

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
(Commercial Division)

No. : 500-11

IN THE MATTER OF THE NOTICE OF  
INTENTION TO MAKE A PROPOSAL OF:

SENSIO TECHNOLOGIES INC., a legal person incorporated under the laws of Canada, having its registered office at 1751 Rue Richardson, suite 4.206 in the city and district of Montréal, Province of Quebec, H3K 1G6.

Petitioner

-and-

DELOITTE RESTRUCTURING INC., a legal person incorporated under the laws of Canada, having its registered office at 1190, Avenue des Canadiens-de-Montréal in the city and district of Montréal, Province of Quebec, H3B 0M7.

Trustee

**MOTION FOR THE ISSUANCE OF AN ORDER  
APPROVING AND RATIFYING THE SALE OF CERTAIN ASSETS, AN INTERIM  
FINANCING AND CERTAIN PRIORITY CHARGES**

TO ONE OF THE JUDGES OF THE SUPERIOR COURT SITTING IN  
COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF MONTREAL, THE  
APPLICANTS RESPECTFULLY SUBMIT THE FOLLOWING:

**I. ORDER SOUGHT**

1. As further described below, the Petitioner, Sensio Technologies Inc. (the "Company" or the "Petitioner") hereby seeks the issuance of orders:
  - a) approving the sale of certain assets;
  - b) approving and ratifying the execution of a loan agreement, a hypothec as well as a DIP Charge (as defined below) over the assets of the Company; and

- c) approving a KERP Charge, a D&O Charge and an Administration Charge (as such terms are defined below) over the assets of the Company.

the whole in accordance with the terms set forth under the draft order, communicated herewith as **Exhibit P-1**.

## **II. OVERVIEW**

2. On December 23, 2015, the Company filed a *Notice of Intention to Make a Proposal* (the "NOI") pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (the "BIA") with the intention of continuing, under the supervision of this Court, a sale process (the "Sale Process") in respect of its assets with a view of maximizing their value for the benefit of all of its stakeholders. A copy of the NOI is communicated as **Exhibit P-2**.
3. As explained in greater details below, the NOI was filed in a context where following failed attempts to raise the financing necessary to fund its operations, the Company began experiencing a liquidity crisis requiring it to proceed with the sale of its assets in order to cover its expenses going forward.
4. On December 23, 2015, the Company executed a *Letter of Intent* (the "LOI") whereby all of its rights, title and interest in certain of its intellectual property would be sold to a third party purchaser who had previously been granted exclusive rights in respect of a substantial portion of such intellectual property (the "Transactions").
5. The execution of the LOI consists in the first step towards the orderly disposition of the Company's assets in the context of the Sale Process. Unless the Transactions are approved, it is anticipated that the Company will not be in a position to maintain its operations, pay its employees and complete the Sale Process.
6. Subject to the approval of this Court, and depending on the results of the Sale Process, the Company will consider, in due course, the possibility of eventually filing a liquidating proposal to its creditors.

## **III. THE COMPANY**

7. The Company is regulated by the *Business Corporations Act* (Quebec) and results from an amalgamation between TEG Sensorial Technologies Inc. and SENSIO Technologies Inc. which occurred on May 31, 2006.
8. The Company is based in Montreal (Quebec), and its common shares are listed on the Toronto TSX Venture Exchange under the symbol "SIO".
9. The Company has no subsidiaries.

#### **IV. THE COMPANY'S BUSINESS AND AFFAIRS**

##### **A. Overview**

10. The Company is a pioneer in the fields of stereoscopic imaging and 3D content distribution at home. For over 15 years, the Corporation has been developing, patenting and marketing advanced 3D image processing technology providing superior image quality and a simple user friendly experience.
11. Since 2003, the Company has been involved in 3D content distribution in support of its technologies. Starting with DVD's in 2003, the Company now delivers 3D movies via internet streaming through 3DGO!<sup>TM</sup>, the world's first and only dedicated 3D transactional video-on-demand service featuring Hollywood studio blockbuster movies.
12. The Company also manages and offers 3DGO!<sup>TM</sup> directly to consumers. These activities include the development of the services' features and specifications, customer service, content management, and marketing of the service.
13. 3DGO!<sup>TM</sup> has been in service since April 2013 in the U.S. and since March 2015 in Canada.

