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

REDACTED VERSION

MOTION RECORD
(Re: Extension of Stay of Proceedings)
(Returnable August 13, 2020)

August 10, 2020

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

ONTARIO
SUPERIOR COURT OF JUSTICE
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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,*
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REDACTED VERSION

MOTION RECORD

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TAB 1

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 MOTION
(Re: Extension of the Stay of Proceedings)
(Returnable August 13, 2020)

Peraso Technologies Inc. will make a motion to Justice Conway of the Ontario Superior Court of Justice (Commercial List) on Thursday, August 13, 2020 at 11:00 a.m., or as soon after that time as the motion can be heard by videoconference via Zoom due to the COVID-19 crisis. The videoconference details can be found in Schedule "A" to this Notice of Motion. Please advise Nicholas Avis if you intend to join the hearing of this motion by emailing navis@stikeman.com.

PROPOSED METHOD OF HEARING:

This motion is to be heard by videoconference.

THE MOTION IS FOR:

1. An Order (the "**DIP Approval Order**"), substantially in the form contained at Tab 3 of the Applicant's Motion Record, that:

   (a) extends the Stay Period (as defined below) to and including August 28, 2020, or such further and other date as determined by the Court; and

(b) seals certain portions of the unredacted affidavit of Ron Glibbery affirmed August 10, 2020 (the "**Fifth Glibbery Affidavit**") and the exhibits attached thereto and the unredacted Third Report of the Monitor (the "**Third Report**").

THE GROUNDS FOR THIS MOTION ARE:

Background

1. The Applicant is in the business of the development, marketing and sale of next-generation wireless internet technologies;

2. On June 3, 2020, the Applicant sought and received an order (the "**Initial Order**") granting it protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**"). Ernst & Young Inc. was appointed as monitor of the Applicant (the "**Monitor**");

3. Also on June 3, 2020, the Monitor, in its capacity as foreign representative, filed an official form petition under chapter 15 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the "**US Court**");

4. On June 12, 2020, the Applicant sought and received an order amending the Initial Order (the "**Amended and Restated Initial Order**");

5. On July 2, 2020, the Applicant sought and received an order (the "**DIP Approval Order**") that, among other things:

(a) approved the debtor-in-possession financing agreement (the "**DIP Agreement**") between the Applicant, as borrower, and Roadmap Capital General Partner Ltd., Roadmap Peraso LP III (U.S. and Offshore) and XCOM Labs, Inc. (collectively, the "**DIP Lenders**"), as lenders;

(b) granted a charge over the Applicant's property in favour of the DIP Lenders (the "**DIP Lenders' Charge**");

(c) sealed certain portions of the unredacted Third Affidavit and the cash flow forecast attached thereto, certain portions of the unredacted Fourth Affidavit, certain portions of the unredacted DIP Agreement, and certain portions of the unredacted Second Report of the Monitor; and

(d) granted a stay of proceedings to and including August 14, 2020 (the "**Stay Period**");

6. On July 23, 2020 the US Court, among other things, recognized these CCAA proceedings as a "foreign main proceeding" and gave full force and effect in the United States to the Initial Order and any amendments or extensions thereof;

Dispute with Ubiquiti

7. The Applicant initiated these CCAA proceedings due to, *inter alia*, a dispute involving its largest customer, Ubiquiti Inc. and its affiliates (collectively, "**Ubiquiti**");

8. The Applicant was unsuccessful in its attempt to expeditiously and consensually resolve the dispute with Ubiquiti by mediation, which was conducted on July 6 and 7, 2020;

9. On July 13, 2020, Justice Hainey issued an endorsement scheduling a two-day hearing on September 1 and 2, 2020 to resolve the dispute between the Applicant and the Ubiquiti;

The Second Phase of the Interim Financing Process

10. As part of the Applicant's two-phase interim financing process, the Applicant entered into the DIP Agreement to obtain funds for the period of time that included the mediation with Ubiquiti and a few weeks thereafter;

11. The Applicant has concluded that it requires additional financing to continue these CCAA Proceedings and, to this effect, has commenced the second phase of its interim financing process;

12. The Applicant, with the assistance of the Monitor, has conducted a broad and extensive search for additional interim financing;

13. Various potential lenders have been contacted, some of whom entered into non-disclosure agreements with the Applicant;

14. Discussions with potential lenders remain on-going;

15. The Applicant plans to return to this Court within two weeks of the August 13, 2020 hearing to provide the Court with a status update;

Sealing

16. The Applicant seeks to seal the unredacted Fifth Glibbery Affidavit and the exhibits attached thereto and the unredacted Third Report because they contain commercially sensitive information;

17. The Applicant is concerned that the information contained in these documents could be used to the Applicant's detriment in the on-going litigation with Ubiquiti and in the Applicant's search for an interim lender;

Extension of the Stay Period

18. The Applicant seeks an extension of the Stay Period to and including August 28, 2020;

19. During the proposed Stay Period, the Applicant will continue the second phase of its interim financing process;

20. The Applicant has sufficient liquidity to operate its business and meet its obligations during the proposed Stay Period;

21. The Applicant has acted and continues to act in good faith and with due diligence during the course of this CCAA proceeding;

Other Grounds

22. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;

23. The provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, including s. 137(2) thereof;

24. The provisions of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, including r. 2.03, 3.02 and 37 thereof; and

25. Such further and other grounds as counsel may advise and this Court may permit.

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

(a) The unredacted Fifth Glibbery Affidavit and the exhibits attached thereto;

(b) The unredacted Third Report, to be filed; and

(c) Such further and other evidence as counsel may advise and this Court may permit.

August 10, 2020

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Lawyers for the Applicant

Schedule "A"

ZOOM Particulars
August 13, 2020 11:00 AM Eastern Time (US and Canada)

Join Zoom Meeting
https://zoom.us/j/97218010085?pwd=R3dXbFRpYVUyeGVhb3ErTFI0QXlpZz09

Meeting ID: 972 1801 0085
Password: 286902

One tap mobile
+14388097799,,97218010085#,,,,0#,,286902# Canada
+15873281099,,97218010085#,,,,0#,,286902# Canada

Dial by your location
+1 438 809 7799 Canada
+1 587 328 1099 Canada
+1 647 374 4685 Canada
+1 647 558 0588 Canada
+1 778 907 2071 Canada
+1 204 272 7920 Canada

Meeting ID: 972 1801 0085
Password: 286902

Find your local number: https://zoom.us/u/adoedcUF8H

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 MOTION
(RETURNABLE AUGUST 13, 2020)

STIKEMAN ELLIOTT LLP
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5300 Commerce Court West
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Lawyers for the Applicant

TAB 2

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

AFFIDAVIT OF RONALD GLIBBERY
(Affirmed August 10, 2020)

I, Ronald Glibbery, of the City of Toronto, Ontario **SOLEMNLY AFFIRM AND DECLARE**:

1. I am the founder of Peraso Technologies Inc. ("**Peraso**" or the "**Applicant**"). I am and have been a director of Peraso since it was founded. I was also Peraso's Chief Executive Officer from its founding until approximately February 2018. I assumed the role of Senior Vice President of Corporate Development at Peraso between February 2018 and February 2020, inclusive, and on March 1, 2020, I again became the interim Chief Executive Officer.

2. I have reviewed the books and records of Peraso and I have spoken with certain current and former directors, officers and/or employees of Peraso, as necessary and applicable. As a result, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. Where I have relied upon information received from other individuals, I state the source of such information and believe such information to be true.

3. I affirm this affidavit in support of a motion by the Applicant pursuant to the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36, as amended (the "**CCAA**" and such proceedings, the "**CCAA Proceedings**") for an order, substantially in the form of the draft order attached as Tab 3 of the Motion Record, that:

(a) extends the Stay Period (as defined below) to and including August 28, 2020, or such further and other date as determined by the Court; and

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(b) seals certain portions of this Affidavit and the exhibits attached hereto and the unredacted Third Report of the Monitor (the "**Third Report**").

A. BACKGROUND

(i) Overview

4. Reference is made to my affidavits affirmed June 2, 2020 (the "**First Glibbery Affidavit**"), June 9, 2020 (the "**Second Glibbery Affidavit**"), and June 25, 2020 (the "**Third Glibbery Affidavit**").[1] A copy of the First Glibbery Affidavit, Second Glibbery Affidavit and Third Glibbery Affidavit (all without exhibits) are attached hereto and marked as **Exhibit "A"**, **Exhibit "B"**, and **Exhibit "C"**, respectively. All capitalized terms not otherwise defined herein are as defined in the First Glibbery Affidavit.

5. Peraso is in the business of the development, marketing and sale of the technologies that will power the next generation of wireless internet. Specifically, Peraso's software and chipsets are designed to operate on the 60 gigahertz band and, it is anticipated, the 5G wireless network.

6. As set out in greater detail in the First Glibbery Affidavit, Peraso sought creditor protection under the CCAA because it expected to run out of cash by early July 2020. Peraso's liquidity crisis was due to, *inter alia*, protracted disputes and multi-jurisdictional litigation commenced by Ubiquiti Inc. and its various affiliates (collectively, "**Ubiquiti**"), which stymied any and all of Peraso's efforts to raise additional funds, pursue a sales process or even market certain of its products.

7. On June 3, 2020, this Court issued the Initial Order that, among other things:

(c) granted an initial stay period in favour of the Applicant and its current and former directors to and including June 13, 2020 (the "**Stay Period**");

(d) appointed Ernst & Young Inc. as the Monitor of the Applicant (the "**Monitor**");

[1] I also affirmed a supplementary affidavit on July 2, 2020. This affidavit is not attached hereto as an exhibit.

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(e) granted an Administration Charge up to the maximum amount of C$200,000; and

(f) granted a Directors' Charge up to the maximum amount of C$650,000.

8. Also on June 3, 2020, the Monitor, in its capacity as foreign representative, filed an official form petition (the "**Petition**") under chapter 15 of title 11 of the United States Code ("**Chapter 15**") in the United States Bankruptcy Court for the Southern District of New York (the "**US Court**"), along with an emergency motion requesting that the US Court enter an order giving effect to the Initial Order in the United States on a provisional basis pending final disposition of the Petition.

9. On June 8, 2020, the US Court granted provisional relief that gave the Initial Order full force and effect in the United States on an interim basis and until such time as the US Court could conduct a final hearing on, and enter a final order with respect to, the relief sought by the Monitor, in its capacity as foreign representative, in the Petition.

10. On June 12, 2020, this Court issued an order (the "**Amended and Restated Initial Order**") that, among other things:

(g) expanded the Applicant's restructuring authority and the Monitor's ability to assist with the Applicant's restructuring efforts;

(h) increased the Administration Charge from C$200,000 to C$725,000; and

(i) extended the Stay Period to and including July 3, 2020.

11. On July 2, 2020, this Court issued an order (the "**DIP Order**") that, among other things:

(j) approved a debtor-in-possession financing agreement (the "**DIP Agreement**") between the Applicant, as borrower, and Roadmap Capital General Partner Ltd., Roadmap Peraso LP III (U.S. and Offshore) and XCOM Labs, Inc. (collectively, the "**DIP Lenders**"), as lenders;

(k) granted a charge over the Applicant's property in favour of the DIP Lenders;

(l) sealed certain portions of the unredacted Third Affidavit and the cash flow forecast attached thereto, certain portions of the unredacted Fourth Affidavit, certain portions of the unredacted DIP Agreement, and certain portions of the unredacted Second Report of the Monitor; and

(m) extended the Stay Period to and including August 14, 2020.

12. Copies of the Initial Order, the Amended and Restated Initial Order, and the redacted DIP Agreement (along with all other filings in these CCAA Proceedings) can be found on the Monitor's website: www.ey.com/ca/peraso.

13. Throughout these CCAA Proceedings, the Applicant has continued to operate its business in the normal course. The Applicant has been using its best efforts to minimize the impact of these CCAA Proceedings on and to maintain its relationships with its customers, suppliers, and other stakeholders.

(ii) **Mediation with Ubiquiti**

14. Prior to the granting of the DIP Order, Peraso and Ubiquiti agreed to enter into mediation with a view to resolving the litigation commenced by Ubiquiti in Ontario and the Southern District of New York. Such litigation is described in greater detail in the First Glibbery Affidavit and is herein collectively referred to as the "**Ubiquiti Litigation**". In brief, the Ubiquiti Litigation consists of three lawsuits. The primary lawsuit is the Licence Litigation in the Southern District of New York. The Licence Litigation arises from the Licence Agreement pursuant to which Peraso agreed to develop certain chipsets for Ubiquiti, and Ubiquiti agreed to subscribe to equity in Peraso upon the achievement of certain milestones. When Ubiquiti failed to provide notice of either acceptance or rejection of the project milestones, Peraso terminated the Licence Agreement. Ubiquiti subsequently filed a complaint seeking, among other things, a declaratory judgment that the Licence Agreement remains in full force and effect. Shortly thereafter, Ubiquiti brought two lawsuits in Ontario. In the Oppression Litigation, Ubiquiti alleges that Peraso engaged in oppressive conduct when it secured additional financing in March 2020. In the Notice Litigation, Ubiquiti alleges that Peraso failed to provide Ubiquiti with certain notices related to Peraso's board meetings.

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15. The mediation was conducted on July 6 and 7, 2020. The mediator was the former Associate Chief Justice Dennis O'Connor. The Monitor was involved throughout the course of the mediation.

16. The mediation did not result in a settlement of the Ubiquiti Litigation. On July 13, 2020, the Applicant and Ubiquiti attended a case conference with Justice Hainey to discuss next steps and the determination of the Ubiquiti Litigation. At Peraso's request, Justice Hainey scheduled a hearing for September 1 and 2, 2020 to hear Peraso's motion for a determination of whether the Licence Agreement was validly terminated by Peraso. In addition, Justice Hainey scheduled a pre-hearing case conference for August 24, 2020.

17. On July 10, 2020 and again on July 13, 2020, senior personnel at Ubiquiti emailed representatives of Peraso to cancel all projects in development.

18. Late in the evening of Friday, August 7, 2020, Ubiquiti also sent a letter outlining certain concerns it had over alleged failures by Peraso to fulfill Ubiquiti's purchase orders. Peraso is working with Ubiquiti to address these concerns and alleged failures. In that same letter, Ubiquiti stated its intention to place a new large order for the same or similar products.

(iii) **The Chapter 15 Proceeding**

19. As noted above, the US Court provisionally recognized the Initial Order pursuant to Chapter 15. A hearing for the full recognition of these CCAA Proceedings and related relief was originally scheduled to be heard by the US Court on July 8, 2020; however, this hearing was adjourned to July 22, 2020 due to the above-mentioned mediation with Ubiquiti.

20. On July 15, 2020, Ubiquiti filed a limited objection and reservation of rights to the Petition filed with the US Court. The Monitor, in its capacity as foreign representative, replied to Ubiquiti's objection and reservation of rights on July 19, 2020.

21. On July 22, 2020, the US Court heard the Petition. A transcript of the hearing is attached hereto and marked as **Exhibit "D"**. As noted in the transcript, there was no dispute between the Monitor, in its capacity as foreign representative, and Ubiquiti that the CCAA proceeding is a foreign main proceeding and should be recognized by the US Court as such, nor was there a dispute that the Monitor is the duly-appointed foreign representative. There were, however, two disputes regarding whether (a) the stay of proceedings should apply to

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present and former officers and directors of Peraso; and (b) the recognition order should provide that the Initial Order would be enforced along with any amendments or extensions as may be granted by this Court.

22. After hearing submissions from the Monitor, in its capacity as foreign representative, and Ubiquiti, Judge Lane of the US Court recognized these CCAA Proceedings as a foreign main proceeding. The stay of proceedings was applied to present and former officers and directors of Peraso, and the Initial Order (together with any extensions or amendments) was recognized and given full force and effect in the United States. Judge Lane made the following remarks on the topic of recognition:

> […] I find that recognition is appropriate and that this proceeding satisfies all requirements under applicable law for recognition, namely that the Canadian proceeding here is a foreign main proceeding, that the foreign representative is a person as defined under the Bankruptcy Code, and that the petition meets the requirements of Section 1515.
>
> And, in fact, I note that the other party to today's proceeding, Ubiquiti, does not appear to oppose recognition and said explicitly that they understand the Canadian proceeding is a foreign main proceeding and that that's where the COMI, the center of main interest, lies.[2]

23. With respect to additional relief, namely the application of the stay of proceedings to the present and former officers and directors of Peraso and the recognition of the Initial Order together with any extensions or amendments, Judge Lane stated the following:

> […] the Court finds the additional relief of enforcing the stay provisions of the additional order and subsequent orders is warranted and the additional relief is consistent with comity and satisfies the applicable statutory requirements.
>
> The Ontario court has found the stay provisions of the initial order to be critical to a successive restructuring. The initial order is consistent with the principles of United States bankruptcy law as U.S. courts may afford non-debtor protections of the automatic stay where necessary and appropriate under applicable law to facilitate the purposes of reorganization.

[2] See the July 22, 2020 transcript attached hereto and marked as Exhibit "D", page 29 line 20 to page 30 line 6.

Deponent's Initials

This page was not initialed due to technical issues /s/ Nicholas Avis

> […] to the extent Ubiquiti or any other creditor wishes to contest or seek relief from, you know, contest any further request of this stay or even seek to have the Canadian court change its mind about the stay, they have a forum to do that in the Canadian proceedings.
>
> Ubiquiti, in fact, has appeared in the Canadian court and, in fact, as has been discussed, does not oppose the provisions of the initial order or amendments to it that are at issue here. […] And certainly if Ubiquiti is ultimately not satisfied with the Canadian court decision, they can appeal that decision. They can also, as discussed I think fairly extensively today, they can participate in the Canadian proceedings and be heard on anything that is going to come before the Court consistent with Canadian law.
>
> […] I find the interests of the creditor Ubiquiti here is appropriate protected, and I find that this is an appropriate exercise of comity to grant comity to the initial order, the extensions that have already been granted, as well as any extension that is on all fours and is simply a matter of extending temporally the exact same relief that's already been granted.
>
> Anything beyond that, you'll address in Canada. And if it comes up and needs to be addressed here, we'll address it here with all parties reserving their rights.[3]

24. The US Court entered its order in respect of the above on July 23, 2020. A copy of that order is attached hereto and marked as **Exhibit "E"**.

B. THE SEARCH FOR ADDITIONAL DIP FINANCING

(i) Background

25. As described in greater detail in the Third Glibbery Affidavit, the Applicant required interim financing to continue its business operations beyond July 2020. To this effect, the Applicant began its initial search for interim financing immediately after receiving the Initial Order on June 3, 2020. This search resulted in the DIP Agreement, which this Court approved on July 2, 2020.

