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04-19-2001

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY



04-11-2001

101680358

U.S. Patent & TMO/TM Mail Ropt Dt. #61 Director of Patents and Trademarks: Please record the attached

<p>1. Name of conveying party(ies):</p> <p>EMI Group plc</p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-State <input type="checkbox"/> United Kingdom <input type="checkbox"/> Other _____</p> <p>Additional name(s) of conveying party(ies) attached _____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	<p>2. Name and address of receiving party(ies):</p> <p>Name: <u>Central Research Laboratories Limited</u> Address: _____ <u>Dawley Road, Hayes</u> <u>Middlesex UB3 1HH, England</u></p> <p><input type="checkbox"/> Individual(s) citizenship _____ <input type="checkbox"/> Association _____ <input type="checkbox"/> General Partnership _____ <input type="checkbox"/> Limited Partnership _____ <input checked="" type="checkbox"/> Corporation-State <input type="checkbox"/> United Kingdom <input type="checkbox"/> Other _____</p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached: _____ <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Designations must be a separate document from Assignment) Additional name(s) & addresses attached? _____ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of conveyance: <u>4-11-01</u></p> <p><input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____</p> <p>Execution Date: <u>October 31, 1996</u></p>	

<p>4. Application number(s) or registration number(s):</p> <p>A. Trademark Application No.(s)</p>	<p>B. Trademark Registration No.(s). <u>1,191,084</u></p> <p>Additional Numbers attached? _____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
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<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: <u>Patrick Boisson</u></p> <p>Internal Address: <u>Fross Zelnick Lehrman & Zissu, P.C.</u></p> <p>Street Address: <u>866 United Nations Plaza</u></p> <p>City: <u>New York</u> State: <u>NY</u> Zip: <u>10017</u></p>	<p>6. Total number of applications and registration involved:.....<u>1</u></p> <p>7. Total fee (37 CFR 3.41) \$ <u>40.00</u></p> <p><input checked="" type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Authorized to be charged to deposit account (Only if total fee is not sufficient)</p> <p>8. Deposit account number: <u>23-0825-0576900</u></p> <p>(Attach duplicate copy of this page if paying by deposit account)</p>
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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Patrick Boisson
Name of Person Signing

Boisson
Signature

4/11/2001
Date

Total number of pages comprising cover sheet: _____

TRADEMARK
REEL: 002274 FRAME: 0480

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Registration No. 1191084

Mark: WATERMARK MAGNETICS

Registration Date: March 2, 1982

Class: 9

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

APPOINTMENT OF DOMESTIC REPRESENTATIVE

Thorn Secure Science Limited, a company organized and existing under the laws of the United Kingdom, No. 3261523, located at Rutland House, Hargreaves Road, Swindon, Wiltshire, England, the owner of the above-identified trademark registration, hereby appoints the law firm of Fross Zelnick Lehrman & Zissu, P.C. of 866 United Nations Plaza, New York, New York 10017 (Tel: 212-813-5900) its attorneys and representatives upon whom notices or process in proceedings affecting the above-identified mark may be served.

Dated: 10/11/00

**THORN SECURE SCIENCE
LIMITED**

By: 

Name: P. CHRISTOFOROU

Title: COMPANY SECRETARY

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DATED 31 October 1996

- (1) EMI GROUP PLC
- (2) SCIPHER LIMITED
- (3) CENTRAL RESEARCH LABORATORIES
LIMITED
- (4) QED PATENTS LIMITED
- (5) THORN SECURE SCIENCE LIMITED

INTELLECTUAL PROPERTY AGREEMENT

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20 Black Friars Lane
London EC4V 6HD

Tel: 0171-248 4282

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Ref: 259/365/12.240

INDEX

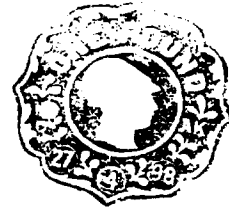
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INTELLECTUAL PROPERTY AGREEMENT



DATE: 31 October 1996

PARTIES:

- (1) **EMI GROUP PLC** (registered number 229231) whose registered office is at 4 Tenterden Street, London W1A 2AY (the "Seller");
- (2) **SCIPHER LIMITED** (registered number 3248274) whose registered office is at Dawley Road, Hayes, Middlesex UB3 1HH (the "Purchaser");
- (3) **CENTRAL RESEARCH LABORATORIES LIMITED** (registered number 22684463) whose registered office is at Dawley Road, Hayes, Middlesex UB3 1HH ("CRL");
- (4) **QED PATENTS LIMITED** (formerly called THORN EMI PATENTS LIMITED) (registered number 403229) whose registered office is at Central Research Laboratories, Dawley Road, as above ("QED"); and
- (5) **THORN SECURE SCIENCE LIMITED** (registered number 1133617) whose registered office is at Rutland House, Hargreaves Road, Groundwell Industrial Estate, Swindon, Wiltshire SN2 5AX ("TSSI").

