

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF BURLINGTON TECHNOLOGIES INC.**

MOTION RECORD

(Motion returnable January 8, 2009)

January 5, 2008

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TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF BURLINGTON TECHNOLOGIES INC.**

NOTICE OF MOTION
(Returnable January 8, 2009)

Burlington Technologies Inc. (the "**Applicant**") will make a motion to a Judge presiding over the Commercial List, on Thursday the 8th day of January, 2009, at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, Toronto.

PROPOSED METHOD OF HEARING: The Motion is to be heard orally.

THE MOTION IS FOR an order in the form attached as Schedule "A", hereto (the "**Draft Order**") *inter alia*:

1. Abridging and validating the timing and method of service of this Motion Record so that this Motion is properly returnable;
2. Extending the Stay Period, as defined by the Order of the Honourable Mr. Justice Campbell in these proceedings made on December 9, 2008 (the “**Initial Order**”) until January 30, 2009;
3. Approving the First Report to Court of BDO Dunwoody Limited (the “**Monitor**”) dated January 5, 2008 (the “**First Report**”) and the actions of the Monitor as set out therein;
4. Amending the Initial Order as follows:
 - (a) to increase the maximum aggregate amount of permitted payments for good or services actually supplied to the Applicant prior to the date of the Initial Order, as established in paragraph 6(c) of the Initial Order, to \$300,000;
 - (b) to increase the permitted cumulative amount of payments for key employee retention bonuses, as established in paragraph 6(d) of the Initial Order, to \$200,000; and
 - (c) to delete paragraph 48 of the Initial Order in its entirety and replace it with the following:

“48. THIS COURT ORDERS AND DECLARES that, notwithstanding the other terms of this Order, Maple Trade shall have a first ranking charge and interest, including, without limitation, priority to the Charges created pursuant to this Order, in the accounts receivable of the Applicant which are assigned to Maple Trade and/or Maple Trade finances under the Maple Finance Arrangements (as defined in the DIP Loan Agreement), both during the Stay Period and thereafter, provided that Maple Trade continues to make such financing available to the Applicant on existing terms during the Stay Period.”

5. Approving the engagement letter (the “**Trenwith Engagement Letter**”) entered into between the Applicant and Trenwith Group, LLC dated December 17, 2008, a redacted version of which is attached to the First Report;
6. Approving the marketing and sales process for both the core assets and operations as well as the redundant assets as described in the First Report;
7. Approving the letter agreement between Reko Automation & Machine Tool a division of REKO Tool & Mould (1987) Inc. and the Applicant dated December 18, 2008 (the “**REKO Automation Agreement**”) regarding the expedited installation of certain tools;

8. Approving a DIP Loan Amendment Agreement dated January 5, 2009, extending the DIP Loan Agreement (as defined in the Initial Order) until January 30, 2009;
9. Sealing and treating as confidential Appendix “C” to the First Report, being the REKO Automation Agreement, until further order of this Court or the expiry of the Stay Period; and
10. Such further and other relief as this Honourable Court may deem to be just.

THE GROUNDS FOR THE MOTION ARE:

1. The Applicant obtained protection from its creditors under the *Companies' Creditors Arrangement Act* R.S.C. 1985, c.C-36 (the “CCAA”), as amended pursuant to the Initial Order;
2. The facts as set out in the First Report and in the affidavit of Erwin Overmeyer sworn on January 5, 2009 (the “**Overmeyer Affidavit**”) and ;
3. The Applicant has acted and is continuing to act in good faith and with due diligence;
4. The provisions of the CCAA;
5. Rules 2.03, 3.02 and 16 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194; and

6. Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE TIME OF THE HEARING OF THE MOTION:

1. The First Report;
2. The Overmeyer Affidavit; and
3. Such further and other evidence as counsel may advise and this Honourable Court may admit.

January 5, 2009

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Lawyers for the Applicant

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Court File No: 08-CL-7888-00-CL
IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BURLINGTON TECHNOLOGIES INC.

