

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**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.**

**RESPONDING MOTION RECORD OF THE RESPONDENTS
JOLIAN INVESTMENTS LIMITED AND GERALD MCGOEY
(Motion Returnable October 31, 2012)**

October 25, 2012

GROIA & COMPANY
Professional Corporation ■ Lawyers
365 Bay Street, Suite 1100
Toronto, ON M5H 2V1
Fax: 416-203-9231

Joseph Groia, LSUC No. 20612J
Tel: 416-203-4472

Gavin Smyth, LSUC No. 42134G
Tel: 416-203-4475

Lawyers for the Respondents
Jolian Investments Limited and Gerald McGoey

TO: GOWLING LAFLEUR HENDERSON LLP

1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5
Fax: 416-369-7399

E. Patrick Shea, LSUC No. 39655K

Tel: 416-369-7399

Lawyers for Unique Broadband Systems Inc.

AND TO: LAX O'SULLIVAN SCOTT LISUS LLP

145 King Street West, Suite 1920
Toronto, ON M5H 1J8
Fax: 416-598-3730

Matthew Gottlieb, LSUC No. 32668B

Tel: 416-644-5353

Lawyers for the Monitor

AND TO: ROY ELLIOTT O'CONNOR LLP

Barristers & Solicitors
200 Front Street West, Suite 2300
Toronto, ON M5V 3K2
Fax: 416-362-6204

Peter L. Roy, LSUC No. 16132O

Tel: 416-350-2488

Sean M. Grayson, LSUC No. 46887H

Tel: 416-350-2487

Lawyers for DOL Technologies Inc.

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**RESPONDING MOTION RECORD OF THE RESPONDENTS
JOLIAN INVESTMENTS LIMITED AND GERALD MCGOEY
(Motion Returnable October 31, 2012)**

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Tab 1



Gavin Smyth
Direct Line: 416-203-4475
Email: gsmyth@groiaco.com

October 25, 2012

Via Electronic Mail

E. Patrick Shea
Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

Dear Mr. Shea:

**Re: Unique Broadband Systems Inc. ("UBS")
Court File No. CV-11-9283-00CL**

I write in response to your invitation made in your email of October 19, 2012 to comment on the Claims Determination Process proposal set out at Schedule "A" to UBS's Notice of Motion dated October 15, 2012 (of the motion returnable October 31, 2012) (the "**UBS Claims Process Proposal**") (a copy of which is attached for your reference).

As a preliminary point, we must express disappointment that the UBS Claims Process Proposal is almost identical to the process proposed by the Monitor in its notice of motion dated March 27, 2012 (a copy of which is attached for your reference). As you know, we and Mr. Dolgonos and his lawyers provided extensive constructive criticism on that process both informally with you and in sessions with the Honourable Justice Wilton-Siegel (see, for example, DOL's written submissions dated April 2, 2012 (a copy of which is attached for your reference)).

It appears those comments have been entirely ignored, so we come into this discussion with little optimism our comments will be seriously considered this time by UBS or the Monitor.

In any event, below, we provide our comments on the UBS Claims Process Proposal:

1. We appreciate the CCAA at section 20 contemplates a "summary application" when disputed claims against a CCAA company are determined within a CCAA process;

2. We note, however, that the UBS Claims Process Proposal appears to be more cumbersome than the claims process we suggested in my letter to you of September 18, 2012 (a copy of which is attached for your reference), which provided for:
 - a. Parties to serve affidavits of documents by October 31, 2012;
 - b. Examinations for discovery to be completed by December 14, 2012;
 - c. Case Conference / Pre-Trial to be held by January 18, 2013; and
 - d. Trial in February, 2013
3. While we do agree that this is not a typical CCAA claims process in which a summary application would be appropriate, as we comment on below, we are of the view a streamlined claims process using the Rules of Civil Procedure as its basis is appropriate:
 - a. In this CCAA Claims Determination Process, as a result of UBS's set off claims and counterclaims, there will be personal reputations at stake. The summary application contemplated by s. 20 of the CCAA was intended for disputes of the nature of, for example, how many widgets were not yet paid for or whether leases are valid, and not for disputes concerning allegations of bad faith conduct and breaches of fiduciary duty;
 - b. As well, in this CCAA Claims Determination Process, as a result of UBS's set off claims and counterclaims, there are claims by the CCAA company not just against it;
4. In any event, regular documentary (affidavits of documents provided by both sides) and oral discovery (UBS gets to examine Mr. McGoev for up to 7 hours, and we get to examine Mr. Ulicki or Mr. McCutcheon for up to 7 hours¹) as provided for in the Rules of Civil Procedure is about as summary as one can be in these circumstances:
 - a. The Rules of Civil Procedure have been carefully designed and tested over many years to determine just the type of disputes at issue in the CCAA Claims Determination Process;
 - b. And importantly, as seen by my September 18, 2012 proposal, we can use the Rules of Civil Procedure and complete the CCAA Claims Determination Process in time to have a trial in February 2013 just as UBS proposes;