BACKGROUND

- (A) By an agreement (the "Sale and Purchase Agreement") dated 1996 and made between the Seller and the Purchaser, the Seller sold and the Purchaser acquired shares in CRL and QED, together with certain other assets on the terms set out in that agreement.
- (B) This Agreement effects the assignment or licensing of various intellectual property rights between the parties hereto.

IT IS NOW AGREED THAT:

1. INTERPRETATION

- 1.1 In this Agreement the following words and expressions shall have the following meanings:

"Acquired Entity" has the meaning set out in Clause 6.5;

"Assigned Patents" means the patents and patent applications listed in Schedule 1;

"Audio Patents" means the patents and patent applications listed in Schedule 2;

"Business Day" means any day (not being a Saturday or Sunday) when clearing banks are open for business in the City of London for the transaction of normal banking business;

"Completion" has the same meaning as in the Sale and Purchase Agreement;

"Control" has the meaning set out in section 840 Income and Corporation Taxes Act 1988;

"CRL Thermal Imager Patents" means the patents and patent applications listed in Schedule 3;

"CRL Trade Marks" means the trade marks listed in Schedule 5;

"Current EMI Group" means (i) the Seller and those companies which are members of its Group as at the date of this Agreement together with (ii) any further members of the Seller's Group which are incorporated after the date of this Agreement but excluding (iii) any Acquired Entity and (iv) any company which ceases to be a member of that Group;

"Encumbrances" means all defects or impediments in title and other encumbrances (including licences) actually known to Management, including the licences referred to in Schedule 16 ("Purchaser's IP") to the Sale and Purchase Agreement, to the extent that such licences relate to the Intellectual Property which is said in this Agreement to be assigned subject to the Encumbrances;

"Field" means (i) the recording in any format (whether now known or unknown, whether permanent or transitory and whether tangible or intangible) of performances and works (both audio only and audio-visual) and (ii) the delivery of such recordings and/or works to the public and other users and third parties by any means including recording, broadcasting, transmitting, diffusing, manufacturing, replicating, marketing, selling and distributing, but excluding any use in the manufacture and/or sale of apparatus, equipment or hardware used directly or indirectly in making such delivery;

"Former Member" has the meaning set out in Clause 6.8;

"Group" means, in relation to a party or person, any holding company or subsidiary company of that party or person and any subsidiary of such holding company, from time to time;

"Insolvency Event" means in relation to any person, any of the following which relate to it:

- (i) if it is unable to pay its debts within the meaning of section 123(1) Insolvency Act 1986, which state of affairs will, in the reasonable opinion of the Seller, subsist for a period in excess of 28 days;
- (ii) if it ceases or threatens to cease carrying on all or substantially all of its business, otherwise than for the purposes of a solvent reconstruction or amalgamation;
- (iii) if any encumbrancer takes possession of, or a receiver, administrator or trustee is appointed over, the whole or any material part of its undertaking, property or assets, which state of affairs will, in the reasonable opinion of the Seller, subsist for a period in excess of 28 days;
- (iv) if an order is made or resolution is passed for its winding up, otherwise than for the purposes of a solvent reconstruction or amalgamation; or
- (v) if any event analogous to any of the foregoing occurs in any jurisdiction in which any of its assets are situated, which state of affairs will, in the reasonable opinion of the Seller, subsist for a period in excess of 28 days;

"Intellectual Property" means all intellectual property, including patents, trade and service marks, trade names, rights in designs, copyrights, topography rights, rights in databases, know-how, trade secrets and confidential information, in each case whether or not registered and including applications for the registration of any of these, and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world;

"Jointly Owned Patents" means the patents and patent applications listed in Schedule 9 (being those which are jointly owned by the Seller, the Secretary of State for Defence and Nortel);

"Management" means Ken Gray, John White, David Hulston, Paul Christoforou, Ashok Vaidya, Andrew Bell and Robbie Marsh;

"Miscellaneous Patent" means the patent listed in Schedule 7;

"New Owner" and **"New Owner's Group"** have the meanings set out in Clause 6.7;

"Omitted FLCD Patents" means the patents listed in Schedule 8;

"Relevant Licensee" has the meaning set out in Clause 6.9;

"Research Business" means any business or any part of a business which competes with the Restricted CRL Business;

"Restricted CRL Business" means the business of (i) research and development (including contract research), technology exploitation and technology licensing, and (ii) product development, manufacture, sales and marketing resulting from the activities described in (i) in each case as carried on by CRL as at Completion;

"Thomson Licence" has the meaning set out in Clause 5;

"Trade Mark Licence" means the agreement of that name between Thorn (IP) Limited and the Purchaser entered into pursuant to the Sale and Purchase Agreement;

"TSSI Business" means technology, products and services in the authentication, identification, access and value transaction markets and in particular the exploitation of TSSI's technology currently known as Watermark Magnetics and developments thereof, including by way of manufacture, sale, service, support and/or licensing of Watermark magnetic tape, its associated components, readers and systems and the manufacture, sale and/or distribution of other magnetic, semiconductor, optical and biometric products and services and activities associated with the foregoing as carried on at the date hereof;

"TSSI Patents" means the patents listed in Schedule 6;

"TSSI Trade Marks" means the trade marks listed in Schedule 7;

"Warranties" has the same meaning as in the Sale and Purchase Agreement.

