

## SUPPLEMENTAL LICENSE AGREEMENT

This SUPPLEMENTAL LICENSE AGREEMENT (this "*Agreement*") is made as of May 18, 2006 (the "*Effective Date*"), by and between:

PatentRatings, LLC, a California limited liability company having offices at 19200 Von Karman Ave., Suite 600, Irvine, CA, 92612 ("*PR*"); and

Ocean Tomo, LLC, an Illinois limited liability company having offices at 200 W. Madison St., Chicago, IL 60606 ("*OT*").

WHEREAS, PR has conceived and developed, continues to update, and has a proprietary interest in certain patents, software and related technology and data for the evaluation of patent quality (the "*PR Technology*");

WHEREAS PR and Rosebay Capital Management, LLC, a California limited liability company having offices at 8 Cottoncloud, Irvine, CA, 92614 ("*Rosebay*") entered into that certain *Research Supply Agreement*, dated July 1, 2004 (the "*Original Rosebay Agreement*"), wherein PR agreed to exclusively supply data produced by the PR Technology to Rosebay in a certain field of use;

WHEREAS PR and OT entered into that certain *License Agreement*, dated September 1, 2004, and amended by that certain *Amendment to Licensing Agreement*, dated May 2, 2004 (collectively, the "*Original OT License*"), wherein PR agreed to exclusively license the PR Technology to OT subject to the parties' interpretation of the restrictions in the Original Rosebay Agreement;

WHEREAS PR and Rosebay, desiring to indefinitely suspend the Original Rosebay Agreement, ease the restrictions on OT allegedly contained therein and to grant to Rosebay a new, non-exclusive license right in and to the data produced from the PR Technology, entered into that certain *Data License Agreement*, dated April 21, 2006 (the "*New Rosebay Agreement*");

WHEREAS, OT and PR desire to supplement the terms of the Original OT License in light of the New Rosebay Agreement, all on the terms, conditions and provisions set forth herein.

NOW, THEREFORE, in consideration of the above premises and mutual covenants contained herein and intending to be legally bound hereby, the parties hereto agree as follows:

### 1. DEFINITIONS

Capitalized terms used, but not defined herein, shall have the meanings ascribed to such terms in the Original Rosebay Agreement, the Original OT License or the New Rosebay Agreement. Otherwise, the following capitalized terms shall, for purposes of this Agreement, have the meanings set forth below:

"*Affiliate*" will mean any Person who is an agent, representative, distributor, division, or subsidiary, whether wholly owned or otherwise, of the party to this Agreement or who is controlled or directed by such party. For purposes of this definition, the term "control" will mean the power to direct or cause the direction of the management or policies of such person or, with respect to a person that is a corporation, the right to exercise, directly or indirectly, more than 50% of the voting rights attributable to the shares of the capital stock of such corporation.

"*Calendar Quarter*" shall mean each three month period, or any portion thereof, ending on March 31, June 30, September 30 and December 31.

"*Data Updates*" shall mean all updates to the Licensed Data provided by PR to OT under this Agreement.

**"Fiscal Year"** shall mean OT's fiscal year, which is currently the period of January 1 through December 31 of each calendar year, or such other period as the members of OT may from time to time determine.

**"Funding Date"** shall mean the date upon which OT and/or any of its Affiliates have collectively received funds from Persons totaling at least US\$100,000,000 for the purpose of using the Licensed Technology and Licensed Data as part of managing such funds for such Persons.

**"Improvements"** means any revisions, updates, upgrades, new versions or releases of the Licensed Technology or Licensed Data, whether made by PR or OT solely, or jointly with any other Persons.

**"Licensed Data"** shall mean the data, databases and other files relating to IPQ™ patent quality scores, patent maintenance values and related patent assignment data, including, without limitation, Patent Exchange Values and all future metrics and measurements that are: (i) provided in electronic format under this Agreement; and (ii) produced by the Licensed Technology; including all patent, copyright, trade secret, and other intellectual property rights inherent therein and appurtenant thereto, together with all Data Updates.

**"Licensed Technology"** shall mean PR's proprietary PatentRatings™ software platform, U.S. Patent No. 6,556,992; US Patent Application Numbers 60/754, 525, 11/236,965, 2004/0010393 and 2004/0220842 and any patents issuing therefrom or related thereto; Improvements to any of the foregoing; and any copyright, trade secret, and other intellectual property rights inherent therein and appurtenant thereto.

**"OT Near Exclusive Field of Use"** shall mean the use of the Licensed Technology and Licensed Data for the purpose of: creating or managing public securities investment funds and accounts for Persons; creating or managing a public stock index; selling securities-related information to third-party investment analysts; and generally engaging in the buying, selling and trading of any security (as defined in the Securities Act of 1933, as amended).

**"OT Near Exclusive Field Revenue"** shall mean: (i) the administration, management and performance fees (including those based on capital gains or capital appreciation of funds under management) earned by OT or its Affiliates in the OT Near Exclusive Field of Use in the Territory, net of any commissions or other sales charges payable to any other Persons; and (ii) any other revenue earned by OT or its Affiliates in the OT Near Exclusive Field of Use in the Territory; allowing deductions for sales, use and other similar taxes. OT Near Exclusive Field Revenue shall be deemed earned upon their actual receipt by OT or its Affiliates.

