 80202
ATTORNEY DOCKET NUMBER:	191147/US/2
NAME OF SUBMITTER:	Valerie H. Brown
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DATED 13 FEBRUARY 2004

**RAKVERE LIMITED (1)**

and

**DWIGHT CAVENDISH SYSTEMS (2)  
LIMITED**

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**OPTION AND ASSIGNMENT  
ASSIGNMENT**

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**Mills & Reeve**

THIS AGREEMENT is made on 13 FEBRUARY

2004

**BETWEEN:**

1. **RAKVERE LIMITED** whose registered office is at 16 St Georges Street, Douglas, Isle of Man, IM1 1PL ("**Rakvere**"); and
2. **DWIGHT CAVENDISH SYSTEMS LIMITED** whose registered office is at Vincent House, Alington Road, Eynesbury, Cambridgeshire, PE19 6YH ("**DCS**").

**BACKGROUND:**

- A. Rakvere owns certain intellectual property relating to copy protection and has entered into an agreement with Dwight Cavendish Developments Limited ("**DCD**") and Dwight Cavendish Holdings Limited ("**DCD Agreement**") which has now terminated, and also an agreement with Dwight Cavendish Systems Limited ("**DCS Agreement**"); and
- B. Rakvere wishes to assign to DCS certain intellectual property and all its rights title and interest in and arising out of the intellectual property on the terms and conditions set out below, and to bring to an end the DCS Agreement; and
- C. DCS is willing and has agreed to make certain payments to Rakvere as part of this Agreement.

**OPERATIVE TERMS:**

**1 Definitions**

- 1.1 In this Agreement unless the context otherwise requires the following terms will bear the following meanings:
  - 1.1.1 "**Execution Date**" means the date set out above;
  - 1.1.2 "**Intellectual Property**" means the intellectual property set out in Schedule 2;
  - 1.1.3 "**Inventions**" means the inventions disclosed in or claimed by the Patents;

1.1.4 "Patents" means the patent(s) and/or patent application(s) identified in Schedule 2, or relating to the same inventions as disclosed in or claimed in such patents or patent applications; and all patents or patent applications claiming priority from any of the foregoing, or otherwise corresponding patents and applications forming in any part of the world;

1.1.5 "Payments" means the payments set out in Schedule 1; and

1.1.6 "Rakvere Intellectual Property" means that part of the Intellectual Property identified as such in Schedule 2 (being the Intellectual Property other than that acquired from DCD under the Option and Assignment Agreement between DCD and Rakvere ("DCD/Rakvere Option"));

## 2 Option

2.1 In consideration of the payment by DCS to Rakvere of the sum of ("Option Fee"), receipt of which Rakvere hereby acknowledges, Rakvere grants to DCS an option ("Option") to acquire the Intellectual Property on the terms set out in this Agreement.

2.2 DCS may exercise the Option at any time before midnight (BST) on 20 February 2004 ("Option Date"), by giving written notice to Rakvere that it desires to exercise or exercises the Option, and paying to Rakvere the first payment ("First Option Payment"), in accordance with the payment schedule in Schedule 1 ("Exercise of the Option").

2.3 On Exercise of the Option, DCS undertakes to pay the subsequent Payments, in accordance with the payment schedule in Schedule 1 ("Subsequent Option Payments"), together with compound interest compounded daily at an annual rate of three (3) per cent above the United States prime lending rate as quoted in the Wall Street Journal, on the then outstanding part of the aggregate Option Payments, calculated from the Option Date to the date of invoice if paid in accordance with Clause 2.5, and to the date of payment if paid after that date, as illustrated in Schedule 1. Written notice may be delivered to Rakvere by mail, private courier, personal delivery or facsimile. All sums payable under this Agreement are exclusive of any value added (or like) tax which may be payable on them. All value added tax payable

on the Payments is due at the time of the First Option Payment. For the avoidance of doubt, if DCS decides to satisfy all Option Payments owing under the Agreement by delivering to Rakvere payment in the amount of at the time the Option is exercised by DCS, (in accordance with Clause 2.6), the value added tax shall be due at that time.