1.2 In this Agreement, unless the context requires otherwise:

- (a) the index and headings are included for convenience only and shall not affect the interpretation or construction of this Agreement;
- (b) a reference to the Background is to the statements about the background to this Agreement made above and a reference to a Clause or Schedule is to a clause

of or schedule to this Agreement (as the case may be) and a reference made in a Schedule to a Part or a Paragraph is to a part or a paragraph of that Schedule;

- (c) references to "this Agreement" include the Schedules, which form part of this Agreement for all purposes;
- (d) save where expressly stated to the contrary, references to a statute or statutory provision include any re-enactment, modification or replacement of the same and any subordinate legislation in force under any of the same from time to time but not so as to extend or increase the liability of any party to this Agreement;
- (e) references to the masculine, feminine or neuter gender respectively include the other genders, references to the singular include the plural (and vice versa);
- (f) references to a "person" include a firm, corporation, unincorporated association, government, state or agency of state, any association or partnership or joint venture (whether or not having a separate legal personality);
- (g) references to a document are to that document as varied, supplemented or replaced;
- (h) references to writing shall include any modes of reproducing words in a legible and non-transitory form;
- (i) any agreement, covenant, representation, warranty or undertaking on the part of two or more persons is made or given by such persons jointly and severally.

1.3 In this Agreement general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things.

1.4 In this Agreement, unless the context otherwise requires, words and expressions defined in Part XXVI Companies Act 1985 shall bear the meaning ascribed to them in that Act and references to the Companies Act shall mean the Companies Act 1985.

2. ASSIGNMENTS BY THE SELLER

2.1 The registered proprietor of or the applicant for the Assigned Patents is either CRL or the Seller. Where the Seller is the registered proprietor or applicant (as the case may be), CRL is entitled to be recorded as such in place of the Seller, pursuant to

assignments by the Seller in favour of CRL entered into prior to the date of this Agreement. Pursuant to an intra group intellectual property assignment dated 23rd October 1996, the Seller is the beneficial owner of the Assigned Patents and CRL is holding the Assigned Patents on trust for the Seller. Upon the assignment effected by Clause 2.2, that trust shall immediately come to an end, since CRL shall thereafter be the beneficial owner of the Patents.

2.2 In consideration of the payment by CRL to the Seller of FIFTY PENCE, receipt of which the Seller acknowledges, the Seller now assigns to CRL with full title guarantee but subject to the Encumbrances:

- (a) all its rights of beneficial ownership in the Assigned Patents;
- (b) all right title and interest, both legal and beneficial, in and to the Miscellaneous Patent;
- (c) all rights of legal (but not beneficial) ownership in the Omitted FLCD Patents;
- (d) all right, title and interest in and to the CRL Trade Marks and its legal ownership (together with any rights of beneficial ownership) in the TSSI Trade Marks listed against its name in Schedule 7, together with its goodwill in such marks and the right to apply for further trade mark registrations in respect of the marks which are the subject of the same;
- (e) all right title and interest in and to all other Intellectual Property rights owned by the Seller or any member of its Group relating exclusively to the CRL Business including copyright in any documents embodying or recording the inventions claimed by the Audio Patents; and
- (f) all right title and interest in and to all other Intellectual Property rights owned by the Seller, or any member of its Group except TSSI, relating exclusively to the TSSI Business;

in each case including the Seller's rights to take action in respect of any infringements of the same which may have taken place prior to the date of this Agreement.

2.3 For the consideration set out in Clause 2.2. the Seller further agrees, in so far as it is able to do so, that it will not assert rights against or otherwise object to the Purchaser and the members of the Purchaser's Group using Intellectual Property rights owned by the Seller or members of its Group (and which are not assigned under Clause 3) which

relate other than exclusively to the CRL Business or which relate other than exclusively to the TSSI Business.

2.4 The Seller declares that all its one-third legal interest in the Jointly Owned Patents is held by it on trust for CRL absolutely. The Seller undertakes to CRL that it will not transfer charge or otherwise encumber the Jointly Owned Patents other than at CRL's direction. Subject to Clause 2.5, the Seller agrees to transfer its said legal interest to CRL on request.

2.5 If the Seller's interest in the legal title to the Jointly Owned Patents cannot be dealt with or transferred in accordance with Clause 2.4 except by an assignment made with the consent of the co-owners, then the following provisions shall apply:

- (a) the Seller and CRL shall use their respective reasonable endeavours to obtain the consent of the co-owners of the Jointly Owned Patents (subject to CRL promptly reimbursing the Seller for any out of pocket expenses incurred in doing so) and
- (b) until such consent is obtained, the Seller shall do all acts and things as CRL may reasonably require to provide CRL with the benefits of the Jointly Owned Patents and shall account to CRL for all amounts or other benefits (if any) arising from the Jointly Owned Patents.

2.6 The Seller undertakes to the Purchaser that the Seller:

- (a) shall not itself use the rights assigned to the Purchaser or to CRL under this Agreement for any purpose and shall not authorise or knowingly assist others to exercise those rights;
- (b) will not grant or purport to grant any other licences, rights, assignments over or relating the same;
- (c) will procure that each member of the Current EMI Group and each member of the New Owner's Group will observe and perform the undertakings set out in this Clause 2.6.