[3] See the July 22, 2020 transcript at Exhibit "D", page 32 line 17 to page 33 line 3; page 34 lines 3 to 19; page 38 lines 4 to 13.

Deponent's Initials DS RG

26. During the Applicant's search for an interim lender, Ubiquiti provided the Monitor with a draft interim financing term sheet to indicate its willingness to be an interim lender. The Applicant did not, however, pursue an interim financing arrangement with Ubiquiti on account of, among other things, a concern that Ubiquiti could, if selected as the interim lender, use its position as interim lender to impede, obstruct, or otherwise exercise self-interested influence on these CCAA Proceedings, the mediation with Ubiquiti or the Ubiquiti Litigation.

27. While Ubiquiti was not considered a feasible or practical interim lender in June 2020, the Applicant recognized that, particularly in light of the upcoming mediation, circumstances could change such that Ubiquiti could, at a later date, potentially be an appropriate interim lender. With this in mind, the Applicant designed a two-phase interim financing process. The first phase covered a period of time that included the mediation and some weeks thereafter. During this first phase, the DIP Lenders would provide the Applicant with interim financing pursuant to the DIP Agreement. Ubiquiti was not viewed as an appropriate interim lender during the first phase. Following the conclusion of the first phase, if the Applicant required additional interim financing, then it could commence the second phase of the interim lending process and a new search for an interim lender.

(ii) **The Second Phase of the Interim Financing Process**

28. The Applicant has concluded that it requires additional funding to continue these CCAA Proceedings. Accordingly, the Applicant commenced the second phase of the interim financing process with the intention of entering into a second interim financing agreement. The process for accessing additional interim financing is currently underway and has not yet been concluded.

29. The search for additional interim financing is being led by the Applicant with the assistance of the Monitor. The search has been broad and extensive, resulting in over [redacted] potential lenders being contacted. Potential lenders were identified based on, among other things, recommendations generated internally by Ernst & Young Inc. and referrals from other potential lenders. Certain parties who independently reached out to either the Applicant or the Monitor prior to or during this process were also identified as potential lenders, as were certain of the Applicant's existing stakeholders. Most of the parties identified as potential lenders were traditional lenders, private capital funds, and litigation financiers.

Deponent's Initials DS RG

30. All parties contacted by the Applicant and/or Monitor and who expressed interest in the opportunity were provided with a teaser letter that described the interim financing opportunity. Of these parties [redacted] parties entered into non-disclosure agreements, which allowed them to begin a due diligence process.

31. In an effort to maximize its chances of obtaining interim financing on the best available terms and to ensure fairness to all of its stakeholders, the Applicant is also engaging with certain of its shareholders and existing stakeholders in an effort to secure financing. This includes the Applicant reaching out to Ubiquiti to determine whether it remains interested in providing the Applicant with interim financing.

32. [redacted]

33. Discussions with the Prospective Lenders remain on-going.

34. The Applicant has consulted with the Monitor throughout the entirety of its search for additional interim financing. At all material times, the Monitor has been aware of the steps being taken in the interim financing process.

(iii) **Next Steps**

35. [redacted]

36. The Applicant plans to return to this Court within two weeks of the August 13, 2020 hearing date [redacted]

Deponent's Initials DS RG

C. SEALING

37. The Applicant requests that the unredacted version of this Affidavit and the unredacted exhibits hereto and the unredacted Third Report be sealed pending further order of this Court.

38. The materials requested to be sealed contain commercially sensitive information. Among other things, this unredacted Affidavit and the Third Report contain details related to the Applicant's search for an interim lender that could, if publicly disclosed, be detrimental to the Applicant's efforts to obtain interim financing; negatively impact the Prospective Lenders' due diligence; and impact the competitiveness of any financing terms the Applicant receives.

39. This affidavit also includes the Applicant's cash flow forecast for the duration of the requested Stay Period. This cash flow forecast demonstrates, among other things, how much money the Applicant has budgeted for legal expenses (including how much has been budgeted for resolving the Ubiquiti Litigation), and the extent of the Applicant's cash reserves. The sealing of this information ensures that Ubiquiti cannot use the information contained in the Applicant's cash flow forecasts to the Applicant's detriment in the course of the Ubiquiti Litigation.

40. The information that the Applicant is seeking to seal is similar in nature to the information that this Court sealed in connection with the DIP Order. And the Applicant's request is animated by the same concerns that the Court previously found sufficient to justify sealing.

41. The Applicant does not believe that any stakeholder will be prejudiced if the information is sealed or redacted. Keeping this information sealed pending further order of the Court is beneficial to the search for an interim lender or purchaser and the resolution of the Ubiquiti Litigation.

D. EXTENSION OF THE STAY PERIOD

42. The Stay Period granted in the DIP Order had the effect of imposing a stay of proceedings until and including August 14, 2020. The Applicant is requesting an extension of the Stay Period until and including August 28, 2020.

43. The proposed Stay Period is anticipated to provide the Applicant with enough time to finalize an interim financing agreement for the additional interim financing that is required [redacted] Once finalized, the Applicant intends to bring the interim financing agreement [redacted] to this Court for approval and a longer extension of the Stay Period, if applicable.

44. Based on the cash flows attached hereto and marked as **Exhibit "F"**, the Applicant will have sufficient funds to continue operating through the proposed Stay Period.

45. The Applicant has acted and continues to act diligently and in good faith in respect of all matters relating to these CCAA Proceedings.

46. In the circumstances, I do not believe that any creditor will suffer material prejudice as a result of the extension of the Stay Period.

I confirm that while connected via video technology, Ronald Glibbery showed me the front and back of his government-issued photo identity document and that I am reasonably satisfied it is the same person and the document is current and valid. I confirm that I have reviewed each page of this affidavit with Ronald Glibbery and verify that the pages are identical.

Affirmed before me by video conference from the City of Toronto, Ontario, to the Community of Eugenia (Grey County), Ontario, on August 10, 2020.

DocuSigned by:
Nicholas Avis
2C12EFAB5242430...

Nicholas Avis
Commissioner for Taking Affidavits
in the Province of Ontario

DocuSigned by:
Ronald Glibbery
D41573EF6574469...

RONALD GLIBBERY

Deponent's Initials
DS
RG

This is
EXHIBIT "A"
referred to in the affidavit of
RONALD GLIBBERY
dated August 10, 2020

DocuSigned by:
Nicholas Alves
2C12EFAB5242430...

Commissioner for taking affidavits

Court File No. __________________

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)

AFFIDAVIT OF RONALD GLIBBERY
(Sworn June 2, 2020)

I, Ronald Glibbery, of the City of Toronto, Ontario AFFIRM AND SAY:

1. I am the founder of Peraso Technologies Inc. ("**Peraso**" or the "**Applicant**"). I am and have been a director of Peraso since it was founded. I was also Peraso's Chief Executive Officer from its founding until approximately February 2018. I assumed the role of Senior Vice President of Corporate Development at Peraso between February 2018 and February 2020, inclusive, and on March 1, 2020, I again became the interim Chief Executive Officer.

2. I have also reviewed the books and records of Peraso and I have spoken with certain current and former directors, officers and/or employees of Peraso, as necessary and applicable. As a result, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. Where I have relied upon information received from other individuals, I state the source of such information and believe such information to be true.

3. All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

A. INTRODUCTION

4. This affidavit is sworn in support of an application by the Applicant for an order (the **"Initial Order**") pursuant to the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36, as amended (the "**CCAA**" and such proceedings, the "**CCAA Proceedings**").

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5. This CCAA application is necessary due to Peraso's pending liquidity crisis and anticipated inability to satisfy its payment obligations as they come due. If action is not taken now, Peraso anticipates that it will run out of cash by late June 2020, at which point it will be forced to cease operations.

6. Peraso is a small, private Canadian company specializing in the development of integrated circuits and chipsets for use in wireless technology that operates on the 60 gigahertz ("**GHz**") band. As described in greater detail below, for over the last 12 months, Peraso has been the subject of multiple legal proceedings brought in Canada and the United States by Ubiquiti Inc. and its various affiliates (collectively, "**Ubiquiti**"). Ubiquiti is a publicly traded US technology company that generates in excess of $1 billion in annual gross revenues. It is Peraso's largest customer and one of its shareholders.

7. The costs associated with the litigation place further strain on Peraso's already strained liquidity. Furthermore, the litigation with Ubiquiti has stymied any and all of Peraso's efforts to raise additional funds, pursue a sales process or even market its products. Due to the on-going Ubiquiti litigation, Peraso has been unable to obtain the necessary liquidity to continue its operations outside of formal insolvency proceedings.

8. Peraso is now seeking the protection of the CCAA and the relief available thereunder so that it can raise essential interim financing and resolve its disputes with Ubiquiti. Doing so would enable Peraso to explore restructuring, financing, sales to other customers and/or sale of the entire business options that will enable it to emerge from these proceedings as a viable and sustainable business for the benefit of all of its stakeholders, including its employees and shareholders.

9. If this Court grants the proposed Initial Order, Peraso plans to commence ancillary insolvency proceedings (the "**Chapter 15 Proceedings**") under chapter 15 of title 11 of the *United States Code* (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Southern District of New York (the "**US Court**").

10. The Board of Directors of Peraso has authorized this CCAA application. The holders of the 2019 Notes and the 2020 Notes (as those terms are defined below) will receive notice of this CCAA application.

B. BACKGROUND

(i) Corporate Overview

11. Peraso is a fabless[1] semiconductor[2] company specializing in the development of integrated circuits and chipsets[3] for use in wireless technology that operates on the 60 GHz band. The 60 GHz band is a band of extremely high radio frequencies that allow the short-range transmission of data at high speeds up to multiple gigabits per second.[4] Wireless technology that operates on the 60 GHz band can be used in a variety of applications, such as to create high speed wireless networks in businesses and homes or be used by internet service providers to deliver high speed broadband to businesses and homes without the need to install fibre or cable connections.

12. Peraso is a corporation incorporated under the laws of the Province of Ontario in June 2008. Peraso's place of business is at 144 Front Street West, Suite 685, Toronto, Ontario, M5J 2L7, Canada. Peraso does not have any subsidiary corporations.

13. Pursuant to Peraso's amended articles of incorporation dated March 2, 2016, Peraso was authorized to issue common shares, Class A Convertible Preferred Shares, Class B Convertible Preferred Shares, and Class C Convertible Preferred Shares.

14. Following a conversion of the Class A, Class B and Class C Convertible Preferred Shares implemented on March 13, 2020, Peraso's shares are held by the following entities (all of which are common shares):

[1] "Fabless" means that the fabrication of silicon wafers (or chips) used in Peraso's products is outsourced to a plant or foundry.

[2] A semiconductor is a material product usually comprised of silicon, which conducts electricity more than an insulator, such as glass, but less than a pure conductor, such as copper or aluminum. Nearly any device that is computerized or that uses radio waves depends on semiconductors to function.

[3] A chipset is a set of electronic components which consists of at least one radio device, one baseband device, and, typically, an antenna.

[4] For context, the much-publicized 5G cellphone networks that telecommunication companies are developing in Canada rely on lower radio frequency bands than the 60 GHz band (typically closer to 3.5GHz). 60 GHz networks are faster than 5G networks, but 5G networks have a greater range and can more easily penetrate walls and surfaces.

Investor	Shareholding	Ownership %
Roadmap Capital Inc.*	34,174,579	26.11%
Qorvo International Pte. Ltd	23,122,197	17.67%
Celtic House Venture Partners Inc.*	14,197,928	10.85%
Total ESOP - Peraso Technologies Inc. Stock Option Plan	11,883,709	9.08%
iNovia*	9,652,587	7.38%
Ontario Capital Growth Fund	9,639,130	7.36%
VentureLink Funds*	7,405,797	5.66%
Ubiquiti Networks Canada Inc.	5,728,955	4.38%
Integrated Device Technology Malaysia SDN BHD	5,665,393	4.33%
Polar Multi-Strategy Master Fund	5,227,349	3.99%
Employees	3,693,415	2.82%
Other Investors	400,000	0.31%
Comerica Bank	90,000	0.07%
Total	**130,881,039**	**100.00%**

Notes:
1. An asterisk (*) denotes a shareholding that may be direct or indirect through related co-investment vehicles.
2. Ubiquiti is challenging the conversion of the preferred shares to common shares in the Oppression Litigation (as defined below). As such, the shareholdings listed above may change depending on the outcome of the Oppression Litigation.

15. Peraso's shareholders are parties to a Ninth Amended and Restated Unanimous Shareholders Agreement made as of March 13, 2020 (the "**USA**"). Among other things, the USA stipulates the composition of Peraso's Board of Directors (the "**Peraso Board**").

(ii) Peraso's Products and Services

16. Peraso is in the business of developing the underlying technologies that will power the next generation of wireless internet.

17. At present, Peraso's revenue is primarily derived from engineering services. This is because Peraso remains a developing company and not all of its products are currently

available for sale. Going forward, Peraso anticipates that its revenue will be primarily generated from its two core business segments: (i) software[5] and (ii) chipsets.

18. With respect to Peraso's chipsets, they serve the 60 GHz wireless market. Peraso's core chipsets are the following:

(a) **"W" Series Chipsets**: These chipsets are designed as an alternative to existing wired standards (like USB or HDMI) in consumer electronics devices such as virtual reality headsets, docks, adapters, smartphones and tablets; and

(b) **"X" Series Chipsets**: These chipsets are designed for high performance wireless applications and can create wireless networks with a range of over 1.5 km—significantly higher than most other 60 GHz wireless technology currently on the market.

19. Peraso is in the process of leveraging its expertise with respect to 60 GHz wireless technology to enter the 5G wireless technology market. Some of Peraso's intellectual property that can be leveraged for use in the 5G wireless market includes:

(a) High performance phased array technology operating in the millimeter wave ("**mmWave**") band;[6]

(b) High efficiency, low cost phrased array antennas; and

(c) Low cost mmWave production test systems for use by customers engaged in high volume manufacturing.

(iii) Employees and Contractors

20. As of May 19, 2020, Peraso employed 78 employees and/or contractors. That number is down from December 2019 by 24 people. As part of an effort to reduce costs, the number of

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[5] "Software" refers to the programs and other operating information used by computer technology.

[6] mmWave refers to the band of high frequency radio frequencies between approximately 30GHz and 300GHz (in Canada, wireless networks operating on the mmWave band are largely confined to the 28 GHz to 71 GHz frequency bands). 5G wireless networks are expected to operate, at least in part, on mmWave bands.

employees was reduced through temporary layoffs (15), elimination of student co-op positions (4) and resignations with no replacements (5).

21. Of the current employees and/or contractors, 64 are analog, digital and software engineers that are critical to the sustainability of business as the key assets of the business intellectual property and product development.

22. Peraso's employees are paid bi-weekly in arrears. All payments to employees and contractors are currently being made and are proposed to continue to be paid in the ordinary course.

23. Peraso's employees are not unionized. Peraso maintains a benefits plan but it does not have a pension plan.

(iv) Peraso's Customers

24. Peraso's largest customer is Ubiquiti and its affiliates. For the second quarter of 2020, I would estimate that roughly 95% of Peraso's component revenue and at least 40% of Peraso's overall revenue is attributable to Ubiquiti.

25. Ubiquiti's position as Peraso's largest customer is largely due to two factors. First, Ubiquiti is one of the largest players in the wireless networking market which, in turn, makes it a large purchaser of chipsets. Second, the Exclusivity Clause in the Licence Agreement (as defined and described below) effectively prevents Peraso from selling certain chipsets to customers other than Ubiquiti. Based on my discussions with Peraso's other customers and other entities in the wireless networking market, I believe that without the Exclusivity Clause, Peraso would have many alternative customers who would purchase the chipsets covered by the Licence Agreement.

26. Peraso is starting to expand its customer base and develop revenue streams independent of Ubiquiti. This remains an ongoing process and it is estimated that Peraso will start seeing the benefits of a more diversified customer base within the next year. This process will be greatly assisted by a determination of the validity and enforceability of the Exclusivity Clause.

C. RELATIONSHIP WITH UBIQUITI

27. Ubiquiti is a corporation incorporated under the laws of the State of Delaware, having a place of business at 685 Third Ave., 27th Floor, New York, NY 10017. Ubiquiti is a publicly traded company (NYSE: UI) that develops and markets professional network hardware and software that is used to create networking infrastructures in 200 countries across the world.

(i) The Peraso-Ubiquiti Transaction

28. On December 21, 2018, Peraso and Ubiquiti entered into a licence agreement (the "**Licence Agreement**"), which was part of a larger transaction (the "**Peraso-Ubiquiti Transaction**") whereby Peraso, Ubiquiti and Ubiquiti's wholly owned subsidiary Ubiquiti Networks Canada Inc. ("**Ubiquiti Canada**") entered into the following additional agreements:

(a) the Class C Series 1 Convertible Preferred Share Subscription Agreement between Peraso and Ubiquiti Canada, dated December 21, 2018 (the "**Subscription Agreement**");

(b) the Letter Agreement in respect of Class C Series 1 Convertible Preferred Share Subscription Agreement sent from Peraso to Ubiquiti Canada, dated December 21, 2018; and

(c) the Master Purchase and Supply Agreement between Peraso and Ubiquiti Cayman Limited, dated December 21, 2018 (the "**Supply Agreement**").[7]

29. Under the Licence Agreement, Peraso would develop certain chipsets as per Ubiquiti's specifications (in addition to granting Ubiquiti certain intellectual property and exclusivity rights). The Licence Agreement included an exclusivity clause (the "**Exclusivity Clause**") that provided, with few exceptions, that Peraso would refrain from manufacturing, distributing,

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[7] The Supply Agreement governs the supply by Peraso of chipset and related products set out in the exhibits to the Supply Agreement pursuant to purchase orders which, under certain circumstances, may be accepted or rejected by Peraso (provided that, under the circumstances in which a purchase order is validly rejected by Peraso, it must provide a basis for such rejection). A non-exclusive intellectual property licence is granted by Peraso in favour of Ubiquiti Cayman Limited providing for, among other things, the right by Ubiquiti Cayman Limited to embed the Peraso goods in or to Ubiquiti's products, and for marketing, distribution and other purposes. The Supply Agreement remains in good standing and has not been terminated.

offering or selling any of the chipsets covered by the Licence Agreement (defined as "Licenced Chipsets" in the Licence Agreement) in select markets (defined as the "Customer's Market" in the Licence Agreement) other than to Ubiquiti or its affiliates.