ONTARIO

SUPERIOR COURT OF JUSTICE

**PROCEEDING COMMENCED AT
TORONTO**

**NOTICE OF MOTION
(returnable January 8, 2009)**

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Technologies Inc.*

TAB A

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) THURSDAY, THE 8TH DAY OF
)
JUSTICE CAMPBELL) JANUARY, 2009

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF BURLINGTON TECHNOLOGIES INC.**

ORDER

THIS MOTION, made by Burlington Technologies Inc. (the "**Applicant**"), for an order in the form attached as schedule "A" to the notice of motion of the Applicant dated January 5, 2009 (the "**Notice of Motion**") *inter alia*: (i) abridging and validating the timing and method of service of this Motion Record so that this Motion is properly returnable; (ii) extending the Stay Period, as defined by the Order of the Honourable Mr. Justice Campbell in these proceedings made on December 9, 2008 (the "**Initial Order**") until January 30, 2009; (iii) approving the First Report to Court of BDO Dunwoody Limited the Monitor dated January 5, 2008 (the "**First Report**") and the activities of the Monitor as set out therein; (iv) amending the Initial Order in accordance with Notice of Motion; (v) approving the engagement letter (the "**Trenwith Engagement Letter**") entered into between the Applicant and Trenwith Group, LLC dated December 17, 2008, a redacted version of which is attached to the First Report; (vi) approving the marketing and sales process for both the core assets and operations and redundant assets

as described in the First Report (the “**Marketing and Sales Process**”); (vii) approving the letter agreement between Reko Automation & Machine Tool a division of REKO Tool & Mould (1987) Inc. and the Applicant dated December 18, 2008 (the “**Reko Automation Agreement**”) regarding the expedited installation of certain tools; (viii) approving a DIP Loan Amendment Agreement dated January 5, 2009 extending the DIP Loan Agreement (as defined in the Initial Order) until January 30, 2009 (the “**DIP Loan Amendment Agreement**”); and (ix) sealing and treating as confidential Appendix “C” to the First Report, being the REKO Automation Agreement, until further order of the Court or the expiry of the Stay Period; was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report and the Affidavit of Erwin A. Overmeyer sworn January 5, 2009, and on hearing the submissions of counsel for the Applicant, Royal Bank of Canada, the Monitor, Export Development Canada, no one else appearing although duly served as appears from the affidavit of service of Laura Bowles-Dove sworn January 5, 2009;

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.

EXTENSION OF STAY OF PROCEEDINGS

2. **THIS COURT ORDERS** that the terms of the Initial Order including, without limitation, the “Stay Period” as defined in paragraph 15 to the Initial Order, be and are hereby extended to January 30, 2009, subject to the terms of this Order.

APPROVAL OF MONITOR’S REPORT

3. **THIS COURT ORDERS** that the First Report and the activities of the Monitor as set out therein, be and are hereby approved.

AMENDMENTS TO INITIAL ORDER

4. **THIS COURT ORDERS** that the Initial Order be and is hereby amended as follows:

- (i) Paragraph 6(c) of the Initial Order be and is hereby amended to increase the maximum aggregate amount of permitted payments for good or services actually supplied to the Applicant prior to the date of the Initial Order to \$300,000;
- (ii) Paragraph 6(d) of the Initial Order be and is hereby amended to increase the permitted cumulative amount of payments for key employee retention bonuses to \$200,000; and
- (iii) Paragraph 48 of the Initial Order be and is hereby deleted in its entirety and replaced with the following:

“48. **THIS COURT ORDERS AND DECLARES** that, notwithstanding the other terms of this Order, Maple Trade shall have a first ranking charge and interest, including, without limitation, priority to the Charges created pursuant to this Order, in the accounts receivable of the Applicant which are assigned to Maple Trade and/or Maple Trade finances under the Maple Finance Arrangements (as defined in the DIP Loan Agreement), both during the Stay Period and thereafter, provided that Maple Trade continues to make such financing available to the Applicant on existing terms during the Stay Period.”

APPROVAL OF MARKETING PROCESS

5. **THIS COURT ORDERS** that the Trenwith Engagement Letter be and is hereby approved and that the Applicant is authorized to take such actions as may be necessary to give effect to the terms of the Trenwith Engagement Letter.

6. **THIS COURT ORDERS** that the Marketing and Sales Process be and is hereby approved.

APPROVAL OF REKO AUTOMATION AGREEMENT

7. **THIS COURT ORDERS** that the Reko Automation Agreement be and is hereby approved and that the Applicant be and is hereby authorized to take such actions as may be necessary to give effect to the terms of the Reko Automation Agreement and that the Reko Automation Agreement hereby approved is in addition to the critical payments permitted to be paid by the Applicant in accordance with paragraph 6(c) of the Initial Order (as amended by this Order).

APPROVAL DIP LOAN AMENDMENT AGREEMENT

8. **THIS COURT ORDERS** that the DIP Loan Amendment Agreement, substantially in the form attached to the First Report, be and is hereby approved.