2.7 For the avoidance of doubt, the use by any member of the Seller's Group of the trade mark HARVEST in relation to the goods in respect of which it owns any registered trade marks for that word in any country, shall not be considered to be a breach of Clause 2.6 or of any other rights in relation to CRL's trade mark DATA HARVEST.

The same shall apply mutatis mutandis to CRL's use of its trade mark DATA HARVEST.

3. ASSIGNMENTS BY TSSI

3.1 In consideration of the payment by the Purchaser to TSSI of FIFTY PENCE, receipt of which TSSI acknowledges, TSSI now assigns to the Purchaser, subject to the Encumbrances but otherwise with full title guarantee, all right, title and interest in and to:

- (a) beneficial ownership in the TSSI Marks and legal ownership in the TSSI Marks listed against its name in Schedule 7, in each case together with all goodwill in such marks and the right to apply for further trade mark registrations in respect of the marks which are the subject of the same;
- (b) the TSSI Patents; and
- (c) all other Intellectual Property rights owned by TSSI to the extent that they are referable to the TSSI Business

in each case including the right to take action in respect of any infringements of the same which may have taken place prior to the date of this Agreement.

4. GENERAL PROVISIONS RELATING TO ASSIGNMENTS

4.1 Each of the parties to this Agreement shall from time to time execute all documents reasonably necessary or desirable to give effect to the assignments and licences referred to in this Agreement and to the recordal thereof, including formal documents for registration at the relevant trade mark registry and/or patent office.

4.2 Payment of all fees, expenses and costs (including internal and external professional fees) relating to the preparation and completion of all necessary formalities for the recordal (where necessary) of the assignments and licences effected under this agreement shall be borne by the Purchaser, except those which relate to

- (a) the TSSI Marks and the TSSI Patents, and
- (b) QED's name change from THORN EMI Patents Limited

which shall be borne by the Seller. Stamp duty in respect of such assignments shall be borne by the relevant assignee (but shall be reimbursed by the Seller where the deed of tax indemnity entered into pursuant to the Sale and Purchase Agreement so requires).

4.3 Pending recordal of the rights hereby assigned into CRL's or the Purchaser's name, each of the Seller and TSSI (as the case may be) shall promptly forward to the Purchaser all renewal fees reminders relating to those rights and any other documentation or notice received by it from a third party which is intended for the owner of those rights, and all rights and benefits in the same shall accrue to and be held on trust for the benefit of CRL or the Purchaser, as the case may be.

5. THE THERMAL IMAGER PATENTS

5.1 Under an intellectual property agreement dated 31st March 1995 made between THORN EMI Electronics Limited (now called EMI Group Electronics Limited), the Seller (in its former name of THORN EMI plc), Thomson Thorn Missile Electronics Limited ("TTME"), Pilkington Thorn Optronics Limited ("PTO") and Thomson-CSF, a copy of which is annexed hereto, the Seller granted a licence to TTME and PTO to use certain Intellectual Property defined as "CRL Project IPR" and the CRL Thermal Imager Patents. CRL has agreed to assume the benefit and burden of that part of the agreement which contains that licence, namely clause 5, (such part being referred to as the "Thomson Licence") in the place of the Seller, as set out below.

5.2 Subject to Clause 5.3, as from the date of this Agreement CRL shall

- (a) as soon as practicable grant a licence to TTME and PTO in relation to the CRL Project IPR in satisfaction of the Seller's obligations under the Thomson Licence to procure such a grant, which licence shall take effect as at the date of this Agreement and, pending such grant, CRL shall act in all respects as if such a licence had already been granted,
- (b) perform all obligations of the Seller under the Thomson Licence in relation to the CRL Thermal Imager Patents in a proper manner, and
- (c) indemnify the Seller against all losses, liabilities and costs which the Seller may incur arising out of, or as a consequence of, the performance of or failure to grant such a licence and/or to perform such obligations.

5.3 The Seller shall indemnify CRL against all losses, liabilities and costs which CRL may incur arising out of, or as a consequence of the performance of the Seller's obligations under the Thomson Licence to the extent that the loss, liability or cost is attributable to any act, default or omission of the Seller, except where such act complies with the provisions of this Clause 5.

5.4 If the Thomson Licence cannot be transferred to CRL except by an assignment made with the consent of another party or by an agreement or novation, then the following provisions shall apply:

- (a) this Agreement shall not constitute an assignment or an attempted assignment of the Thomson Licence if the assignment or attempted assignment would constitute a breach of the Thomson Licence;
- (b) the parties shall use their respective reasonable endeavours to obtain the consent of the other parties to the assignment, or to procure the novation, of the Thomson Licence;
- (c) until the consent or novation is obtained, the Seller shall do all such acts and things as CRL may reasonably require to enable due performance of the Thomson Licence and to provide for CRL the benefits of the Thomson Licence.