30. The Peraso-Ubiquiti Transaction was structured so that, as Peraso achieved each of three defined milestones under the Licence Agreement (the "**First, Second, and Third Tranche Development Milestones**" or "**Tranche Development Milestones**"), Ubiquiti would cause Ubiquiti Canada to purchase certain amounts of Peraso's Class C Series 1 Convertible Preferred Shares ("**Class C Shares**") pursuant to the Subscription Agreement.

31. The Tranche Development Milestones and Ubiquiti's corresponding obligations under the Subscription Agreement were material aspects of the Peraso-Ubiquiti Transaction. They established the sequence of work to be performed by Peraso and provided a predictable flow of capital to Peraso, which at the time was (and remains) in the early stages of generating revenue. Peraso's business depended on the flow of capital outlined in the Subscription Agreement to fund its operations and, more generally, to remain solvent.

32. The First Tranche Development Milestone had been satisfied at the time Peraso and Ubiquiti entered into the Licence Agreement on December 21, 2018. Such satisfaction was memorialized in section 2.1(i) of the Licence Agreement. Accordingly (and in connection with the closing of the Peraso-Ubiquiti Transaction), on December 21, 2018 Ubiquiti Canada purchased 4,583,164 Class C Shares of Peraso for $5,000,000 (representing a price per share of $1.4790 after currency exchange) pursuant to section 2.1(a) of the Subscription Agreement.

33. In connection with the Peraso-Ubiquiti Transaction and Ubiquiti Canada's purchase of 4,583,164 Class C Shares of Peraso, Peraso, Ubiquiti Canada, and the other shareholders of Peraso entered into an Eighth Amended and Restated Unanimous Shareholders Agreement on December 21, 2018 (the "**Eighth USA**"). Among other things, the Eighth USA set out the requirements of the Board of Directors of Peraso. Although Ubiquiti was not a significant shareholder of Peraso, it was nonetheless granted certain limited observer rights in relation to the Peraso Board. A copy of the Eighth USA is attached hereto as **Exhibit "A"**.

(ii) Ubiquiti's Failure to Meet Its Obligations Under the Licence Agreement

34. On January 29, 2019, Peraso met the Second Tranche Development Milestone and gave proper notice to Ubiquiti under section 2.2 of the Licence Agreement. Pursuant to section 2.2 of the Licence Agreement, Ubiquiti was required, within 30 days, to provide Peraso with written notice of rejection or acceptance of Peraso's satisfaction of the Second Tranche Development Milestone. Ubiquiti did not confirm that the acceptance criteria for the Second Tranche Development Milestone had been satisfied, nor did Ubiquiti provide written notice of a rejection setting forth in adequate detail the reason for such rejection. Peraso's position is that Ubiquiti's failure to give a formal acceptance or rejection of the Second Tranche Development Milestone constituted a material breach of the Licence Agreement.

35. Peraso's achievement of the Second Tranche Development Milestone triggered a payment obligation under which Ubiquiti was obligated to cause Ubiquiti Canada to purchase $2 million of Class C Shares of Peraso. Ubiquiti and Ubiquiti Canada did not make the required $2 million investment.

36. Despite Ubiquiti's breach, Peraso continued working towards the Third Tranche Development Milestone in good faith. Peraso expected that, in the absence of a formal objection to the Second Tranche Development Milestone, payment from Ubiquiti would be forthcoming.

37. In July 2019, Ubiquiti started making unilateral requests to change the deliverables and specifications under the Licence Agreement. Peraso carried on working with Ubiquiti in good faith. On or around August 26, 2019, Ubiquiti started making demands that (i) the chipset specifications be changed; and (ii) that it be given joint and equal ownership rights to the intellectual property covered by the Licence Agreement and any related intellectual property. Ubiquiti indicated that it would cause Ubiquiti Canada to withhold the Third Tranche Development Milestone investment of $8 million in Peraso if its demands were not met, which demands were outside the terms of the Licence Agreement. Peraso and Ubiquiti were unable to come to an agreement with respect to Ubiquiti's demands.

38. On October 31, 2019, Peraso gave proper notice of satisfaction that it achieved the Third Tranche Development Milestone. Accordingly, Ubiquiti had 30 days under section 2.2 of the Licence Agreement to provide a written notice of rejection or acceptance. Once again,

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Ubiquiti did not confirm that the acceptance criteria set forth in the Licence Agreement had been met nor did Ubiquiti provide a written notice of rejection. Ubiquiti did not take the position that the Third Tranche Development Milestone had not been met. Ubiquiti's failure to provide the requisite confirmation constituted a material breach of the Licence Agreement. Ubiquiti did not cause Ubiquiti Canada to make the required $8 million investment in Peraso.

(iii) Peraso Obtains First Emergency Funding to Replace Funds Committed by Ubiquiti

39. As memorialized in the Licence Agreement and the Subscription Agreement, Peraso expected that if it satisfied the Second Tranche Development Milestone and the Third Tranche Development Milestone on or before October 31, 2019, Ubiquiti would fund Peraso $10 million in the aggregate. This $10 million investment was essential for Peraso to continue its operations.

40. Given (i) that Ubiquiti had failed to provide its promised funding upon the achievement of the Second Tranche Development Milestone; (ii) Ubiquiti's indications beginning on or around August 26, 2019 that it would not pay the Third Tranche Development Milestone; and (iii) the fact that Peraso had serious concerns about its solvency if the funding promised by Ubiquiti was not provided, Peraso began to explore potential alternative sources of financing on or about October 1, 2019. Peraso informed Ubiquiti of its exploration of financing options, and invited Ubiquiti (among others) to participate in a term sheet whereby Peraso would issue secured notes (the "**2019 Notes**").

41. After October 31, 2019 (when Peraso gave proper notice of satisfaction that it achieved the Third Tranche Development Milestone), Peraso inquired as to whether Ubiquiti would accept or reject the achievement of the Third Tranche Development Milestone and, if not, whether anything further was required from Peraso. Ubiquiti offered some comments with respect to the deliverable itself (but not Peraso's performance with respect to the deliverable), but ultimately failed to issue a written acceptance or rejection of the achievement of the Third Tranche Development Milestone as required by the Licence Agreement. Ubiquiti also failed to purchase any of the $10 million of aggregate Class C Shares that it was obligated to purchase following the satisfaction of the Second and Third Tranche Development Milestones.

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42. Throughout this period, Ubiquiti continued to make ownership demands with respect to Peraso's intellectual property. I am advised by Bill McLean, the former CEO of Peraso, that in early December 2019, Ubiquiti advised him that Ubiquiti did not believe that Peraso had a viable financing plan. Peraso understood Ubiquiti to be holding the financial stability of Peraso hostage in exchange for acquiring the intellectual property rights owned by Peraso under the Licence Agreement.

43. Accordingly, and to avoid insolvency, the members of the Peraso Board exercised their business judgment to obtain the necessary financing and completed the issuance of the 2019 Notes in the aggregate principal amount of $1,748,035.40. The only parties to subscribe to the 2019 Notes were Polar Multi-Strategy Master Fund ("**Polar**") and entities affiliated with Roadmap Capital Inc. ("**Roadmap**"). The 2019 Notes carry an interest rate of 6% per annum and mature on December 31, 2023 (the 2019 Notes originally matured on June 30, 2025 but their terms were amended on March 13, 2020).

44. Despite having the right to participate in the 2019 Notes, Ubiquiti declined to do so.

(iv) Termination of the Licence Agreement and the Licence Litigation

45. On December 11, 2019, Peraso sent a written notice of default to Ubiquiti, demanding cure of its defaults within 30 days. Ubiquiti did not cure the defaults and on January 16, 2020, Peraso terminated the Licence Agreement.

46. On February 6, 2020 Peraso entered into an exclusivity agreement with a potential third-party purchaser (with an exclusivity period ending on March 1, 2020). On or about the same day, Peraso provided notice to Ubiquiti that it had entered into an exclusivity agreement with a potential third-party purchaser.

47. Days later, on February 14, 2020, Ubiquiti filed a complaint against Peraso in the United States District Court for the Southern District of New York ("**SDNY Court**") seeking, among other things: (i) a declaratory judgment holding that the Licence Agreement is in full force and effect; (ii) a declaratory judgment that Peraso is obligated to honour the terms of the Licence Agreement; and (iii) monetary damages (such proceedings in the SDNY Court, the "**Licence Litigation**").

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48. I am advised by Bill McLean that following the commencement of the Licence Litigation, the potential purchaser spoke with Ubiquiti. On or about February 21, 2020, the purchaser informed Peraso that it would not move forward with the acquisition of Peraso without first resolving the Licence Litigation.

49. On March 10, 2020, Ubiquiti filed an amended complaint that, among other things, added Bill McLean, William James Whitaker, Shawn Abbott, David Adderley, Imed Zine-El-Abidine and Riadh Zine-El-Abidine personally as defendants (collectively, the "**Peraso Board Defendants**"). Each of these individuals were members of the Peraso Board at the time Peraso terminated the Licence Agreement.

50. The specific allegations made by Ubiquiti can be found in the pleadings filed by Ubiquiti with the SDNY Court, which are attached hereto and marked as **Exhibit "B"**. In summary, however, Ubiquiti alleges that Peraso and its directors were not entitled to terminate the Licence Agreement and seeks, among other things, a declaration that it is not in breach of its obligations under the Licence Agreement, a declaration that Peraso is obligated to make the chipsets contemplated under the Licence Agreement available to Ubiquiti exclusively, and compensatory damages for an estimated $5 million as against each of Peraso and its directors.

51. Peraso and the Peraso Board Defendants deny any allegations of wrongdoing made by Ubiquiti and seek by counterclaim, among other things, a declaration that Peraso fulfilled its obligations under the Licence Agreement, a declaration that Ubiquiti failed to fulfill its obligations under section 2.2 of the Licence Agreement, and compensatory and punitive damages arising from the impacts of Ubiquiti's breach of contract (and other duties) on the value of Peraso's business, its goodwill, and its ability to secure financing. Peraso's Answer to First Amended Complaint and Counterclaims is attached hereto and marked as **Exhibit "C"**.

(v) Peraso Obtains Second Emergency Funding to Replace Funds Committed by Ubiquiti

52. By February 2020, Peraso again faced an imminent risk that it would become insolvent. At this time, it was anticipated that by March 13, 2020, Peraso would be unable to meet all of its obligations as they came due, including its payroll obligations.

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53. In response to Peraso's potential insolvency, on February 28, 2020, Messrs. McLean, Whitaker, and Abbott resigned from the Board of Directors of Peraso due to concerns about their exposure to personal liability. Since then, the Peraso Board has been comprised of four individuals: Riadh Zine-El-Abidine (a Roadmap nominee), Imed Zine-El-Abidine (a Roadmap nominee), David Adderley (a Celtic House Venture Partners nominee), and myself.

54. On March 2, 2020, the disinterested members of the Peraso Board (i.e. David Adderley and myself) approved a term sheet authorizing the offering of convertible notes, which were to be backstopped by Roadmap (the "**2020 Notes**"). The Peraso Board's approval was subject to shareholder approval. The only party to subscribe to the 2020 Notes was Roadmap. The 2020 Notes carry an interest rate of 6% per annum and mature on December 31, 2023.

55. Following board approval, on March 2, 2020, the Peraso Board distributed a Management Information Circular to its shareholders scheduling a shareholder meeting for March 12, 2020 at 8:00 a.m. EST.

56. On March 3, 2020, the Peraso Board distributed a Pre-emptive Rights Notice to its shareholders so that such shareholders could participate on the same terms to subscribe for the 2020 Notes. Ubiquiti declined to participate in this financing.

57. Immediately prior to the close of business on the evening of March 11, 2020—the day before the shareholder meeting—Ubiquiti tendered a bridge loan facility as an alternative source of financing. Ubiquiti's proposal was silent with respect to material terms and contained various conditions that could not be satisfied before March 13, 2020 or at all.

58. Ubiquiti did not attend the March 12, 2020 shareholder meeting where, among other things, shareholders were fully made aware of Ubiquiti's proposal. All of the shareholders present unanimously approved the issuance of the 2020 Notes.

59. On March 13, 2020, the financing closed and Peraso was able to meet certain of its obligations due at that time, including payroll.

(vi) The Oppression Litigation

60. Instead of participating in Peraso's proposed rescue financing, on April 8, 2020, Ubiquiti Canada filed a Statement of Claim with this Court seeking, among other things: (i) a

declaration that certain steps taken by Peraso in securing financing in March 2020 amounted to oppression pursuant to s. 248 of the *Business Corporations Act* (Ontario); and (ii) a declaration that Peraso's shareholder meeting held on March 12, 2020, and any and all votes taken, and resolutions approved, at that meeting are void (such proceedings, the "**Oppression Litigation**").

61. The Oppression Litigation names Peraso, the Peraso Board Defendants, myself, Roadmap and certain entities affiliated to Roadmap as defendants.

62. Ubiquiti Canada's Statement of Claim is attached hereto and marked as **Exhibit "D"**.

63. On May 29, 2020, Peraso served a Statement of Defence, which is attached hereto and marked as **Exhibit "E"**. Peraso denies the allegations contained in the Oppression Litigation. In particular, Peraso denies that the steps it took to obtain the 2020 Notes amounted to oppression, given that, among other things, the 2020 Notes were issued in good faith and as part of an effort to avoid insolvency. Further, the March 12, 2020 shareholder meeting was properly conducted and Ubiquiti was able to participate in the shareholder meeting but opted not to.

(vii) The Notice Litigation

64. In addition to the Licence Litigation and the Oppression Litigation, on February 19, 2020, Ubiquiti Canada filed a Notice of Application with this Court alleging that Peraso was in default of its obligations to provide Ubiquiti Canada, through an observer appointed by Ubiquiti Canada to observe the Peraso Board, with notices of meetings of the Peraso Board and all written information provided to the Peraso Board or any committee thereof (such litigation, the "**Notice Litigation**").

65. Prior to February 2020, Ubiquiti Canada never sought to exercise its observer rights or sign a relevant Confidential Information and Non-Disclosure Agreement ("**NDA**") as required by the terms of the USA. In fact, the first occasion on which Ubiquiti Canada asserted or raised concerns regarding its observer rights under the USA was in its Notice of Application issued February 21, 2020. That application was resolved on consent and Peraso agreed to provide the materials sought by Ubiquiti. Peraso has requested that the observer execute its form of NDA.

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66. On April 20, 2020, Ubiquiti Canada filed a second Notice of Application with this Court alleging that despite requests from counsel for Ubiquiti Canada, Peraso failed to provide Ubiquiti Canada with access to its books and records required to be maintained pursuant to s. 140(1) of the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16 ("**OBCA**"). An initial hearing with respect to this application was heard by this Court, at which time Peraso indicated its intention to provide Ubiquiti with the requested materials. Peraso has since provided Ubiquiti with certain of the requested materials. I understand that at this time, no follow-up hearing has been scheduled.

D. FINANCIAL STATUS

67. A copy of Peraso's audited financial statements as of December 31, 2019 are attached hereto as **Exhibit "F"**. For the fiscal year 2019, Peraso generated $506,000 in gross revenue, and a net loss of over $26 million. As a business that is still in its development phase, Peraso's expenses are high (in anticipation of future growth) but its revenues are still low, which results in a large net loss. Peraso's expenses in 2019 included $10.2 million for research and development and $1.6 million for marketing.

(i) Assets

68. As at December 31, 2019 (as noted in Peraso's balance sheet attached as Exhibit "F"), Peraso had approximately $8.9 million of assets on its balance sheet. Approximately $3 million of assets were property and equipment, $1.9 million was cash and cash equivalents.

69. In addition, Peraso has approximately 45 patent applications and has been granted approximately 25 patents (many of which are related to next-generation wireless technology).

(ii) Liabilities

70. As at the date of this affidavit, Peraso had liabilities totalling approximately $6.9 million.

Secured Indebtedness

71. As of late May 2020, Peraso was indebted to Roadmap in the approximate amount of $1 million and to Polar in the approximate amount of $748,035.40 on account of the 2019

Notes. In addition, Peraso owes approximately $3,885,000 to Roadmap on account of the 2020 Notes.

72. The 2019 Notes and the 2020 Notes rank equally in priority to one another. Both notes are secured by a general security interest in all present and after acquired property and assets of Peraso.

73. Attached hereto as **Exhibit "G"** is a copy of the search of the Ontario Personal Property Security Act Registry conducted on May 24, 2020 in respect of Peraso.

74. Peraso does not maintain any open credit facilities.

Unsecured Indebtedness

75. As at the date of this affidavit, Peraso had unpaid unsecured obligations, (including accounts payable) of approximately $1.2 million.

76. Further, Ubiquiti is seeking monetary damages from Peraso in amounts in excess of $5 million in the Licence Litigation. Ubiquiti has not quantified its requested damages with respect to the Oppression Litigation.

E. PERASO'S NEED FOR CCAA PROTECTION

77. Peraso's financial challenges began in 2019 with Ubiquiti's breach of the Licence Agreement and failure to fund its committed investments. Ubiquiti's failure to invest in Peraso upon the completion of the Second and Third Tranche Development Milestones resulted in Peraso not receiving a total of $10 million of promised investment. This was extremely detrimental to Peraso's financial health, as Peraso had incurred costs under the Licence Agreement with the expectation of receiving the committed investment from Ubiquiti.

78. While the issuance of the 2020 Notes provided Peraso with crucial funding, the 2020 Notes only provided Peraso with enough liquidity to survive until approximately late June 2020. Peraso needs additional financing if it is to continue operating past that date, but it has been unable to obtain financing or consummate any other viable transactions due to, among other things, the on-going Licence Litigation and the Oppression Litigation. That litigation remains far from resolved and, unlike Ubiquiti, Peraso does not, in its current state, have the

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means to continue the litigation (and any other claims Ubiquiti may choose to assert against Peraso).

79. I and certain other directors of Peraso have spoken with multiple potential sources of financing, including at least seven of Peraso's existing shareholders and/or lenders regarding obtaining additional financing for Peraso. All have declined to invest any additional funds into Peraso at this time and outside of a court-approved process.

80. Similarly, Peraso has been unable to commence meaningful discussions with potential purchasers. In addition to the third-party purchaser who terminated discussions in February 2020, Peraso engaged in discussions with another large public US technology company which expressed a strong interest in Peraso's technology; however, that party also advised Peraso that it would not do any type of deal with Peraso while the Licence Litigation remained on-going.

81. In my discussions with potential financiers and purchasers, they have informed me that the Licence Litigation and Oppression Litigation deter them from entering into transactions with Peraso for the following reasons:

(a) the Licence Litigation brings into question the enforceability of the Exclusivity Clause, which creates uncertainty for investors and acquirors. Peraso is, quite simply, too risky for an investor or acquiror. If, for example, the Exclusivity Clause is enforceable, then Peraso would effectively be limited to selling the products covered by the Exclusivity Clause to Ubiquiti and its affiliates. If Ubiquiti's demand for these products dropped, Peraso could not make up for lost sales by relying on other customers. This is a serious concern because Ubiquiti accounts for approximately 95% of Peraso's component revenue; and

(b) the Oppression Litigation brings into question Peraso's capitalization structure and the powers of its minority shareholders, which again creates uncertainty. This contributes to the impression that financing Peraso is too risky.