SEALING

9. **THIS COURT ORDERS** that Appendix "C" to the First Report be and is hereby sealed and treated as confidential until further order of this Court or the expiry of the Stay Period.

Court File No: 08-CL-7888-00-CL
IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BURLINGTON TECHNOLOGIES INC.

ONTARIO

SUPERIOR COURT OF JUSTICE

**PROCEEDING COMMENCED AT
TORONTO**

ORDER

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Technologies Inc.*

TAB 2

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF BURLINGTON TECHNOLOGIES INC.**

**AFFIDAVIT OF ERWIN A. OVERMEYER
(Sworn January 5, 2009)**

I, **ERWIN A. OVERMEYER**, of the City of St. Catharines, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Chief Financial Officer of Burlington Technologies Inc. ("**BTI**" or the "**Company**"), a position I have held for the last six months and, as such, I have personal knowledge of the matters to which I hereinafter depose. Where I do not possess such personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, do verily believe it to be true.
2. Unless otherwise defined herein, all capitalized terms shall have the meaning as set out in the Initial Order (as defined below).

OVERVIEW

3. On December 9, 2009, BTI obtained an order (the "**Initial Order**") for protection pursuant to the provisions of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**").

4. In the three weeks following the granting of the Initial Order, the Company, with the assistance of John Walker of Alvarez & Marsal Canada ULC (the “CRO”) and the Court-appointed monitor, BDO Dunwoody Limited (the “Monitor”), has had constructive negotiations with its primary stakeholders including Royal Bank of Canada (“RBC”), Export Development Canada (“EDC”), Maple Trade Finance Inc. (“Maple Trade”), various suppliers and major customers. In addition, BTI has commenced the consolidation of two of its divisions to reduce overhead costs with the goal of returning the Company to a cash flow positive position.
5. This affidavit is sworn in support of a motion by BTI for an extension of the Stay Period as defined in the Initial Order and related relief.

BACKGROUND

6. BTI is a privately owned corporation that produces high pressure aluminium die-castings, supplying the global automotive market. Through the operation of its four manufacturing divisions in Southwestern Ontario, BTI is able to provide high volume, vertically integrated service and supply of aluminium automotive die castings to the global automotive market, historically shipping over 30 million parts each year.
7. Although, the vast majority of BTI’s contracts are profitable, the severe slowdown in the automotive industry as a whole has resulted in a substantially reduced volume of sales for BTI. In the past two years BTI has also expended significant capital to establish new product lines which relate to ‘green initiatives’ including components for new 4 cylinder engine products, hybrid engine products, 6 speed transmissions products, and 3 cylinder diesel engine products. These new ‘green initiatives’ are not scheduled to come into full production until spring of 2009 and beyond. As a result of reduced sales and the fact that the ‘green initiatives’ are still in the ramp up stages, BTI’s facilities are operating significantly under capacity. Consequently, overhead costs have caused BTI to incur losses in the last three years. As such, a significant restructuring of BTI’s operations was the only viable option.

8. BTI is a supplier to various OEMs and other Tier 1 manufacturers. For many of the parts which BTI supplies to its customers, BTI is the sole supplier. On-going production from BTI is critical to the automotive supply chain. BTI provides value added machining, assembly and pressure testing with BTI owned equipment that would take between nine months to one year to duplicate.
9. Ford Motor Company ("**Ford**") is BTI's largest customer, and accounts for approximately 40% of BTI's sales. Other significant customers include Bendix CVX ("**Bendix**") (approximately 12-15% of sales), General Motors Corporation ("**GM**") (approximately 10-12% of sales) and Getrag Corporation (approximately 10-12% of sales).
10. Prior to the Initial Order, BTI had approximately 500 employees and operated out of four divisions and a head office, each of which location is summarized below:
 - (a) The Alumetco Division operated out of an 115,006 square foot facility located at 150 Garden Ave. in Brantford, Ontario on land owned by BTI. The Alumetco Division was a die casting facility, which employed approximately 90 hourly employees and 20 salary employees. The hourly employees at the Alumetco Division were certified on May 5, 2008 as members of the Canadian Auto Workers Union local 397 (the "**Alumetco CAW**"). In the months prior to the Initial Order, the Alumetco Division was operating at approximately 45% capacity. As discussed below, the Alumetco Division has been closed, operations of the Alumetco Division are being consolidated into the Burlington Division and the employment of the Alumetco Division employees has been terminated.
 - (b) The Burlington Division operates out of a 126,000 square foot facility at 3267 Mainway in Burlington, Ontario on land owned by BTI. Like the Alumetco Division, the Burlington Division is a die casting facility. The Burlington Division employs approximately 160 hourly employees and 30 salary employees. The hourly employees at the Burlington Division are members of the Canadian Auto Workers Union local 504 (the "**Burlington CAW**"). The Burlington

Division has been operating at approximately 50% capacity. The consolidation of the operations of the Alumetco Division operations into the Burlington Division is expected to be completed by the end of the week commencing January 12, 2009.