¹ And yes, we are prepared to limit our discovery to up to 7 hours rather than the 14 hours we are entitled to under the Rules.

5. The UBS Claims Process Proposal is unfair as it is lop-sided in UBS's favour. This is particularly problematic when the nature of the allegations UBS is making, and which I mentioned above, are considered. For example:
 - a. There is no reason for our clients to be required to provide what is in effect the equivalent of an affidavit of documents while UBS only has to respond to document requests from our clients:
 - i. UBS had to review all of its documents after the change in management in July 2010 in order to gather the relevant documents to support UBS's extensive counterclaim commenced on August 18, 2010 and, later, in order to make the three claims now advanced in the CCAA Claims Determination Process;
 - ii. For example, UBS has publically disclosed it hired Deloitte & Touche LLP to investigate some of the allegations so they must have gathered the related documents supporting those allegations;
 - b. In the UBS Claims Process Proposal, UBS introduces for the first time the prospect it may advance expert evidence. We have no idea as to what this is about. It only makes sense that if UBS is to lead expert evidence, then it should produce the expert's report, and then our clients would have a reasonable period to retain a responding expert and provide a responding expert report should they choose to do so. We are open to efforts to streamline this timing by taking such steps as UBS advising us now as to the nature of its expert(s) and the issues its expert(s) will be addressing;
6. Again, we are concerned the UBS Claims Process Proposal is too cumbersome and is laden with make-work projects that will just delay matters, add cost to the process, and not assist the Court. We suggest that after expert reports have been exchanged and discoveries are completed and the parties know more precisely the issues that will need to be determined at trial that:
 - a. Then witness lists and will say statements can be exchanged;
 - b. At a case conference or pre-trial, the parties and the Court would determine if any chronologies, issue/evidence summaries, admitted facts, joint books of documents, agreed statements of fact, written arguments, or the like are necessary and would be of assistance to the Court;
7. Related to this last point, we are concerned about the cost of the UBS Claims Process Proposal. This is a legitimate concern of our clients as they are the largest creditors of UBS. In addition to the streamlining we suggest above, we would also want it clarified

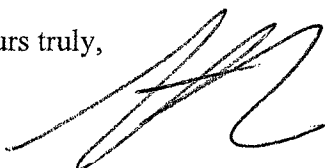
that the Monitor and its lawyers would be directed to take only a limited role in the Claims Determination Process. The Monitor or its lawyers do not need to, for example, review the productions, attend discoveries, or attend the trial. The Court can call upon the Monitor as may be needed on any issues that arise in advance or at the trial; but, otherwise, the Court does not need assistance in determining a claim – that is what it does every day.

8. As for the length of the trial, we suggest that 10 days be set aside instead of 7 to ensure the trial can be completed in one sitting. This time can more easily be contracted than expanded as we get closer to the trial date.

We hope that these comments will be considered this time around by UBS.

We are prepared to meet to discuss these comments further if you advise us that in light of these comments, UBS is prepared to make adjustments to the UBS Claims Process Proposal.

Yours truly,



Gavin Smyth

cc. *Lax O'Sullivan Scott Lisus LLP, Matthew Gottlieb - Lawyers for the Monitor*

Tab A

SCHEDULE "A"

Documentary Discovery

- Jolian shall be given access to a mirror of the Applicants' server which contains electronic documents of the Applicants up to and including July 5, 2010. 1 November 2012
- Jolian may make any other specific request for documents, including electronic documents from the Applicants, which request must include the basis for the relevance of such requested documents. By 15 November 2012
- Jolian shall produce to the Applicants copies of or access to all electronic and paper documents that are relevant to the Claims and/or Responses. In particular, Jolian shall produce all correspondence, emails and notes of any kind regarding the affairs of the Applicants up to and including July of 2010. By 15 November 2012
- Jolian and the Applicants shall exchange any expert reports. By 23 November 2012
- Jolian and the Applicants shall disclose witness lists and summaries of anticipated evidence or witness statements, where those exist. The witness statements shall provide specific details of what factual evidence is expected to be provided by the witness and any documentary evidence that will be relied upon by the witness. By 23 November 2012