82. Peraso also explored government grants available to companies such as Peraso as potential sources of financing. All applications and discussions regarding such grants made

enquiries about Peraso's on-going litigation with Ubiquiti. At this time, I do not believe Peraso will be able to obtain any government assistance in the short term, if ever.

83. Further, the COVID-19 pandemic has exacerbated Peraso's (and others') efforts to obtain financing or engage in a strategic transaction because financial markets have become significantly more risk-averse.

84. In summary, the Licence Litigation and the Oppression Litigation impair Peraso's ability to sell its products to customers other than Ubiquiti, deter potential purchasers from acquiring Peraso, and effectively prevent Peraso from obtaining viable financing.

85. The resolution of the Licence Litigation and Oppression Litigation would make Peraso a more attractive candidate for an acquisition or for additional financing. Further, I firmly believe that if the Exclusivity Clause was found to be unenforceable, then Peraso could quickly find new customers and increase its revenue.

86. Given the above, Peraso is seeking CCAA protection to (i) stabilize its liquidity position under Court supervision; and (ii) resolve the claims asserted against it in the Licence Litigation and the Oppression Litigation within these CCAA Proceedings. Once CCAA protection is obtained (and subsequently, once the Licence Litigation and the Oppression Litigation are resolved), I expect Peraso's prospects of raising additional funds and/or finding a purchaser for its assets to improve dramatically. I believe this will result in maximization of value for all of Peraso's stakeholders, including its shareholders.

(i) Peraso is Insolvent

87. Peraso's current revenues for 2020 as of late May are approximately $2 million. Peraso's monthly cash burn is approximately $1 million, and it has cash reserves of less than $1.4 million. Given these factors, Peraso is anticipated to run out of cash by late June 2020—meaning it will be unable to meet payroll or to fund its continued operations past that date.

(ii) Peraso is a Viable Business

88. Peraso is a viable business. Its products remain at the forefront of the 60 GHz wireless market, and its entry into the 5G wireless market is expected to be similarly successful.

Overall, Peraso is positioned to be a market leader for the next generation of wireless technology.

(iii) Funding the CCAA Proceedings

89. Peraso is not seeking debtor-in-possession ("**DIP**") financing as part of this Initial Order; however, Peraso anticipates a need for DIP financing in the short term. Peraso has had discussions with parties who indicated they will be prepared to advance funds if CCAA protection is obtained. As such, Peraso intends to return to this Court for approval of DIP financing at a subsequent hearing.

F. CASH FLOWS

90. A four-week cash flow projection (the "**Cash Flow Statement**") was prepared by Peraso in consultation with Ernst & Young Inc. ("**EY**"), the proposed court-approved Monitor in these proceedings (the "**Monitor**"), for the period from May 30, 2020 to the week ending June 26, 2020. During this time, Peraso's estimated primary uses of cash will consist of the payment of ongoing day-to-day operational expenses and professional fees and disbursements in connection with these CCAA Proceedings. A copy of the Cash Flow Statement is attached hereto and marked as **Exhibit "H"**.

91. As of June 26, 2020, Peraso will have an estimated $55,100 of cash on hand. The Cash Flow Statement projects that, subject to obtaining the relief outlined herein, Peraso will have sufficient cash to fund its projected operating costs until the end of the stay period.

G. CASH MANAGEMENT SYSTEM

92. In the ordinary course of its business, Peraso uses a centralized cash management system (the "**Cash Management System**") to, among other things, collect funds and pay expenses associated with its operations. The Cash Management System gives Peraso the ability to efficiently and accurately track and control corporate funds and ensure cash availability.

93. Peraso maintains two bank accounts with Comerica Incorporated.

H. THE PROPOSED INITIAL ORDER

(i) Engagement of Ernst & Young Inc.

94. EY has consented to act as the Monitor, subject to Court approval.

95. EY is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act* as amended and is not subject to any of the restrictions on who may be appointed as Monitor set out in section 11.7(2) of the CCAA. I am advised by Maria Konyukhova of Stikeman Elliott LLP, counsel to Peraso, that EY has extensive experience in matters of this nature, including in cross-border restructuring proceedings, and is therefore well-suited to this mandate.

(ii) Reduced Restructuring Provisions in Proposed Initial Order

96. I am advised by counsel that, in line with current practice since the amendments to the CCAA came into force on November 1, 2019, Peraso is seeking a "skinny" form of Initial Order, which seeks only the relief reasonably necessary for the first 10 days until the hearing of the Comeback Motion (as defined below), and does not contain some of the more fulsome restructuring language found in the Initial Order developed by the model order subcommittee of the Commercial List Users' Committee of the Ontario Superior Court of Justice (the "**Model Initial Order**"). Similar to the Model Initial Order, the proposed Initial Order provides the Monitor with broad powers to, among other things, monitor Peraso's receipts and disbursements and advise Peraso in the preparation of cash flow statements.

(iii) Administration Charge

97. Peraso seeks a charge on Peraso's assets, property and undertakings (the "**Property**") in the maximum amount of C$200,000 to secure the fees and disbursements incurred in connection with services rendered to Peraso both before and after the commencement of the CCAA Proceedings Canadian and US counsel to Peraso, EY as the proposed Monitor and Canadian and US counsel to the proposed Monitor (the "**Administration Charge**").

98. Peraso worked with the proposed Monitor to estimate the proposed quantum of the Administration Charge. The proposed Monitor has reviewed the quantum of the Administration Charge and believes it is reasonable and appropriate in view of the

complexities of Peraso's CCAA Proceedings and the services to be provided by the beneficiaries of the Administration Charge.

99. The proposed Initial Order provides that the Administration Charge shall rank first on the Property of Peraso.

(iv) Directors' Charge

100. Peraso believes that an orderly restructuring will only be possible with the continue participation of the Peraso Board and key management and employees who are essential to the viability of the restructuring of Peraso's business.

101. I am advised by counsel to Peraso and believe that in certain circumstances, directors and officers can be held personally liable for certain obligations of a company, including in respect of amounts owing to (i) employees, including unpaid wages, termination and severance amounts, pension amounts and accrued vacation pay; and (ii) the federal and provincial governments, including payroll remittances, harmonized sales taxes, withholding taxes and workers' compensation remittances.

102. To mitigate liability issues with respect to Peraso's directors and officers ("**Peraso's D&Os**"), Peraso maintains directors' and officers' insurance. At present, Peraso's D&O insurance provides for a total of C$2 million in coverage. I, along with other directors and officers, am concerned that this amount of insurance may be insufficient if Peraso's D&Os are found responsible for the full amount of the potential liabilities to which they are exposed.

103. Peraso's D&Os have indicated that, due to the potential for significant personal liability, they cannot continue their service and involvement in this restructuring unless the Initial Order grants them certain protections that are commonly granted to directors and officers of companies involved in proceedings under the CCAA.

104. As such, the proposed Initial Order contemplates a charge on the property of the debtor in the amount of C$650,000 (the "**Directors' Charge**"). The Directors' Charge is proposed to rank second in priority on the Property.

105. I am advised by Ms. Konyukhova that the provisions as they relate to the Directors' Charge are standard provisions that have the effect of staying all proceedings against Peraso's

D&Os and granting an indemnity with respect to all post-filing claims that may arise against Peraso's D&Os in their capacity as Peraso's D&Os.

106. The Directors' Charge will allow Peraso to continue to benefit from the efforts and knowledge of their director and officers, and it will promote the ongoing stability of Peraso's business during these CCAA Proceedings. Peraso and the proposed Monitor believe the Directors' Charge is reasonable in the circumstances.

107. Finally, it is crucial that the former directors of Peraso be included in the stay of proceedings. As noted above, certain former directors of Peraso are listed as defendants in the Licence Litigation and the Oppression Litigation. As such, it is necessary that these individuals benefit from a stay of proceedings so that the Licence Litigation and Oppression Litigation does not contain as against them while it is stayed against Peraso and its current directors.

(v) Ranking of the Court Ordered Charges

108. The proposed ranking of the court ordered charges is as follows:

(a) Administration Charge; and

(b) Directors' Charge.

(vi) Chapter 15 Proceeding

109. Should the Initial Order be granted, Peraso intends to initiate the Chapter 15 Proceedings in the US Court seeking, among other things: (i) recognition of this CCAA proceeding as a foreign main proceeding pursuant to the Bankruptcy Code; (ii) recognition and enforcement of the Initial Order; and (iii) other appropriate relief under the Bankruptcy Code.

110. The proposed Initial Order provides that the Monitor will be appointed as the "foreign representative" for the purposes of the Chapter 15 Proceedings.

111. Peraso's primary connection to the United States is the Licence Litigation, which is being litigated in the SDNY Court because the Licence Agreement is governed by and

interpreted in accordance with the laws of the State of New York. Additionally, Peraso's counterclaim for damages against Ubiquiti is a substantial United States-based asset.

112. The Chapter 15 Proceedings are necessary to ensure that, if the Initial Order is granted, this Court's stay of proceedings is recognized and enforced in the United States generally and the SDNY Court in particular.

113. Other than the Licence Litigation, Peraso's connection to the United States is largely limited to (i) its Vice President of Finance, who is a United States resident and a full-time employee of Peraso; (ii) two United States-based contractors; and (iii) approximately $7,500 held as a retainer at Hodgson Russ LLP, US counsel to Peraso. Peraso does not maintain an office in the United States. Substantively the vast majority of Peraso's business operations, employees and assets are located in Ontario.

I. COMEBACK MOTION

114. Peraso intends to return to Court on June 12, 2020 or as soon after that as the Court's availability will permit on notice to the service list for a motion (the "**Comeback Motion**") seeking, among other things:

(a) expansion of the Initial Order to include the more fulsome restructuring provisions found in the Model Order;

(b) approval of DIP financing; and

(c) extending the stay of proceedings granted in the Initial Order.

I confirm that while connected via video technology, Ronald Glibbery showed me the front and back of his government-issued photo identity document and that I am reasonably satisfied it is the same person and the document is current and valid. I confirm that I have reviewed each page of this affidavit with Ronald Glibbery and verify that the pages are identical.

Affirmed before me by video conference from the City of Toronto, Ontario, to the Community of Eugenia (Grey County), Ontario, on June 2, 2020.

DocuSigned by:
Nicholas Avis
2C12EFAB5242430...

Nicholas Avis
Commissioner for Taking Affidavits
in the Province of Ontario

DocuSigned by:
Ronald Glibbery
D41573EF6574469...

RONALD GLIBBERY

Affiant's Initials
DS
RG

This is
EXHIBIT "B"
referred to in the affidavit of
RONALD GLIBBERY
dated August 10, 2020

DocuSigned by:
Nicholas Avis
2C12EFAB5242430...

Commissioner for taking affidavits

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)

AFFIDAVIT OF RONALD GLIBBERY
(Affirmed June 9, 2020)

I, Ronald Glibbery, of the City of Toronto, Ontario AFFIRM AND SAY:

1. I am the founder of Peraso Technologies Inc. ("**Peraso**" or the "**Applicant**"). I am and have been a director of Peraso since it was founded. I was also Peraso's Chief Executive Officer from its founding until approximately February 2018. I assumed the role of Senior Vice President of Corporate Development at Peraso between February 2018 and February 2020, inclusive, and on March 1, 2020, I again became the interim Chief Executive Officer.

2. I have also reviewed the books and records of Peraso and I have spoken with certain current and former directors, officers and/or employees of Peraso, as necessary and applicable. As a result, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. Where I have relied upon information received from other individuals, I state the source of such information and believe such information to be true.

3. All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

4. I affirm this affidavit in support of a motion by the Applicant pursuant to the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36, as amended (the "**CCAA**" and such proceedings, the "**CCAA Proceedings**") for an order (the **"Amended and Restated Order**"), substantially in the form of the draft order attached as Tab 3 of the Motion Record, that, *inter alia*:

(a) expands the Applicant's restructuring authority and the Monitor's ability to assist with the Applicant's restructuring efforts;

(b) increases the Administration Charge from C$200,000 to C$725,000; and

(c) extends the stay of proceedings to and including July 3, 2020, or such further and other date as determined by the Court.

A. BACKGROUND TO THESE CCAA PROCEEDINGS

(i) Overview

5. Reference is made to my affidavit sworn June 2, 2020 (the "**Initial Affidavit**") filed in support of the Applicant's CCAA application. A copy of the Initial Affidavit (without exhibits) is attached hereto and marked as **Exhibit "A"**. All capitalized terms not otherwise defined herein are as defined in the Initial Affidavit.

6. Peraso is in the business of the development, marketing and sale of the technologies that will power the next generation of wireless internet. Specifically, Peraso's software and chipsets are designed to operate on the 60 gigahertz band and, it is anticipated, the 5G wireless network.

7. As set out in greater detail in my Initial Affidavit, Peraso sought creditor protection under the CCAA because it expects to run out of cash by the end of June 2020. Peraso's liquidity crisis is due to, *inter alia*, protracted disputes and multi-jurisdictional litigation commenced by Ubiquiti Inc. and its various affiliates (collectively, "**Ubiquiti**"), which stymied any and all of Peraso's efforts to raise additional funds, pursue a sales process or even market certain of its products.

8. On June 3, 2020, this Court granted an Order (the "**Initial Order**"), which, among other things:

(a) granted an initial stay period in favour of the Applicant and its current and former directors to and including June 13, 2020 (the "**Stay Period**");

(b) appointed Ernst & Young Inc. ("**EY**") as the Monitor of the Applicant (the "**Monitor**");

(c) granted an Administration Charge up to the maximum amount of C$200,000; and

(d) granted a Directors' Charge up to the maximum amount of C$650,000.

9. Copies of the Initial Order (along with all other filings in these CCAA Proceedings) can be found on the Monitor's website: www.ey.com/ca/peraso.

10. At the hearing for the Initial Order, Justice Hainey scheduled the return of this matter for June 12, 2020.

(ii) Current Status

11. Since the granting of the Initial Order, the Applicant, with the assistance of the Monitor, has worked diligently and in good faith to stabilise its business by, among other things:

(a) notifying stakeholders (including employees, customers, and suppliers) of the Applicant's CCAA proceedings;

(b) providing counsel to Ubiquiti with a copy of the Initial Order and materials related to the Initial Order;

(c) reviewing forecasted operating costs and cash flows to determine how best to conserve cash during these CCAA Proceedings, with a view to reducing the Applicant's need for interim financing; and

(d) ensuring payrolls and related government remittances are processed and funded.

12. The Applicant has been in discussions with its stakeholders to identify potential debtor-in-possession ("**DIP**") financing. Several stakeholders have provided the Applicant with expressions of interest to provide DIP financing and discussions are on-going. The Applicant will return to this Court to seek approval of DIP financing together with the next stay extension request.

13. Additionally, the Applicant assisted the Monitor, in its capacity as foreign representative, with the commencement of ancillary insolvency proceedings under chapter 15 of title 11 of the *United States Code* ("**Chapter 15**") in the United States Bankruptcy Court for the Southern District of New York (the "**US Court**"). On June 3, 2020, the Monitor, in its capacity as foreign representative, filed an official form petition (the "**Petition**") under Chapter 15 with the US Court, along with an emergency motion requesting that the US Court enter an order giving effect to the Initial Order in the United States on a provisional basis pending final disposition of the Petition.

14. On June 8, 2020, the US Court granted the provisional relief, which gave the Initial Order full force and effect in the United States on an interim basis and until such time as the US Court conducts a final hearing on, and enters a final order with respect to, the relief sought by the Monitor, in its capacity as foreign representative, in the Petition.

15. I am advised by counsel to the Applicant that, among other things, the provisional relief established an interim stay of proceedings in the United States as against the Applicant and the Applicant's former, current and future directors and officers. As was more fully detailed in my Initial Affidavit, the Applicant's current and former directors require the protection of a stay of proceedings because Ubiquiti named certain of them as defendants in its litigation against the Applicant.

B. THE AMENDED AND RESTATED INITIAL ORDER

(i) Expanded Restructuring Powers

16. For the purposes of the Initial Order, the Applicant only requested such relief that was reasonably necessary for its continued operations in the ordinary course of business during the initial ten day Stay Period.

17. The Applicant is now seeking the more expansive relief outlined in the Amended and Restated Initial Order. This includes standard restructuring provisions and provisions expanding the Monitor's ability to assist with the Applicant's restructuring efforts.

18. I am advised by counsel to the Applicant that the Amended and Restated Initial Order closely aligns with the standard form CCAA Initial Order developed by the Model Order

Subcommittee of the Commercial List Users' Committee of the Ontario Superior Court of Justice (the "**Model Initial Order**"). A blackline comparison showing the proposed amendments to the Model Initial Order is attached at Tab 5 to the Applicant's motion record.

(ii) Increase to the Administration Charge

19. In addition to more expansive relief, the Amended and Restated Initial Order also contemplates the increase of the Administration Charge from C$200,000 to C$725,000.

20. The Administration Charge secures the fees and disbursements incurred in connection with services rendered to the Applicant by Canadian and U.S. counsel to the Applicant, the Monitor, and Canadian and U.S. counsel to the Monitor.

21. Peraso worked with the Monitor to estimate the proposed quantum of the increased Administration Charge. The Monitor has reviewed the quantum of the Administration Charge and believes it is reasonable and appropriate in view of the complexities of Peraso's CCAA Proceedings and the services to be provided by the beneficiaries of the Administration Charge.

22. As provided by the Initial Order, the Administration Charge ranks first on the property of Peraso.

(iii) Extension to the Stay Period

23. Finally, the Amended and Restated Initial Order also contemplates the extension of the Stay Period to and including July 3, 2020.

24. The Stay Period granted in the Initial Order had the effect of imposing a stay of proceedings until and including June 13, 2020. As discussed above, the Applicant used the initial Stay Period to, among other things, stabilize its operations, communicate with stakeholders and explore interim financing options.

25. If the Stay Period is extended, the Applicant intends to, among other things, enter into an interim financing agreement so that it has sufficient resources to focus on resolving its litigation with Ubiquiti (which is more fully described in my Initial Affidavit). Once the litigation with Ubiquiti is resolved, the Applicant will have better restructuring opportunities, including an improved ability to raise funds and/or find a purchaser for its business.

