

1 **MARCIA E. GERSTON (SBN 119026)**
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4 55 South Market Street, Suite 1500
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9 Attorneys for Creditor
10 MICHAEL DAVIS

11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 In re
14 TECHNOLOGY PROPERTIES LIMITED,
15 LLC,
16 Debtor.

17 Case No. 13-51589-SLJ
18 Chapter 7

19 **REQUEST FOR PAYMENT OF
20 ADMINISTRATIVE EXPENSE**

21 [11 U.S.C. §503(b), B.L.R. 9014-1]

22 **Please take notice that Bankruptcy Local Rule 9014-1 governs this request.**

23 **This Rule requires that:**

24 **Any objection to the requested relief, or a request for hearing on the matter,**
25 **must be filed and served upon the initiating party, Michael Davis (“Davis”), through**
26 **his counsel, within 30 days of mailing the notice;**

27 **Any objection or request for a hearing must be accompanied by any**
28 **declarations or memoranda of law any requesting party wishes to present in support**
29 **of its position;**

30 **If there is no timely objection to the requested relief or a request for hearing,**
31 **the court may enter an order granting the relief by default.**

1 **In the event of a timely objection or request for hearing, the initiating party will**
2 **give at least seven days written notice of the hearing to the objecting or requesting**
3 **party, and to any trustee or committee appointed in the case.**

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5 REQUEST IS HEREBY MADE, pursuant to 11 U.S.C. sections 503(b)(1)(A) and
6 Bankruptcy Rule 9014-1, that payment be made immediately to Davis, who has performed
7 post-petition services for Debtor and is entitled to compensation for said services, pursuant
8 to his employment agreement with the Debtor, in the amount of \$573,175.47. This amount
9 represents services performed and compensation which accrued from the date of Debtor's
10 filing of the bankruptcy petition on March 20, 2013 ("Petition Date") through the Effective
11 Date, which was, as set forth in the Notice of Effective Date in this matter, August 28, 2015.
12 The services rendered benefitted the estate and the compensation for such services is an
13 actual and necessary cost and expense of preserving the estate.

14 Davis had an agreement under the terms of which he provided consulting services
15 to the Debtor related to the commercialization and licensing of patents and products
16 encompassed in the Debtor's portfolios. ("Declaration of Michael Davis in support of
17 Request for Payment of Administrative Claim" filed herewith ("Davis Dec.") at ¶2 and Exhibit
18 1.)¹ Davis' status as an employee of the Debtor entitled to wages, salaries and commissions
19 is confirmed by Debtor's Schedules, which list Davis on Schedule E as a creditor entitled to
20 a Priority Claim for wages, salaries and commissions (Docket No. 195-2, p. 4) and the
21 description and treatment of his post-petition claim as employee compensation throughout
22 the Disclosure Statement and Plan in this matter. (See, e.g., Docket No. 638, p. 30
23 ("incentive compensation claims of ... Mike Davis ...").)

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¹ The Debtor was part of "the TPL Group" which confirmed Davis' employment in writing on October
27 25, 2010. A copy of the letter confirming Davis' "continued employment" with the TPL Group is attached to
28 the Davis Dec. as Exhibit 1. Davis reserves all rights against other entities which may be jointly liable to pay
compensation for Davis' services, including, without limitation, Alliacense.

1 Davis provided consulting services to the Debtor after the filing of the Debtor's
2 bankruptcy petition on March 20, 2013. (Davis Dec at ¶3.) These services benefitted the
3 Debtor by virtue of licensing agreements Davis was able to negotiate with various entities,
4 including but not limited to DataLogic, Dell, Marvell, Sony, Fujitsu, Qualcomm and Sandisk.
5 (Davis Dec at ¶3.) The Debtor has not paid Davis any commissions or other amounts due
6 and owing to Davis for providing these services for the time between the Petition Date and
7 the Effective Date. (Davis Decl. ¶5.) There is now due, owing and unpaid the amount of
8 \$573,175.47 for these services. (*Id.*) Davis has previously filed a Proof of Claim (Claim No.
9 35) for pre-petition amounts owed to him. (Davis Decl. ¶6.)