##### **B. Capital Structure**

14. The Company's authorized share capital consists of an unlimited number of common shares.
15. As at September 30, 2015, 112,515,675 common shares were issued and outstanding.

##### **C. The Company's Intellectual Property**

16. Throughout the years, the Company has been investing significantly in its intellectual property, especially in its patent portfolio. Patents which are destined to be licensed are subject to a very rigorous internal process in order to meet the difficult requirements needed to achieve monetization. They namely include prior art analysis, patent circumvention analysis and market potential of the technology.
17. As at May 31, 2015, the Company had 19 patents granted worldwide and had 10 patents pending in 11 different patent families. The patents and patents application have been filed in an aggregate total of seven jurisdictions (U.S., Canada, China, Hong Kong, India, Japan and Europe). The expiry dates of these patents are between April 9, 2023 and August 26, 2029.
18. The patents and patent applications namely cover the SENSIO®Hi-Fi 3D technology, including compression, decompression, formatting and playback of stereoscopic content for various 2D and 3D screens, the SENSIO®S2D Switch,

enabling the viewing of 3D content in 3D and in 2D as well as the SENSIO® Autodetect technology which reliably detects the format of an incoming stream between either 2D or standard frame-compatible 3D formats.

19. The trademarks SENSIO and 3DGO!, either in text or graphical form, are owned by the Company and are registered or in the process of being registered in Canada and USA, and the Company intends to register these trademarks in most countries or territories in which these trademarks are used.

#### **D. The Company's Revenues**

20. The Company currently operates in two distinct fields:
  - a) Technology (patent and technology licensing in the theatrical, broadcast and consumer electronics ("CE") markets);
  - b) Content distribution (3DGO!<sup>TM</sup> service offered to the general consumer market).
21. As such, its revenue stream derives mainly from the following:
  - a) Licensing of its 3D image processing technologies to chipset vendors and original equipment manufacturers in the theatrical, broadcast and CE's markets;
  - b) Licensing of its patents either directly or through its patent licensing agreement with Wi-LAN Inc. ("Wi-LAN"). Revenues are currently generated by two main licensing programs related to the SENSIO®S2D Switch technology as well as a technology related to temporal interpolation for stereoscopic displays; and
  - c) Rentals of 3D movies from its 3DGO!<sup>TM</sup> VOD service by consumers in the United States and Canada.

#### **E. Employees**

22. As at the date hereof, the Company has nine (9) non-unionized employees, of which seven (7) have been temporarily laid off.
23. All of these employees are based in Montreal, Quebec.
24. The Company's gross payroll obligations (salaried and hourly) for the fiscal years 2014 and 2015 amounted to approximately \$1,477,486 and \$1,058,222, respectively.
25. The Company's employees are paid on a periodic basis. The Company is current in the payment of benefits and vacation pay to its employees for the last pay period ending before the filing of the NOI. Deductions from employee salaries

are made, as required, and these deductions are remitted to the appropriate governmental authorities, where applicable, and are also current.

V. INDEBTEDNESS

26. The Company has no secured creditor, and no third party financier other than Mr. Nicholas Routhier, as further described below.
27. Other than its debt to its shareholders, the indebtedness of the Company mainly consists of various accounts payable, trade debts and employee obligations, which, in the aggregate, amounted to approximately \$1,492,875 as at December 21, 2015.

VI. FINANCIAL DIFFICULTIES

28. Throughout the years, although the Company has attempted to diversify its sources of revenues, such revenues have remain limited to this day. As such, most of the Company's operations have been financed by way of equity financing.
29. Since March 2015, the Company attempted to raise additional financing both from its largest shareholder and by way of private placement of shares. However, such attempts have failed, causing the Company to experience a liquidity crisis.
30. As appears from its cash-flow forecast communicated herewith as **Exhibit P-3** in support of the Motion, it is expected that unless the Transactions are approved by this Court and implemented, the Company will shortly completely run out of liquidities, preventing it to run any sale or divestiture process in respect of its assets, or any meaningful restructuring alternative.

