

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**THE HONOURABLE
JUSTICE WILTON-SIEGEL**

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**FRIDAY THE 13TH DAY
OF APRIL, 2012**



**IN THE MATTER OF COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
UNIQUE BROADBAND SYSTEMS, INC.**

ORDER

(FOURTH EXTENSION AND CLAIMS DETERMINATION PROCESS)

THESE MOTIONS,

1. *Applicant's Motion to Extend Stay Period*: made by the Applicant (used herein as identified in the Initial Order dated July 5, 2012) for an order extending the Stay Period until July 30, 2012;
2. *Monitor's Motion with respect to the Claims Determination Process*: made by the Monitor for, among other things, an order establishing a procedure for the Court's determination of the claims filed by Jolian Investments Limited ("**Jolian**") and DOL Technologies Inc. ("**DOL**") and to approve its report; and

3. *Advancement Motions*: made by (a) the Respondents Jolian and Gerald McGoey (“**McGoey**”) by Amended Notice of Motion dated March 15, 2012 and (b) the Respondents DOL and Alex Dolgonos (“**Dolgonos**”) by Notice of Motion dated March 29, 2012 for, among other things, an order directing the Applicant to immediately make advances to the moving parties on an interim basis for their reasonable legal, accounting or auditing expenses incurred to date in providing services or other valuable consideration to the Applicant on or after July 5, 2011 (the “**Advancement Motions**”),

were heard on Thursday April 4, 2012 and Friday April 13, 2012 at 330 University Avenue, Toronto, Ontario.

ON READING (1) the Motion Record of the Applicant dated March 22, 2012, the Responding Motion Record of Jolian/McGoey dated April 2, 2012, and the Responding Motion Record of the Applicant dated April 4, 2012; **(2)** the Monitor’s Motion Record dated March 28, 2012; **(3)(a)** the Motion Record of Jolian/McGoey dated March 16, 2012; **(4)** the factums of the Applicant (April 4, 2012), Jolian/McGoey (April 2, 2012), and DOL/Dolgonos (April 2, 2012); **(5)** the Seventh Report of the Monitor dated March 27, 2012 and the Supplement to the Seventh Report of the Monitor dated April 4, 2012; **(6)** upon hearing the submissions of lawyers for (1) the Monitor, (2) the Applicant, (3) Jolian and McGoey, and (4) DOL and Dolgonos; and **(7)** upon hearing the consent of the parties to paragraphs 2-5 and 7 below,

STAY EXTENSION

1. **THIS COURT ORDERS AND DECLARES** that the Stay Period (as defined in the Initial Order dated July 5, 2011) be and is hereby extended to July 30, 2012.

CLAIMS DETERMINATION PROCESS

i) SCOPE AND BAR ORDER

2. **THIS COURT ORDERS** that the Applicant shall assert and have determined in the Claims Determination Process in this proceeding any and all claims against Jolian, McGoey, DOL, and Dolgonos in any respect now known to them, and without limiting the foregoing, including claims made or proposed to be made within the proceedings with Court File Nos. CV-10-406551 and CV-10-406609, failing which those claims are forever barred and extinguished.
3. **THIS COURT ORDERS** that the issue of whether any related cross-claims, third party claims, or counterclaims by Jolian, McGoey, DOL, or Dolgonos existing in Court File Nos. CV-10-406551 or CV-10-406609 or to be brought may be advanced within the Claims Determination Process shall be determined at a motion before me on Wednesday, June 13, 2012. This motion shall be brought on notice to the parties proposed to be included in the Claims Determination Process.

i) PROCESS

4. **THIS COURT ORDERS** that the process for the Claims Determination Process shall proceed in accordance with Schedule "A" attached to this Order.

ADVANCEMENT MOTIONS

5. **THIS COURT ORDERS** that the Advancement Motions are adjourned to a hearing on the merits before me (for 3 hours) on Wednesday, June 13, 2012.