10 Under the terms of the confirmed Plan in this case (See Docket No. 637), Davis'
11 agreement, called an Employee Compensation Contract under the Plan (see Definitions
12 section of the Plan, Docket No. 637, 12:1 – 6), was deemed rejected by the Debtor as of
13 the Effective Date on August 28, 2015. (Section VII.C.; Docket No. 637, 47:7 – 11 (“Without
14 admitting the validity of any other executory contracts and unexpired leases, the following
15 executory contracts and unexpired leases of the Debtor are hereby rejected by the Debtor
16 as of the Effective Date, and Confirmation of the Plan shall be deemed to constitute
17 Bankruptcy Court approval of such rejection: . . . (b) the Employee Compensation
18 Contracts.”).)

19 The post-petition amounts currently due to Davis are as set forth in the invoice
20 attached as Exhibit 2 to the Davis Dec. The amounts detailed in that invoice all arose post-
21 petition and became due and payable under the terms of the Employee Compensation
22 Contract between the date the Debtor's bankruptcy petition was filed and the Effective Date.
23 (Davis Decl. ¶4.)

24 Claims for services performed under an executory contract for employment are
25 administrative claims. (11 U.S.C. §365(b)(1)) Davis is entitled to the allowance and
26 payment of these amounts.

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This Request for Payment of Administrative Expense is based on this Request, the Declaration of Michael Davis in Support of Request for Payment of Administrative Expense filed herewith, the pleadings and papers on file in this proceeding, and such further oral and documentary evidence as may be presented in the event of a hearing on this matter.

Dated: October 27, 2015

GREENFIELD DRAA & HARRINGTON LLP

By: /s/ Marcia E. Gerston
MARCIA E. GERSTON
Attorneys for Creditor
MICHAEL DAVIS

1 **MARCIA E. GERSTON (SBN 119026)**
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13 In re
14 TECHNOLOGY PROPERTIES LIMITED,
15 LLC,
16 Debtor.

17 Case No. 13-51589-SLJ
18 Chapter 7

19 **DECLARATION OF CREDITOR**
20 **MICHAEL DAVIS IN SUPPORT OF**
21 **REQUEST FOR PAYMENT OF**
22 **ADMINISTRATIVE EXPENSE**

23 [11 U.S.C. §503(b), B.L.R. 9014-1]

24 I, MICHAEL DAVIS, declare as follows:

25 1. I am over the age of 18 and a resident of San Francisco, California. I make
26 this Declaration in support of the Request for Payment of Administrative Expense filed in
27 the above-reference bankruptcy case to request payment of amounts due to me for
28 services performed, as more fully set forth below. The following facts are within my
personal knowledge and if called upon and sworn as a witness I could testify competently
thereto.

2. I had an agreement with the Debtor TECHNOLOGY PROPERTIES LIMITED,
LLC, under the terms of which I provided consulting services to the Debtor related to the
commercialization and licensing of patents and products encompassed in the Debtor's
portfolios. A true and correct copy of a letter dated October 25, 2010, memorializing that

1 agreement in part is attached hereto as Exhibit 1. The letter is is on letterhead of the TPL
2 Group, a group which includes the Debtor. I reserve all my rights against any other entities
3 which may be jointly liable to pay compensation for my services, including, without
4 limitation, Alliacense. Any amounts I may be paid by other entities on account of the claim
5 made against the Debtor will be credited toward this claim.

6 3. Pursuant to my agreement, I provided consulting services to the Debtor after
7 the filing of the Debtor's bankruptcy petition on March 20, 2013. I was able to negotiate
8 licensing agreements with various entities, including but not limited to DataLogic, Dell,
9 Marvell, Sony, Fujitsu, Qualcomm and Sandisk. According to my agreement, I am entitled
10 to commissions of a certain percentage of the licensing fee for each of the agreements I
11 negotiated that came to fruition as well as a minimum monthly amount.

12 4. The post-petition amounts currently due to me for these services are set forth
13 in the invoice attached hereto as Exhibit 2, which has been redacted to protect confidential
14 information. Each of the amounts detailed in this invoice arose between the Petition Date
15 on March 20, 2013 and the Effective Date on August 28, 2015.

16 5. I have not been paid any of the amounts shown on the invoice (or any other
17 amounts) for providing these post-petition services to the Debtor. I am owed the amount
18 of \$573,175.47 for these services.

