

Court File No. CV-20-00642010-00CL

**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 PERASO TECHNOLOGIES INC.**

Applicant

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following page.

THIS APPLICATION will come on for a hearing on June 3, 2020 at 2:00 p.m. via videoconference due to the COVID-19 pandemic.

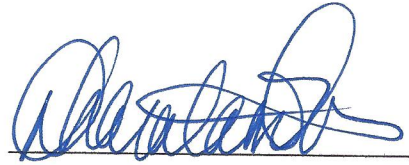
IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date June 3, 2020

Issued by

A handwritten signature in blue ink, appearing to read 'Dora Charalambous', written over a horizontal line.

Local registrar
Dora Charalambous

Address of
court office 330 University Avenue, Toronto,
Ontario M5G 1R7

APPLICATION

THE APPLICANTS MAKE THIS APPLICATION FOR:

1. An initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") substantially in the form attached at Tab 3 of the Applicant's Application Record, for, *inter alia*:
 - (a) a declaration that the Applicant is a party to which the CCAA applies;
 - (b) the appointment of Ernst & Young Inc. ("EY") as an officer of this Court to monitor the assets, businesses and affairs of the Applicant (in such capacity, the "**Monitor**");
 - (c) a stay of all proceedings taken or that might be taken in respect of the Applicant, its current and former directors and officers, and the Monitor until June 13, 2020, subject to further Order of the Court (the "**Stay of Proceedings**");
 - (d) the grant of the following charges over the Applicant's property:
 - (i) an administrative charge in favour of the Monitor, Canadian and US counsel to the Monitor, and Canadian and US counsel to the Applicant (the "**Administration Charge**"); and
 - (ii) a charge in favour of the current directors and officers of the Applicant (the "**Director's Charge**");
 - (e) authorization for the Monitor to act as foreign representative of the Applicant and to seek recognition of these proceedings in the United States under Chapter 15 of the United States Bankruptcy Code, 11 U.S. Code § 1501-1532; and
2. Such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THIS APPLICATION ARE:

General

- (a) The Applicant, Peraso Technologies Inc., is insolvent;
- (b) The Applicant is a company to which the CCAA applies;
- (c) The claims against the Applicant exceed \$5 million;
- (d) The Applicant is in the business of the development, marketing and sale of the software and chipsets that power the next generation of wireless internet;
- (e) The Applicant is facing significant liquidity issues due to, *inter alia*, a dispute involving its largest customer, Ubiquiti Inc. and its affiliates ("**Ubiquiti**"):
 - (i) in 2019, Ubiquiti failed to subscribe to an aggregate US\$10 million of the Applicant's shares, as was contemplated by a transaction that the Applicant and Ubiquiti entered into in late 2018; and
 - (ii) in early 2020, Ubiquiti commenced litigation against the Applicant in the Southern District of New York and Ontario, which, as a consequence, has impaired the Applicant's ability to sell its products to customers other than Ubiquiti, deterred potential purchasers from acquiring the Applicant, and effectively prevent the Applicant from obtaining viable financing;
- (f) The Applicant is anticipated to run out of cash by late June, at which point it will be unable to fund its continued operations and will be forced to shut down;
- (g) The Applicant requires immediate protection from this Court to permit it to, amongst other things:
 - (i) stabilize its liquidity position under Court supervision; and

- (ii) resolve the claims asserted against it in the litigation with Ubiquiti within these CCAA proceedings;
- (h) Once the litigation with Ubiquiti is resolved, the Applicant will be better positioned to sell its products to customers other than Ubiquiti, obtain financing and/or find a purchaser for its assets;
- (i) EY has consented to act as the Monitor;

Stay of Proceedings

- (j) The Applicant requires a Stay of Proceedings and the other relief sought in order to continue operating in the ordinary course of business and to preserve enterprise value while it stabilizes its position and evaluates necessary restructuring, refinancing, and potential sale strategies;
- (k) It is necessary and in the best interests of the Applicant and its stakeholders that the Applicant be afforded the "breathing room" provided by the CCAA as its attempt to stabilize its business;
- (l) It is also necessary and in the best interests of the Applicant and its stakeholders that the Applicant's former directors, some of whom are named as defendants in the litigation with Ubiquiti, benefit from the Stay of Proceedings so that the litigation with Ubiquiti is stayed as a whole;

Court Ordered Charges

- (m) The Applicant is seeking the Court's approval of an administration charge in the amount of \$200,000 to secure the professional services required to complete these CCAA proceedings;
- (n) The Applicant is also seeking the Court's approval of a directors' and officers' charge in the amount of \$650,000 to ensure the continued cooperation of the Applicant's directors and officers;

Chapter 15 Proceedings

- (o) It is necessary and reasonable to seek foreign recognition of these CCAA proceedings in the United States so that this Court's Stay of Proceedings, if granted, is recognized and enforced in the United States in general and the Southern District of New York in particular;

Other Grounds

- (p) The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
- (q) Rules 2.03, 3.02, 14.05(2) and 16 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
- (r) Section 106 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended; and
- (s) Such future and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this Application:

- (a) The Affidavit of Ronald Glibbery, sworn June 2, 2020, and the exhibits attached thereto;
- (b) The Pre-filing Report of the Proposed Monitor dated June 2, 2020; and
- (c) Such further and other evidence as counsel may advise and this Court may permit.

June 2, 2020

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSO#: 52880V
Email: mkonyukhova@stikeman.com
Tel: (416) 869-5230

Nicholas Avis LSO# 76781Q
Email: navis@stikeman.com
Tel: (416) 869-5504
Fax: (416) 947-0866

Lawyers for the Applicants

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 PERASO TECHNOLOGIES INC.

Court File No.: CV-20-00642010-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

NOTICE OF APPLICATION

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Maria Konyukhova LSO#: 52880V
Tel: (416) 869-5230
Email: mkonyukhova@stikeman.com

Nicholas Avis LSO#: 76781Q
Tel: (416) 869-5504
Email: navis@stikeman.com
Fax: (416) 947-0866

Lawyers for the Applicant