26. Attached hereto and marked as **Exhibit "B"** are the Applicant's prepared cash flows. These cash flows demonstrate that the Applicant will have sufficient funds to continue operating through the extended Stay Period.

27. The Applicant has acted and continues to act diligently and in good faith in respect of all matters relating to these CCAA Proceedings.

28. In the circumstances, I do not believe that any creditor will suffer material prejudice as a result of the extension of the Stay Period.

I confirm that while connected via video technology, Ronald Glibbery showed me his government-issued photo identity document and that I am reasonably satisfied it is the same person and the document is current and valid. I confirm that I have reviewed each page of this affidavit with Ronald Glibbery and verify that the pages are identical.

Affirmed before me by video conference from the City of Toronto, Ontario, to the Community of Eugenia (Grey County), Ontario, on June 9, 2020.

DocuSigned by:
Nicholas Avis
2C12EFAB5242430...

Nicholas Avis
Commissioner for Taking Affidavits
in the Province of Ontario

DocuSigned by:
Ronald Glibbery
D41573EF6574469...

RONALD GLIBBERY

Affiant's Initials

DS
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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

AFFIDAVIT OF RONALD GLIBBERY
SWORN JUNE 9, 2020

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Lawyers for the Applicant, Peraso Technologies Inc.

This is
EXHIBIT "C"
referred to in the affidavit of
RONALD GLIBBERY
dated August 10, 2020

DocuSigned by:
Nicholas Avis
2C12EFAB5242430...

Commissioner for taking affidavits

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

AFFIDAVIT OF RONALD GLIBBERY
(Affirmed June 25, 2020)

I, Ronald Glibbery, of the City of Toronto, Ontario SOLEMNLY AFFIRM AND DECLARE:

1. I am the founder of Peraso Technologies Inc. ("**Peraso**" or the "**Applicant**"). I am and have been a director of Peraso since it was founded. I was also Peraso's Chief Executive Officer from its founding until approximately February 2018. I assumed the role of Senior Vice President of Corporate Development at Peraso between February 2018 and February 2020, inclusive, and on March 1, 2020, I again became the interim Chief Executive Officer.

2. I have also reviewed the books and records of Peraso and I have spoken with certain current and former directors, officers and/or employees of Peraso, as necessary and applicable. As a result, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. Where I have relied upon information received from other individuals, I state the source of such information and believe such information to be true.

3. All references to currency in this affidavit are references to United States dollars, unless otherwise indicated.

4. I affirm this affidavit in support of a motion by the Applicant pursuant to the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36, as amended (the "**CCAA**" and such proceedings, the "**CCAA Proceedings**") for an order (the **"Amended and Restated Order**"),

Deponent's Initials DS RG

substantially in the form of the draft order attached as Tab 3 of the Motion Record, that, *inter alia*:

(a) approves the debtor-in-possession financing agreement (the "**DIP Agreement**") between the Applicant, as borrower, and Roadmap Capital General Partner Ltd., Roadmap Peraso LP III (U.S. and Offshore) and XCOM Labs, Inc. (collectively, the "**DIP Lenders**"), as lenders, and grants a charge over the Applicant's property in favour of the DIP Lenders (the "**DIP Lenders' Charge**");

(b) extends the Stay Period (as defined below) to and including August 14, 2020, or such further and other date as determined by the Court; and

(c) seals the Applicant's cash flow forecasts, certain portions of the DIP Agreement and this Affidavit.

A. BACKGROUND TO THESE CCAA PROCEEDINGS

(i) Overview

5. Reference is made to my affidavits affirmed June 2, 2020 (the "**Initial Affidavit**") and June 9, 2020 (the "**Comeback Affidavit**"). A copy of the Initial Affidavit and the Comeback Affidavit (both without exhibits) are attached hereto and marked as **Exhibit "A"** and **Exhibit "B"**, respectively. All capitalized terms not otherwise defined herein are as defined in the Initial Affidavit.

6. Peraso is in the business of the development, marketing and sale of the technologies that will power the next generation of wireless internet. Specifically, Peraso's software and chipsets are designed to operate on the 60 gigahertz band and, it is anticipated, the 5G wireless network.

7. As set out in greater detail in my Initial Affidavit, Peraso sought creditor protection under the CCAA because it expects to run out of cash by early July 2020. Peraso's liquidity crisis is due to, *inter alia*, protracted disputes and multi-jurisdictional litigation commenced by Ubiquiti Inc. and its various affiliates (collectively, "**Ubiquiti**"), which stymied any and all

of Peraso's efforts to raise additional funds, pursue a sales process or even market certain of its products.

8. On June 3, 2020, this Court granted the Initial Order that, among other things:

(a) granted an initial stay period in favour of the Applicant and its current and former directors to and including June 13, 2020 (the "**Stay Period**");

(b) appointed Ernst & Young Inc. as the Monitor of the Applicant (the "**Monitor**");

(c) granted an Administration Charge up to the maximum amount of C$200,000; and

(d) granted a Directors' Charge up to the maximum amount of C$650,000.

9. Also on June 3, 2020, the Monitor, in its capacity as foreign representative, filed an official form petition (the "**Petition**") under chapter 15 of title 11 of the United States Code ("**Chapter 15**") in the United States Bankruptcy Court for the Southern District of New York (the "**US Court**"), along with an emergency motion requesting that the US Court enter an order giving effect to the Initial Order in the United States on a provisional basis pending final disposition of the Petition.

10. On June 8, 2020, the US Court granted the provisional relief, which gave the Initial Order full force and effect in the United States on an interim basis and until such time as the US Court conducts a final hearing on, and enters a final order with respect to, the relief sought by the Monitor, in its capacity as foreign representative, in the Petition.

11. On June 12, 2020, this Court granted the Amended and Restated Initial Order, which, among other things:

(a) expanded the Applicant's restructuring authority and the Monitor's ability to assist with the Applicant's restructuring efforts;

(b) increased the Administration Charge from C$200,000 to C$725,000; and

(c) extended the Stay Period to and including July 3, 2020.

Deponent's Initials DS RG

12. Copies of the Initial Order and the Amended and Restated Initial Order (along with all other filings in these CCAA Proceedings) can be found on the Monitor's website: www.ey.com/ca/peraso.

(ii) **Current Status**

13. Since the granting of the Amended and Restated Initial Order, the Applicant, with the assistance of the Monitor, has worked diligently and in good faith to stabilise its business by, among other things:

(a) continuing business operations in the normal course and working with customers, suppliers and other stakeholders to minimize any disruptions caused by these CCAA Proceedings;

(b) identifying potential sources of interim financing and subsequently negotiating the terms of the DIP Agreement with the DIP Lenders; and

(c) engaging in discussions with Ubiquiti regarding the terms of a mediation process and commencing preparations for mediation, as outlined below.

14. I am advised by counsel to the Applicant that the Monitor, in its capacity as foreign representative, has scheduled a full recognition hearing in the US Court for July 8, 2020 to consider the relief requested in the Petition. Any objections to the Petition are due on July 1, 2020 at 4:00 p.m. (ET).

(iii) **Mediation with Ubiquiti**

15. Peraso and Ubiquiti have been engaged in discussions since the granting of the Amended and Restated Initial Order. Both parties have agreed to enter into mediation with a view to resolving the litigation commenced by Ubiquiti in Ontario and the Southern District of New York. Such litigation is described in greater detail in my Initial Affidavit and is herein collectively referred to as the "**Ubiquiti Litigation**".

16. With the assistance of the Monitor, the parties agreed to the mediation being conducted on July 6 and 7, 2020, with the former Associate Chief Justice Dennis O'Connor acting as the mediator.

17. The parties are hopeful that they will be able to settle their disputes in the mediation. If the mediation does not achieve a consensual resolution, Peraso will wish to proceed to a timely determination of such disputes by this Court. I am advised by Maria Konyukhova of Stikeman Elliott LLP, counsel to Peraso, that she proposed a process and timetable for such resolution to counsel to Ubiquiti and the parties will work to settle on such timetable in the short term. If the parties are unable to settle on the process and timetable, they may request this Court's assistance with settling same at the hearing of this motion.

18. The Applicant believes that the proposed mediation (and, failing that, litigation pursuant to the proposed timetable) will allow for the quick and efficient resolution of the Ubiquiti Litigation.

B. THE DIP AGREEMENT

(i) Background

19. As I noted in my Initial Affidavit and my Comeback Affidavit (and as demonstrated by the cash flow forecasts appended to both of those affidavits), the Applicant is facing a liquidity crisis and requires an injection of cash to continue its operations and these CCAA Proceedings beyond early July 2020.

20. The Applicant began its search for potential sources of interim financing immediately following the commencement of these CCAA Proceedings on June 3, 2020. The search for interim financing was influenced by three key factors:

(a) [redacted]

(b) [redacted]

---

[1] The Applicant's financial statements dated December 31, 2019 were appended to my Initial Affidavit.

[redacted]

(c) [redacted]

21. Given the above factors, the Applicant focused its energies on finding an interim lender who was already familiar with the Applicant and its business. The hope is that, by doing so, the amount of time required to execute an interim financing agreement could be reduced.

22. The parties that the Applicant approached (or, in certain cases, the parties that approached the Applicant) can be categorized into four groups:

(a) Shareholders;

(b) Existing lenders, including Roadmap Capital Inc. and its affiliates (“**Roadmap**”);

(c) Customers; and

(d) Parties with business connections to the Applicant, such as prospective acquirors and other forward-looking business partners.

23. The Applicant did not approach all of its shareholders, existing lenders and customers. Given the limited time and resources, the Applicant focussed on engaging with parties who were considered most likely to be interested in, and capable of, providing interim financing.

24. Early in the search for an interim lender, the Applicant approached Roadmap. As described in greater detail in my Initial Affidavit, Roadmap owns equity in the Applicant and is also the Applicant’s largest first-ranking secured creditor. On account of Roadmap’s

participation in the Applicant's debt offerings in December 2019 and March 2020, Roadmap is familiar with the Applicant's business and finances. Roadmap was receptive to the Applicant's request for interim financing, and it agreed to provide the Applicant with a portion of its requested financing.

25. After receiving Roadmap's commitment, the Applicant continued to engage with other potential lenders to determine if they were interested in acting as an interim lender or, in the alternative, partnering with Roadmap and being joint interim lenders.

26. Overall, the Applicant spoke with approximately five parties who were identified as potential interim lenders. As a result of this process, the Applicant found XCOM Labs, Inc. ("**XCOM**"), who was willing to act as a joint interim lender with Roadmap. Collectively, the DIP Lenders agreed to provide the Applicant with [redacted] in interim financing.

27. Peraso consulted with the Monitor throughout the search for an interim lender. At all material times, the Monitor was aware of the steps being taken in the interim financing process and participated in some of the discussions I had with potential lenders.

(ii) Ubiquiti's Interest in being an Interim Lender

28. I am advised by Ms. Konyukhova that shortly after the commencement of these CCAA Proceedings, Ubiquiti's counsel advised that Ubiquiti may be interested in providing interim financing to the Applicant. Ubiquiti has since made further expressions of interest and has requested that the Applicant provide Ubiquiti with financial information so that Ubiquiti can assess the Applicant's interim financing requirements.

29. Peraso, following consultation with the Monitor, has serious concerns about Ubiquiti acting as an interim lender to Peraso at this time. In particular, Peraso is very concerned about having its financing, its ability to operate, and its ability to mediate or litigate the Ubiquiti Litigation become dependent on Ubiquiti. Any ability by Ubiquiti, in its capacity as DIP Lender, to impede, obstruct, or otherwise exercise self-interested influence on Peraso's CCAA proceedings or determination of issues against Ubiquiti is not appropriate.

30. Further, the Applicant has reservations with respect to sharing its confidential financial information with Ubiquiti at this time. [redacted]

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[redacted]

31. Ubiquiti's past conduct does not give Peraso confidence that Ubiquiti would be a suitable interim lender at this time. In particular, I am concerned that Ubiquiti may view being an interim lender as a path towards obtaining ownership of Peraso's intellectual property. On at least two prior occasions, Ubiquiti has tried to obtain Peraso's intellectual property:

(a) In August 2019, Ubiquiti began demanding, among other things, that it be given joint and equal ownership rights to the intellectual property covered by the Licence Agreement that governed Peraso and Ubiquiti's relationship. As leverage, Ubiquiti indicated that it would cause its subsidiary to withhold a promised investment of $8 million in Peraso if its demands were not met. Ubiquiti's demands were outside the terms of the Licence Agreement, and Ubiquiti's investment in Peraso was not conditional on an ownership interest in Peraso's intellectual property. Peraso did not grant Ubiquiti with an ownership interest in its intellectual property, and Ubiquiti has yet to make its $8 million investment in Peraso; and

(b) on March 11, 2020—approximately 16 hours before Peraso's shareholders were scheduled to vote on issuing the 2020 Notes to obtain emergency financing—Ubiquiti tendered a "loan-to-own" proposal that required Peraso's existing secured lenders subordinate their interests in favour of Ubiquiti. Ubiquiti's proposal was, in my view, designed only to cause confusion, distract from the 2020 Notes proposal, and give Ubiquiti a senior secured ranking over all of Peraso's assets, including its intellectual property.

32. Despite the aforementioned reservations, I am advised by Ms. Konyukhova that she requested Ubiquiti's counsel to advise the terms on which it would be prepared to provide interim financing and, in particular, how Ubiquiti intended to address the concerns raised by Peraso (as described above).

33. On June 23, 2020, Ubiquiti's counsel sent the Monitor a draft interim financing term sheet (the "**Ubiquiti Term Sheet**") which the Monitor shared with Peraso. The Applicant is

of the opinion that the Ubiquiti Term Sheet is not, at this time, an appropriate interim financing option. In particular, the Ubiquiti Term Sheet does not alleviate the Applicant's concerns with respect to Ubiquiti being an interim lender. Among other things:

(a) the Ubiquiti Term Sheet contains provisions that could give Ubiquiti an information advantage in the Ubiquiti Litigation. For example, the Ubiquiti Term Sheet specifies that (i) Ubiquiti requires access to Peraso's books and records as a condition of providing funding, and (ii) Ubiquiti requires regular budgets and variance reports during the course of the financing;

(b) the Ubiquiti Term Sheet proposes that Ubiquiti would have a certain amount of discretionary authority that could influence Peraso's course of action during the CCAA Proceedings. For example, the Ubiquiti Term Sheet gives Ubiquiti the discretion to (i) decide whether certain conditions precedent to loan advances have been met, and (ii) determine what constitutes an acceptable Sales and Investment Solicitation Process, which impacts other concepts in the Ubiquiti Term Sheet like the achievement of obligatory milestones.

34. As these examples demonstrate, significant negotiations are necessary to make the Ubiquiti Term Sheet agreeable to both Ubiquiti and Peraso. Practically speaking, these negotiations are not feasible at this time on account of the Applicant's immediate need for cash and the short timeframe between the tender of the Ubiquiti Term Sheet and the Applicant's July 2, 2020 motion. As such, the Applicant has not engaged with Ubiquiti to discuss the particulars of the Ubiquiti Term Sheet; however, the Applicant does not want to preclude Ubiquiti from being an interim lender at a later date and is committed to working with Ubiquiti to see if they can become an interim lender during the second phase of the DIP lending process, as discussed in greater detail below.

35. Ubiquiti has requested that Peraso provide it with confidential financial information for the purposes of their DIP proposal. Peraso has not provided Ubiquiti such information. I note that Peraso has previously (on limited occasions) provided Ubiquiti with select financial information; however, no financial information has been provided to Ubiquiti since approximately October 2019. Further, the potential interim lenders with whom Peraso has

engaged in discussions have not been provided with any financial information as part of those discussions (although certain potential interim lenders may have had some of Peraso's financial information to the extent that they are pre-existing lenders).

36. I understand that the Monitor and its counsel are also of the view that it is not feasible for Ubiquiti to provide Peraso with interim financing while the mediation between Ubiquiti and Peraso remain on-going, unless the parties are able to devise a financing structure that would sufficiently alleviate the concerns described above.

(iii) **Two-Phase Interim Financing Process**

37. For the reasons described above, the Applicant does not view Ubiquiti as a feasible or practical interim lender while the parties are mediating their disputes; however, in the event the Ubiquiti Litigation is resolved (through mediation or otherwise), then certain of the Applicant's concerns would be obviated and Peraso is committed to work with Ubiquiti in good faith as a potential lender in such circumstances.

38. With this in mind, the Applicant structured a two-phase interim financing process. The first phase is intended to cover the period during which the Applicant and Ubiquiti will be engaged in mediation and the period of time after the conclusion of the mediation to continue further settlement discussions and/or commence litigation.

39. Ubiquiti is not considered a feasible or practical interim lender for the purposes of this first phase.

40. Following the conclusion of the mediation, the Applicant, with the assistance of the Monitor, will re-evaluate its relationship with Ubiquiti and cash needs. The Applicant will then shift into the second phase, during which it may consider alternative interim lenders, including Ubiquiti. For greater certainty, Ubiquiti (or any other interim lender) will only be chosen as the interim lender for the second phase of the interim financing process if, among other things, the terms and conditions of the alternative financing are superior to those being offered by the existing DIP Lenders.

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(iv) **Summary of the DIP Agreement**

41. The Applicant and the DIP Lenders engaged in extensive negotiations that ultimately resulted in the DIP Agreement, a redacted copy of which is attached hereto and marked as **Exhibit "C"**. The DIP Agreement is structured so that additional lenders can be easily added to it.