- 2.4 The Option Payments shall be made to Rakvere at the address set out above or such other address as Rakvere may notify to DCS, or by electronic transfer to the account below:

Account Name:

Account Number:

Bank Sort Code:

Bank Name:

- 2.5 Rakvere shall invoice DCS in respect of the second and any subsequent elements of the Option Payments when they fall due. All invoices shall be delivered to DCS both by facsimile transmission and registered mail. The Option Payments payable by DCS shall be paid within one calendar month of the date of the relevant invoice. Time shall not be of the essence in payment of the Subsequent Option Payments.

- 2.6 In lieu of making the payments set forth in Schedule 1, DCS can satisfy all Option Payments owing under this Agreement by delivering to Rakvere payment in the amount of at the time the Option is exercised by DCS.

- 2.7 In the event that the amount received by Rakvere is reduced by any bank charges in respect of the transfer or payment, the Payments shall be deemed to have been paid in full when originally paid, provided that DCS further pays any such bank charges within 14 days of notice of the amount of such charges is sent by Rakvere in writing to DCS.

- 2.8 If DCS does not exercise the Option by the Option Date, or fails to make all of the First Option Payment, the Option shall lapse and this Agreement (including the Option) shall be of no further effect, provided that, in such case, if Rakvere has

received any part of the Option Payments it shall forthwith repay the same to DCS. The Option Fee shall be non-refundable in any event.

### **3     Assignment**

3.1     On exercise of the Option in accordance with Clause 2.2, Rakvere hereby irrevocably assigns absolutely to DCS:

3.1.1     the Intellectual Property, including the Patents and the Inventions, and all rights pertaining there; and

3.1.2     the right to any claim for previous infringement of the rights assigned by this Agreement, including the right to bring proceedings thereon;

and the full and exclusive benefit of these rights and all rights privileges and advantages associated with these rights.

3.2     The foregoing shall include, without limitation, the right anywhere in the world to apply for and obtain patents or other similar forms of protection in respect of the Inventions or any of them and to make any new application or applications in respect of any part or parts of the subject matter of any application or specification filed in respect of the Inventions and to claim priority in respect of the same.

3.3     Rakvere shall, on request, delivery up all documents of title for or otherwise relating to the Intellectual Property, including relating to the application for, prosecution, and maintenance of any patent rights, which are in its possession or control.

### **4     Rights under the DCD/Rakvere Option**

4.1     Rakvere agrees that following Exercise of the Option in accordance with Clause 2.2:

4.1.1     subject to Clause 4.1.2, Rakvere shall, on request by DCS at any time, enforce all or any of Rakvere's rights under the DCD/Rakvere Option (including any right to exercise the option in the DCD/Rakvere Option); and

4.1.2     subject to DCS serving notice on Rakvere requesting the same, at any time after the date of this Agreement, Rakvere irrevocably assigns all or any of

its rights under the DCD/Rakvere Option (including any right to exercise the option in the DCD/Rakvere Option) to DCS and DCS shall have the right to exercise all such rights (including any right to exercise the option in the DCD/Rakvere Option) as if it were a party to the DCD/Rakvere Option.

**5     Termination of DCS Agreement**

- 5.1     The Parties agree that the DCS Agreement shall be terminated with effect from the Execution Date, and that all rights and obligations under the DCS Agreement shall forthwith cease, and that neither party shall, after the Execution Date, have any outstanding liabilities in relation to the DCS Agreement whether arising before or after the date of this Agreement.

**6     Further assurance**

- 6.1     Rakvere shall at the direction of DCS execute any further document and do any such act or thing as DCS may reasonably require to enable DCS (or its nominee) to become registered as proprietor of the Patents and to vest absolutely and enjoy the full benefit of the Intellectual Property hereby assigned.