Oral Discovery

- Jolian may examine one representative of the Applicants for a maximum of seven hours. By 31 December 2012
- The Applicants may examine Mr. McGoeys for a maximum of seven hours. By 31 December 2012
- Except for privilege, there shall be no refusals and Rule 34.12(2) of the Rules of Civil Procedure shall apply to all questions posed on the examinations of the representative of the Applicants and Mr. McGoeys.

Hearing Procedure

- Each party shall serve and file a detailed chronology of events proposed to be proved at trial with a document brief containing relevant documents to support the chronology. This document shall not be a copy of the claims filed or pleadings previously exchanges, but a detailed listing of specific facts and evidence. 11 January 2013
- Each party shall serve and file a written argument setting forth that party's position on the issues to be determined at the hearing and the anticipated evidence regarding such issues. This document shall not be a copy of the claims filed or the pleadings previously exchanges, but a detailed listing of specific facts, law and evidence. 11 January 2013
- Each party shall serve and file a summary of admitted facts. 25 January 2013

Case Conference

- To the extent the parties cannot agree, a case conference shall be held to determine procedure to be followed at the hearing of the claims and with respect to the use of the answers to any questions to which Rule 31.12(2) of the Rules of Civil Procedure applies,. February 2013 (to be scheduled 10 days prior to the commencement of the hearing)

Hearing

- 7 days. February 2013

Tab B

Appendix "A"

The Proceeding

- Claims against the Applicants by Jolian Investments Limited ("Jolian") and DOL Technologies Inc. ("DOL") (collectively, the "Claimants") shall be determined in one consolidated proceeding (the "Proceeding")

Pleadings

- Each Claimant shall provide a Claim setting out each claim it intends to advance in the Proceeding and must specify the factual and legal basis for each such claim. The factual and legal basis for each Claim must be broken down on a claim by claim basis. April 12
- The Applicants shall provide a Response to each claim. The Responses shall provide a particular response to each claim advanced in the Claims, including the factual and legal basis for each response. April 18

Documentary Discovery

- The Claimants shall be given access to a mirror of the Applicants' server which contains electronic documents of the Applicants up to and including July 2010. April 30
- The Claimants may make any other specific request for documents, including electronic documents from the Applicants, which request must include the basis of the relevance for such requested documents. April 30
- The Claimants shall produce to the Applicants copies of or access to all electronic and paper documents that are relevant to the Claims and/or Responses. In particular, the Claimants shall produce all correspondence, emails and notes of any kind regarding the affairs of the Applicants up to and including July 2010. April 30
- Each Claimant and the Applicants must disclose a witness list and a summary of anticipated evidence or witness statements, where those exist. April 30

Oral Discovery

- Each Claimant may examine one representative of the Applicants for a maximum of seven hours. May 22 - 25
- The Applicants may examine one representative of each of Jolian May 22 - 25

and DOL for a maximum of seven hours each.

- Motions for answers to refusals

Hearing Procedure

- Each party shall serve and file a detailed chronology of events proposed to be proven at trial with a document brief containing relevant documents to support chronology. 10 days prior to trial
- Each party shall serve and file a written argument setting forth that party's position on the issues to be determined at the hearing and the anticipated evidence regarding such issues. 10 days prior to trial
- Each party shall serve and file a summary of admitted facts. 10 days prior to trial

Case Conference

- To the extent the parties cannot agree, a case conference shall be held to determine procedure to be followed at the hearing of the claims. As soon as possible

Hearing

- 7 days of hearing shall be set aside. June 2012 (or as soon thereafter as the Court is available)

Tab C

Court File No.: CV-11-9283-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE *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.

