

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 389 OF 2005

In the matter of **Henderson Cyber Limited**

And in the matter of the Companies Law (2004 Revision)

And Grand Court Rules 1995 Order 102 rule 21



PETITION

TO: The Grand Court of the Cayman Islands



**THE PETITION of Henderson Cyber Limited** shows as follows:

1. The object of this Petition is to seek an Order of the Court pursuant to section 86 of the Companies Law (2004 Revision) (the "Companies Law") sanctioning a scheme of arrangement between your Petitioner, **Henderson Cyber Limited** (the "Company") and the Scheme Shareholders as defined in the Scheme of Arrangement referred to in paragraph 9 hereof.
2. The Company was incorporated under the Companies Law on 10 January, 2000 under the name of "Gainfield Limited" and registered in the Cayman Islands as an exempted company with registration number CR-95735. By a special resolution of the then sole shareholder of the Company passed on 31 March, 2000, the Company changed its name to "**Henderson Cyber Limited**".
3. The registered office of the Company is situated at Scotia Centre, 4th Floor, P.O. Box 2804, George Town, Grand Cayman, Cayman Islands.
4. As at the date of incorporation of the Company, its authorised share capital was US\$50,000 divided into 50,000 shares of a nominal or par value of US\$1.00 each. On 10 January, 2000, one share of US\$1.00 each in the capital of the Company was allotted and issued fully paid.

5. By resolutions of the then sole shareholder of the Company passed on 23 March, 2000,
  - (i) the authorized share capital of the Company was redenominated into Hong Kong dollars at the exchange rate of US\$1.00 to HK\$7.80 such that the authorized share capital of the Company became HK\$390,000 divided into 50,000 shares of HK\$7.80 each and the issued share capital of the Company became HK\$7.80 divided into one share of HK\$7.80 in the capital of the Company, and (ii) every issued and unissued share of HK\$7.80 in the capital of the Company was subdivided into 78 shares of HK\$0.10 each (the "Share" or "Shares") such that, thereafter, the Company had an authorized share capital of HK\$390,000 divided into 3,900,000 Shares and an issued share capital of HK\$7.80 divided into 78 Shares.
6. By resolutions of the then shareholders of the Company passed on 28 June, 2000, the authorized share capital of the Company was increased from HK\$390,000 to HK\$1,000,000 by the creation of a further 9,996,100,000 Shares.
7. The Shares are listed on the Growth Enterprise Market ("GEM") of The Stock Exchange of Hong Kong Limited. As at the date of this petition, the authorised share capital of the Company is HK\$1,000,000,000 divided into 10,000,000,000 Shares of one class only and its issued share capital is HK\$500,000,000 divided into 5,000,000,000 Shares which have been fully paid-up or credited as fully paid-up.
8. The objects for which the Company was established are unrestricted and the Company has and is capable of exercising any and all powers exercisable by a natural person or body corporate.
9. The purpose of the proposed scheme of arrangement (the "Scheme of Arrangement") is to privatize the Company by cancelling and extinguishing on the effective date of the Scheme of Arrangement, all of the issued Shares except for the Shares legally held by Felix Technology Limited ("Felix Technology"), an indirect wholly-owned subsidiary of Henderson Investment Limited ("HIL"), and Technology Capitalization Limited ("Technology Capitalization"), an indirect wholly-owned subsidiary of The Hong Kong and China Gas Company Limited (HKCG"), both of Felix Technology and Technology Capitalization of which are companies incorporated in the British Virgin Islands with

limited liability, in consideration of which the holders of such cancelled and extinguished Shares shall receive HK\$0.41 (the "Cancellation Price") in cash for each such cancelled and extinguished Share such that the Company shall, thereafter, be indirectly owned by HILL through Felix Technology as to approximately 78.69% and by HKCG through Technology Capitalization as to approximately 21.31%.

10. There was an accumulated loss of approximately HK\$245,574,000 (rounded to the nearest thousand Hong Kong dollars) as shown in the audited accounts of the Company for the year ended 30 June, 2004. The closing price of the Shares as at the latest practicable date prior to this Petition was HK\$0.41 per Share (the "Closing Price"). The Cancellation Price is in excess of the Closing Price. The Directors believe, under the current market conditions and based on the past performance of the Shares preceding the latest practicable date, the Cancellation Price is in excess of the price at which the Scheme Shareholders (as defined in the Scheme of Arrangement) might receive for their Shares in the open market without the Scheme of Arrangement.

11. Given the low liquidity of the Shares, the directors of HILL and HKCG believe that the Company's ability to raise funds from the equity markets is currently limited and any significant improvement in this regard in the foreseeable future is unlikely. As the Company's listing status does not provide it with a viable fund-raising avenue for its business, the directors of HILL and HKCG consider that the costs and management resources associated with the maintenance of the Company's listing on GEM and its publicly listed status are no longer warranted.

12. HILL and HKCG (collectively, the "Offeror Group") are also aware of the uncertain outlook for the existing businesses of the Company. The internet, telecommunications and high technology industries are fast changing and subject to intense competition. The Offeror Group accordingly considers that the Scheme of Arrangement is in the interests of the Offeror Group and the respective shareholders of the Offeror Group as it will bring about more flexibility to take the businesses of the Company forward in an efficient and sustainable manner.

13. The proposed Scheme of Arrangement will not alter the underlying assets, business operations, management or financial position of the Company nor will it affect the interests of its creditors.

14. The Company proposes to convene a court meeting in accordance with section 86 of the Companies Law to be held on or about 31 October, 2005 (the "Court Meeting") at which the following resolution will be considered :

*"THAT a scheme of arrangement (the "Scheme") dated [ J, 2005 between the Company and the holders of the Scheme Shares (as defined in Scheme) as at the Record Time (as defined in the Scheme) in the form of the printed document contained in a composite document which has been submitted to this meeting marked "A" and, for the purpose of identification, signed by the chairman of this meeting, with any modification thereof or addition thereto or subject to any conditions approved or imposed by the Grand Court of the Cayman Islands, be and is hereby approved."*

Each of the capitalised terms referred to in the resolution above are defined in the composite scheme document exhibited as exhibit "LKYC-1" to the affirmation of Lam, Ko Yin Collin.

Your Petitioner, the Company, therefore prays as follows:

- (1) That the Scheme of Arrangement of the Company proposed to be effected by the resolution to be approved at the Court Meeting to be convened at the direction of this Honourable Court as set forth in paragraph 14 of this Petition may be sanctioned by this Honourable Court.
- (2) That to this end, all necessary inquiries and directions may be made and given.
- (3) Such further and other order as this Honourable Court shall think fit.

NOTE: It is intended to serve this Petition on Henderson Cyber Limited, at its registered office located at Scotia Centre, 4th Floor, P.O. Box 2804, George Town, Grand Cayman, Cayman Islands.

DATED THIS 31<sup>st</sup> DAY OF August, 2005.

  
CHARLES ADAMS, RITCHIE & DUCKWORTH  
Attorneys-at-Law for the Petitioner herein

**Notice of Hearing**

This Petition having been presented to the Court on the      day of      heard at the Law Courts, George Town, Grand Cayman on the 8 day of Dec 2005 at 10:30 a.m./p.m. or as soon thereafter as the Petition can be heard.      2005 will be

This Petition was filed by Charles Adams, Ritchie & Duckworth, Attorneys-at-Law for and on behalf of the Applicant herein whose address for service is that of its Attorneys, PO Box 709GT, Zephyr House, Mary Street, George Town, Grand Cayman, Cayman Islands.

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