VII. THE TRANSACTIONS

31. As previously discussed, the Company licenses several of its patents through a license agreement with Wi-Lan. Pursuant to this agreement, Wi-Lan benefits from exclusive rights to market and sub-license those patents until their expiry.
32. On December 23, 2015 the Company received from a company affiliated to Wi-Lan (the "**Purchaser**") a binding letter of intent (i.e. the LOI), a copy of which is communicated herewith, *under seal*, as **Exhibit P-4**.
33. The LOI provides, *inter alia*, that, subject to approval by this Court, the Purchaser will purchase, on an "as is where is" basis, some of its intellectual property, including the above-mentioned patents and certain patent application (the "**Purchased Assets**").

34. Considering the exclusive rights of Wi-Lan (as previously discussed), the dire financial circumstances in which the Company finds itself and the benefits to the Company's stakeholders stemming from the Transactions, the Company respectfully submits that the Transactions with the Purchaser under the terms and conditions of the LOI are in the best interests of the Company and its stakeholders, as they will not only allow the Company to cover its operating expenses going forward, including the costs of its employees, but they will also allow the Company to complete the Sale Process and maximize the value of the Company's remaining assets for the benefit of its stakeholders.
35. As such, the Company believes that the Transactions are in the best interest of the Company and its stakeholders.

#### **VIII. THE INTERIM FINANCING**

36. Although the LOI contains minimal conditions, it does provide, however, for a limited period of time during which the Purchaser shall have the benefit of conducting an investigation concerning the Purchased Assets before declaring itself satisfied with same, following which the Purchaser shall have 5 business days to disburse the purchase price.
37. During such period, however, the Company will need liquidities to finance its operations.
38. As such, on December 23, 2015, the Company entered into a Loan Agreement (the "**Loan Agreement**") with Mr. Nicholas Routhier, President and Chief Executive Officer, whereby the latter agreed, subject to certain conditions, as further set forth below, to advance to the Company the amount of \$100,000 in order to allow it to cover its expenses pending the closing of the Transactions (the "**Bridge Loan**"). A copy of the Loan Agreement is communicated herewith as **Exhibit P-5**.

#### **IX. RELIEF SOUGHT**

##### **A. Approval of the Transactions**

39. As previously mentioned, despite significant time, effort and expenditure devoted to the exploration of various alternatives, including raising sufficient equity to finance its operations, the Company has been unsuccessful so far in securing the necessary liquidities to cover its expenses going forward.
40. As such, the Company believes that the completion of the Transactions as set forth in the LOI is in the best interest of the Company as it will provide such liquidities necessary to fund its operations and complete the Sale Process with a view of maximizing the recovery for its stakeholders.

41. Accordingly, the Company hereby seeks the issuance of an order approving the Transactions.

**B. Interim Financing**

42. As previously discussed, the advances to be made under the Loan Agreement are subject to certain conditions, including the ratification and approval by this Court of the Loan Agreement, the conventional hypothec granted by the Company over the universality of its movable assets (the "**Hypothec**") - a copy of which is communicated herewith as **Exhibit P-6** - and the approval of a priority charge in favour of Mr. Routhier, securing the Company's obligations under the Loan Agreement (the "**DIP Charge**").

43. In essence, the Bridge Loan will serve as a life-line to the Company for the limited period between the issuance of the orders sought herein, and the closing of the Transactions, as it will allow the Company to continue its operations during such period.

44. Absent such Bridge Loan, the Company would likely be forced to cease its operations, thereby substantially reducing its stakeholders' hope of enhancing their recoveries.

45. It is expected that if properly liquidated in the context of the Sale Process, instead of in a "go-dark" scenario, the Company's business and assets will yield higher value, especially if such business is to continue, the whole to the benefit of the Company's stakeholders.

46. Considering the absence of any other secured creditors, the Company submits that the ratification and approval of the Loan Agreement, the Hypothec and the DIP Charge securing the reimbursement of the Bridge Loan will not prejudice anyone.

**C. Key Employee Retention Plan**

47. Prior to the filing of the NOI, the Company entered into employment contracts (collectively, the "**Key Employee Contracts**") with some of its key employees (collectively, the "**Key Employees**") to provide them with an incentive to work toward certain strategic objectives in connection with the successful completion of the Sale Process.