**Submissions of DOL Technologies Inc., Alex Dolgonos and 2064818 Ontario Inc.
(Re: Motion by Monitor for Claims Hearing Procedure)**

April 2, 2012

ROY ELLIOTT O'CONNOR LLP

Barristers & Solicitors
200 Front Street West
Suite 2300
Toronto, Ontario
M5V 3K2

**Peter L. Roy (LSUC No. 16132O)
Sean M. Grayson (LSUC No. 46887H)**

Tel: (416) 362-1989
Fax: (416) 362-6204

Lawyers for DOL Technologies Inc., Alex
Dolgonos and 2064818 Ontario Inc.

TO: Gowling Lafleur Henderson LLP
Suite 1600, 1 First Canadian Place
Toronto, ON M5X 1G5

E. Patrick Shea (LSUC No. 39655K)

Tel: (416) 369-7399
Fax: (416) 862-7661

Lawyers for the Applicant, Unique Broadband Systems, Inc.

AND TO: Bennett Jones LLP
3400, 1 First Canadian Place
Toronto, ON M5X 1A4

Raj S. Sahni/Derek Bell

Tel: (416) 777-4804
Fax: (416) 863-1716

Co-Lawyers for Jolian Investments Ltd. and Gerald McGoey

AND TO: Groia & Company
Professional Corporation Lawyers
365 Bay Street, Suite 1100
Toronto, ON M5H 2V1

Joseph Groia, LSUC No. 20612J
Tel: (416) 203-4472

Gavin Smyth, LSUC No. 42134G
Tel: (416) 203-4475

Co-Lawyers for Jolian Investments Ltd. and Gerald McGoey

AND TO: Lax O'Sullivan Scott Lisus LLP
145 King Street West
Suite 1920
Toronto, ON Canada M5H 1J8

Matthew Gottlieb (LSUC No. 32668B)

Tel: (416) 644-5353
Fax: (416) 598-3730

Lawyers for the Monitor

AND TO: WARDLE DALEY BERNSTEIN LLP
2104-401 Bay Street
P.O. Box 21, Toronto, ON M5H 2Y4

Peter C. Wardle

Tel : (416) 351-2771
Fax: (416) 351-9196

Lawyers for the Directors

AND TO: GOODMANS LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Brendan O'Neill/David Conklin

Tel: (416) 849-6017/(416) 597-5164
Fax: (416) 979-1234

Solicitors for LOOK Communications Inc.

Submissions

1. As a preliminary point before dealing with the claims process proposed by Duff & Phelps Canada Restructuring Inc., in its capacity as court-appointed CCAA Monitor (the “**Monitor**”), it is DOL Technologies Inc. (“**DOL**”) and Alex Dolgonos’ (“**Dolgonos**”) position that the motions in respect of lifting the stay to allow the indemnity advances to be paid to DOL, Dolgonos, Jolian Investments Limited (“**Jolian**”) and Gerald McGoey (“**McGoey**”) should be dealt with in priority to the commencement of the dispute resolution process.¹
2. In respect of the claims process, all of the parties agree that the claims should be determined by a Judge of the Court, however, there is a dispute as to the scope, procedure and timing of that process.
3. The Monitor proposed a claims hearing procedure in its motion record dated March 27, 2012 (the “**Monitors Proposal**”). A copy of the Monitors Proposal is attached hereto as Appendix “A” for ease of reference.

Appendix “A” to the Notice of Motion of the Monitor dated March 27, 2012

4. A chart summarizing the proposal of DOL, Dolgonos and 2064818 Ontario Inc., the details of which follows, is attached hereto as **Appendix “B”**.

¹ DOL and Dolgonos served and filed a Motion Record dated March 29, 2012 in respect of this issue and Jolian served and filed a Motion Record dated March 16, 2012 in respect of this issue. The parties have requested that these matters be added to the list to be spoken to at the return of UBS’s and the Monitors Motion April 2, 2012.