**7     Warranties and indemnity**

- 7.1     Rakvere warrants to DCS that:

- 7.1.1     Rakvere owns the Rakvere Intellectual Property free of all charges, liens, encumbrances or equities, that Rakvere has full right and authority to make this Agreement and that all the Patents are in force;
- 7.1.2     Rakvere has not granted any rights to a third party, other than DCD under the DCD Agreement (which has now been terminated), to use or otherwise exploit the Intellectual Property or granted or permitted to arise in favour of any third party any charge, lien encumbrance or equity in respect of the Intellectual Property nor has Rakvere permitted or tolerated any use or exploitation by any third party, other than DCD, and all rights to DCD have now been terminated; and

7.1.3 Rakvere has not done or omitted to do any act, matter or thing by which the Intellectual Property, the Patents or any patent applications, patents or similar forms of protection in respect of the Inventions may be invalid or unenforceable and Rakvere is not aware of any fact or matter which would affect the validity of the Intellectual Property or the Patents or any patent applications, patents or similar forms of protection in respect of the Inventions.

7.2 Rakvere shall indemnify and keep indemnified DCS from and against any and all liability, loss, damages, costs, expenses (including, without limitation, reasonable attorneys' fees) of any kind arising out of or in connection with any breach of the warranties in Clause 7.1, provided that DCS shall comply with the following:

7.2.1 DCS will give prompt notice to Rakvere of any claim, cost or expense covered by this indemnity or circumstances considered likely to give rise to any claim, cost or expense that may be covered by this indemnity;

7.2.2 DCS will refrain from making any admission of liability, settlement or other statement, representation or act whatsoever that might be prejudicial to the defence of, or adversely affect the amount or liability for, any such claim, cost or expense, without the prior written consent of Rakvere; and

7.2.3 DCS will give Rakvere control of any settlement, defence and proceedings in respect of which any liability to indemnify may arise provided, however, Rakvere allows the party seeking indemnification consultation rights with respect to the legal strategy and direction of the proceedings.

These provisos shall apply only to the extent that the indemnity relates to a claim made against DCS by a third party.

## 8 Notice

8.1 As soon as practicable after the Option has been successfully exercised, Rakvere will give notice to DCS acknowledging receipt of the First Option Payment, notifying DCS of such successful exercise and confirming the assignment the subject of Clause 3.1.

- 8.2 Rakvere shall promptly on receipt forward the notice received under Clause 6.1 of the DCD/Rakvere Option to DCS.

## **9 Confidentiality**

- 9.1 Rakvere undertakes that it will maintain all information forming part of the Intellectual Property confidential and will not disclose the same to any third party nor use it for any purpose without the prior written consent of DCS.

- 9.2 Clause 9.1 shall not apply to any information to the extent that it is at the time in question in the public domain, through no fault on the part of Rakvere, or is received without any obligation of confidence after the date of this Agreement from a source other than DCS; and provided that information shall not be regarded as in the public domain merely because all the elements of it are separately in the public domain or because it is encompassed by more general information in the public domain.

## **10 DCD/Rakvere Option**

- 10.1 On written request from DCS to do so, in sufficient time (not being required to be more than one (1) working day prior to the option deadline under the DCD/Rakvere Option), Rakvere shall in due time exercise the option under DCD/Rakvere Option, and as soon as practicable after it has successfully exercised the option in the DCD/Rakvere Option, Rakvere will notify DCS of such successful exercise and shall pay or procure payment of all such sums as are required under the DCD/Rakvere Option in order to give full effect to the exercise of the option.
- 10.2 If DCS (on assignment of the rights under the DCD/Rakvere Option) exercise the option thereunder, and pay any of the sums payable in exercise of option under the DCD/Rakvere Option, Rakvere shall promptly reimburse DCS upon successful exercise of the Option in the DCD/Rakvere Option.

## **11 General**

- 11.1 The failure or delay of either party to exercise or enforce any right under this Agreement shall not operate as a waiver of that right or preclude the exercise or enforcement of it at any time or times thereafter.

