# TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM333424

| SUBMISSION TYPE: | NEW ASSIGNMENT |
| --- | --- |
| NATURE OF CONVEYANCE: | ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL |

## CONVEYING PARTY DATA

| Name | Formerly | Execution Date | Entity Type |
| --- | --- | --- | --- |
| Zeus Technology GmbH | | 11/01/2011 | COMPANY: GERMANY |

## RECEIVING PARTY DATA

| | |
| --- | --- |
| Name: | Riverbed Technology, Inc. |
| Street Address: | 199 Fremont Street |
| City: | San Francisco |
| State/Country: | CALIFORNIA |
| Postal Code: | 94105 |
| Entity Type: | CORPORATION: CALIFORNIA |

## PROPERTY NUMBERS Total: 6

| Property Type | Number | Word Mark |
| --- | --- | --- |
| Registration Number: | 3764344 | HYPERSOURCE |
| Registration Number: | 3699491 | WEB OF DEFENCE |
| Registration Number: | 3678208 | SECURITY 2.0 |
| Registration Number: | 3574455 | SIPGUARD |
| Registration Number: | 3737297 | HYPER GUARD |
| Registration Number: | 3667100 | ART OF DEFENCE |

## CORRESPONDENCE DATA

**Fax Number:**     3172317433

*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.*

**Phone:**          317-236-1313
**Email:**          dwong@btlaw.com
**Correspondent Name:**   David A. W. Wong
**Address Line 1:**   11 S. Meridian St.
**Address Line 4:**   Indianapolis, INDIANA 46204-3535

| ATTORNEY DOCKET NUMBER: | 34963-100 |
| --- | --- |
| NAME OF SUBMITTER: | David A. W. Wong |
| SIGNATURE: | /dwong/ |
| DATE SIGNED: | 02/26/2015 |

CH $165.00 3764344

**Total Attachments: 11**
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BAKER & MCKENZIE

# ASSET PURCHASE AND ASSIGNMENT AGREEMENT

dated November 1, 2011

## Definitions

| | |
|---|---|
| **Agreement** | Shall mean this Asset Purchase and Assignment Agreement |
| **Art of Defence Agreement** | Shall mean the Asset Sale and Transfer Agreement relating to the assets of Art of Defence GmbH between art of defence GmbH and aptus 651. GmbH (renamed to Zeus Technology GmbH) attached as Exhibit 1 to this Agreement. |
| **Assumed Liabilities** | Shall have the meaning as defined in Section 2.5 |
| **Due Date** | Shall have the meaning as defined in Section 5.2 |
| **Effective Date** | Shall have the meaning as defined in Section 1.2 |
| **Intellectual Property** | Shall mean the rights associated with or arising out of any of the following: (i) domestic and foreign patents and patent applications, together with all re-issuances, divisionals, continuations, continuations-in-part, revisions, renewals, extensions, and re-examinations thereof, and any identified invention disclosures; (ii) trade secret rights and corresponding rights in confidential information and other non-public information (whether or not patentable), including formulas, compositions, inventor's notes, discoveries and improvements, know-how, manufacturing and production processes and techniques, testing information, research and development information, inventions, invention disclosures, unpatented blueprints, drawings, specifications, designs, plans, proposals, and technical data; (iii) software rights including object code and source code, copyrights, copyrightable works, rights in databases, data collections, mask works, copyright registrations and applications therefore and corresponding rights in works of authorship; (iv) all trademarks, service marks, logos, trade dress and trade names indicating the source of goods or services, and other indicia of commercial source or origin (whether registered, common law, statutory or otherwise), all registrations and applications to register the foregoing anywhere in the world and all goodwill associated therewith; (v) utility models (*Gebrauchsmuster*) and utility model applications that claim or cover any such inventions (including all divisionals, continuations, continuations-in-part, reissues, reexaminations, renewals or extensions thereof), (vi) any registered and unregistered design rights (*Geschmacksmuster*); (vii) all internet electronic addresses, and all registrations for the foregoing; and (viii) |

any similar, corresponding or equivalent rights to any of the foregoing anywhere in the world

| | |
|---|---|
| Liability/ies | Shall mean liabilities or obligations of any nature, whether known or unknown, whether absolute, accrued, contingent, due or to become due, and whether or not required to be reflected on a balance sheet |
| Lien | Shall mean any and all liens, encumbrances, mortgages, security interests, pledges, claims, equities, and other restrictions or charges of any kind or nature whatsoever, including restrictions placed by governmental orders or decrees |
| Registered Intellectual Property | Shall have the meaning as defined in Section 2.1(ii) |
| Purchase Price | Shall have the meaning as defined in Section 5.1 |
| Sold Assets | Shall have the meaning as defined in Section 2.1 |
| Sold Software | Shall have the meaning as defined in Section 2.1(i) |
| VAT | Shall mean Value Added Tax |