The Scope of the Proposal

5. The Monitors proposal contemplates that the claims of Jolian and DOL against UBS should be determined in the claims hearing procedure to the exclusion of any other issues.
6. Proceeding in this manner will not end the litigation between the parties and will require a duplication of effort in order to determine the other outstanding claims between the parties. At present there are counterclaims by UBS against DOL and Dolgonos, and Jolian and McGoe. There is also an oppression claim by 2064818 Ontario Inc. ("**206 Ontario**"), which deals in part, with the Board of UBS incurring the liability in respect of Jolian and McGoe. These claims need to be part of the claims process to ensure that, (1) there is finality to the litigation between the parties, (2) all of the proper and necessary parties and witnesses are engaged in the process, and (3) the litigation does not proceed in an artificial prolonged and inefficient manner, the result of which will be the unnecessary depletion of assets of UBS and prolonging the CCAA proceeding.
7. The process contemplated by the Monitor is predicated on the fact that UBS will be successful against each of DOL and Jolian.
8. Given the outstanding counterclaims by UBS, if either of the creditors is successful, UBS will, subject to any appeal of the initial decision, delay the resolution of the matter by advancing its counterclaim. There will be no finality.
9. The only UBS stakeholders of any significance are the shareholders of UBS. A more efficient claims process is needed to preserve shareholder value.
10. By dealing with these issues at one time it will also allow the parties to deal with any set off issues pursuant to s. 21 of the CCAA.

The Procedure and Timing of the Proposal

11. The procedure and timing contemplated in the Monitors Proposal is not adequate to fairly deal with the matters that need to be incorporated into this claims hearing procedure. The timeline itself is too compressed and there are steps missing that need to be incorporated. The schedule ought to also take into consideration the availability of counsel.
12. The following sets out each part of the Monitors Proposal followed by the response of DOL, Dolgonos and 206 Ontario.

The Monitors Proposal on Pleadings

Each Claimant shall provide a Claim setting out each claim it intends to advance in the Proceeding and must specify the factual and legal basis for each such claim. The factual and legal basis for each Claim must be broken down on a claim by claim basis.

April 12

The Applicants shall provide a Response to each claim. The Responses shall provide a particular response to each claim advanced in the Claims, including the factual and legal basis for each response.

April 18

Response to the Monitors Proposal on Pleadings

13. As stated above, it is the position of DOL, Dolgonos and 206 Ontario that the indemnity advance issues, raised in its motion record dated March 29, 2012, should be dealt with prior to any claims determination. As a result, the schedule in the claims process should be dependent on the final determination of that issue. Based on this, the timing set forth below contemplates an initial start date after the determination of the advance issue.
14. The parties should be given 20 days from the initial start date to prepare a Claim setting out each claim it intends to advance in the Proceeding and must specify the factual and legal

basis for each such claim. The scope of the claims should include all claims including UBS's counterclaims and 206 Ontario's oppression claim.

15. The parties should then be given a further 20 days to respond.
16. Upon completion of the pleading phase, the parties should attend a court supervised mediation.

The Monitors Proposal on Documentary Discovery

The Claimants shall be given access to a mirror of the Applicants' server which contains electronic documents of the Applicants up to and including July 2010.

April 30

The Claimants may make any other specific request for documents, including electronic documents from the Applicants, which request must include the basis of the relevance for such requested documents.

April 30

The Claimants shall produce to the Applicants copies of or access to all electronic and paper documents that are relevant to the Claims and/or Responses. In particular, the Claimants shall produce all correspondence, emails and notes of any kind regarding the affairs of the Applicants up to and including July 2010.

April 30

Each Claimant and the Applicants must disclose a witness list and a summary of anticipated evidence or witness statements, where those exist.

April 30

Response to the Monitors Proposal on Documentary Discovery

17. The parties should be given 30 days from the due date of the Responses to produce and provide all relevant documents in their possession, power or control, subject to the usual privilege issues.
18. The parties should then have a further 15 days to bring any motion to request leave of the Court for discovery of non-parties.

19. After the completion of the discovery of the non-parties, if any, the parties will have 10 days to bring any motion to deal with production issues.
20. After the completion of the discovery of non-parties, if any, or the final determination of any production motions, if any are brought, the parties should have 30 days at which time each party will provide a witness list for each proceeding in which it is involved together with a summary of any anticipated evidence or witness statement where those exist.
21. Oral discovery of the main parties should take place within 30 days after the final determination of any production motions or if no motions are brought 30 days after the final discovery of a non-party, if any.
22. After the completion of the discoveries the parties should then have 10 days to bring any refusals motions.

Monitors Proposal on Hearing Procedure

Each party shall serve and file a detailed chronology of events proposed to be proven at trial with a document brief containing relevant documents to support chronology.

10 days prior to
trial

Each party shall serve and file a written argument setting forth that party's position on the issues to be determined at the hearing and the anticipated evidence regarding such issues.

10 days prior to
trial

Each party shall serve and file a summary of admitted facts.