42. A summary of the key terms of the DIP Agreement are as follows:

DIP Agreement[2]	
Lender	The DIP Lenders (Roadmap and XCOM)
Borrower	The Applicant
Credit Facility	A secured non-revolving credit facility (the "**DIP Facility**") in an aggregate amount of [redacted]
Interest Rate	6% *per annum*, compounded monthly and payable monthly in arrears in cash on the last Business Day of each month. Upon an Event of Default, all overdue amounts bear interest at the applicable interest rate plus 2% *per annum*, payable on demand
Use of Funds	The Borrower shall use proceeds of the DIP Facility solely for the following purposes and in the following order: (a) to pay the reasonable and documented financial advisory fees and expenses and the reasonable and documented legal fees and expenses of (i) the Borrower and (ii) the Monitor; (b) to pay all of the reasonable and documented fees and expenses incurred by the Lenders in connection with, relating to or arising from the CCAA Proceeding, due diligence, negotiation and documentation of this Agreement, whether incurred prior to or after the date of the Initial Order, as well as all expenses of the Lenders in connection with the ongoing monitoring, maintenance, interpretation and administration of the DIP Facility and the enforcement of any of rights of the Lenders including pursuant to this Agreement; to pay the interest owing to the Lenders under this Agreement; and (c) to fund the Borrower's (i) working capital and (ii) other general corporate purposes
Maturity	The DIP Facility shall be repayable in full on the earlier of: (a) a demand for repayment in writing having been made by the Lenders upon the occurrence of any Event of Default which is

[2] All capitalized terms that are used in this table and not otherwise defined are as defined in the DIP Agreement.

	continuing and has not been cured in accordance with the terms of this Agreement; (b) the date on which the Initial Order expires without being extended or on which the CCAA Proceedings are dismissed or converted into a proceeding under the *Bankruptcy and Insolvency Act* (Canada); (c) the effective date of any confirmed plan of reorganization or arrangement by the CCAA Court; (d) the sale of all or substantially all of the Collateral; or (e) [redacted] or such other date as mutually agreed to by the parties to this agreement in writing
Conditions	Advances under the DIP Agreement are subject to the Court having issued the DIP Order and having granted the DIP Lenders' Charge, and certain additional customary conditions precedent, covenants and representations and warranties made by the Borrower
DIP Lenders' Charge	The DIP Agreement contemplates that all amounts owing thereunder are to be secured by the DIP Lenders' Charge. The DIP Lenders' Charge is to rank behind the Administration Charge and the Directors' Charge

43. The DIP Agreement includes at Schedule "D" a side letter (the "**Side Letter**") between the Applicant and XCOM. The Side Letter recognizes that the Applicant and XCOM are parties to a software and firmware licence and development agreement pursuant to which the Applicant agreed to develop for XCOM certain products in exchange for certain milestone payments by XCOM (the "**XCOM Milestone Payments**"), payable upon the achievement by Peraso of certain development milestones (the "**Development Milestones**", and the payment dates in respect of such Development Milestones, the "**Development Milestone Payment Dates**"). The Side Letter specifies that to the extent Peraso achieves a Development Milestone, thus triggering an XCOM Milestone Payment, the principal amount of the DIP Facility provided by XCOM is to be set-off and reduced on the Development Milestone Payment Date by an amount equivalent to the XCOM Milestone Payment.

44. The Applicant believes that the DIP Agreement is the best available option for interim financing. The Applicant relies on the following factors, amongst others, in coming to this conclusion:

(a) the Applicant needs financing immediately. The DIP Lenders are willing and able to provide financing within the necessary timeframe. This is, at least in part, due to the DIP Lenders being able to avoid extensive and time-consuming due diligence because they are already familiar with the Applicant (Roadmap is an existing secured creditor of the Applicant and, as recently as March 2020, it subscribed to a debt offering by the Applicant, and XCOM is a significant customer);

(b) Roadmap is the largest shareholder of the Applicant (it holds, directly or indirectly through related investment vehicles approximately 26.11% of the Applicant's shares). As such, Roadmap has a substantial interest in seeing the Applicant successfully restructure and exit these CCAA Proceedings as a stronger and more competitive business;

(c) the DIP Lenders are not deterred by the current economic environment, which stands in contrast to many other potential lenders in the financial market who are unwilling to lend money on account of the COVID-19 pandemic and the resulting economic turmoil; and

(d) the terms of the DIP Agreement are competitive and similar to what the Applicant could get from an independent third-party on the open market. For example, according to the Insolvency Insider chart attached as **Exhibit "D"**, the most common interest rate (i.e. the mode, excluding floating interest rates such as those based on LIBOR) for debtor-in-possession interim financing since January 1, 2020 has been approximately 10%, and such loans have had an interest rate ranging between 0% and 15% (note, however, that in the case of the 0% interest rate, the lender was the debtor's shareholder; if the anomalous case of the 0% interest rate is excluded, the next lowest interest rate is 5%).

45. The DIP Agreement was the result of extensive arms'-length negotiations and the DIP Lenders were at all times aware of the competitive tensions created by Ubiquiti's offer to put in a superior bid to provide DIP financing if the terms of the DIP Agreement were not competitive.

Deponent's Initials DS RG

C. SEALING

46. The Applicant requests that the cash flow forecasts, unredacted DIP Agreement and the unredacted version of this Affidavit filed with the Court on a confidential basis be sealed pending further order of this Court. The Applicant's cash flow forecasts and the unredacted DIP Agreement contain commercially sensitive information. Among other things, the cash flow forecasts detail the Applicant's anticipated cash position over the period of the requested stay extension and demonstrate how much money the Applicant has budgeted for legal expenses, including how much has been budgeted for resolving the Ubiquiti Litigation. [redacted]

47. The Applicant does not believe that any stakeholder will be prejudiced if the information is sealed or redacted. Keeping this information sealed pending further order of the Court is beneficial to the resolution of the Ubiquiti Litigation.

D. EXTENSION OF THE STAY PERIOD

48. The Stay Period granted in the Initial Order and later extended by the Amended and Restated Initial Order had the effect of imposing a stay of proceedings until and including July 3, 2020. The Applicant is requesting an extension of the Stay Period until and including August 14, 2020.

49. As discussed above, the Applicant has largely used the Stay Period to stabilize its operations, obtain interim financing, communicate with stakeholders, and advance the determination of issues in dispute with Ubiquiti.

50. The proposed Stay Period is shorter than would be usually sought and hopefully addresses the concerns raised by Ubiquiti regarding a long-term stay and preserving their arguments for any future litigation in Canada or the United States. The Applicant hopes that the mediation will resolve all outstanding matters with Ubiquiti. Thereafter, the Applicant intends to explore strategic opportunities including raising funds and/or finding a purchaser for its assets.

51. Based on the cash flows attached hereto and marked as **Exhibit "E"** and when taking into account the DIP Facility, the Applicant will have sufficient funds to continue operating through the proposed extended Stay Period.

52. Since the Initial Order, the Applicant has acted and continues to act diligently and in good faith in respect of all matters relating to these CCAA Proceedings.

53. In the circumstances, I do not believe that any creditor will suffer material prejudice as a result of the extension of the Stay Period.

I confirm that while connected via video technology, Ronald Glibbery showed me the front and back of his government-issued photo identity document and that I am reasonably satisfied it is the same person and the document is current and valid. I confirm that I have reviewed each page of this affidavit with Ronald Glibbery and verify that the pages are identical.

Affirmed before me by video conference from the City of Toronto, Ontario, to the Community of Eugenia (Grey County), Ontario, on June 25, 2020.

DocuSigned by:
Nicholas Avis
2C12EFAB5242430...

Nicholas Avis
Commissioner for Taking Affidavits
in the Province of Ontario

DocuSigned by:
Ronald Glibbery
D41573EF6574469...

RONALD GLIBBERY

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

AFFIDAVIT OF RONALD GLIBBERY
AFFIRMED JUNE 25, 2020

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Lawyers for the Applicant, Peraso Technologies Inc.

This is
EXHIBIT "D"
referred to in the affidavit of
RONALD GLIBBERY
dated August 10, 2020

DocuSigned by:
Nicholas Avis
2C12EFAB5242430...

Commissioner for taking affidavits

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 20-11354-shl

- x

In the Matter of:

PERASO TECHNOLOGIES INC. AND ERNST & YOUNG INC.,

Debtors.

- x

United States Bankruptcy Court

One Bowling Green

New York, NY 10004

July 22, 2020

10:09 AM

B E F O R E :

HON SEAN H. LANE

U.S. BANKRUPTCY JUDGE

ECRO: UNKNOWN

HEARING re Recognition Hearing

Transcribed by: Sonya Ledanski Hyde

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ALSO PRESENT TELEPHONICALLY:

B.J. MILLER
JODYANN GALVIN
GARRY GRABER

P R O C E E D I N G S

THE COURT: Good morning. This is Judge Sean Lane here in the United States Bankruptcy Court for the Southern District of New York. And we're here this morning for a 10:00 hearing in Peraso Technologies, Inc., a Chapter 15 case, that is on recognition. We're conducting this hearing telephonically using the Court Solutions service, which is consistent with how we've been doing business going back I guess through March at this point.

And I think everyone's pretty well-versed in how these virtual hearings work, but just two quick reminders. One is that please make sure to identify yourself when you speak as we normally sort of annotate any transcript we need to make because we can see people in person normally. And make sure to take yourself off mute. And I guess I do have a third just comment, which is I will do my best to try to serve as a virtual master of ceremonies to pass this virtual speaking microphone from one party to the other so we can avoid talking over one another which is a hazard of telephonic hearings because you can't pick up on the nonverbal cues.

So with all that said, we'll handle appearances first. So who is here on behalf of the foreign representative?

MR. COLEMAN: Good morning, Your Honor. This is

Ken Coleman and Josh Neifeld of Allen & Overy for Ernst & Young, the monitor in the Canadian proceeding and the foreign representative in this case.

THE COURT: All right. Good morning. And I understand we have a party that has filed an objection, and I believe it's pronounced Ubiquiti, Inc. Is that correct?

MR. BROCK: That's correct, Your Honor.

MR. AIETA: Yes, Your Honor. I'm sorry. This is Mario Aieta from Duane Morris. Tim, go ahead.

MR. BROCK: And this is Timothy Brock, also from Duane Morris. I am appearing on behalf of Ubiquiti, Inc. today, and I'll be carrying sort of the laboring ore today along with Mr. Aieta.

THE COURT: All right. Great. Good morning to you all. Is there any other party who is on the telephone that wishes to make an appearance at this time?

All right.

MS. MILLER: I will introduce myself.

THE COURT: I'm sorry. Go ahead, please.

MS. MILLER: I'll just introduce myself, Judge Lane. I'm not sure if that's the appropriate protocol or not, but my name is B.J. Miller. I'm with the Toronto firm of Thornton Grout Finnigan, and I have filed a declaration as Canadian counsel for Ernst & Young, the monitor and foreign representative. So I'll be on mute. I don't expect to say anything but just wanted to introduce myself.

THE COURT: All right. Thank you very much.

MS. GALVIN: Your Honor?

THE COURT: All right. Anyone else?

MS. GALVIN: Yes, Your Honor. If I may, my name is Jodyann Galvin. I'm from Hodgson Russ. My firm represents Peraso Technologies.

THE COURT: All right. Thank you very much. I think with that, we are ready to proceed, and I'll ask to hear from the foreign representative first. I will say, before anybody says anything, I've read all the papers, so I have taken a look at the objecting party's papers as well as the foreign representative reply as well as the underlying papers that are in the case. So no one needs to repeat everything that they've included in their papers, obviously, but certainly, I'm happy to hear any arguments and things that you think I should particularly focus on.

So with that, let me hear from the foreign representative.

MR. COLEMAN: Thank you, Your Honor. Ken Coleman of Allen & Overy. So we have two matters, recognition of the CCAA proceeding for Peraso and the foreign representative's request in the Chapter 15 petition for enforcement of the Canadian court's initial order, which of course Your Honor enforced on a provisional basis following the conclusion of our hearing before you on I believe it was June 8.

Very quickly, by way of developments and status of the proceeding in Ontario, we would refer Your Honor to Ms. Miller's declaration, which walks through what has transpired and attaches to it various orders and endorsements of the Ontario court. I just might mention in terms specifically of Ubiquiti that Peraso and Ubiquiti engaged in a mediation which, unfortunately, was not successful. There was a status conference before Justice Haney in Ontario on July 13 in connection with Peraso's motion for a determination as to whether the Ubiquiti license has been terminated.

At the conclusion of that hearing, that status conference, an agreed schedule was established for resolution of that dispute. There is a conference with the parties and Justice Haney scheduled for August 24 and hearings on Ubiquiti's motion -- pardon me, pardon me -- Peraso's motion for a declaration regarding the licenses scheduled for September 1 and 2.

So turning to the matters before you today, first, recognition, there's no dispute that the CCAA proceeding is a foreign main proceeding and should be recognized by this Court as such, nor is there a dispute that the monitor is the duly-appointed foreign representative. There are two issues that you need to resolve today, Your Honor. First has to do with the stay regarding claims against present and former officers and directors. The second point is the language we have proposed in the recognition order that the Ontario court's initial order is enforced along with any amendments or extensions as may be granted by the Ontario court.

Your Honor has helpfully said we don't need to plow through what we've already briefed and filed before Your Honor. I think our reply lays out our position in detail in very summary form. I'd like to point out that the -- with respect to the directors and officers' stay, it is a feature of Canadian law. Resolution of claims against directors and officers are part of the CCAA claims resolution process. The D&O stay is standard practice in Canada. It is regularly enforced in Chapter 15 cases ancillary to CCAA cases. And it is clearly not contrary to U.S. bankruptcy law or public policy for all of the reasons Your Honor cited to at our hearing on June 8.

I'd like to point out also that as set out in Ms. Miller's declaration, that Ubiquiti has actively participated in the Ontario proceeding and has not objected to the scope of the stay with respect to officers and directors, whether former or present. And so for the reasons set out in the district court's decision in the

Telecom Argentina case, which we cite to in our reply, principals of res judicata prevent re-litigation of that issue before Your Honor.

The second point that is in dispute here is the reference to amendments and extensions that might be granted by the Ontario court. Again, Your Honor, this is a feature of Chapter 15 cases, particularly as they relate to CCAA cases. And we have cited to a number of U.S. bankruptcy court cases where this precise wording has been a feature in recognition orders. It relates to matters that were addressed in the initial order that was filed with this Court at the commencement of the case. It deals, for example, with periodic extensions of estate period which, as Your Honor is aware, in CCAA matters, the stay is extended for set periods of time, unlike our automatic stay which lasts for the duration of the case.

So in order to save our time, our client's money, and the Court's time and attention and resources, this has been part of our form of order and other firms' form of order in these sorts of cases. And I think with that, Your Honor, I'll, in the interest of saving your time, end there and, of course, answer any questions you might have of us.

THE COURT: Thank you. I don't have any questions at this time, so let me hear from Ubiquiti.

MR. BROCK: Okay. Good morning, Your Honor.

First, if I may, just a word about sort of the division of labor in this case as between Mr. Aieta and myself. My involvement as a bankruptcy lawyer began with the filing of the ancillary case, the Chapter 15, in New York and, of course, the filing in Ontario under CCAA. Mr. Aieta's involvement, on the other hand, it predates mine substantially and dates back to the pre-bankruptcy period when there were litigations ongoing in the Southern District of New York as well as in Canada.

And Mr. Aieta's involvement has continued to be very much the forefront because of the mediation that we just -- that was just described. And so there are matters with respect to which Mr. Aieta is more familiar based upon his personal experience with the mediation and so on. So there may be instances during today's hearing where I would, you know, defer to Mr. Aieta's input and I would ask for the Court's indulgence if those circumstances come to pass.

Turning now to the limited objection and reservation of rights that we have filed, I guess I would emphasize that, you know, we are seeking here in the main to reserve rights, but I think a small bit of background might be helpful in terms of understanding my client's concerns here. We -- the client is a shareholder of Peraso and is in certain categories one of Peraso's largest customers. The debtor's sales to my client account for a sizeable percentage of Peraso's cash flow. And related to those sales and cash flow, the debtor Peraso has licensed certain of its intellectual property to my client, Ubiquiti.

And, you know, although the relationship between Peraso and Ubiquiti became quite strained and litigations ensued, Ubiquiti was frankly surprised by the bankruptcy filings. They were unexpected. This is the second appearance that we're making in the Chapter 15 case before you. In our first appearance, we were objecting to the granting of any provisional relief principally on the grounds that it was unnecessary given our offer of a standstill in litigation until we arrived -- until we would be before Your Honor again at this hearing, at today's hearing.

My client, though, you know, also saw the bankruptcy case filings as part of an overall litigation strategy, one that increasingly can be seen as an attempt to strip Peraso's intellectual property of the encumbrance of my client's license rights to the underlying intellectual property. So we, in our first appearance with this Court -- with this Court too getting its first exposure to the case, again, a case that surprised us and which seemed to be, frankly, an unnecessary case, we certainly want to impress -- wanted to impress upon the Court our concerns for our intellectual property rights in the context of what seemed very much to be, you know, a two-party dispute.

Thus, we invoked the old two-party dispute doctrine, which was, you know, what the U.S. courts would sometimes find in the course of ruling "filing had been in bad faith" filing. We were at that first hearing laying groundwork to possibly object to recognition on that basis, but as has been noted and as certainly clear on our papers, we're no longer objecting to recognition. Our position on recognition, you know, has evolved in part because of our deference in some respects to the monitor's role here, as well as what we've learned in the time since the cases were commenced, especially through the mediation and, frankly, also the monitor's reporting, which, you know, brings us now to today's recognition hearing.

In the aftermath, you know, of the failed mediation in which my client did everything within reason that it could to attain a settlement, our concerns now are to protect our rights in the intellectual property. Relatedly, you know, we are seeking redress against those who have put our intellectual property rights in jeopardy. We don't want those who are culpable to benefit from stays now or from releases later. There are a number of such parties that we believe are or could be culpable, including the defendants in the New York litigation and the ones who are benefitting from the stays that are at issue today.

Now we recognize that the Canadian law and practice is different from what it would be in the United States and in the Southern District of New York and that stays are more routine in Canadian practice. The monitor's position is that this fact and the fact that the Court has already approved of stays in its first hearing to consider the provisional relief ought to counsel us against opposing these forms of additional relief now. But we don't agree with the monitor on this point because this is no longer a request for provisional relief.

Now Paragraph 10 of the monitor's reply contains some points with which Ubiquiti agrees and Mr. Coleman just amplified this point, and I'm quoting now from Paragraph 10 of the reply, quote, The stay period is not infinite. And to the extent Ubiquiti or any creditor wishes to contest or seek relief from the initial order stay provisions, the proper forum to do so is the Canadian proceeding, unquote.

Now, we, Ubiquiti, my client, agrees with that. The stay period is certainly not infinite. In fact, it runs through August 14th and, in all likelihood, the Canadian court will be asked to extend those stays further beyond August 14th. Therefore, Ubiquiti will have additional opportunities to object to the stays in the Canadian proceeding.

Although the monitor, and we've heard it again today, makes much of the absence of vigorous opposition from Ubiquiti to those stays in Canada to date, all of Ubiquiti's rights in this regard with respect to the stays and other matters have been expressly reserved in the endorsements to the Canadian court's orders. These endorsements are attached to the --

THE COURT: Well, I understand that. But I confess when this issue came up the first time I did not understand Ubiquiti had actually not opposed the stay relief, had reserved its right but not opposed it. And so there's obviously something more than a bit awkward about having a party come in and say we oppose the relief that was entered by the Canadian court even though we actually have participated in that proceeding but not actually opposed the relief in Canada.

And so I'd like you to address that point, if you could.

MR. BROCK: Well, Your Honor, sure. There's -- there remains this theoretical possibility that Ubiquiti may challenge the stays as they might be further extended. And it is -- you know, when we were appearing in Canada at those hearings, we were cognizant, very cognizant that the stays were of limited duration. We were also trying very hard, very hard to set the stage perfectly for a successful mediation.