**BAKER & McKENZIE**

## Index of Exhibits

## Asset Purchase and Assignment Agreement

between

1.  **Zeus Technology GmbH**, a company organized under the laws of Germany, with its principal place of business at Bruderwöhrdstraße 15b, 93055 Regensburg, Germany

- "Seller" -

and

2.  **Riverbed Technology Inc.**, a corporation organized under the laws of California, with its principal place of business at 199 Fremont Street, San Francisco, CA 94105, USA

- "Purchaser" -

- Seller and Purchaser
each a "Party" and together the "Parties" -

**Preamble**

A.   **Whereas**, Purchaser is the indirect parent company of Seller.

B.   **Whereas**, Seller is engaged in the business of developing and commercializing software products and related services and has recently acquired the Sold Assets from art of defence GmbH.

C.   **Whereas**, Purchaser intends to acquire from Seller and Seller intends to sell and transfer the Sold Assets to Purchaser on the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and conditions hereinafter set forth, the Parties agree as follows:

## 1. Sale of Assets

1.1 Sold Assets. Seller hereby sells and assigns and transfers to Purchaser any and all rights to the following assets, free and clear of all Liens, and Purchaser hereby accepts such sale, transfer and assignment:

    (i) the Sold Software (as defined in Section 2.1(i));

    (ii) the Sold Intellectual Property (as defined in Section 2.1(ii));

    (iii) all claims and rights against any Person to the extent relating to the Sold Assets.

1.2 Effective Date. The sale, transfer and assignment of the Sold Assets are made with effect as of the date of this Agreement (the "Effective Date").

## 2. Description of Sold Assets

2.1 Sold Assets. The assets sold to Purchaser shall consist of all of the Seller's right, title and interest in and to, whether tangible or intangible, real or personal to the following assets of Seller, and wherever located (collectively, the "Sold Assets"):

    (i) all rights pertaining to the software technology as more closely described in Exhibit 2.1(i) (the "Sold Software"), including but not limited to all rights in and to software and software codes (object code and source code), rights in and to all data and data plans belonging to the Sold Software, including all documentation, instruction manuals, development and maintenance documents, all build environment instructions and tools, notes of developers (in any form including in writing or machine-readable or stored in any storage media), any enhancements, updates, upgrades, releases, versions, work products, works and results derived from the Sold Software or resulting from or to be produced within the scope of the use of the Sold Software as well as program and data structure, screen commands, and structure of data progression; as well as any of the foregoing rights pertaining to the software owned or licensed, before the Effective Date; and

    (ii) all Intellectual Property related to the Sold Software, including, without limitation, (A) all the Intellectual Property that is registered or to be registered in the name of Seller (the "Registered Intellectual Property"), and (B) all know-how which is applicable in the field of the Sold Software including, without limitation, development results embodiments thereof, including, without limitation, those in electronic form, specifications, designs, drawings, plans, documentation and the like (collectively, the "Sold Intellectual Property");

2.2 <u>Transfer and Assignment of Sold Software</u>. As of the Effective Date, Seller transfers and assigns to Purchaser all worldwide exploitation rights to the Sold Software, in particular the copyrights and the rights of use under applicable copyright law without temporal or geographic limitation, including but not limited to the rights:

(i) to copy, distribute, publish and make available the Sold Software using all exploitation methods now know or later developed, including but not limited to the storage media CD-ROM and DVD, on paper or any other data carrier;

(ii) to publish and distribute the Sold Software under any name;

(iii) to adapt the Sold Software, to create derivative works thereof, to translate the Sold Software, and to publish, distribute or make otherwise available these adaptations, derivative works and/or translations of the Sold Software, and to decompile the Sold Software;

(iv) to transmit, to exhibit, to broadcast and to make the Sold Software available in any other way, including but not limited to any interactive way, online, offline, in any form of network and on the Internet;

(v) to combine the Sold Software with other software or any other works and to include or feed the Sold Software into data bases or websites;

(vi) to rent and to lease the Sold Software and to make it otherwise available permanently or temporarily to any third parties;

(vii) to the undisturbed use of the Sold Software and in particular to exercise for the relevant author the right of dissemination, the right of recognition of authorship, the right to decide whether the Sold Software or any adaptations or derivatives should bear the author's designation, the right to prevent distortions of the Sold Software;

(viii) to access copies of the Sold Software and to exercise any revocation rights in the Sold Software,

(ix) to enable third party products, applications, plug-ins, extensions and software to access and use the Sold Software or derivative works thereof through one or more protocols or APIs (application programming interfaces); and

(x) to grant sub-licenses to any right to the Sold Software.