10 days prior to
trial

Response to the Monitors Proposal on Hearing Procedure

23. In advance of the hearing the parties should attend a pre-trial and an attempt to resolve or narrow any outstanding issues. The hearing should then be based on the dates set forth above.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 2th day of April, 2012.

Peter L. Roy

Sean M. Grayson

Appendix “A”

The Proceeding

- Claims against the Applicants by Jolian Investments Limited (“Jolian”) and DOL Technologies Inc. (“DOL”) (collectively, the “Claimants”) shall be determined in one consolidated proceeding (the “Proceeding”)

Pleadings

- Each Claimant shall provide a Claim setting out each claim it intends to advance in the Proceeding and must specify the factual and legal basis for each such claim. The factual and legal basis for each Claim must be broken down on a claim by claim basis. April 12
- The Applicants shall provide a Response to each claim. The Responses shall provide a particular response to each claim advanced in the Claims, including the factual and legal basis for each response. April 18

Documentary Discovery

- The Claimants shall be given access to a mirror of the Applicants’ server which contains electronic documents of the Applicants up to and including July 2010. April 30
- The Claimants may make any other specific request for documents, including electronic documents from the Applicants, which request must include the basis of the relevance for such requested documents. April 30
- The Claimants shall produce to the Applicants copies of or access to all electronic and paper documents that are relevant to the Claims and/or Responses. In particular, the Claimants shall produce all correspondence, emails and notes of any kind regarding the affairs of the Applicants up to and including July 2010. April 30
- Each Claimant and the Applicants must disclose a witness list and a summary of anticipated evidence or witness statements, where those exist. April 30

Oral Discovery

- Each Claimant may examine one representative of the Applicants for a maximum of seven hours. May 22 - 25
- The Applicants may examine one representative of each of Jolian and DOL for a maximum of seven hours each. May 22 - 25
- Motions for answers to refusals

Hearing Procedure

- Each party shall serve and file a detailed chronology of events proposed to be proven at trial with a document brief containing relevant documents to support chronology. 10 days prior to trial
- Each party shall serve and file a written argument setting forth that party's position on the issues to be determined at the hearing and the anticipated evidence regarding such issues. 10 days prior to trial
- Each party shall serve and file a summary of admitted facts. 10 days prior to trial

Case Conference

- To the extent the parties cannot agree, a case conference shall be held to determine procedure to be followed at the hearing of the claims. As soon as possible

Hearing

- 7 days of hearing shall be set aside. June 2012 (or as soon thereafter as the Court is available)

Appendix “B”

Determination of Indemnity Advance

- Final determination of the Motion of DOL and Dolgonos and Jolian and McGoey Re: indemnity advances. Day 1

Scope of the Proceeding

- Claims against the Applicants by Jolian Investments Limited (“Jolian”) and DOL Technologies Inc. (“DOL”) (collectively, the “Claimants”), including the Applicants counterclaims and the oppression claim of 206 Ontario shall be determined in one consolidated proceeding (the “Proceeding”)

Pleadings

- Each Claimant and 206 Ontario shall provide a Claim setting out each claim it intends to advance in the Proceeding and must specify the factual and legal basis for each such claim. The factual and legal basis for each Claim must be broken down on a claim by claim basis. 20 days
- The Applicants and defendants, shall provide a Response to each claim. The Responses shall provide a particular response to each claim advanced in the Claims, including the factual and legal basis for each response. 20 days
- Court Appointed Mediation After Responses are filed

Documentary Discovery

- The Parties shall produce every document relevant to any matter in issue in each of the actions that it is involved that it is or has been in the possession, power or control of, subject to identifying privilege. 30 days from Responses or from Mediation
- File motions for discovery of non-parties 15 days after production
- All motions to deal with production issues 15 days after completion of discovery of non-parties

- All parties to provide a witness list for each proceeding in which it is involved with a summary of anticipated evidence or witness statement if it exists. 30 days after the final determination of production motion or 30 days after final discovery of non-parties if no motions brought.

