

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION



CAUSE NO. FSD 4 OF 2018~~9~~

IN THE MATTER OF THE COMPANIES LAW (2018 REVISION)

IN THE MATTER OF YOTA



WINDING UP PETITION

TO: The Grand Court of The Cayman Islands

The humble Petition of Hi-P Electronics Pte. Ltd. at 11 International Business Park, Jurong East, Singapore 609926, Singapore (the *Petitioner*) shows THAT:

BACKGROUND

- 1 The Petitioner is a company incorporated under the laws of Singapore.
- 2 Yota (the *Company*) is a Cayman Islands exempted company established on 29 October 2014 under the laws of the Cayman Islands with registration number 293203. The Company's registered office is situated at JTC (Cayman) Limited, P.O. Box 780, 49 Market Street, 2nd Floor, Suite 3204, Gardenia Court, Camana Bay, KY1-9006, Grand Cayman, Cayman Islands.
- 3 The Company is an investment holding company.
- 4 The Company is the parent company of Yota Devices Limited (*Yota Devices*), a company incorporated under the laws of the Republic of Cyprus. Yota Devices' registered office is at Konstantinou Kalogera 54, Thetis Building, 3rd Floor, 6021 Larnaca, Cyprus.
- 5 The Company is also the parent company of Yota Devices IPR Ltd (*Yota BVI*), a company incorporated under the laws of the British Virgin Islands.

- 6 The Company, through Yota Devices and Yota BVI, own various intellectual property rights in the mobile technologies business.
- 7 Pursuant to clause 6 of a settlement agreement dated 16 January 2017 entered into between the Company, Yota Devices and the Petitioner, as amended and supplemented by an addendum dated 18 April 2017 (collectively, the **Settlement Agreement**), the Company absolutely, irrevocably and unconditionally guaranteed to the Petitioner the timely performance when due of all of Yota Devices' obligations under clauses 2.1.2 and 9 of the Settlement Agreement, together with all reasonable costs, expenses, late payment charges and interest where applicable (including court costs and reasonable attorney's fees) incurred or expended by the Petitioner in connection with the enforcement of such obligations.
- 8 Yota Devices has defaulted and continues to remain in default of its payment obligations in respect of the Second Payment (as defined in the Settlement Agreement) under clause 2.1.2(a) of the Settlement Agreement by failing to make payment of the instalment which was due and payable to the Petitioner on 30 September 2018.
- 9 On 26 October 2018, the Petitioner's attorneys, Harney Westwood & Riegels (**Harneys**), issued a letter on behalf of the Petitioner to the Company to demand for repayment of the aggregate sum of US\$1,002,656, which was due and owing from the Company to the Petitioner under the Settlement Agreement, within fourteen days from the date of the said letter.
- 10 The Company failed, neglected and/or refused to repay the sum claimed by the Petitioner in the abovesaid letter, in whole or in part.

INSOLVENCY OF THE COMPANY

- 11 On 19 November 2018, the Petitioner, through Harneys, served a demand on the Company at its registered office pursuant to section 93(a) of the Companies Law (2018 Revision) (the **Companies Law**) requesting payment of the debt due and owing to the Petitioner under the Settlement Agreement within 21 days thereof (the **Statutory Demand**). As at 19 November 2018, being the date on which the

Petitioner executed the Statutory Demand, the aggregate sum due and owing by the Company to the Petitioner was US\$1,005,395.48.

12 As of the date of this Petition (being a date that is more than 21 days following the service of the Statutory Demand on the Company):

- a) the Company has paid no part of the abovesaid debt owed to the Petitioner;
- b) the Company has not disputed the debt; and
- c) the debt remains unsatisfied, due and immediately payable in full to the Petitioner.

13 As of the date of this Petition, the Company is indebted to the Petitioner in the aggregate sum of US\$1,012,299.59 (the **Outstanding Debt**), full particulars of which are as follows:

- a) all unpaid amounts of the Second Payment which are due and owing to the Petitioner, being the principal sum of US\$1,000,000;
- b) reasonable costs, expenses and late payment charges (including court costs and reasonable attorney's fees) incurred by the Petitioner up to 19 November 2018 in the sum of US\$2,190;
- c) contractual interest in the aggregate sum of US\$10,109.59 calculated up to and including the date of this Petition, the breakdown of which is as follows, with further interest continuing to accrue until the date full payment is received:

(1) Instalment due on 30 September 2018 (the **September Instalment**)

As 30 September 2018 and 1 October 2018 were not Business Days (as defined in the Settlement Agreement), the due date for the September Instalment fell on 2 October 2018.