APPROVAL OF MONITOR'S REPORTS

6. **THIS COURT ORDERS** that the Monitor's Seventh Report dated March 27, 2012 and the Supplement to the Seventh Report dated April 4, 2012 and its conduct set out therein be and is hereby approved.

GENERAL

7. **THIS COURT ORDERS** that there shall be no order as to costs.

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ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

APR 20 2012

W. Ben-Hur.

**Schedule "A" to Order dated April 13, 2012
CLAIMS PROCEDURE**

Proceeding

- Claims against the Applicants by Jolian Investments Limited ("Jolian") and DOL Technologies Inc. ("DOL") (collectively, the "Claimants"), all of the claims being asserted by the Applicants against Jolian, DOL, Mr. Alex Dolgonos or Mr. Gerald McGoey and any other known claims that the Applicants might have against the Claimants, Mr. Dolgonos or Mr. McGoey shall be determined in one consolidated proceeding (the "Proceeding").

Pleadings

- Each Claimant shall provide a Claim for those claims set out in its respective Proof of Claim. Within the Claim, the factual and legal basis for each Claim must be broken down on a claim by claim basis together, to the best of their ability at the time, with identifying any documents that are being relied on for each Claim and a copy of any document relied on will be provided. April 26
- The Applicants will provide a Response and Counterclaim detailing any and all of the responses/defences and counterclaims they wish to make against the Claimants, McGoey or Dolgonos in the Proceeding. After this date, no further claims shall be advanced by the Applicants in the Proceeding, and the Applicants shall make no further claims against the Claimants, McGoey or Dolgonos in the Claims Determination Process. The Response and Counterclaim must specify the factual and legal basis for each such claim together, to the best of their ability at the time, with identifying any documents that will be relied on for each defence and Claim and a copy of any document relied on will be provided. May 7
- The Claimants, Mr. Dolgonos and Mr. McGoey, shall provide a Response to the Applicants' Response and Counterclaim. The Responses shall provide a particular response to each assertion made by the Applicants, including the factual and legal basis for each response together with, to the best of their ability at the time, identifying any documents that will be relied on for each defence and a copy of any document relied on will be provided. May 18
The Claimants, Mr. Dolgonos and Mr. McGoey will identify any parties they wish to add to the procedure by way of third-party or cross-claims and will specify the factual and legal basis for each third-party or cross-claim.
- The Claimants, Mr. Dolgonos and Mr. McGoey will serve and file May 29, 2012

Motion Records in respect of adding parties to the Proceeding.
Any cross-examinations on advancement motions to be completed.

- Facts on adding party motions and advancement motions to be exchanged and filed (Applicant having waived right to file responding material to advancement motions). June 7, 2012
- Motions by the Claimants, Mr. Dolgonos and/or Mr. McGoeys seeking to add parties to the Proceeding by way of third party claim or cross-claim. June 13, 2012
- Motions by the Claimants, Mr. Dolgonos and/or Mr. McGoeys seeking advancement. June 13, 2012

Further Aspects of the Procedure

- The Parties will schedule an appointment before the Court after any Motion to add parties to the Proceeding by way of third party or cross-claim has been resolved to schedule the Documentary Discovery, Oral Discovery and Trial Procedures.

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF UNIQUE BROADBAND SYSTEMS, INC.

<p>ONTARIO SUPERIOR COURT OF JUSTICE (Commercial List)</p> <p>(Proceeding commenced at Toronto)</p>	
<p>ORDER</p>	
<p>GROIA & COMPANY Professional Corporation ■ Lawyers Wildeboer Dellelce Place 365 Bay Street, 11th Floor Toronto, ON M5H 2V1 Fax: 416-203-9231</p> <p>Joseph Groia, LSUC No. 20612J Tel.: 416-203-4472</p> <p>Gavin Smyth, LSUC No. 42134G Tel.: 416-203-4475</p> <p>Co-lawyers for the Respondents Jolian Investments Limited and Gerald McGoey</p>	