19 6. The amounts I am requesting through the Request for Payment of
20 Administrative Expense are in addition to the amounts I am owed for pre-petition services
21 to the Debtor. I have previously filed a Proof of Claim (Claim No. 35) for pre-petition
22 amounts owed to me.

23 7. It is my understanding that, under the terms of the confirmed Plan in this case,
24 my compensation agreement was deemed rejected by the Debtor as of the Effective Date
25 on August 28, 2015 and I am entitled to file a Request for Payment of Administrative
26 Expense within 60 days of the Effective Date.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge, and that this declaration was executed on October 27, 2015 at San Jose, California.

/s/ Michael Davis
MICHAEL DAVIS

EXHIBIT 1



20883 Stevens Creek Blvd.,
Suite 100,
Cupertino, CA 95014
voice 408-446-4222
fax 408-919-1234
www.tplgroup.net

25 October 2010

Michael L. Davis
1047 November Drive
Cupertino, CA 95014

RE: CONTINUATION OF EMPLOYMENT &
ELEMENTS OF COMPENSATION PACKAGE

Dear Mike:

Please let this serve to confirm our conversation yesterday afternoon regarding the continuation of your employment by the TPL Group, and document our agreement with respect to certain elements of your compensation package. More specifically:

1. The attached sheet represents the calculation of the commission amounts which have been earned and accrued pursuant to the terms of our existing oral agreement at the rate of two (2) percent of the licensing revenue received by TPL as a distribution and therefore excluding amounts received by PDS.

2. The amount accrued to date will be paid out as cash becomes available and may become a part of the "Creditor Pool" plan for the liquidation of claims against TPL.

a. The amount accrued will be senior and/or at least equal to the most favorable terms (including a comparable security interest if one exists) between TPL and its affiliates and any other creditor including CAB, CHM, APC, DEL, DML, OnSpec or successors, Prometheus, SI, Thunderbird, Schott, or any other resulting from TPL's licensing business. Provided, however, that no entitlement hereunder shall either: (i) extend beyond the assets of TPL and its affiliates; (ii) give rise to any right to pursue any so-called pre-judgment remedy or a recordation hereof; or (iii) be deemed to give rise to any right or claim against DEL.

London Office: (v) +44 134462 1100 (f) +44 134462 1177

Michael L. Davis
25 October 2010
Page 2 of 3

b. The amount accrued will be paid as "cash becomes available", but in no case later than any other TPL creditor, or less than an amount equal to the lesser of: 1.) the amount paid to any other TPL creditor, or 2.) a percentage of the accrued amount equal to the percentage paid (out of total amount owed) to any other TPL creditor.

c. Your participation in the TPL Creditor Pool will be optional and on terms at least as favorable as any other TPL creditor. Payments are anticipated to be prorated based amount due/paid to any other participant in the Pool.

3. Commission amounts earned on future transactions will be paid on a current basis, rather than being accrued. Amounts earned in excess of the advances payable under paragraph 4 below to be paid within 5 days of TPL's receipt of license fees.

4. Going forward and until further notice, you will be entitled to commission advances of at least 50% of your base salary payable monthly beginning 1 November 2010, payable monthly in advance.

5. In the event you voluntarily terminate your employment relationship before 31 December 2011, and all payments due under paragraphs 2,3 and 4 have been paid, then the unpaid commission balance as of your date of termination shall be reduced by 50%.

6.) On or before January 15, 2011 TPL will pay all unpaid salary that was accrued in 2008-09 totaling [REDACTED]

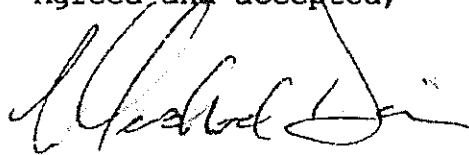
Sincerely,



Daniel E. Leckrone
Chmn & CEO

Michael L. Davis
25 October 2010
Page 3 of 3

Agreed and accepted,

A handwritten signature in black ink, appearing to read "Michael L. Davis", written in a cursive style.