6. LICENCE OF AUDIO PATENTS AND LOSSLESS COMPRESSION

6.1 In consideration of the obligations on the part of the Seller set out below, CRL as owner of the Audio Patents now grants to the Seller a licence to carry out all acts within the Field (including the right to make and have made recordings and copies of recordings within the Field) which would otherwise infringe any or all of the Audio Patents, on the following terms.

- 6.2 (a) The licence is non-exclusive and (save as stated below) royalty-free and can only be terminated as stated below.
- (b) The Seller has the right to grant non-assignable sub-licences in writing under the licence to the other members of the Current EMI Group but to no other person. Such sub-licences shall not contravene any term or condition of this Agreement and the Seller shall procure that each of its sub-licensees and the Acquired Entities observe and perform all obligations relating to their use of the Audio Patents as set out in this Clause 6.
- (c) Nothing in this Agreement shall be construed as a representation or warranty that the Audio Patents or any of them are valid or that the use of such patents or any of them will not infringe the rights of any third party.

6.3 Except as stated in Clause 6.4, if CRL wishes to abandon or lapse any Audio Patent, it shall give written notice to the Seller at least 2 months before any application, renewal

or other fees fall due. Such notice shall inform the Seller of such fees and of any licences to which the relevant Audio Patent is subject. Within 1 month of such notice, EMI may serve a notice on CRL requiring it either:

- (a) to assign to it the relevant Audio Patent and, in that event, CRL shall assign the same to the Seller for a nominal consideration and at the Seller's cost, subject to any licences of which the Seller has been notified as described above and to any other interests which are registered at the relevant patent office; or
- (b) not to abandon or lapse the same and, in that event, provided that and for so long as the Seller makes available such funds (including all reasonable costs whether internally or externally incurred) as are necessary to proceed with the application or to maintain the granted patent in question prior to those funds falling due, CRL shall at the expense of the Seller take such steps as are necessary to proceed with the application or to maintain the patent (as the case may be).

If no notice is served by the Seller within the 1 month time limit, CRL shall be entitled to abandon or lapse the relevant Audio Patent without any liability on its part to the Seller.

6.4 CRL shall not be required to comply with Clause 6.3 where it wishes to abandon any Audio Patent in respect of EPO states other than the UK, France, Germany and the Netherlands, where the EPO was designated for the purposes of a pending PCT application.

6.5 (a) Subject to Clause 6.5(b), the Seller shall, and shall procure that its sub-licensees shall, comply with any reasonable instructions notified to it in writing by CRL requiring the Seller and/or its sub-licensees to include with due prominence CRL's name and/or relevant trade marks of CRL on all products and their packaging made under the licence granted in Clause 6.1, for the purpose of technology accreditation and/or of acknowledging the use in those products of CRL's patented technology. "Due prominence" shall mean with no less prominence than that required to be given to CRL's name and/or trade marks by third party companies who are licensed by CRL to use any Audio Patents.

(b) Failure by the Seller to observe the terms of this Clause 6.5 shall constitute a material breach for the purposes of Clause 6.14. However, the Seller shall not

be required to comply with Clause 6.5(a) for the period of 35 days immediately following the date of this Agreement in relation to its existing stocks of recordings and, in relation to those stocks, it shall thereafter only be required to comply with Clause 6.5(a) on the packaging of such recordings (as opposed to on the products themselves).

6.6 Where, after the date of this Agreement, any member of the Current EMI Group acquires any business or company from a third party, or enters into a joint venture or partnership or similar arrangement with a third party, the following shall apply. The business or company so acquired, or the other party or parties to the joint venture or partnership or similar arrangement (as the case may be) shall be referred to in this Agreement as an "Acquired Entity", except that any part of such business or of the business of such a person which carries on a Research Business shall not be considered to be an Acquired Entity.

(a) An Acquired Entity shall immediately benefit from a licence on the same terms as those set out in Clauses 6.1 to 6.5 inclusive except that such licence shall be royalty-bearing (as described further below) instead of royalty-free. By way of example, if the Acquired Entity is a business the assets of which are acquired by a member of the Current EMI Group, royalties shall only be payable in respect of that acquired business and not in respect of the remaining part of the business of that member.

(b) If an Acquired Entity does not carry out acts which would otherwise infringe any or all of the Audio Patents at the time of becoming an Acquired Entity under this Agreement, but subsequently acquires all or any part of any business which was formerly carried on by a member of the Current EMI Group, then such business shall be considered to be conducted by a member of the Current EMI Group and shall therefore continue to benefit from a royalty-free licence under this Clause 6.

6.7 In the event that the Seller is the subject of a change of Control, the licence to the Current EMI Group granted under this Clause shall not terminate. Moreover, the person having acquired Control of the Seller (the "New Owner") and the members of its Group, but excluding (i) any part of its or their business which carries on a Research Business and (ii) the members of the Current EMI Group (collectively, the "New Owner's Group") shall, subject to the Seller granting a written sub-licence as permitted hereunder, immediately benefit from a licence on the same terms as those set out in Clauses 6.1 to 6.5 exclusive except that such licence shall be royalty-bearing (as described further below) instead of royalty-free. If any member of the New

Owner's Group does not carry out acts which would otherwise infringe any or all of the Audio Patents at the time when it is first considered to be a member of the New Owner's Group within the meaning of this Agreement, but subsequently acquires all or any part of any business which was formerly carried on by a member of the Current EMI Group, then such business shall be considered to be conducted by a member of the Current EMI Group and shall, subject to the Seller granting a written sub-licence as permitted hereunder, therefore continue to benefit from a royalty-free licence under this Clause 6.