- 11.2 This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes and replaces all prior agreements, negotiations and discussions between the parties relating to it. Each party confirms and acknowledges that it has not been induced to enter into this Agreement by any representation, warranty, or undertaking not expressly incorporated into it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.
- 11.3 No variation of this Agreement shall be valid unless it is in writing and signed by an authorised representative of each of the parties.
- 11.4 The parties agree that nothing in this Agreement shall confer or purport to confer on any third party any benefit or any right to enforce any term of this Agreement or operate to give any third party the right to enforce any term of this Agreement. Notwithstanding the foregoing, the shareholders in DCS for the time being or any of them shall be entitled to enforce the terms of this option and assignment agreement for the benefit of DCS, its successors and assigns.
- 11.5 If any provision of this Agreement shall be held to be unlawful, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be severed from this Agreement and rendered ineffective as far as possible without modifying or affecting the legality, validity or enforceability of the remaining provisions of this Agreement which will remain in full force and effect.
- 11.6 Any notice to be given under this Agreement shall be in writing and shall be delivered by hand, sent by next day courier or sent by fax (such notice to be confirmed by letter posted within 12 hours) to the address of the other party set out in this Agreement. Any such notice or other document shall be deemed to have been served: if delivered by hand or by courier – at the time of delivery; and if sent by fax – the next business day after the fax was dispatched.
- 11.7 This Agreement shall be governed by and construed in accordance with English law and each party hereby irrevocably submits to the non-exclusive jurisdiction of the English Courts.

**Schedule 1**

**Payments and payment schedule**

<b>Date of payment</b>	<b>Payment</b>	<b>Outstanding sum</b>
On or before the Option Date		
31 January 2005		
1 April 2005		
1 July 2005		
1 October 2005		
Total		

## Schedule 2

### **Intellectual Property:**

#### **1. Rakvere Intellectual Property**

##### **Patents:**

The "Audio anti-copy Patent group" consisting of

UK Patent No GB2348736;

PCT Patent Application PCT/GB00/01314 (Publication No WO 00/62291)

European Patent EP1169707 B1

Australia Patent Application AU3828700

Japan Patent Application 2000-611277 (Publication No JP 2002-541612)

USA Patent Application US09/958611

##### **Other Rakvere Intellectual Property**

To the extent not already covered, all intellectual property rights which Rakvere owns by virtue of the DCD Agreement or the DCS Agreement, and any work carried out under either of those agreements, and all other intellectual property rights that Rakvere own in copy protection technologies or reasonably necessary for the use, exercise and exploitation of the rights referred to elsewhere in this Schedule 2.

#### **2. The DCD Intellectual Property**

- The "HTA Patent group" consisting of all DCD's right, title and interest (prior to any transfer in accordance with the DCD/Rakvere Option) in
  - Netherlands Patent Application 1014793;
  - PCT Patent Application PCT/NL01/00263 (Publication No WO 01/76240);
  - European Patent Application EP1319308;
- all DCD's right, title and interest (prior to any transfer in accordance with the DCD/Rakvere Option) in the "Intellectual Property" referred to in the Intellectual Property Licence and Services Agreement between DCD and DCS dated 1 May 2002, and the "Video Pay-TV-Anti-Copy system" the subject of the "HTA Patents" above and referred to in Intellectual Property Licence and Services Agreement between DCD and DCS; and
- all other intellectual property assigned to Rakvere under the DCD/Rakvere Option.

For the purpose of this schedule "intellectual property rights" include all patents, claims in any patents (and all reissues, extensions, substitutions, confirmations, registrations, revalidations, additions, continuations in part and divisions thereof), utility models, petty patents, trademarks, service marks, registered designs, and applications for any of the foregoing and the right to apply for any of the foregoing in any part of the world, copyright, database rights, semiconductor topography rights, design right, inventions, confidential

information and all other similar rights situated in any country in the world, and all rights (including any licences) in or under the same.

Signed for and on behalf of RAKVERE  
LIMITED by

*Richard A. Costanza*

RICHARD A. COSTANZA (print name)

DIRECTOR (position)

Signed for and on behalf of DWIGHT  
CAVENDISH SYSTEMS LIMITED by

*C. Langley*

CAROL LANGLEY (print name)

COMPANY SECRETARY (position)