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UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

San Jose Division

In re TECHNOLOGY PROPERTIES LIMITED LLC Debtor	Case No. 13-51589 SLJ Chapter 11 DATE: November 12, 2014 TIME: 10:00 a.m. JUDGE: Honorable Stephen L. Johnson

CORRECTED[1] IP OWNERS' STATEMENT OF CONCERNS REGARDING JOINT PLAN

[1] Through inadvertence and error, instead of uploading this pleading, the undersigned uploaded prior correspondence. This pleading, and not the prior correspondence, presents the IP Owners' Statement of Concerns.

HSM Portfolio LLC, owner of the Fast Logic portfolio, and MCM Portfolio LLC, owner of the CORE Flash portfolio (collectively herein referred to as the "IP Owners") present the following statement of their concerns regarding the proposed Joint Plan of Reorganization.

The IP Owners previously presented their concerns informally to the Proponents of the Joint Plan of Reorganization. At the hearing on October 14, 2014, the Court expressed the view that the Joint Plan should be final when submitted on October 28, 2014 and should not be the subject of subsequent modifications. In response, and with the encouragement of the Proponents, the IP Owners present their Statement of Concerns as a matter of public record

I. Consequences of Plan Default

The IP Owners agreed to make substantial concessions under the Plan, in return for which they are to receive certain benefits under the Plan. Notably, they agreed to (i) the assumption of their commercialization agreements by Debtor even in light of control over the Reorganized Debtor under the Joint Plan being transferred to representatives of the Committee without technology commercialization experience, who will be responsible for commercializing the IP Owners' technology portfolios and business decisions related thereto, and (ii) the deferral of payment of their substantial administrative claims until Class 7 distributions are made. The Joint Plan acknowledges that it may fail, with the result that the case may, in the future, convert to a Chapter 7 liquidation. In that event, the IP Owners and other parties will not receive the bargained-for benefits provided by the Plan. Since their benefits will not survive, the IP Owners believe their concessions should not survive the failure of the Plan either. That principle should not be controversial.

The IP Owners propose certain Plan modifications to implement this correction. First, Article XV should be expanded to identify all of the ways in which the Plan may fail; e.g., the Effective Date fails to occur by the deadline; the Plan is revoked; the Plan is modified (without the consent of the IP

Owners); the case is dismissed or converted, or a second voluntary or involuntary case is filed.

Second, the IP Owners would like a specific enumeration of provisions of the Joint Plan which terminate or become ineffective upon the failure of the Plan. Those should include:

a. The subordination of Claims or the deferral of payment of claims that are scheduled to be paid in Class 7 in the Joint Plan and deferral of interest related thereto; Plan V B, F, G and H;

b. Control of the Debtor by the Committee-appointed CEO and TPL Board instead of the TPL Member appointed Manager; Plan VII B and H;

c. The modification under or in connection with the Plan of any IP Owners Commercialization Agreements (as such term is defined in the Plan); Plan VIII A;

d. The deferral of cure payments; Plan VIII A; and

e. Without prejudice due to the passage of the Administrative Claim Bar Date, upon failure of the Plan, holders of subordinated or modified or deferred claims may assert Chapter 11 administrative priority claims.

Third, upon failure of the Plan, all rights granted to the Debtor, the Estate or the Reorganized Company by HSM, MCM, VNS Portfolio LLC or any predecessors or successors thereto, shall immediately and without further action be returned and re-assigned to the grantor. The IP Owners request that this provision explicitly included in the Confirmation Order as well.