- 6.8 If any person who is at the date of this Agreement a member of the Current EMI Group ceases to be such a member or if the business of such a member is transferred to a third party, (such person or such third party together being referred to as a "Former Member") its licence under this Clause shall terminate. However, CRL shall grant the Former Member a licence, with immediate effect, on the same terms as those applicable to it (or to such business) immediately beforehand, except that it shall be royalty-bearing (as described further below) instead of royalty-free.
- 6.9 The following provisions shall apply to the royalty-bearing licence to be granted to any Acquired Entity, to any member of a New Owner's Group and/or to any Former Member (each called a "Relevant Licensee").
- (a) Royalties in respect of such licence shall be payable by the Relevant Licensee in respect of 6-month periods but only, for the avoidance of doubt, to the extent that the Relevant Licensee carries out acts which would otherwise infringe any or all of the Audio Patents which are then in force.
 - (b) In default of agreement between the Relevant Licensee (or the Seller acting on its behalf) and CRL, within 2 weeks of the Relevant Licensee commencing use of any Audio Patents, on the amount of royalties payable by the Relevant Licensee (which royalties shall be calculated on the basis set out in clause 6.9(d)), and/or of any other terms of its licence not prescribed by this Clause 6, then either of them may at any time thereafter refer the matter to a suitably experienced, independent solicitor or barrister jointly agreed between them in writing, or failing such agreement within 7 days, appointed at the request of either party by the President for the time being of the Law Society of England and Wales (the "Arbitrator") which Arbitrator shall thereupon determine the matter or matters in dispute.
 - (c) The Arbitrator shall act as an expert and not as an arbitrator. His or her decision may be given in the form of an opinion or a certificate (the

"Arbitrator's Report") which shall immediately be communicated in writing to the parties and shall be final and binding upon the parties.

- (d) In the case of an Acquired Entity or a member of the New Owner's Group, the Arbitrator shall determine the rate of such royalties and/or such licence terms (as the case may be) so as to represent (as closely as possible) those royalties and/or terms which would be ordered by the Comptroller-General of Patents, Designs and Trade Marks if the Audio Patents were endorsed licences of right under the Patents Act 1977. In the case of a Former Member, the Arbitrator shall determine such matters so as to represent (as closely as possible) a commercial royalty rate and commercial licence terms, in the light of the royalties and terms of other patent licences then generally available in the market which are as nearly comparable to the Former Member's licence as is practicable.

6.10 In relation to the royalty-bearing licence to be granted to any Relevant Licensee

- (a) The Relevant Licensee shall keep accurate and up to date books and records of all income upon which royalties are calculated for a period of six years from the due date of payment of royalties to CRL.
- (b) CRL shall have the right by a representative to be approved by the Relevant Licensee (such approval not to be unreasonably withheld or delayed) to inspect all such relevant books and records of the Relevant Licensee and, should the Relevant Licensee have failed to keep all such books and records pursuant to paragraph (a), to inspect all other documentation in the Relevant Licensee's possession, custody or control relating to the calculation of such income, in order to verify any calculations provided by the Relevant Licensee. No such inspection shall take place unless and until CRL's representative has duly executed a confidentiality undertaking in favour of the Relevant Licensee in a form reasonably acceptable to the latter.
- (c) If CRL disagrees with any of the Relevant Licensee's calculations of royalties, then, failing agreement between the two of them on the correct calculation within 30 days of notice to this effect served by CRL on the Seller acting for this purpose on behalf of the Relevant Licensee, the matter may be referred to arbitration in the same manner as described in Clause 6.9(c), except that the Arbitrator shall instead be an independent accountant or auditor and shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales.

- 6.11 The licences granted in this Clause 6 shall in no event permit exploitation of the Audio Patents for the purpose of any Research Business. The Seller undertakes that neither it nor any member of its Group shall use any of the rights licensed under this Clause 6 in any Research Business. Failure by the Seller to observe the terms of this Clause 6.11 shall constitute a material breach for the purposes of Clause 6.14.
- 6.12 The Seller shall promptly (and in any event at CRL's request) give details to CRL in writing of all companies or businesses in the Current EMI Group or the New Owner's Group who from time to time take the benefit of any rights granted in this Agreement in relation to the Audio Patents.
- 6.13 The licence of the Audio Patents shall continue until the last of the Audio Patents has expired or ceases to be valid, unless terminated earlier in accordance with the following terms.
- 6.14 This licence may be terminated on notice to the Seller immediately:
- (a) where the Seller or a sub-licensee is in material breach of any of its obligations of this Clause 6 and the Seller fails to remedy or procure the remedy of such breach to the satisfaction of CRL within 30 days of CRL giving notice of the breach; or
 - (b) where an Event of Insolvency occurs in relation to the Seller.
- 6.15 The following shall (without limitation) be considered to remedy a breach, other than a persistent breach, within the meaning of Clause 6.14 (but without prejudice to CRL's rights to claim damages for that breach):
- (a) Where the breach is of the Seller's or its sub-licensee's obligation to include CRL's name and/or trade marks as described in Clause 6.4, if the Seller or such sub-licensee (as the case may be) within the 30 day period referred to in Clause 6.14 complies with Clause 6.4 in relation to any stocks of the same still in its possession.
 - (b) Where the breach is of the undertaking against use of the licence in a Research Business as described in Clause 6.11, if the Seller ensures that all such use ceases within one Business Day of being notified of the breach (or of discovering the same, if sooner).
- 6.16 By an agreement dated 12 September 1995 and made between CRL and EMI Records Limited ("EMIR"), a subsidiary of the Seller, relating to lossless audio compression/

