

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

DIGITAL DOMAIN MEDIA GROUP, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 12-12568 (BLS)

(Jointly Administered)

Ref. No. 288

**NOTICE OF (A) DEPOSITION OF FED.R. CIV. P. 30(b)(6) AND FED. R.
BANKR. P. 7030 DESIGNEE OF TENOR OPPORTUNITY MASTER FUND, LTD.
AND (B) FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS
DIRECTED TO TENOR OPPORTUNITY MASTER FUND, LTD.**

To:

Adam Harris
David Hillman
Schulte Roth & Zabel LLP
919 Third Avenue
New York, New York 10022

Adam G. Landis
Landis Rath & Cobb LLP
919 Market Street, Suite 1800
Wilmington, DE 19801

George W. Shuster, Jr.
Wilmer Cutler Pickering Hale and Dorr LLP
7 World Trade Center
250 Greenwich Street
New York, New York 10007

Brett D. Fallon
Morris James LLP
500 Delaware Ave, Suite 1500
Wilmington, DE 19801

PLEASE TAKE NOTICE, that pursuant to FED. R. CIV. P. 26, 34 and 30(b)(6), FED. R. BANKR. P. 7026, 7030, 7034 and 9014, and the Local Rules of the United States Bankruptcy Court for the District of Delaware, PBC Digital Holdings, LLC, PBC Digital Holdings II, LLC, PBD MGPEF DDH, LLC and PBC DDH Warrants, LLC (collectively, “**PBC**”) will take the deposition upon oral examination of Tenor Opportunity Master Fund, Ltd. (“**Tenor**”) at the

¹ The Debtors in these proceedings and the last four digits of each Debtor’s federal or foreign taxpayer identification number, if any, are as follows: D2 Software, Inc. (5602); DDH Land Holdings, LLC; DDH Land Holdings II, LLC; Digital Domain (8392); Digital Domain Institute, Inc. (6275); Digital Domain International, Inc. (9344); Digital Domain Media Group, Inc. (9505); Digital Domain Productions, Inc. (5757); Digital Domain Productions (Vancouver) Ltd (6450); Digital Domain Stereo Group, Inc. (4526); Digital Domain Tactical, Inc. (6809); Mothership Media, Inc. (2113); Tradition Studios, Inc. (4883); Tembo Productions, Inc. (7634). The Debtors’ mailing address is 10250 SW Village Parkway, Port St. Lucie, Florida 34987.



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offices of Cousins Chipman & Brown, LLP, 1007 North Orange Street, Suite 1110, Wilmington, Delaware 19801, commencing at **9:00 a.m. (Eastern Time) on Monday, November 5, 2012**, and continuing from day to day until completed. Pursuant to FED. R. CIV. P. 30(b)(6), the person(s) designated by Tenor will be one or more officers, directors, managing agents, or other persons who consent to testify on Tenor's behalf concerning the matters for examination identified on **Schedule B** attached hereto.

PLEASE TAKE FURTHER NOTICE THAT the witness is required to produce, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Rules 7026, 7034, and 9014 of the Federal Rules of Bankruptcy Procedure, the documents listed on **Schedule C** to this Notice at the offices of Cousins Chipman & Brown, LLP, 1007 North Orange Street, Suite 1110, Wilmington, Delaware 19801 to the attention of Ann M. Kashishian, by **Thursday, November 1, 2012 at 4:00 p.m.**

The deposition will take place upon oral examination before a notary public or other officer authorized by law to administer the oath, will be recorded by audiovisual, audio and/or stenographic means. You are invited to attend and cross-examine.

Dated: October 29, 2012
Wilmington, Delaware

COUSINS CHIPMAN & BROWN, LLP

/s/ Scott D. Cousins

Scott D. Cousins (No. 3079)
William E. Chipman, Jr. (No. 3818)
Ann M. Kashishian (No. 5622)
1007 North Orange Street, Suite 1110
Wilmington, Delaware 19801
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chipman@ccbllp.com
kashishian@ccbllp.com