48. The retention of the Key Employees is critical to the pursuit of the Company's operations during this challenging period and the completion of a successful Sale Process.

49. Accordingly, the Company hereby seeks the ratification by this Court of the Key Employee Contracts for the Key Employees, and, in order to secure the full and complete payment of the Company's obligations thereunder, the Company also seeks a \$111,000 charge over its assets, property and undertaking (the "**KERP**")

Charge"). A copy of each of the Key Employee Contracts is filed, under seal, *en liasse*, in support of this Motion as **Exhibit P-7**.

50. The Key Employee Contracts Charge is meant to cover the shortfall between the amounts owed under the Key Employee Contracts and any payment or distribution made or expected to be made under a proposal to be filed in the context of these proceedings or any other insolvency or liquidation proceedings filed by the Company.
51. It is respectfully submitted that the Key Employees' focus and undivided attention will be critical to the pursuit of the Sale Process and that absent the ratification by this Court of the Key Employee Contracts and an order granting a priority charge securing the Company's obligations thereunder, the Key Employees are likely to resign, which would likely jeopardize any reasonable chances of completing the Sale Process and the implementation of any proposal, the whole to the detriment of the Company's stakeholders.

**D. Directors' and Officers' Charge**

52. In order to continue to carry on business during these proceedings and in order to complete the Sale Process, the Company requires the active and committed involvement of the members of its board of directors and senior officers.
53. Although the Company intends to comply with all applicable laws and regulations, including the timely remittance of deductions at source and federal and provincial sales tax, the directors and officers of the Company are nevertheless concerned about the potential for their personal liability in the context of the present proceedings.
54. Since the Company's on-going operations requires the continued assistance of some of these directors and officers, these directors and officers require the Company to indemnify them of all liabilities which they may incur in the context of their employment after the filing of these proceedings.
55. The Company currently maintains directors' and officers' liability insurance (the "D&O Insurance") which provides for a total of \$5,000,000 in coverage. Such D&O Insurance provides for a various deductibles depending on the nature of the loss, and is set to expire on May 31, 2016.
56. Although it is currently expected that the D&O Insurance will provide coverage sufficient to protect the Company's directors and officers from most, if not all, of their obligations in such capacity, there can be no guarantee to that effect, especially in the context of insolvency proceedings, where the Company's insurer cannot be expected to readily agree to be bound to insure hypothetical claims before they are brought. Therefore, the Company submits that there is a risk of a gap in the coverage otherwise provided by the D&O Insurance, which ultimately creates a degree of uncertainty for the Company's directors and officers.



57. The Company therefore requests a Court-ordered charge (the "D&O Charge") in the amount of \$25,000 over its assets, property and undertaking to indemnify its directors and officers in respect of any liability which they may incur from and after the commencement of these proceedings - to the extent only that the D&O Insurance is inadequate.
58. The Company submits that the requested D&O Charge is reasonable and adequate given, notably, the complexity of its business, its workforce and the corresponding potential exposure of the Company's directors and officers to personal liability.
59. Absent the protections sought in the conclusions of the present Motion, the Company is concerned that one or more of its directors or officers will be forced to resign their posts, which would, in all likelihood, jeopardize the continuation of the Company's business, as well as the completion of the Sale Process, the whole to the detriment of the Company's stakeholders.
60. In addition, the Company further submits that the D&O Charge will provide assurances to the Company's employees that its obligations towards them for accrued wages, termination and severance pay shall be satisfied.
61. Indeed, while the insolvency of the Company and its non-payment of various employee obligations may trigger the personal liability of the Company's directors and officers, any recourse initiated by the Company's employees does not guarantee them any recovery. Therefore, the creation of a security in favour of the Company's directors and officers for sums for which they may be held liable to employee (but for which the Company is ultimately liable) enhances such employees' chances of recovery by, in effect, creating a security for their claims.

E. Administration Charge

62. The Company also seeks a \$150,000 administration charge, which shall affect its assets, property and undertaking to guarantee the payment of the fees and expenses to be incurred by its professionals in the context of these proceedings.