decompression on audio master files, CRL granted to EMIR certain licences to use software. By clause 9(2) of that agreement, the licences were expressed to terminate if (inter alia) the two parties ceased to be under common ownership. CRL has agreed to vary the said agreement so that the two free licences granted to EMIR under clause 4(1)(b) of the agreement shall continue in force without limit of time and clause 9(2) shall not apply to them PROVIDED that

- (a) the aforementioned licences shall apply solely to the use of the relevant software on two PCs only, and
- (b) EMIR shall notify CRL should it wish to be granted any further licences and clause 9(2) of the agreement shall apply to any such further licences.

CRL agrees to execute any documents required by the Seller, and the Seller agrees to procure that EMIR shall execute any documents required by CRL, in order to give effect to this variation.

7. TRADE MARKS

Each of the Purchaser, QED and CRL acknowledges that it has no right under this Agreement to use the names EMI, THORN and THORN EMI, nor the device known as the Spike. Each therefore agrees not to use any of those names or that device except as permitted in the Sale and Purchase Agreement or the Trade Mark Licence and/or as agreed in writing.

8. ENTIRE AGREEMENT

8.1 This Agreement represents the entire agreement between the parties in relation to the subject matter of this Agreement and supersedes any previous agreement whether written or oral between all or any of the parties in relation to that subject matter. Accordingly, all other conditions, representations and warranties which would otherwise be implied (by law or otherwise) shall not form part of this Agreement.

8.2 Each party acknowledges that in entering into this Agreement it places no reliance on and no party shall be liable to any other party for or be entitled to any remedy in respect of any representation or warranty (not being a fraudulent misrepresentation) relating to the subject matter of this Agreement save for the Warranties.

8.3 Each party irrevocably waives any right it may have to claim damages and/or rescission for:

- (a) any misrepresentation whether or not contained in this Agreement; or
- (b) any breach of any warranty (other than the Warranties or in relation to implied covenants as to title) whether express or implied, statutory or otherwise,

unless such misrepresentation or warranty was made fraudulently.

9. SEVERABILITY

If any part of any provision of this Agreement shall be or become invalid or unenforceable, then the remainder of such provision and all other provisions of this Agreement shall remain valid and enforceable.

10. AMENDMENTS, VARIATIONS AND WAIVERS

10.1 No amendment or variation of the terms of this Agreement shall be effective unless made or confirmed in a written document signed by all of the parties to such document.

10.2 Any release, delay or waiver by any party in favour of another of any (or any part of any) of its rights under this Agreement shall only be binding if it is given in writing. Any binding release, delay or waiver shall:

- (a) be confined to the specific circumstances in which it is given;
- (b) not affect any other enforcement of the same right or the enforcement of any other right by or against any of the parties; and
- (c) (unless it is expressed to be irrevocable) be revocable at any time in writing.

11. ASSIGNMENT

This Agreement shall be binding on and ensure for the benefit of the successors of the parties. Except where expressly stated to the contrary, no part of this Agreement shall be assignable by either of the parties.

12. NOTICES

12.1 All notices and other communications relating to this Agreement:

- (a) shall be in writing;
- (b) shall be delivered by hand or sent by post or facsimile (and if sent by facsimile, a hard copy shall also be sent by post);
- (c) (subject to Clause 12.2(d)) shall be delivered or sent to the party concerned at the relevant address or number, as appropriate, and marked as shown in Clause 12.2, subject to such amendments as may be notified from time to time in accordance with this Clause by the relevant party to the other parties by no less than fifteen (15) Business Days' notice, except that no party may so notify an address outside England and Wales;
- (d) may in the alternative in the case of any writ, judgement or other notice or process on any party which is a company incorporated in England and Wales, be delivered or sent to its registered office from time to time or, in the event that any party is not incorporated in England and Wales, be delivered or sent to the appropriate agent referred to in Clause 12.3; and
- (e) shall take effect:
 - (i) if delivered by hand, upon delivery;
 - (ii) if posted, at the earliest of the time of delivery and (if posted to an address in the same country as the sender (and for these purposes the United Kingdom shall be regarded as one country) by first class, pre-paid, registered post) 10 am on the second Business Day after posting or (if posted to an addressee not in the same country as the sender by first class, pre-paid, registered airmail) 10 am on the fourth Business Day after posting; or
 - (iii) if sent by facsimile, when a complete and legible copy of the communication, whether that sent by facsimile or a hard copy sent by post or delivered by hand, has been received at the appropriate address, provided that if any communication would otherwise become effective on a non Business Day or after 5.00 p.m. on a Business Day, it shall instead become effective at 10 am on the next Business Day and if it would otherwise become effective

before 9 am on a Business Day, it shall instead become effective at 10 am on that Business Day.