II. Other Plan Modifications

a. Please modify "and/or" to "and" in the definition of "Accepting Non-Insider 13% Claims."

b. It is important to the IP Owners that the Estate not waste resources to prosecute disputes with respect to claims which have been subordinated under the Plan. The current iteration of the Plan is ambiguous in that respect.

c. The "Released Parties" should include HSM, MCM and VNS Portfolio LLC, and any predecessor or successor thereto, and the definition of "Release" and Section XIII E should be clarified to make it clear that no reciprocal release is required from those Released Parties.

d. Currently Section V E of the Plan does not require holders of Accepting Non-Insider 13% Claims to release the Debtor, the Estate and the Reorganized Company: the release required in Section V E is only with respect to individuals. The Plan should be clear that the

Non-Insider 13% Claims are Disputed until there is final resolution of the *Brown v TPL* litigation, unless the Non-Insider 13% claimants release the Debtor, the Estate and the Reorganized Company.

e. The phrase "the provisions of the Plan and" should be stricken from Plan VIII A 3. The phrase adds unnecessary ambiguity because Exhibit C covers the *only* agreement to modify the commercialization agreements (i.e., the change to the split of proceeds).

f. Exhibit C references "20% to Leckrone" in a number of places, which is not acceptable. The corrections should be 20% to HSM Portfolio LLC in Paragraphs A(3) and B(4) and 20% to MCM Portfolio LLC in Paragraphs C(2) and D(4). In addition, please insert "in accordance with the terms of the Joint Plan" at the end of the second sentence of the final paragraph of Exhibit C.

g. The phrase "all controversies existing between (1) PDS, TPL and Patriot and (ii) Alliacense, PDS and Agility have been resolved" should be stricken from Plan VIII A 3. If it is a condition precedent to Plan confirmation, much more clarity is required. If it has no substantive effect, it creates doubt and uncertainty and should be stricken.

h. The Joint Plan should make it completely clear that it does not change ownership of any IP asset or the rights of the parties to any licenses granted by the IP Owners to TPL (other than as expressed in Exhibit C). Likewise, the Joint Plan should provide that the Reorganized Debtor, the Responsible Individual, the TPL Board and the Committee are obligated to perform under the Plan and all assumed contracts, and may be liable for any post-confirmation breach in accordance with governing contract law.

i. Please insert ", Creditors" after "Bankruptcy Estate" and before "or the Committee" in Paragraph XIV B (b) and (c).

j. Since the IP Owners will provide the comfort letters to the Licensees immediately before the Effective Date of the Plan, Section XVI G should be modified accordingly.

III. Other Concerns

a. The Plan installs a Board made up of Committee Members to control TPL. Several Committee Members have disputed claims. The members of the Board should not have authority to resolve their own disputed claims. Additionally, we assume that the members of the Board accept the fiduciary duties ordinarily contemplated by corporate law. The Committee is preserved in place to govern the Board. We assume that it also remains subject to fiduciary duties. We think that the Plan and Disclosure Statement should spell out what is contemplated in this regard. In that regard, we find the exculpation in Article XII D unclear, especially the portion following "excluding the obligations…" If the Board and Committee will administer TPL without any fiduciary duties or obligations *other than* to refrain from willful misconduct, we think the Disclosure Statement should very clearly so state. A company governed by individuals with no fiduciary responsibilities would be very problematic.

b. We do not think that Plan VII E 2 is practicable. It requires the Reorganized

Debtor to deposit an "aggregate of at least 20% of the Adjusted Gross Revenue during each quarter." "Adjusted Gross Revenue" is defined as "Gross Revenue", less certain expenses. "Gross Revenue", peculiarly, is defined as "all present and future property of TPL, tangible and intangible.... including…" It seems unlikely that the Reorganized Debtor will ever have sufficient liquidity to deposit 20% of its assets ("Gross Revenue") in cash into the Claims Trust Account in any Quarter.

c. We do not understand the reference to "or its 'affiliate' (as defined in the Securities Act of 1933 and the rules and regulations promulgated with respect to such Act)" in Section VI of the Plan. If such a provision is appropriate, it should reference the definition of "affiliate" in the Bankruptcy Code.

The IP Owners hope the Proponents will give serious consideration to these Concerns in the process of redrafting the Joint Plan.

DATED: October 21, 2014

Respectfully submitted,

ST. JAMES LAW, P.C.

By: /s/ *Michael St. James* .
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and MCM Portfolio LLC