**WHEREFORE, MAY THIS COURT:**

**GRANT** this Motion for the Issuance of an Order Approving and Ratifying the Sale of Certain Assets, an Interim Financing and Certain Priority Charges (the "**Motion**");

**ISSUE** an order substantially in the form of the draft Order communicated in support of the Motion as Exhibit P-1.

THE WHOLE WITHOUT COSTS, save and except in case of contestation.

MONTRÉAL, December 23, 2015



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STIKEMAN ELLIOTT LLP  
Attorneys for the Petitioner

**AFFIDAVIT**

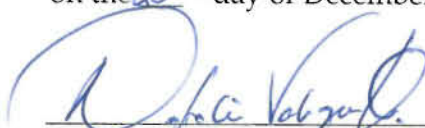
I, the undersigned, Eric Choquette, having my principal place of business at 1751 Rue Richardson, suite 4.206, in the city and district of Montréal, Province of Quebec, solemnly declare the following:

1. I am the Chief Financial Officer of Sensio Technologies Inc.; and
2. All the factual allegations contained in the *Motion for the Issuance of an Order Approving and Ratifying the Sale of Certain Assets, an Interim Financing and Certain Priority Charges* are true.

I HAVE SIGNED

  
ERIC CHOQUETTE

Solemnly declared before me in Montreal,  
on the 23<sup>rd</sup> day of December, 2015

  
Commissioner of Oaths for the Province of  
Québec



**NOTICE OF PRESENTATION**

To: Service List

**TAKE NOTICE** that the *Motion for the Issuance of an Order Approving and Ratifying the Sale of Certain Assets, an Interim Financing and Certain Priority Charges* will be presented for adjudication before the one of the Honourable judges or registrar sitting in Commercial Division in and for the District of Montréal, at the Montréal Court House, 1 Notre-Dame Street East, Montréal, Quebec, **on December 23, 2015**.

**DO GOVERN YOURSELVES ACCORDINGLY.**

MONTRÉAL, December 23, 2015

A handwritten signature in blue ink that reads "Stikeman Elliott LLP". The signature is written in a cursive, flowing style and is positioned above a horizontal line.

**STIKEMAN ELLIOTT LLP**

Attorneys for the Petitioner

SUPERIOR COURT  
(Commercial Division)

N° . 500-11

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

IN THE MATTER OF THE NOTICE OF  
INTENTION TO MAKE A PROPOSAL OF:

SENSIO TECHNOLOGIES INC.

Petitioner

- v. -

DELOITTE RESTRUCTURING INC.

Trustee

BS0350 n/dos.: 128928-1017

MOTION FOR THE ISSUANCE OF AN ORDER  
APPROVING AND RATIFYING THE SALE OF  
CERTAIN ASSETS, THE EXECUTION OF A LOAN  
AGREEMENT AND CERTAIN PRIORITY CHARGES  
AND AFFIDAVIT AND NOTICE OF  
PRESENTATION

ORIGINAL

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CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No. : 500-11

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IN THE MATTER OF THE NOTICE OF  
INTENTION TO MAKE A PROPOSAL OF:

SENSIO TECHNOLOGIES INC.

Petitioner

-and-

DELOITTE RESTRUCTURING INC.

Trustee

LIST OF EXHIBITS

- EXHIBIT P-1: Copy of the draft Order;
- EXHIBIT P-2: Copy of the Petitioner's *Notice of Intention to Make a Proposal* (NOI);
- EXHIBIT P-3: Copy of the Petitioner's cash-flow forecast;
- EXHIBIT P-4  
UNDER SEAL: Copy of the Letter of Intent entered into, between the Petitioner and 3D<sup>N</sup> LLC;
- EXHIBIT P-5: Copy of the Loan Agreement entered into, between the Petitioner and Mr. Nicholas Routhier;
- EXHIBIT P-6: Copy of the Hypothec executed by the Petitioner in favor of Mr. Nicholas Routhier;
- EXHIBIT P-7  
UNDER SEAL: Copy of the Key Employee Contracts, *en liasse*.

MONTRÉAL, December 23, 2015



STIKEMAN ELLIOTT LLP

Attorney for the Petitioner

SUPERIOR COURT  
(Commercial Division)

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N° . 500-11

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CANADA  
PROVINCE OF QUÉBEC  
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IN THE MATTER OF THE NOTICE OF  
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LIST OF EXHIBITS

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ORIGINAL

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