SCHEDULE A

DEFINITIONS

1. **“Bankruptcy Code”** means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended.
2. **“Bankruptcy Court”** means the United States Bankruptcy Court for the District of Delaware.
3. **“Chapter 11 Cases”** means the jointly administered chapter 11 cases entitled *In re: Digital Domain Media Group, Inc., et al.*, Case No. 12-12568 (BLS), and commenced on September 11, 2012 when each of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court.
4. **“Communications”** shall mean every manner or means of disclosure, transfer or exchange of information, of any kind in the form of facts, ideas, inquiries, or otherwise, whether orally or by Document, whether face-to-face, by telephone, telecopier, any form of video transmission, mail, e-mail, facsimile, personal delivery, overnight delivery, computer transmission or otherwise.
5. **“Concerning”** includes Regarding, Referring to, Relating to, reflecting or reflecting upon, mirroring, addressing, discussing, forming the basis of, discussing, analyzing, supporting, constituting, comprising, containing, evidencing, setting forth, showing, disclosing, embodying in, forming the basis of, in connection with, commenting on, responding to, demonstrating, declaring, describing, analyzing, explaining, summarizing, mentioning, evidencing, or reflecting any event, act, or occurrence.
6. **“Debtors”** means the following entities in the Chapter 11 Cases, and each of its respective officers, agents, professionals, representatives, and all persons acting under its

direction or control(along with the last four digits of each Debtor's federal tax identification number): D2 Software, Inc. (5602); DDH Land Holdings, LLC; DDH Land Holdings II, LLC; Digital Domain (8392); Digital Domain Institute, Inc. (6275); Digital Domain International, Inc. (9344); Digital Domain Media Group, Inc. (9505); Digital Domain Productions, Inc. (5757); Digital Domain Productions (Vancouver) Ltd (6450); Digital Domain Stereo Group, Inc. (4526); Digital Domain Tactical, Inc. (6809); Mothership Media, Inc. (2113); Tradition Studios, Inc. (4883); Tembo Productions, Inc. (7634). The Debtors' mailing address is 10250 SW Village Parkway, Port St. Lucie, Florida 34987.

7. **“Lenders”** shall mean the Initial Senior Noteholders and each of them: Hudson Bay Master Fund, Ltd. (in its capacities as lender and collateral agent), Tenor Opportunity Master Fund, Ltd., Parsoon Special Situation Ltd., Empery Asset Masters, Ltd., Hartz Capital Investments, LLC, under that certain Securities Purchase Agreement dated May 6, 2012, and each of their directors, officers, managers, parent entities, investors, subsidiaries, and affiliates.

8. **“Document”** or **“documents”** shall mean each and every writing, of whatever nature, whether an original, a draft, or a copy, however produced, reproduced or stored, whether manually, mechanically, electronically, electromagnetically, or otherwise, and each and every tangible thing from which information can be processed or transcribed. Non-identical copies are deemed to be separate documents. **“Documents”** includes, but is not limited to, letters, e-mails, telegrams, telexes, facsimiles, contracts, agreements, memoranda, receipts, calendars, diaries, appointment books, personal files, telephone messages, telephone message logs, notes, schedules, work sheets, books, pamphlets, summaries, proposals, photographs, ledgers, statements, files, invoices, billing information, notebooks, verifications of assets, adding machine tapes, financial statements, other compilations of financial data, work papers, bank statements

and associated bank records, checks, records of wire transfers or cash payments, charts, graphs, research materials, prospectuses, registration statements, attachments, exhibits, schedules, documents incorporated by reference, computer printouts and other computer-generated writings, and any similar items. “Document” or “documents” also include all information stored in a computer system although not printed out, all information stored in computer hard drives, all information stored on computer tape backups, all information stored on floppy diskettes, all information stored on CD-ROM, all information stored in electronic mail, all information stored on zip drives, usb drives and any other form of electronic storage. The term also includes all information stored in or originating from personal computers or laptops, Bloomberg Terminals, Palm Pilots, Blackberrys, iPhones, iPads, or other personal digital assistants (PDAs), telephones or tablets used by Your officers, employees or representatives, whether or not such documents were sent or received through any of Your computer networks.

9. **“Hearing”** shall mean the evidentiary hearing Concerning the Settlement Motion scheduled to take place before the United States Bankruptcy Court for the District of Delaware on November 6, 2012 at 1:00 p.m. EST or at any adjourned date thereafter.

10. **“Objection”** shall mean the Objection of PBC to the Settlement Motion.

11. **“PBC”** means PBC Digital Holdings, LLC, PBC Digital Holdings II, LLC, PBD MGPEF DDH, LLC and PBC DDH Warrants, LLC.

12. **“Person”** includes natural persons, corporations, partnerships, joint ventures, sole proprietorships, unincorporated associations, governmental units and subdivisions and other entities of all types.

13. **“Petition Date”** shall mean September 11, 2012.

14. **“Relating to,” “Related to,” “Referring to,”** and **“Regarding”** mean affecting, comprising, containing, constituting, Concerning, describing, detailing, disclosing, discussing, embodying, evidencing, explaining, identifying, referencing, reflecting, showing, stating, supporting, or in any manner relating or referring to the subject, directly or indirectly.