Michael L. Davis

EXHIBIT 2

Michael Davis
 154 Lombard St #50
 San Francisco CA 94111

Unpaid Compensation
 Mar 21, 2013 thru Aug 28, 2015

Date:
 For:

DATE	DESCRIPTION	LICENSE FEE	RATE	AMOUNT DUE
31-Mar-2013	Minimum			\$ 10,417
18-Apr-2013	PDS Distribution - Brocade, Hyundai			\$ 14,877
30-Apr-2013	Minimum (Net)			\$ -
16-May-2013	Datalogic - CF			\$ 1,200
16-May-2013	Datalogic - FL			\$ 800
31-May-2013	Minimum (Net)			\$ 8,417
11-Jun-2013	Dell - CF			\$ 60,000
14-Jun-2013	Marvell - FL			\$ 10,000
30-Jun-2013	Minimum (Net)			\$ -
31-Jul-2013	Brother- CF			\$ 11,200
31-Jul-2013	Minimum (Net)			\$ -
31-Aug-2013	Minimum			\$ 10,417
30-Sep-2013	Minimum			\$ 10,417
11-Oct-2013	PDS Distribution			\$ 3,911
31-Oct-2013	Minimum (Net)			\$ 6,506
30-Nov-2013	Minimum			\$ 10,417
02-Dec-2013	Acer - CF			\$ 21,600
03-Dec-2013	On Semi - FL			\$ 10,000
05-Dec-2013	AMD - FL			\$ 30,000
31-Dec-2013	Hynix - FL, CS, OCC			\$ 50,000
31-Dec-2013	Minimum (Net)			\$-
31-Jan-2014	Minimum			\$ 10,417
28-Feb-2014	Minimum			\$ 10,417
31-Mar-2014	Minimum			\$ 10,417
30-Apr-2014	Minimum			\$ 10,417
14-May-2014	Sony Corporation			\$ 12,465

DATE	DESCRIPTION	LICENSE FEE	RATE	AMOUNT DUE
31-May-2014	Minimum (Net)			\$ -
10-Jun-2014	ProMOS Technologies, Inc.			\$ 4,000
30-Jun-2014	Minimum (Net)			\$ 6,417
31-Jul-2014	Minimum			\$ 10,417
06-Aug-2014	CSR plc (Zoran Corporation)			\$ 7,000
13-Aug-2014	Fujitsu Limited			\$ 9,368
27-Aug-2014	Qualcomm, Inc.			\$ 70,000
31-Aug-2014	Minimum (Net)			\$ -
30-Sep-2014	Minimum			\$ 10,417
31-Oct-2014	Minimum			\$ 10,417
30-Nov-2014	Minimum			\$ 10,417
08-Dec-2014	SanDisk Corporation			\$ 15,000
31-Dec-2014	Minimum (Net)			\$ -
22-Jan-2015	STMicroelectronics N.V.			\$ 6,000
23-Jan-2015	Toshiba Corporation			\$ 17,500
31-Jan-2015	Minimum (Net)			\$ -
06-Feb-2015	HiTi - CF			\$ 1,200
28-Feb-2015	Minimum			\$ 9,217
31-Mar-2015	Kingston Technology - CF			\$ 1,400
31-Mar-2015	Minimum (Net)			\$ 9,017
30-Apr-2015	Minimum			\$ 10,417
12-May-2015	Sony - CF			\$ 5,580
14-May-2015	Shuttle Computr - CF			\$ 1,700
31-May-2015	Minimum (Net)			\$ 3,137
30-Jun-2015	Minimum			\$ 10,417
31-Jul-2015	Minimum			\$ 10,417
28-Aug-2015	Minimum (Prorated to Aug 28)			\$ 9,409
Total				\$ 573,175.47

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18 Chapter 7

19 **CERTIFICATE OF SERVICE**

20 I hereby certify that I am a citizen of the United States, over the age of 18 years, and
21 not a party to the within action. On the date set forth below, I served the following:

- 22 1. **Request for Payment of Administrative Expense**
23 **[11 U.S.C. §503(b), B.L.R. 9014-1]**
- 24 2. **Declaration of Creditor Michael Davis in Support of Request for**
25 **Payment of Administrative Expense**
26 **[11 U.S.C. §503(b), B.L.R. 9014-1]**

27 in said action by serving true and correct copies via CM/ECF electronic mail on all registered
28 users.

I declare under penalty of perjury under the laws of the State of California and the
United States of America that the above is true and correct. I declare that I am employed
in the office of a member of the bar of this Court at whose direction the services were made.

Executed on October 27, 2015 at San Jose, California.

/s/ Caitlin Hannon
Caitlin Hannon