2.3 <u>Moral Rights</u>. Notwithstanding any other provision of this Agreement, Seller shall procure that

Purchaser is entitled to the undisturbed use of the Sold Software and that Seller is, in particular and without limitation hereto, entitled to exercise for the relevant author the right of dissemination, the right of recognition of authorship, the right to decide whether the work should bear the author's designation, the right to prevent distortions of the work, the right of access to copies of the work and the revocation rights in the Sold Software. If in the context of the undisturbed use of these rights by Purchaser a dispute arises between an author and Purchaser, then Seller shall procure that the author will exercise its moral rights as directed by Purchaser.

2.4 Transfer and Assignment of Sold Intellectual Property. Section 2.2 and Section 2.3 shall apply *mutatis mutandis* for any item of Sold Intellectual Property of which ownership cannot be transferred according to applicable law but which can only be assigned or licensed.

2.5 Liabilities. Purchaser shall assume all liabilities assumed by Seller under Section 4 or Section 5 of the Art of Defence Agreement ("**Assumed Liabilities**"). Purchaser shall be solely liable for and obligated to discharge and indemnify and hold harmless Seller from the Assumed Liabilities.

2.6 Excluded Assets. The Parties are in agreement that, except for the Sold Assets and the Assumed Liabilities, no other assets or liabilities of Seller shall be sold and transferred to Purchaser.

3. **Seller's Warranties**

3.1 No third party rights. Seller represents and warrants that it is not limited in any way in disposing of the rights in the Sold Assets and that all rights in the Sold Assets belong solely to Seller, free of any liens.

3.2 Corporate. Seller is a legal entity duly established and validly existing under German laws and has the requisite corporate power to enter into this Agreement. The execution, delivery and performance of this Agreement and the transaction hereunder has been duly authorized by the competent corporate bodies. This Agreement constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms and conditions.

4. **Purchaser's Warranties**

Purchaser is a legal entity duly established and validly existing under the laws of California, USA and has the requisite corporate power to enter into this Agreement. The execution, delivery and performance of this Agreement and the transaction hereunder has been duly authorized by the competent corporate bodies. This Agreement constitutes the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms and conditions.

**5.      Purchase Price**

5.1      Purchase Price. The purchase price for the Sold Assets shall be 1,200,000 Euros (in words: One Million Two Hundred Thousand Euros) ("**Purchase Price**"), net of any Value Added Tax ("**VAT**"). The Parties assume that the Purchase Price is not subject to VAT. Should the Purchase Price be subjected to VAT by the competent tax authorities, then the VAT amount shall be added to the Purchase Price and Purchaser shall pay the VAT amount to Seller or its legal successor against receipt of a proper invoice compliant with German VAT law and allowing Purchaser a VAT refund from the competent German tax authorities.

5.2      Payment. The Purchase Price shall be due and payable within 90 days after the Effective Date ("**Due Date**").

5.3      Interest. Any payment due under this Agreement shall bear interest from and including the respective due date to, but not including, the date of receipt. The interest rate to be used during any given period of three months, starting on the date on which any payment is due, shall be 500 basis points over EURIBOR for three-month deposits as reported on the first day of such three month period.

**6.      Governing Law, Venue**

This Agreement shall be governed by, and be construed in accordance with, the laws of the Federal Republic of Germany, without regard to principles of conflicts of laws. Exclusive venue for any and all disputes arising from this Agreement and any transactions executed hereunder shall be Frankfurt am Main, Germany. Arbitration proceedings shall be excluded.

**7.      Final Provisions**

7.1      Exhibits. All Exhibits to this Agreement shall be an integral part of this Agreement. In the case of a conflict between any Exhibit and this Agreement, the provisions of this Agreement shall prevail.

7.2      Entire Agreement. This Agreement shall supersede and replace all prior oral and written declarations of intention made by the Parties in respect thereof.

7.3      Partial Invalidity. In the event that one or more provisions of this Agreement shall, or shall be deemed to, be invalid or unenforceable, the validity and enforceability of the other provisions of this Agreement shall not be affected thereby. In such case, the parties agree to recognize and give effect to such valid and enforceable provision or provisions which correspond as closely as possible with the commercial intent of the parties. The same shall apply in the event that this Agreement contains any gaps.

Riverbed Technology Inc.

| | | | |
|---|---|---|---|
| Name: | RANDY S. GOTTFRIED | Name: | _Sergei Krupenin_ |
| Position: | CHIEF FINANCIAL OFFICER | Position: | _CEO_ |
| Place, Date: | _San Francisco, 31 04 2011_ | Place, Date: | _San Francisco, 2 Nov 2011_ |
| Signature: | _____ | Signature: | _____ |

Zeus Technology GmbH

| | |
|---|---|
| Name: | RANDY S. GOTTFRIED |
| Position: | DIRECTOR |
| Place, Date: | _San Francisco, 31 Oct 2011_ |
| Signature: | _____ |

Exhibit 2.1(i):    Description of Sold Software

Security Software, including without limitation application firewall software.