Oral Discovery

- Each party may examine one representative of the other adverse parties for a maximum of seven hours. 30 days after final determination of production issues
- Motions to be served and filed for answers to refusals 10 days after completion of discovery of main parties

Hearing Procedure

- Each party shall serve and file a detailed chronology of events proposed to be proven at trial with a document brief containing relevant documents to support chronology. 20 days prior to trial
- Each party shall serve and file a written argument setting forth that party's position on the issues to be determined at the hearing and the anticipated evidence regarding such issues. 20 days prior to trial
- Each party shall serve and file a summary of admitted facts. 20 days prior to trial
- Pre-trial 10 days prior to trial

Case Conference

- To the extent the parties cannot agree, a case conference shall be held to determine procedure to be followed at the hearing of the claims. As soon as possible

Hearing

- 10 days of hearing shall be set aside for the consecutive hearing of the matters.

IN THE MATTER OF THE 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.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

Submissions of DOL Technologies Inc., Alex
Dolgonos and 2064818 Ontario Inc.
(Re: Motion by Monitor for Claims Hearing
Procedure)

ROY ELLIOTT O'CONNOR LLP

Barristers
200 Front Street West
Suite 2300
Toronto, Ontario
M5V 3K2

**Peter L. Roy (LSUC No. 16132O)
Sean M. Grayson (LSUC No. 46887H)**

Tel: (416) 362-1989
Fax: (416)-362-6204

Lawyers for DOL, Dolgonos and 2064818 Ontario
Inc.

Tab D



Gavin Smyth
Direct Line: 416-203-4475
Email: gsmyth@groiaco.com

September 18, 2012

Via Electronic Mail

E. Patrick Shea
Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

Dear Mr. Shea:

**Re: Unique Broadband Systems Inc. ("UBS")
Court File No. CV-11-9283-00CL**

I write in response to your letter dated September 12, 2012.

With respect to your suggestion to use the September 25, 2012 court time to seek approval for a sales process, I am unable to advise of our position on your request as we have not been provided any materials.

It is clear from what you did send me that this motion has been contemplated since at least May 2012. Clearly, there is no urgency to the motion you wish to bring. While normally I would suggest that, if you sent me materials for the motion you wish to bring, I would then advise if we had any objection to you seeking to use the September 25 court time for this motion, I cannot do that in this case. The motion is not urgent and we are too close to the proposed court date for me to be able to review any materials now provided, obtain instructions, and if necessary to be able to properly respond.

As a result, I fear the September 25 court time has been lost. Please do send me your materials, however, and I can see what I can do. At least we can then have something on which to discuss a timetable that hopefully can be presented at a later date to the Court on a consent basis when we appear to schedule your motion.

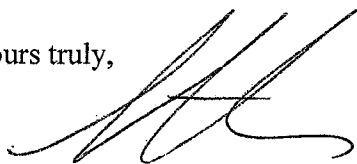
With respect to the Claims Determination Process, we agree it should be moving forward. I suggest the timetable could be as follows:

Groia & Company Professional Corporation ■ Lawyers
Wildeboer Dellelce Place
365 Bay Street, 11th Floor
Toronto, Ontario M5H 2V1
Tel: 416-203-2115 Fax: 416-203-9231
www.groiaco.com

1. Parties to serve affidavits of documents by October 31, 2012;
2. Examinations for discovery to be completed by December 14, 2012;
3. Case Conference / Pre-Trial to be held by January 18, 2013; and
4. Trial in February, 2013.

If we cannot agree on a timetable, then I suggest the appropriate next step is a 9:30 appointment rather than a motion as you suggest. Please let me know if the 9:30 appointment will be necessary.

Yours truly,

A handwritten signature in black ink, appearing to be 'Gavin Smyth', with a stylized, cursive script.

Gavin Smyth
GS/jcm

cc: Lax O'Sullivan Scott Lisus LLP, Matthew Gottlieb - Lawyers for the Monitor

Tab 2



Groia &
Company

Gavin Smyth
Direct Line: 416-203-4475
Email: gsmlyth@groiaco.com

October 25, 2012

Via Electronic Mail

E. Patrick Shea
Gowling Lafleur Henderson LLP
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, ON M5X 1G5

Dear Mr. Shea:

**Re: Unique Broadband Systems Inc. ("UBS")
Court File No. CV-11-9283-00CL**

I write in response to your invitation made in your email of October 19, 2012 to comment on the process for marketing for sale by the Monitor of UBS's shares of Look Communication Inc. ("**LOOK**") as set out in section 3 of the Eleventh Monitor's Report dated October 15, 2012 that is at Tab 2 of UBS's Motion Record dated October 15, 2012 (for the motion returnable October 31, 2012) (the "**Sale of the LOOK Shares Process**").