15. **“Settlement Motion”** shall mean the Motion of the Official Committee of Unsecured Creditors Pursuant to Sections 105(a), 1103(c)(5), and 1109(b) of the Bankruptcy Code and Bankruptcy Rule 9019 for Entry of an Order (I) Approving the Settlement Agreement Between the Official Committee of Unsecured Creditors and Senior Lenders, (II) Granting Standing to the Committee to Act on Behalf of the Debtors’ Estates with Respect to Estate D&O Claims and Avoidance Actions, and (III) Granting Related Relief [Docket No. 288].

16. **“Settlement Term Sheet”** shall mean the proposed settlement agreement term sheet attached as Exhibit A to the Settlement Motion.

17. **“You”** and **“Your”** shall refer to Tenor, including all employees, agents, representatives, or any other Person acting or purporting to act on Tenor’s behalf either at the time of the events in question or at the present, unless otherwise provided.

18. All other terms used herein are intended to have the same meaning that they have in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the **“Bankruptcy Rules”**), the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the **“Local Rules”**) and the Federal Rules of Civil Procedure (the **“Federal Rules”**), unless the context requires a different meaning.

SCHEDULE B

INSTRUCTIONS

1. All instructions set forth in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules and the Federal Rules incorporated herein by reference. The Definitions specified in Schedule A shall apply to the Instructions below.

2. Any word written herein in the singular shall be construed as plural or vice versa as necessary in order to bring within the scope of the request all documents that might otherwise be construed to be outside its scope.

3. The terms **“and”** as well as **“or”** shall be construed disjunctively or conjunctively as necessary to bring within the scope of the request all documents that might otherwise be construed to be outside its scope.

4. The terms **“all”** and **“each”** shall be construed as **“all and each.”**

5. All words in the present tense include the past and all words in the past tense include the present.

6. Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, as made applicable to these proceedings pursuant to Rule 7030 of the Federal Rules of Bankruptcy Procedure, you are required to designate one or more officers, directors, managing agents, or other persons who consent to testify on your behalf with respect to each of the subjects set forth below. In addition, you are requested to provide PBC with written notice, at least one (1) business day in advance of the deposition, of the name and employment position of each designee who will testify on behalf of the deponent, and the subject matter categories set forth below as to which each designee has agreed to testify.

RELEVANT TIME PERIOD

Unless otherwise stated, the “**Relevant Time Period**” for the Matters for Examination is from May 1, 2012 to the present.

MATTERS FOR EXAMINATION

1. All negotiations or communications between the Committee and any of the Lenders relating to the Settlement Motion or the Settlement Term Sheet.

2. The development, negotiation, documentation, execution, forbearance, implementation, performance and enforcement of the Settlement Motion and the Settlement Term Sheet.

3. All communications, between the Lenders, the Committee and any investment banker or financial advisor concerning the Debtors or the Debtors’ assets, liabilities or businesses.

4. All of the Lender’s securities transactions Relating to the Debtors’ securities during the Relevant Time Period, including, but not limited to, purchase and sale transactions, derivative and “short sale” transactions, and the trading records and correspondence in connection thereto.

5. All communications Concerning, Relating to, evidencing or documenting any securities transactions involving the Debtors’ securities during the Relevant Time Period, including, but not limited to, purchase and sale transactions, derivative and “short sale” transactions, and the trading records and correspondence in connection thereto.

6. All communications between the Lenders and the Debtors Concerning the financial condition of the Debtors between June 15, 2012 and August 30, 2012.

7. All information received by the Lenders from the Debtors concerning the

Debtors' financial condition between June 15, 2012 and August 30, 2012.

8. All confidential information in the Lenders' possession Concerning the financial condition of the Debtors during any given time period within the Relevant Time Period.

SCHEDULE C

DOCUMENT REQUESTS

INSTRUCTIONS

1. All instructions set forth in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules and the Federal Rules incorporated herein by reference. The Definitions specified in Schedule A shall apply to the Instructions below.

2. In response to the following requests, You are requested to produce all Documents that are in the possession, custody, or control of You or any of Your employees, agents, representatives, attorneys, investigators, or any other person acting or purporting to act on Your behalf.

3. Each request herein for a Document or Documents to be produced, whether memoranda, reports, letters, financial statements, or other Documents of any description, requires the production of the Document or Documents in their entirety without redaction, abbreviation, or expurgation and including all attachments affixed to the Document. If a Document cannot be produced in its entirety, You shall produce the Document to the extent possible and indicate in Your written response what portion of the Document is not produced and why it could not be produced. If any portion of any Document is redacted, please state with specificity the basis or ground for the redaction.