So we very consciously limited the hostilities at that point, at that early point, in the Canadian cases so that we could get to a mediation and hopefully get to a resolution of the entire case at minimal cost to all the parties.

THE COURT: No, I understand that. And folks obviously are free to make their own strategic decisions, and that's fine. But they have consequences. And so, again -- and maybe this is an issue for the past and we're not going to worry about it now. But, again, I'm somewhat mystified by the -- and have questions about your ability to oppose relief in a Chapter 15 that was entered by a foreign court when you participated in the foreign proceeding and didn't oppose that relief in the foreign court.

And the foreign representative cites the principles of res judicata as something that should inform the decision here as whether to apply comity. And so, again, I'm not quibbling with your ability to make the decisions that you think are appropriate for your client. Litigation is expensive. There are plenty of times that people think it is appropriate and the best course to keep your powder dry in terms of litigation. That's fine. But as a U.S. court that was at the -- or hearing on the request for emergency relief in the form of enforcing the stay order, I'm looking to what has occurred in that foreign proceeding.

And so that's my question is -- and, again, maybe it's just a historical question because we're now at a different stage in the case. But that would seem to be problematic from a Chapter 15 point of view.

MR. BROCK: Yes. Well, Your Honor, I certainly understand even the invocation of the res judicata or other issue preclusion doctrines. However, I think the question would be what is the scope of -- assuming that Ubiquiti, just for the sake of argument, is barred from contesting the stays under the doctrine of res judicata or some other issue preclusion doctrine, the question would be what is the scope of that bar, what is the scope of this preclusion?

We have reserved all of our rights, and we know that the stays in Canada have a very limited duration. And in that respect, they're different than stays -- a typical stay in the United States. But we certainly have the theoretical ability to object at the next occasion which is going to be in August, or we may cite to --

THE COURT: And I don't think anybody quibbles with or doubts that you have that ability, and that's entirely consistent with the way Canada handles these things in terms of having stays that last for a defined period of time. That's all fine. We can move on. My question really is sort of I think is more directly--

MR. BROCK: Well, Your Honor --

THE COURT: -- directly relevant to -- go ahead.

MR. BROCK: No. I think your points are certainly -- obviously very well-taken. The questions are perfectly appropriate. But, you know, we are concerned that -- I mean in terms of us objecting today in the manner that we've done, we don't want to be confronting -- in a fight in Canada at some future points where that court is told, well, Ubiquiti never objected to these stays in New York. And so we've done that.

We're advising the Court that we're reserving those rights and we're, frankly, setting the stage for a battle about releases, which is really what this -- you know, what this case could -- you know, from our standpoint the releases that we're concerned about being conferred in the future, that is the primary concern here. So again --

THE COURT: Well, let me ask you a question about releases for a second. I'm assuming that the releases would be embodied in any plan that -- where confirmation would be sought in Canada and then the foreign representative here would, to the extent they wanted to do so, would have to come and answer the additional relief of getting that plan recognized here in the U.S. Am I -- is that how you would understand --

MR. BROCK: Yes.

THE COURT: -- the facts as --

MR. BROCK: Yes.

THE COURT: Right. So -- and certainly, you preserve all your rights to oppose that relief in the future of seeking to enforce the plan.

MR. BROCK: That's right, Your Honor. And, you know, again, in my opening remarks, I talked about the concerns we had at the outset with the two-party dispute and the centrality of this license-stripping litigation to this whole case. And so we really see these releases as being sort of inextricable from the litigation strategy, you know, that's being developed here. That's what we see coming.

And we're -- you know, in my years of practice, I guess I've learned that it's wise to bring to the Court's attention early and often the concerns that you presently have for sure but the ones that you see coming. And that's a big part of what we're doing today. Also, you know, I think that this objection that I'm making is sort of inextricable in a sense from the concerns that we have with the language in the order in Paragraph 5, if I may just shift my focus now to that.

Because we -- I've explained that we want to preserve our theoretical ability to object to the extension of the stays in the future. There may be many such extensions of the stays. We don't know, and we just want our rights all preserved there.

But -- and, by the way, the monitor's papers characterize -- use words like gamesmanship and back-door covert objectives, sinister objectives. We're not saying anything like that. Nothing like that is accurate. We are just concerned about how this proposed order, and in particular, Paragraph 5, could be interpreted or used against us in the future. And there are two -- I think these papers and this argument give two illustrations of the problem. The first one is just what we're talking about now, which is the stays.

The stay's expiring on August 14th. If Ubiquiti objects to a further extension, which it has every right to do, and the Canadian court overrules that objections, does this order with its Paragraph 5 language automatically bar Ubiquiti from making an objection to the --

THE COURT: No. I think we're getting -- we're conflating things that don't go together. I don't think there has been any suggestion by the foreign representative that your party does not have the right to fully participate and be heard in Canada on any and all issues. That would include further extensions of the stay.

What I understand the foreign representative to be saying, and they can correct me if I'm wrong, is that we have -- when we have gotten this relief in Canada, that is the stay request, Ubiquiti didn't oppose and, in any event, even if they had, we think it's entirely appropriate under Canadian law and the facts and circumstances of the case in Canada, the court entered the order, and you should give the relief of recognizing that order because it's appropriate and that if the issue comes up in Canada again about further extensions of the stay, the Canadian court will hear that.

No one's suggesting that I'm somehow pre-empting anything that the Canadian court's doing. It's obviously entirely inconsistent with Chapter 15 and the principles of comity on which it's based.

MR. BROCK: And I understand all of that to be the case. The concern is, assuming we make our arguments in Canada and then we wish to come back to the United States and say, listen, we are standing on our objections made in Canada which were overruled in Canada. But we believe that we have the right to assert this objection now in the United States. Will Paragraph 5 operate to bar that? Are we -- is it already ore-ordained? Is it being pre-approved?

THE COURT: I think, again, the foreign representative can correct me if I'm wrong, but I think what they're trying -- what they're requesting is that to the extent that there is the exact same -- the same issue and the same ruling that the Canadian court makes that there should be no need to come back here to enforce essentially the same order and that rather than have us come back in and have the same drill, that that's what they're asking for.

And so if the Canadian court doesn't grant further extensions, then that's obviously the lay of the land. If it grants some additional relief beyond the relief that is covered by the stay that's already been entered, the foreign representative would come back to this Court. And, certainly, to the extent that it was seeking the enforcement of relief like releases -- and there's decisions and Judge Glenn has a decision called Metcalf that is a Canadian proceeding and I think deals with releases -- then the folks would have to come back to the U.S., this Court to get if they wanted to get that enforced here in the U.S.

So what I understand is if it's the same relief that the Canadian court has extended, then we're not talking about anything new and we're trying to be efficient. But if there's anything new, obviously, it's not covered by that paragraph. So let me ask the foreign representative if they can confirm that I'm understanding this correctly.

MR. COLEMAN: That is correct, Your Honor. I think you've put your finger on the problem here a few minutes ago that what's happening is we're conflating two things. You know, the wording in our proposed order does nothing more than save legal fees and Your Honor's time and attention with respect to matters that have already been addressed in the order that was presented to you at the beginning of the case. With respect to the rest of this, releases and other matters that have not even surfaced, there is the res judicata problem that, you know, they wish to have two shots at an issue and that's just not the law. It's not the law in normal U.S. practice, and it's certainly not the law as it relates to ancillary cases under Chapter 15. If they --

THE COURT: Well, let me slightly amend your statement, then I'll hear from Ubiquiti to finish up their presentation. I think you do get two shots. If you want to oppose it in Canada and then the Canadian court grants a relief, say, for example, for releases, and then they want to come here and say you should not grant enforcement of those releases because it doesn't satisfy the principles of comity that are memorialized in the various provisions of Chapter 15 that apply, then that's fine.

What I understood you to be saying in your papers was that there's something problematic about seeking to challenge relief that was entered in Canada and seeking to challenge it being enforced in this Court when someone actually didn't oppose it in Canada even though they were involved with the proceedings. So that's where I think the two-shot issue comes up. And I think that's part of the comity considerations, I guess, is the somewhat fuzzy way I would put it. But I think comity is somewhat of a fuzzy concept.

So, all right, let me hear from anything else that you -- well, let me hear anything else that Ubiquiti wants to say.

MR. BROCK: And I just want to amplify the point that the release that we did not oppose in Canada was in the first instance a 10-day stay and in the second instance it was a 30-day -- an extension by 30 days of that stay. Yet, we reserved our rights. And so it's just -- you know, I think that to the extent an issue preclusion doctrine like res judicata applies, it ought to apply to just that limited scope of the relief, not to future relief which could be innumerable for future --

THE COURT: Well, again, so I understand that. What I understand the foreign representative to say is they're not seeking to get any -- that paragraph of the order to cover any additional relief. And so what I'm trying to avoid is having a continual string of proceedings in this Court about every extension of the stay that mirrors every prior stay that was entered. And so that -- so is that your position that we should actually go through that exercise?

MR. BROCK: Well, I think that -- first of all, I would never suggest that we should go through an exercise that's wasteful or unnecessarily burdensome on any party or the Court. What I'm saying is that there could be different procedural setting in the future where we do object, where we say, okay, you know, these --

THE COURT: Well, but you've objected here. So, again, I'm not -- what I'm talking about is if the same exact relief is entered and the stay is extended. So that's what I'm talking about. So you're talking about, well, we do object. And, again, you objected the first day we were here for the emergency relief. So, from my point of view, there's been a standing objection, and that's fine.

But my question is if -- they've asked for recognition and they've asked for essentially recognition in the -- well, additional relief in the form of giving effect to the orders that have already been entered. Those orders you haven't actually contested in Canada. Again, the additional relief is not a question of really res judicata because those -- any future orders obviously haven't been entered.

So the question is whether if something is on all fours with orders that are already entered, whether it makes any sense as a matter of efficiency and a matter of comity as well to actually enter the language that's requested in Paragraph 5 or not to do that. And, again, what I'm hearing is that you don't want me to do that.

MR. BROCK: Assuming, Your Honor, that the request for relief is on all fours, I would say that there need not be a return visit to the Chapter 15 court to get the Chapter 15 court's approval. But I think it's materially different if we have objected to that relief in Canada. And that

THE COURT: Well, but doesn't that undercut your very argument? Isn't every order that's been entered on the stay then really should be res judicata because you're saying you didn't object and you may object in the future? So I mean you seem to want to have it both ways, and I'm a bit troubled by that. But, again, tell me -- I get your point. I understand where you're coming from and what your position is. So why don't you finish up your presentation. Just let me know --

MR. BROCK: If I may, on the other -- I was going to point to the other illustration of the problem, which I think -- and we're satisfied with what the monitor has said, which is that to the extent there's an order that both extends some relief, prior relief, and grants new relief, to the extent that the new relief -- in the illustration, it's the DIP order -- we're happy to hear that the monitor intends to come back to the -- come to the Chapter 15 court to get approval of that.

And we, of course, do care about the DIP relief. And this is perhaps more detailed than is necessary for this

Court, but there will be a second visit. The DIP is in two phases, and so right now we have Canadian court approval of phase --

THE COURT: With all due respect, I don't want to start talking about the second phase --

MR. BROCK: Right.

THE COURT: -- of the DIP in Canada before it's even been presented to the Canadian court, and it's not in front of me today.

MR. BROCK: Right. Well, the reason I'm just flagging it is because we don't want sort of a similar argument made that the DIP order having been approved --

THE COURT: There can't be a similar argument made because there's no DIP -- there's been no request made as to the DIP order at all. So it's -- there's just no basis for that kind of concern based on the record --

MR. BROCK: Okay.

THE COURT: -- I have in front of me.

MR. BROCK: Fair enough. That's true. The record before you does not have any of this, so that's a fair observation. In any event, Your Honor, I think -- I thank the Court for the opportunity to be heard on these issues and I think I -- unless Mr. Aieta has anything to add to what I've said, I think I've said all I need to say on behalf of Ubiquiti today.

MR. AIETA: I have nothing to add.

THE COURT: All right. Thank you very much. And you never have to thank me for the opportunity to be heard. You have a right to be heard. I'm happy to hear your argument.

With that said, anything from the foreign representative in response briefly?

MR. COLEMAN: Yeah. Sorry, Your Honor, very briefly. This is Ken Coleman again. We've just spent a lot of time dealing with theoretical issues here, and I don't want to continue going down that rabbit hole.

With respect to future relief which is not even before the Canadian court, much less Your Honor, we want to preserve our rights to argue to Your Honor in the face of an objection here with respect to a matter fully litigated in Canada or for which there was an opportunity to fully litigate. And, again, all of this is academic because Ubiquiti has demonstrated an ability and a willingness to fully participate there. In those events, under existing case law in this district, we're going to take a position that it can't be re-litigated.

Now, again, none of this is before Your Honor. What Mr. Brock just summarized as our position regarding that language that we've proposed is correct. We set it out in our reply. I think he summarized it fairly. And I think that's it for today. You know, in the event there is a plan of arrangement proposed here and in the event that plan contains provisions for releases and it passes muster under the voting requirements in Canada and it passes muster with the Canadian court in terms of sanctioning, you know, it's then a live issue. But until then, I just don't think we should be setting anything in stone with respect to our position or their position before Your Honor.

THE COURT: All right. Thank you very much.

With all that said, let me just button down one thing is there were various declarations that have been submitted in this case. And I'm -- unless there's an objection, I'm going to receive all of those declarations as evidence in considering the matters that are in front of me today. Any party have any objection?

(No audible response)

THE COURT: All right.

MR. COLEMAN: No, Your Honor.

THE COURT: So based on that record, the first matter before the Court is the foreign representative's request for recognition. A foreign representative has the burden of proof on the issue of recognition. See In re Kemsley, 489 B.R. 346 at 358 (Bank. S.D.N.Y. 2013). As a prerequisite to relief under Chapter 15, petition must satisfy three requirements for recognition: One, the proceeding must be a foreign main proceeding or a foreign non-main proceeding in the meaning of Section 1502; two, the foreign representative must be a person or a body; and three, the petition must meet the requirements of Section 1515. See also In re Kemsley.

The appointed representative of a foreign debtor seeking recognition must establish that the foreign proceeding, which is defined in Section 101(23) of the Bankruptcy Code is a collective judicial or administrative proceeding in a foreign country under a law relating to insolvency or adjustment of debts in which proceeding the assets and affairs of the debtors are subject to control and supervision by a foreign court for the purpose of recognition or liquidation. And that's the definition in substantial part that's in the Code.

And in determining whether a foreign proceeding is collective, the Court applies a two-part test, first, looking at the law governing the foreign action, then to the parameters of the particular proceeding that is in front of it. So given all the facts and circumstances here, I find that recognition is appropriate and that this proceeding satisfies all requirements under applicable law for recognition, namely that the Canadian proceeding here is a foreign main proceeding, that the foreign representative is a person as defined under the Bankruptcy Code, and that the petition meets the requirements of Section 1515.

And, in fact, I note that the other party to today's proceeding, Ubiquiti, does not appear to oppose recognition and said explicitly that they understand the Canadian proceeding is a foreign main proceeding and that that's where the COMI, the center of main interest, lies. And that's relevant because center of main interest is an often-litigated issue in Chapter 15 cases. It's not something really that's in play here, and I've seen nothing to suggest that it's an issue even remotely in this case. But it is often a flash point in Chapter 15 proceedings.

So, having recognized the Canadian proceeding as a foreign main proceeding, the Court turns to the request for additional relief. And the standard for determining whether to recognize or enforce the additional relief, that is the initial order stay provisions generally and the request to apply to any further stay relief that's on all fours, generally comes down to whether this all accords with the principles of comity and whether it's contrary to public policy, and whether creditors' rights are sufficiently protected. See In re AgroKor, 591 B.R. 163 at 187,189 (Bankr. S.D.N.Y. 2018), In re Rede Energia S.A., 515 B.R. 69, 91 (Bankr. S.D.N.Y. 2014).

And that is comity attaches once recognition is granted. And so that's really reflected in a way the Code has drafted the requests, the provisions as to additional relief. So, in fact, additional relief that's requested is really governed by Code Sections 1521 and 1507. 1521 provides that upon recognition of a foreign proceeding, the court may grant any appropriate relief. And that's 11 U.S.C. Section 1521(a). Section 1507 provides that a court, if recognition is granted, may provide additional assistance to a foreign representative.

So moving on to the specifics of those statutes as interpreted by case law, the grant of relief in aid of a foreign proceeding under Section 1521 requires that the interests of creditors be sufficiently protected per Section 1522(a), and the policy underlying Section 1522(a) is that there should be a balance between the relief that may be granted in the foreign representative and the interest of the person that may be affected by such relief.

See Rede Energia, 515 B.R. 90, and Jaffe vs. Samsung Electronics Company, Limited, 737 F.3rd 14 at 27,28 (First Cir. 2013) that notes that the 522 analysis is logically best done by balancing the respective interests based on the relative harms and benefits in light of the circumstances presented, thus, inherently calling for the application of a balancing test. And as to Section 1507, that also provides that additional assistance will be granted only if such assistance will reasonably assure just treatment of all holders of claims.

There are various cases that talk about the interplay between Sections 1521 and 1507. Probably the most noteworthy of those is the Circuit opinion in the Vitro case, but also the Rege Energia case talks about it as well. And there are instances where it can be important to recognize the distinction, although small, between those two different sections. I don't think that that's an issue that is relevant here. I don't think anyone has drawn any distinctions that would change any results or result in any -- a need to distinguish between the two sections, but certainly, the Vitro court suggests that you look to 1521 first because that sort of embodies what pre-existed in the Code before the passage of Chapter 15.

So applying all these considerations here, particularly the comity consideration that animates all the decisions, the Court finds the additional relief of enforcing the stay provisions of the additional order and subsequent orders is warranted and the additional relief is consistent with comity and satisfies the applicable statutory requirements.

The Ontario court has found the stay provisions of the initial order to be critical to a successive restructuring. The initial order is consistent with the principles of United States bankruptcy law as U.S. courts may afford non-debtor protections of the automatic stay where necessary and appropriate under applicable law to facilitate the purposes of reorganization. See Calpine Corporation v. Nevada Power Company, 354 B.R. 45 at Pages 28 through 49 (Bankr. S.D.N.Y. 2006).

And this whole concept and discussion was set forth in more detail in the Court's prior ruling that granted the request for emergency relief in the form of enforcing the stay order. That ruling is incorporated into my ruling today. I'm not going to repeat it. I may skim the surface a little bit, but I'm not going to repeat it. But the idea is that it is something that was addressed in the court in Canada. It is common to Canadian proceedings and not a common thing that comes up under Canadian law. And so, again, the Court found it appropriate to grant comity to that initial order.