Interest accrued from 3 October 2018 to 9 November 2018 (inclusive) as follows:

$US\$250,000 \times 6\% \times (38/365 \text{ days}) = \underline{US\$1,561.64}$

- (2) All unpaid amounts of the Second Payment which are due and owing by the Company to the Petitioner

Interest accrued from 10 November 2018 to 31 December 2018 (inclusive) which is calculated as follows:

$US\$1,000,000 \times 6\% \times (52/365 \text{ days}) = \underline{US\$8,547.95}$

- 14 Further costs, expenses and late payment charges (including court costs and reasonable attorney's fees) and interest continue to accrue until the date full payment is received.
- 15 The Petitioner, as a creditor of the Company in the amount of the Outstanding Debt, presents this Petition pursuant to the Companies Law on the grounds that:
- a) the Company is deemed to be unable to pay its debts by operation of section 93(a) of the Companies Law;
 - b) further, or in the alternative, pursuant to section 92(d) of the Companies Law, the Company is unable to pay its debts in any event and is undisputedly insolvent; and
 - c) as the Company is unable to pay its debts, appointing liquidators and winding up the Company will recover the most value for the Company's creditors and is therefore in the best interests of the Company's creditors.
- 16 In the circumstances, the Petitioner respectfully seeks an order from this Honourable Court that the Company be wound up and, for this purpose, the Petitioner nominates David Griffin of FTI Consulting at Suite 3212, 52 Market Street, Camana Bay, PO Box 30613, Grand Cayman, KY1-1203, Cayman Islands and Joshua James Taylor of FTI Consulting at 8 Shenton Way, #12-02 AXA Tower 068811, Singapore to be the joint official liquidator of the Company.

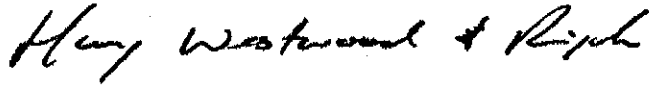
YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

- 1 The Company be wound up in accordance with the Companies Law;
- 2 David Griffin of FTI Consulting at Suite 3212, 52 Market Street, Camana Bay, PO Box 30613, Grand Cayman, KY1-1203, Cayman Islands and Joshua James Taylor of FTI Consulting at 8 Shenton Way, #12-02 AXA Tower 068811, Singapore be appointed as the official liquidator of the Company (the *JOLs*);
- 3 The *JOLs* shall not be required to give security for his appointment;
- 4 Subject to section 109(2) of the Companies Law and the Insolvency Practitioners' Regulations 2018 (as amended), the *JOLs* be authorised to render and pay invoices out of the assets of the Company for his own remuneration;
- 5 The *JOLs* be at liberty to meet all disbursements reasonably incurred in connection with the performance of his duties and, for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company as an expense of the liquidation;
- 6 The *JOLs* be at liberty to apply generally;
- 7 The Petitioner's costs of and incidental to the Petition shall be paid forthwith out of the assets of the Company as an expense of the liquidation, such costs to be taxed on an indemnity basis if not agreed with the Liquidator; and

8 Such further or other relief be granted as the Court deems appropriate.

AND your Petitioner will ever pray etc.

Dated the 31st day of December 2018



Harney Westwood & Riegels

Attorneys-at-Law for and on behalf of the Petitioner

NOTE: This Petition is intended to be served on the Company at its registered office situated at JTC (Cayman) Limited, P.O. Box 780, 49 Market Street, 2nd Floor, Suite 3204, Gardenia Court, Camana Bay, KY1-9006, Grand Cayman, Cayman Islands.

This Petition was presented by Harney Westwood & Riegels, Attorneys-at-Law for the Petitioner[s], whose address for service is 4th Floor, Harbour Place, 103 South Church Street, PO Box 10240, Grand Cayman KY1-1002, Cayman Islands (Ref: 051607.0001/JIN).

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman, Cayman Islands on [•] at 10:00am.

15th March, 2019

Any correspondence or communication with the Court relating to the hearing of this Petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, George Town, Grand Cayman KY1-1106, Cayman Islands; Tel: 3459494296.