4. If the responding party contends that no Documents exist Relating to all or part of a request, the responding party shall state this contention and respond as fully as possible to all parts of the request for which Documents do exist.

5. Documents are to be produced in a way that identifies the request or requests to which each Document applies, or as they are maintained in the usual course of business.

Documents to be produced shall be the original of all Documents in the regular files as maintained, together with any Documents that were stapled, clipped, or attached to them and any originals or copies containing handwriting. A complete and legible copy may be produced in lieu of producing the Document itself.

6. Where a claim of privilege is asserted in objecting to producing any Document, or any portion thereof, or to disclosing any information contained therein, then with respect to each such Document, provide separately, in writing, at the time of the response, the following information: (i) the nature of the privilege (including work product) which is being claimed and if the privilege is being asserted in connection with a claim or defense governed by state law, indicate the state's privilege rule being invoked; and (ii) unless divulgence of such information would cause disclosure of the allegedly privileged information, (1) the type of Document; (2) the general subject matter of the Document; (3) the date of the Document; and (4) such other information as is sufficient to identify the Document, including where appropriate, the author of the Document, the addressee of the Document, and, where not apparent, the relationship of the author and addressee to each other.

7. If any of the Documents cannot be produced in full, they shall be produced to the maximum extent possible and the responding party shall specify the reasons for the inability to produce the remainder.

8. With respect to any Documents called for by these Document requests but that are no longer in Your possession, custody or control because of destruction, loss or cannot be produced for any other reason, list for each such Document: (a) the type of Document (e.g., letter, memorandum); (b) the contents of the Document; (c) the date of the Document; (d) the author of the Document; (e) the addressee and any other recipients of the Document; (f) the

relationship of the author, addressees, and recipients to each other; and (g) the manner and date of disposition of the Document.

9. These requests are continuing in nature and require You to supplement Your production if You come into possession, custody, or control of responsive Documents or things between the time of initial production and the time of trial herein.

10. The terms “**all**,” “**each**,” and “**any**” mean all and any.

11. The connectives “**and**” and “**or**” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these requests all information that might otherwise be construed to be outside the scope of these requests.

12. The past tense shall be construed to include the present tense, and vice versa, to make each request inclusive rather than exclusive.

13. As used herein, the singular shall include the plural, the plural shall include the singular, the past tense shall include the present and the present tense shall include the past, so as to bring within the scope of definitions and Document requests all matters which by any other construction would fall outside their scope.

RELEVANT TIME PERIOD

Unless otherwise stated, the Relevant Time Period (as defined above) applies to the Requests for Production.

REQUESTS FOR PRODUCTION

1. All documents concerning, evidencing or documenting any and all negotiations or communications between the Committee on the one hand and any of the Lenders relating to the Settlement Motion or the Settlement Term Sheet.

2. All documents relating to, referencing or evidencing the development,

negotiation, documentation, execution, forbearance, implementation, performance and enforcement of the Settlement Motion and the Settlement Term Sheet.

3. All communications, between the Lenders, the Committee and any investment banker or financial advisor concerning the Debtors or the Debtors' assets, liabilities or businesses.

4. All documents Concerning, Relating to, evidencing or documenting any of the Lender's securities transactions Relating to the Debtors' securities during the Relevant Time Period, including, but not limited to, purchase and sale transactions, derivative and "short sale" transactions, and the trading records and correspondence in connection thereto.

5. All communications Concerning, Relating to, evidencing or documenting any securities transactions involving the Debtors' securities during the Relevant Time Period, including, but not limited to, purchase and sale transactions, derivative and "short sale" transactions, and the trading records and correspondence in connection thereto.

6. All communications between the Lenders and the Debtors Concerning the financial condition of the Debtors between June 15, 2012 and August 30, 2012.

7. All information received by the Lenders from the Debtors concerning the Debtors' financial condition between June 15, 2012 and August 30, 2012.

8. All confidential information in the Lenders' possession Concerning the financial condition of the Debtors during any given time period within the Relevant Time Period.

9. All Documents that You intend to introduce at the Hearing.

The witness is required to produce documents listed on this Schedule C at the offices of Cousins Chipman & Brown, LLP, 1007 North Orange Street, Suite 1110, Wilmington, Delaware 19801 to the attention of Ann M. Kashishian, by Thursday, November 1, 2012 at 4:00 p.m.