So -- but just to sketch out briefly, Peraso and the Defendant Directors or Defendants in what parties have referred to as the license litigation and there's a concern that adverse judgment in the license litigation could potentially be applied by way of collateral estoppel to Peraso, will result in indemnification claims against it. A lot of our discussion today has to do with the stay orders and the fact that there may be more than one and that they're of limited duration. And that's the way these stays operate under Canadian law. The stay period is not infinite.

And as I think I've tried to make clear to the extent Ubiquiti or any other creditor wishes to contest or seek relief from, you know, contest any further request of this stay or even seek to have the Canadian court change its mind about the stay, they have a forum to do that in the Canadian proceedings.

Ubiquiti, in fact, has appeared in the Canadian court and, in fact, as has been discussed, does not oppose the provisions of the initial order or amendments to it that are at issue here. And for that, you can see the declaration of B.J. Miller at Paragraphs 5 through 9. And certainly if Ubiquiti is ultimately not satisfied with the Canadian court decision, they can appeal that decision. They can also, as discussed I think fairly extensively today, they can participate in the Canadian proceedings and be heard on anything that is going to come before the Court consistent with Canadian law.

But I will note that there is a concern that Chapter 15 court sitting and considering issues of comity of this Court being a vehicle for challenging an order in Canada where that order was actually not challenged by the party despite the fact that the party was participating in the Canadian proceedings. And so I think considerations of res judicata are relevant to whether or not comity should be afforded to a foreign bankruptcy proceeding in its decisions because the rationale underlying the grant of comity to a foreign -- final foreign judgment is that litigation should end after the parties have had an opportunity to present their cases fully and fairly in a court of competent jurisdiction. See Cunard Steamship Company v. Salen Reefer Surfaces AB, 773 F.2nd 452, 457 (2d Cir. 1985).

And so there's certainly a discussion of this in the In re Board of Directors of Telecom Argentina case, which is at 2006 WL 3378687 at star 5, (S.D.N.Y. Nov. 20, 2006) which is affirmed sub nom., In re Board of Directors of Telecom Argentina, 528 F.3rd 162 (2d Cir. 2008). In that case, the court found that where a party had notice of confirmation proceeding that there was a -- but chose not to object, that that might bar the creditors' objection in terms of re-litigation the issue in that subsequent court.

So -- and, finally, the Court notes that the Chapter 15 recognition order that's sought here in terms of the stay really has language that's very common in Chapter 15 cases in dealing with the Canadian court. So that really leaves me with the issue about future orders as to the stay, finding that all the prior orders that have been entered as to stay are entirely appropriate for me to grant comity to on the form of additional relief.

Ubiquiti has stated its concern that the initial order could be amended or essentially provide for relief not contemplated when the -- not contemplated today, meaning not be on all fours. The monitor has in its reply squarely addressed that issue by noting that as a court officer in the Canadian proceeding and has not intent on seeking to use its request for comity extending to future stay orders, that that Paragraph 5 that's been referred to, they have no intention of using that paragraph to expand the rights that have been granted or the relief that's been granted in the Canadian court but only to use that to cover a stay order that is essentially on all fours except presumably for the time component.

And, obviously, nothing prevents Ubiquiti from going in to the Canadian court and opposing any further extensions of the stay. But I find the statement by the monitor consistent with the principles of comity meaning extending comity and recognition to the kind of relief that has already been recognized in Canada in the form of a stay and to other orders that would be essentially, as we've used the term, on all fours except for the time period. And so that all that does is save time and expense and, frankly, not give comity to essentially a decision the court has already made without objection, it sounds like, but that it sort of routinely revisits and, if nothing's changed, then enters a similar order.

So I find that to be appropriate to save time and expense. And, obviously, to the extent that there is a disagreement about whether there's been any expansion of relief that's been granted by the Canadian court on whether it would be covered by Paragraph 5, I expect you all will find your way to the courthouse here and we'd have that discussion. But the main argument that I've heard from Ubiquiti is its focus on releases, which it said really is the sort of the focus of its concerns. And that's understandable.

But as we discussed in our argument today, those releases would really be part of any plan that would come before the Canadian court for approval or, as the word is used in Canada, sanction. And that is something that when a foreign representative wants to come and get a plan to be enforced here in the U.S., they file a request for additional relief. I have entertained such requests for additional relief. I have a Brazilian case named Oy where I have a very lengthy decision on recognition and then a lengthy decision about plan enforcement. And so those are distinct.

And, obviously, nothing in the relief that's requested today or be granted by the Court today affect anyone's rights as to that issue in Canada or here. That's simply completely different and will come before the Court at an appropriate time in the future if it comes up at all.

And so given all those circumstances, I don't find -- I find the interests of the creditor Ubiquiti here is appropriate protected, and I find that this is an appropriate exercise of comity to grant comity to the initial order, the extensions that have already been granted, as well as any extension that is on all fours and is simply a matter of extending temporally the exact same relief that's already been granted.

Anything beyond that, you'll address in Canada. And if it comes up and needs to be addressed here, we'll address it here with all parties reserving their rights.

So that's the ruling of the Court, and I ask that the foreign representative send along the most updated version of the order. I don't know if the order has been tweaked or not from the one that was originally submitted, but I always want to make sure that we're not dealing with anything that might somehow be dated. So just email that along when you get a chance. And anything else that we need to address here today or any questions or concerns?

MR. COLEMAN: Thank you, Your Honor. This is Ken Coleman. Nothing from our side.

THE COURT: All right. Anything --

MR. BROCK: Your Honor?

THE COURT: -- from Ubiquiti?

MR. BROCK: This is Tim Brock, Your Honor. No, there's nothing further. Thank you.

THE COURT: All right. Thank you very much. I appreciate all your very able briefing. It was very helpful and illuminating. Thank you for that. And I'll just end with -- by wishing all of you and your families all the best and continued health and goodwill in these strange times in which we live.

And, obviously, if anything comes up in this case in the future, you'll just contact chambers to schedule a hearing. And that's probably in the current COVID pandemic environment best done as you've been doing it, I think, which is by sending emails. We all look forward to the day where we're sort of back to the more regular business. But I'm not sure when that's going to be.

So, all right. Take care, and thank you very much.

MR. COLEMAN: Thank you, Your Honor.

MR. BROCK: Thank you, Your Honor.

(Whereupon these proceedings were concluded at 11:12 AM)

I N D E X

RULINGS

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing transcript is a true and accurate record of the proceedings.

Sonya M. Ledanski Hyde

Sonya Ledanski Hyde

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Date: July 30, 2020

This is
EXHIBIT "E"
referred to in the affidavit of
RONALD GLIBBERY
dated August 10, 2020

DocuSigned by:
Nicholas Avis
2C12EFAB5242430...

Commissioner for taking affidavits

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: PERASO TECHNOLOGIES INC.,[1] Debtor in a Foreign Proceeding.	Chapter 15 Case No. 20-11354 (SHL)

<u>ORDER GRANTING RECOGNITION AND RELATED RELIEF</u>

This matter was brought by Ernst & Young Inc., as the court-appointed monitor (the "**Monitor**") and authorized foreign representative of Peraso Technologies Inc. ("**Peraso**") in a proceeding (the "**Canadian Proceeding**") under Canada's *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, pending before the Ontario Superior Court of Justice, Commercial List (the "**Ontario Court**").

The Monitor has commenced this chapter 15 case ancillary to the Canadian Proceeding by filing an official form petition and *Verified Petition for Recognition of Foreign Proceeding and Related Relief* (collectively, the "**Chapter 15 Petition**"), with accompanying documentation, pursuant to sections 1504 and 1515 of title 11 of the United States Code (the "**Bankruptcy Code**") seeking the entry of an order: (i) recognizing the Canadian Proceeding as a "foreign main proceeding" under section 1517 of the Bankruptcy Code; and (ii) giving full force and effect in the United States to the Initial Order of the Ontario Court dated June 3, 2020, attached hereto as <u>Exhibit 1</u> (together with any extensions or amendments thereof authorized by the Ontario Court, the "**Initial Order**").

[1] The last four digits of the United States Tax Identification Number, or similar foreign identification number, as applicable, for Peraso Technologies Inc. are 8747.

On July 15, 2020, Uniquiti Inc. filed a *Limited Objection and Reservation of Rights of Ubiqiuti Inc. to the Monitor's Verified Petition for Recognition* (the "**Limited Objection**"). On July 19, 2020, the Monitor filed a reply to the Limited Objection supported by a declaration of D.J. Miller (collectively, the "**Reply**"). The Court has considered and reviewed the Chapter 15 Petition, the Limited Objection, the Reply, and the other pleadings and exhibits submitted by the Monitor in support of the Chapter 15 Petition.

After due deliberation and sufficient cause appearing therefore, and for the reasons stated on the record at this Court's hearing on the Chapter 15 Petition held on July 22, 2020, the Limited Objection is hereby overruled and the Court finds and concludes as follows:

(A) this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. § 1501;

(B) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P);

(C) venue is proper in this District pursuant to 28 U.S.C. § 1410;

(D) good, sufficient, appropriate and timely notice of the filing of the Chapter 15 Petition and the hearing on the Chapter 15 Petition has been given pursuant to Local Rules 2002-4 and 9078-1 and Rule 2002(q)(1) of the Federal Rules of Bankruptcy Procedure;

(E) the Canadian Proceeding is a "foreign proceeding" within the meaning of 11 U.S.C. § 101(23);

(F) the Canadian Proceeding is pending in Canada, where Peraso has the "center of its main interests" as such term is used in 11 U.S.C. § 1517(b)(1), and as such constitutes a "foreign main proceeding" pursuant to 11 U.S.C. § 1502(4) and in satisfaction of 11 U.S.C. § 1517(a)(1);

(G) the Monitor is the duly appointed "foreign representative" of Peraso within the meaning of 11 U.S.C. § 101(24) and a "person" within the meaning of 11 U.S.C. § 101(41), in satisfaction of 11 U.S.C. § 1517(a)(2);

(H) this case was properly commenced pursuant to 11 U.S.C. §§ 1504 and 1509 and the Chapter 15 Petition meets the requirements of 11 U.S.C. §§ 1504 and 1515, in satisfaction of 11 U.S.C. § 1517(a)(3);

(I) the Canadian Proceeding is entitled to recognition as a "foreign main proceeding" pursuant to 11 U.S.C. § 1517(b)(1);

(J) the Monitor is entitled to all relief afforded foreign main proceedings automatically upon recognition pursuant to 11 U.S.C. § 1520 and to additional relief pursuant to 11 U.S.C. §§ 1507 and 1521; and

(K) the relief granted herein is necessary and appropriate, in the interests of the public and international comity, and consistent with the public policy of the United States.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Chapter 15 Petition is **GRANTED**.

2. The Monitor is recognized as the "foreign representative" of Peraso within the meaning of 11 U.S.C. § 101(24).

3. The Canadian Proceeding is recognized as a "foreign main proceeding" pursuant to 11 U.S.C. § 1517(b)(1).

4. All automatic relief under 11 U.S.C. § 1520 shall apply in this case.

5. The Initial Order, and any amendments or extensions thereof as may be granted from time to time by the Ontario Court, is given full force and effect in the United States pursuant to 11 U.S.C. §§ 1507 and 1521.

6. This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any request for additional relief or any adversary proceeding brought in and through these cases, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced and within the jurisdiction of this Court.

7. The Monitor shall provide service and notice of this Order in accordance with the *Order Specifying Form and Manner of Service of Notice and Scheduling Recognition Hearing* entered by the Court in this case.

Dated: New York, New York
July 23, 2020

/s/ Sean H. Lane
United States Bankruptcy Judge

EXHIBIT 1

Initial Order

SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	WEDNESDAY, THE 3rd
	)	
JUSTICE HAINEY	)	DAY OF JUNE, 2020

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. (the "**Applicant**")

INITIAL ORDER

THIS APPLICATION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") proceeded on this day by way of video-conference due to the COVID-19 crisis.

ON READING the affidavit of Ronald Glibbery sworn June 2, 2020 (the "**Glibbery Affidavit**") and the Exhibits thereto, the pre-filing report of Ernst & Young Inc., in its capacity as proposed monitor (the "**Monitor**") to the Applicant, dated June 2, 2020, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant and counsel for the Monitor and those other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of service of Nicholas Avis sworn June 2, 2020 and on reading the consent of Ernst & Young Inc. to act as the Monitor,

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, contractors, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to use the central cash management system currently in place as described in the Glibbery Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management

System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order:

(a) all outstanding and future wages, salaries, employee benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

(b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers' insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicant following the date of this Order.

7. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

8. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

9. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to continue negotiations with stakeholders in an effort to pursue restructuring options for the Applicant including without limitation all avenues of refinancing of their Business or Property, in whole or in part, subject to prior approval of this Court being obtained before any material refinancing.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

10. **THIS COURT ORDERS** that until and including June 13, 2020, or such later date as this Court may subsequently order (the "**Stay Period**"), no proceeding or enforcement process in or out of any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with

the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

12. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or leave of this Court, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by the Applicant.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges

for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

14. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

15. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

16. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

17. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property,

which charge shall not exceed an aggregate amount of $650,000 as security for the indemnity provided in paragraph 16 of this Order. The Directors' Charge shall have the priority set out in paragraphs 27 and 29 herein.

18. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 16 of this Order.

APPOINTMENT OF MONITOR

19. **THIS COURT ORDERS** that Ernst & Young Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

20. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor the Applicant's receipts and disbursements;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(c) advise the Applicant in its preparation of the Applicant's cash flow statements;

(d) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the

Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;

(e) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

(f) have full and complete authority to act as the representative of the Applicant in a foreign proceeding; and

(g) perform such other duties as are required by this Order or by this Court from time to time.

21. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

22. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

23. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

24. **THIS COURT ORDERS** that the Monitor, Canadian and U.S. counsel to the Monitor (Thornton Grout Finnigan LLP and Allen & Overy LLP) and Canadian and U.S. counsel to the Applicant (Stikeman Elliott LLP and Hodgson Russ LLP) shall be paid their reasonable fees and

disbursements, and applicable taxes, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, Canadian and U.S. counsel to the Monitor and Canadian and U.S. counsel to the Applicant.

25. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

26. **THIS COURT ORDERS** that the Monitor, Canadian and U.S. counsel to the Monitor and Canadian and U.S. counsel to the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of $200,000, as security for their professional fees and disbursements, plus applicable taxes, incurred at their standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 27 and 29 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

27. **THIS COURT ORDERS** that the priorities of the Directors' Charge and the Administration Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $200,000); and

Second – Directors' Charge (to the maximum amount of $650,000).

28. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge or the Administration Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

29. **THIS COURT ORDERS** that each of the Directors' Charge and the Administration Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and

encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

30. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge or the Administration Charge unless the Applicant also obtains the prior written consent of the Monitor, and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

31. **THIS COURT ORDERS** that the Directors' Charge and the Administration Charge, shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

(c) the payments made by the Applicant pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

32. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

33. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the Globe & Mail (national edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, or as soon as reasonably practicable thereafter (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, or cause to be sent, in the prescribed manner (including by email), a notice to every known creditor who has a claim against the Applicant of more than $1,000 (excluding contractors, individual employees, former employees with pension and/or retirement savings plan entitlements, and retirees and other beneficiaries who have entitlements under any pension or retirement savings plans), and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

34. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.ey.com/ca/peraso.

35. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal

delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

36. **THIS COURT ORDERS** that the Applicant and the Monitor and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

CHAPTER 15 PROCEEDINGS

37. **THIS COURT ORDERS** that the Monitor is hereby authorized and empowered, but not required, to act as the foreign representative (the "**Foreign Representative**") in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside of Canada, including, if deemed advisable by the Monitor, to apply for recognition of these proceedings in the United States pursuant to chapter 15 of title 11 of the *United States Code*, 11 U.S.C. §§ 101-1532.

GENERAL

38. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties hereunder.

39. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

40. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

41. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

42. **THIS COURT ORDERS** that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

43. **THIS COURT ORDERS** that this Order and all of its provisions are effective from the date it is made without any need for entry and filing.

SUPERIOR COURT OF JUSTICE
ENTERED
JUNE 3 2020
COUR SUPÉRIEURE DE JUSTICE
ENTRÉ

Haines J

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

ORDER

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

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Nicholas Avis LSO#: 76781Q
Tel: (416) 869-5504
Email: navis@stikeman.com
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Lawyers for the Applicant

This is
EXHIBIT "F"
referred to in the affidavit of
RONALD GLIBBERY
dated August 10, 2020

DocuSigned by:
Nicholas Clive
2C12EFAB5242430...

Commissioner for taking affidavits

[This Exhibit has been redacted in its entirety]

[redacted]

[redacted]

[redacted]

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

AFFIDAVIT OF RONALD GLIBBERY
AFFIRMED AUGUST 10, 2020

Stikeman Elliott LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
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TAB 3

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	THURSDAY, THE 13th
	)	
JUSTICE CONWAY	)	DAY OF AUGUST, 2020

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.

(the "**Applicant**")

ORDER
(Extension of the Stay of Proceedings)

THIS MOTION, made by the Applicant pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), proceeded on this day by way of videoconference due to the COVID-19 crisis.

ON READING the affidavit of Ronald Glibbery affirmed August 10, 2020 (the "**Fifth Glibbery Affidavit**") and the exhibits attached thereto, the Third Report of Ernst & Young Inc., in its capacity as monitor (the "**Monitor**") to the Applicant, dated August ●, 2020 (the "**Third Report**"), and on hearing the submissions of counsel for the Applicant and counsel for the Monitor and those other parties listed on the counsel slip and on being advised that those parties listed in the affidavit of service filed were given notice of this motion;

AND UPON BEING SATISFIED that the Applicant has acted, and is continuing to act in good faith in accordance with the CCAA;

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the stay period referred to in the Amended and Restated Initial Order of the Honourable Justice Hainey dated June 12, 2020 (the "**Amended and Restated Initial Order**") is extended until and including August 28, 2020 in respect of the Applicant.

SEALING

3. **THIS COURT ORDERS** that the unredacted Fifth Glibbery Affidavit and the exhibits attached thereto and the unredacted Third Report are hereby sealed and shall not form part of the public record until further order of the Court.

GENERAL

4. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

5. **THIS COURT ORDERS** that this Order and all of its provisions are effective from the date it is made without any need for entry and filing.

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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

ORDER
(Extension of the Stay of Proceedings)

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at Toronto

MOTION RECORD
(Re: Extension of Stay of Proceedings)
(Returnable August 13, 2020)

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