12.2 The initial details for the purposes of Clause 12.1 are:

Party: EMI GROUP plc
Address: 4 Tenterden Street, London W1A 2AY
Facsimile No: 0171 495 1308
Marked for the Attention of: Company Secretary

and, where the notice relates to the Audio Patents or to Clause 6.16, with a copy to:

Address: EMI Music
Carnegie Hall Tower
152 West 57th Street
New York
New York
10019

Facsimile No: 001 212 246 7998
Marked for the Attention of: Mr Guy Marriott

Party: Scipher Limited
Address: Dawley Road, Hayes, Middlesex UB3 1HH
Facsimile No: 0181 848 6600
Marked for the Attention of: Company Secretary

Party: ~~Central~~ Research Laboratories Limited
Address: Dawley Road, Hayes, Middlesex UB3 1HH
Facsimile No: 0181 848 6600
Marked for the Attention of: Company Secretary

Party: QED Patents Limited
Address: Dawley Road, Hayes, Middlesex UB3 1HH
Facsimile No: 0181 848 6600
Marked for the Attention of: Company Secretary

Party: Thorn Secure Science Limited
Address: 4 Tenterden Street, London W1A 2AY
Facsimile No: 0171 495 1308
Marked for the Attention of: Company Secretary.

13. COUNTERPARTS

This Agreement may be entered into in any number of counterparts and by the parties to it on separate counterparts each of which when executed and delivered shall be an original but all these counterparts shall together constitute one and the same instrument.

14. LAW AND JURISDICTION

14.1 This Agreement shall be governed by and construed in accordance with English law. Except in relation to matters which are expressly stated in this Agreement to be referred to arbitration, the English Courts are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement. Each party irrevocably submits to the jurisdiction of the English Courts.

14.2 Any matter referred to arbitration under this agreement shall be so referred in accordance with and subject to the provisions of the Arbitration Acts 1950 and 1979 (or, in the case of any such arbitration commenced on or after the coming into force of the Arbitration Act, in accordance with and subject to that Act).

EXECUTION

The parties have shown their acceptance of the terms of this Agreement by executing it at the end of the Schedules.

ive report TM.ARCHIVE.B Listing by Proprietor, Country, Trademark: printed 23 OCT 1996

... Proprietor:..... Country:..... Trademark:..... Class. App.no.... App.date... Reg.no.... Reg.date... Status Goods:.....

and personal documents, all made of plastics and bearing magnetically coded information for security use.

 THORN ENI plc United States WATERMARK MAGNETICS 9 195684 05 DEC 1978 1191084 02 MAR 1982 REG Magnetically-stripped plastic cards bearing encoded security information for use as bank cards, credit cards and the like.

 THORN ENI plc Yugoslavia WM DEVICE AND WORDS
 WATERMARK MAGNETICS 9 2158/94 22 MAR 1994 PEN Apparatus and instruments for identifying and decoding of magnetically recorded information. Devices for dispensing and collecting of magnetically coded tickets of travelling, tickets of admission, cheque cards, credit cards, membership cards, identity cards and the like cards or tickets, tickets of lottery, labels and personal documents, as well as Devices and instruments for controlling access to enclosed areas by means of the aforesaid tickets and personal documents; tickets of travelling, tickets of admission, cheque cards, credit cards, membership cards, identity cards and the like cards or tickets, tickets of lottery, labels and personal documents, all made of plastic and bearing magnetically encoded information, especially for security purposes.

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 THORN SECURE SCIENCE Germany WATERMARK MAGNETICS 9 T28172/9WZ 28 OCT 1988 1144401 09 AUG 1989 REG Apparatus and instruments for identifying

EXECUTION

SIGNED by *Robin Quilley*)
duly authorised for and on behalf of)
EMI Group plc)

Robin Quilley

SIGNED by A. VAIDYA & A. BELL)
duly authorised for and on behalf of)
Scipher Limited)

A. Vaidya
DR A. VAIDYA
Andrew Bell
ANDREW BELL.

SIGNED by K.W. GRAY & D.A. HUNTER)
duly authorised for and on behalf of)
Central Research Laboratories Limited)

K.W. Gray
D.A. Hunter

SIGNED by K.W. GRAY & R.G. MARSH)
duly authorised for and on behalf of)
QED Patents Limited)

K.W. Gray
R.G. Marsh

SIGNED by A. VAIDYA & A. BELL)
duly authorised for and on behalf of)
Thorn Secure Science Limited)

A. Vaidya
DR A. VAIDYA
Andrew Bell
ANDREW BELL.