**"Person"** shall mean any corporation, partnership, joint venture, other entity or natural person.

**"Reinstatement"** shall mean that all of the following conditions have been met: (i) a Trigger Event has occurred; and (ii) the Abeyance Fees (as defined in Section 3.3(a)) have not been paid by OT to PR within 20 business days of such Trigger Event; and thus: (a) the Original Rosebay Agreement will be reinstated; and (b) Rosebay shall have the right to grant Sublicenses to the Licensed Data as specified in Section 3.2 of the New Rosebay Agreement; thereby encroaching on the OT Near Exclusive Field of Use hereunder.

**"Territory"** shall mean the entire World.

**"Trigger Event"** shall mean: (i) the Funding Date has not occurred on or before October 21, 2007; or (ii) any and each first day of any continuous period during the Term following the Funding Date, on which the actual amount of investment funds and accounts under management by OT and/or any of its Affiliates totals less than US\$50,000,000.

## 2. GRANT OF LICENSES TO OT

### 2.1 [Reserved]

2.2 **OT Near Exclusive Field of Use.** Subject to the terms and conditions of this Agreement and the New Rosebay Agreement, PR hereby grants to OT and its Affiliates, and OT hereby accepts, a perpetual, limited exclusive, non-transferable (except under Section 11.2) right and license in the Territory to install, use, copy, distribute, transmit, display, make, have made, sell, offer to sell, import, and otherwise exploit the Licensed Technology, Licensed Data and Data Updates in the OT Near Exclusive Field of Use. For the avoidance of doubt, the license grant in this Section 2.2 is a limited exclusive license, and OT hereby acknowledges that Rosebay has certain rights in and to the Licensed Data under the New Rosebay Agreement. For the avoidance of doubt, the exclusive licenses granted by PR to OT in this Section 2.2 shall be to the exclusion of PR; provided, however, that the foregoing shall not impeded PR from supplying and selling Licensed Data and consulting services based thereon to any Person where such Person, and not PR, selects the patent portfolios for which such Licensed Data is sold.

### 2.3 [Reserved]

### 2.4 License Restrictions.

(a) OT hereby expressly acknowledges PR's ownership of the Licensed Technology and Licensed Data. OT further agrees not to challenge, or to assist or encourage any third party in challenging, the validity or enforceability of the Licensed Rights in any court or other tribunal anywhere in the world.

(b) OT and its Affiliates shall not remove any titles or any trademark, copyright or patent notices, or any proprietary or restricted rights notices that appear on or in the Licensed Technology and Licensed Data.

(c) OT agrees to mark all Licensed Data, and all advertisement and promotional materials, and any reports or other products using the Licensed Technology and Licensed Data with appropriate patent, copyright and trademark notices as reasonably directed by PR.

(d) During the Term, PR will provide OT with access to any Improvements within a commercially reasonable time following the completion of any such Improvements. All Improvements will be owned by PR. Should OT or its Affiliates develop, either solely or jointly with PR, any Improvement, OT will communicate to PR all Improvements developed by OT or its Affiliates as and when developed. PR will, at its own option and expense, file and obtain letters patent or other protections for Improvements, and OT agrees to cooperate with PR in executing all necessary documents for obtaining any letters patent or copyrights for such Improvements. All Improvements will automatically become part of the Licensed Technology without any further consideration paid to PR by OT.

2.5 **Non-Assertion.** PR hereby covenants that, during the Term, it will not sue, or otherwise bring, prosecute, or commence any judicial action or administrative proceedings against, OT, its Affiliates, their successors and assigns or agents, for patent infringement under the Licensed Technology. The foregoing covenant will not apply if OT sues, or otherwise brings or prosecutes any judicial action or administrative proceedings against PR. The foregoing shall also not in any way prevent or diminish PR's right to enforce any duties or obligations owed to it under this Agreement and/or to seek appropriate compensation where compensation is owed.

2.6 **Reservation of Rights in PR.** OT acknowledges that the Licensed Data and Licensed Technology constitute confidential, trade secret and/or proprietary items of PR and that nothing in this Agreement shall be construed to convey any title or ownership rights therein to OT.

2.7 **Government Approvals.** OT and its Affiliates shall obtain, at their cost and expense, all governmental approvals required for them to operate within the OT Near Exclusive Field of Use.

### 3. PAYMENTS AND ROYALTIES.

#### 3.1 *Up-Front Fees and Royalties.*

(a) ***Up-Front Fees.*** In consideration of the license rights to the Licensed Technology and Licensed Data granted by PR to OT in Section 2.2, OT shall pay to PR: (i) a first one-time, non-refundable fee of US\$90,000 within 2 days of the Effective Date; and (ii) a second one-time, non-refundable fee of US\$90,000 within 15 days of the Funding Date.