Our comments are as follows:

1. The Sale of the LOOK Shares Process should be managed by a Special Committee:
 - a. Mr. Ulicki is clearly conflicted as stated in paragraph 3.4 of the Eleventh Monitor's Report;
 - b. The Special Committee should include the two independent Board members – Mr. Taylor and Mr. Wells, and the Special Committee should also include two representatives for the creditors of UBS;
 - c. The Special Committee should adhere to the Ontario securities laws as the sale process affects two publically traded companies – UBS and LOOK;

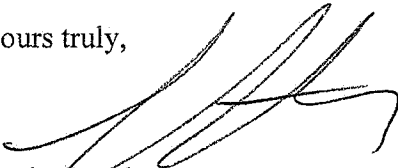
- d. With both LOOK and UBS being public companies and in the midst of significant and material litigation, it is imperative that this process be run independently and completely free from both apparent and actual conflicts of interests;
 - e. Mr. Ulicki has been involved in the review of previous proposals for the purchase of the LOOK shares owned by UBS. The Monitor's 11th Report now states that Mr. Ulicki is potentially conflicted. It is a well-known fact that perspective buyers will not make proposals in a case like this as a Board member, who is also a potential buyer directly or indirectly with others, has information about the previous positions and negotiations by third parties. For the benefit of UBS, the Directors, the UBS stakeholders, the Court and the independent integrity of the sale process, Mr. Ulicki should resign from the UBS Board to ensure that the maximum number of bids and the maximum price will be received by the Special Committee; and
 - f. The Monitor should not manage the sale process as, for many of the reasons mentioned above, amongst others, it makes more sense that the UBS Sale of the LOOK Shares Process be conducted by an independent investment banker whose main business is the merger and acquisition business as this process will result in the selling of the effective control of LOOK.
2. We would like to express, once again, that we are concerned about the cost of the UBS Sale of the LOOK Shares Process. This continues to be a legitimate concern of our clients as they are the largest creditors as reflected on the most current financial statements of UBS as well as the largest "Contingent creditors" as also reflected in the notes to the most current financial statements of UBS. In addition to the process we suggest above, we would also want it clarified that the Monitor and its lawyers would be directed to take only a limited role in the UBS Sale of the LOOK Shares Process as they will be required to express their opinion to the Court on any sale that is recommended by the Special Committee. The Court may call upon the Monitor for additional assistance and as such the Monitor should remain completely independent and free of any potential allegations of conflicts of interest. It should also be noted that, the investment banker would be paid a fee based upon success (a nominal base fee against the success fee may be required) whereas the Monitor is paid fees based upon the number of hours spent and not the success of the Sale of the LOOK Shares Process.
3. To assist us in further evaluating the Sale of the LOOK Shares Process, would you please confirm to us whether or not the two UBS Directors other than Mr. Ulicki, have:
- a. reviewed the Eleventh Monitor's Report dated October 15th 2012;
 - b. agreed to its content; and
 - c. agreed to its recommendations.

4. We would be happy to work with the above-formed Special Committee to ensure that the Special Committee has the best independent qualified resources, who are without a conflict of interest and who will proceed within the Ontario securities law to maximize the value of the LOOK shares owned by UBS for the benefit of all stakeholders in UBS, namely, all shareholders and creditors.

We hope that these comments will be considered by UBS.

We are prepared to meet to discuss these comments further if you advise us that in light of these comments, UBS is prepared to make adjustments to the Sale of the LOOK Shares Process.

Yours truly,



Gavin Smyth

cc: *Lax O'Sullivan Scott Lisus LLP, Matthew Gottlieb - Lawyers for the Monitor*

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.

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)
(Proceeding commenced at Toronto)

RESPONDING MOTION RECORD OF THE
RESPONDENTS JOLIAN INVESTMENTS
LIMITED AND GERALD MCGOEY
(Motion Returnable October 31, 2012)

GROIA & COMPANY
Professional Corporation ■ Lawyers
Wildeboer Dellece Place
365 Bay Street, 11th Floor
Toronto, ON M5H 2V1
Fax: 416-203-9231

Joseph Groia, LSUC No. 20612J
Tel: 416-203-4472

Gavin Smyth, LSUC No. 42134G
Tel: 416-203-4475

Lawyers for the Respondents
Jolian Investments Limited and Gerald McGoey