(b) ***Royalties.*** In further consideration of the license rights to the Licensed Technology and Licensed Data granted by PR to OT in Section 2.2, OT shall pay to PR a royalty equaling 5% of all OT Near Exclusive Field Revenue, payable in arrears on a Calendar Quarter basis ("***Royalties***").

#### 3.2 *Reserved.*

3.3 ***Trigger Event Fees.*** In the case of a Trigger Event, PR shall be able to terminate Agreement, unless:

OT pays to PR either (a) or (b) below:

(a)

(1) the second non-refundable, one-time fee of US\$90,000 (if not previously paid pursuant to Section 3.1(a)(ii)); and

(2) the greater of either: (X) payments of US\$37,500 in each of the first two Calendar Quarters after the date of such Trigger Event and US\$50,000 per Calendar Quarter thereafter; or (Y) the Royalties otherwise payable under Section 3.1(b);

in order to keep this Agreement in force until such time the condition that caused the Trigger Event has been met or ceases to exist ((1) and (2) collectively, the "***Abeyance Fees***");

or

(b) the greater of either: (X) US\$25,000 per Calendar Quarter; or (Y) the Royalties otherwise payable under Section 3.1(b) in order to keep this Agreement in force but under a Reinstatement.

3.4 ***Acceleration.*** A Trigger Event will have been deemed to occur if, prior to the Funding Date, this Agreement is transferred under Section 11.2 to a Person who is not an Affiliate of OT.

3.5 ***Third-Party Beneficiary.*** OT acknowledges and agrees that Rosebay is a third-party beneficiary with respect to the payments required in Sections 3.1 and 3.3. Further, OT shall provide Rosebay copies of all executed documents effectuating any transfer of this Agreement under Section 11.2 within 30 days after the date of any such transfer.

### 4. MANNER OF PAYMENTS AND AUDITS

4.1 ***Payments.*** With respect to Royalties payable to PR under Section 3.1(b), OT shall make such payments which have accrued in any Calendar Quarter within 30 days after the end of such Calendar Quarter (each a "***Payment***", and collectively, the "***Payments***") shall be made in United States Dollars by wire transfer or check payable to PR and sent via express mail to the applicable address set forth in Section 11.9.

#### 4.2 *Royalty Reports, Records and Inspections.*

(a) A written report shall accompany each Payment made hereunder setting forth in reasonable detail, for the applicable Calendar Quarter or Fiscal Year, the total Payment and OT's calculation thereof.

(b) OT shall keep, and shall respectively cause its Affiliates to keep, accurate records and books of account in sufficient detail to enable the Payments payable hereunder to be determined.

(c) PR, upon 10 days' prior written notice to OT or its Affiliates (in such capacity, each a "*Audited Party*") and during normal business hours, but not more frequently than once annually, may request that an independent auditor paid for and selected by PR may inspect the books and records of an Audited Party for the three-year period immediately preceding the date of inspection to verify the correctness of the reports given under Section 4.2(a). If a discrepancy is found in such books and records, OT shall pay any deficiency plus interest thereon from the date each Payment was due, calculated at the prime rate of Citibank of New York, within 30 days of the date of any notice of such discrepancy. If the deficiency for any year is greater than 5%, the reasonable costs of the audit shall be paid by the Audited Party. All information learned by PR in the course of any examination of an Audited Party's books and records hereunder, except when it is necessary for PR to reveal such information in order to enforce its rights under this Agreement in an enforcement proceeding or action, shall be treated as Confidential Information in accordance with Section 8.

4.3 *Taxes.* In addition to all amounts payable herein, each party shall pay sums equal to all taxes (including without limitation, sales, services, use, privilege, ad valorem or excise taxes) which are levied or imposed by reason of the transactions contemplated by this Agreement, but excluding any taxes based on the other party's income or revenues.

4.4 *Late Payments.* In the event that a party fails to make any Payment due and owing hereunder within the time period allotted for Payment of such amount, such party shall pay interest on the overdue amount at a rate per annum equal to 10% or the maximum rate permitted by law, whichever is greater. Time is of the essence with respect to all payments due to either party under this Agreement.

#### 5. COVENANTS, REPRESENTATIONS AND WARRANTIES

5.1 *Covenants, Representations and Warranties of PR.* PR covenants, represents and warrants to OT as follows:

(a) PR has the full and unencumbered right, power and authority to enter into this Agreement, to grant the license rights granted by PR to OT hereunder, and otherwise to carry out its obligations thereunder.

(b) No other corporate or shareholder action or other proceeding on the part of PR or its members or creditors is necessary to authorize this Agreement and the consummation of the transactions contemplated hereby; and neither the execution, delivery, or performance of this Agreement, nor the consummation of the transactions contemplated hereby will violate any provision of the charter or organizational documents of PR or any order or judgment of any court or government agency or authority.

(c) PR has not licensed or granted to any Person, and will not license or grant to any Person during the Term, any rights in or to the Licensed Technology or the Licensed Data that are inconsistent with the license rights granted by PR to OT hereunder.

(d) PR has not received any written notice or claim, and is not otherwise aware that the Licensed Technology or the Licensed Data infringes or misappropriates the proprietary rights of any other Person.

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