- (c) The Centennial Division operates out of a 40,000 square foot facility located at 920 Century Drive in Burlington, Ontario on land owned by Burlington Group Inc. ("BGI"), a company related to BTI. The Centennial Division is a tool design, tool sourcing and manufacturing facility. The Centennial Division employs approximately 30 hourly (non-unionized) employees and 20 salary employees.
- (d) The Dexcam Division operates out of a 60,000 square foot facility located at 1670 Bishop Street in Cambridge, Ontario on land owned by BGI. The Dexcam Division is a machining and assembly facility and employs approximately 100 hourly (non-unionized) and 20 salary employees.
- (e) The Head Office operates out of a 27,200 square foot facility located at 2380 South Service Road in Oakville, Ontario on land owned by BGI. The Head Office includes the accounting/administration, information systems, sales & marketing, and program management departments. The Head Office employs approximately 45 salary employees. As described below, I understand that BGI has entered into an agreement to sell the property which is occupied by the Head Office and BTI intends to consolidate the Head Office administration into the Burlington Division.

FINANCIAL AND OPERATIONAL STATUS

11. In the period following the granting of the Initial Order, BTI with the assistance of the CRO and the Monitor, has had numerous discussions with its primary stakeholders. As a result, BTI has entered into arrangements, subject to Court approval, including the following:
 - (i) an arrangement with Maple Trade for the on-going financing of certain BTI accounts receivable;

- (ii) arrangements with various suppliers for on-going supply of critical products;
 - (iii) an arrangement with the DIP Lender to extend the DIP Loan Agreement until January 30, 2009; and
 - (iv) arrangements to retain key employees.
12. The Company has also had positive discussions with EDC and its primary customers, namely Ford, GM, Bendix and others, with a view to entering into arrangements with each of these parties which will allow BTI to operate in the ordinary course as the restructuring proceeds. These discussions are on-going.
13. BTI has also had various meetings with its employees and with union representatives to discuss the Company's restructuring plans.
14. Details of the arrangements, negotiations and financial status of BTI are set out in the Monitor's First Report to the Court (the "**First Report**"). I have reviewed a draft of the First Report and agree with and adopt the statements of the Monitor.

STATUS OF THE RESTRUCTURING

15. As noted in my affidavit sworn on December 9, 2008 in support of the CCAA application, BTI's restructuring plan involves two stages. The initial stage involves consolidation of operations to reduce overhead costs and to return BTI to a cash neutral position. The second stage involves BTI seeking and obtaining refinancing in order to formulate a plan of arrangement and/or a sale of the business or portions thereof.
16. During the initial stage and prior to the granting of the Initial Order, BTI terminated the employment of approximately 150 employees (the "**Surplus Employees**"). The Company provided written notices to the Surplus Employees of the termination of their employment on the afternoon of December 8, 2008 and the morning of December 9, 2008. The Surplus Employees have been paid their outstanding wages and vacation pay.
17. The termination of employees was tied to plans to consolidate the Alumetco Division into the Burlington Division such that two facilities which were previously operating at

approximately 45% capacity would merge their operations into the Burlington Division which would then be operating at approximately 80-90% capacity.

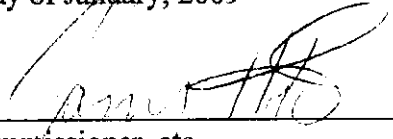
18. This consolidation was commenced during the extended holiday shut down which BTI scheduled both to facilitate the movement of equipment and to reduce costs (to coincide with extended OEM holiday shutdowns).
19. During the holiday shutdown, preparations were made to move a furnace and various other pieces of equipment from the Alumetco Division property to the Burlington Division property in order to ensure sufficient production capability in January at the Burlington Division following the holiday shutdown. The relocation of equipment is expected to be completed the week of January 12, 2009.
20. BTI is in the process of offering for sale the Alumetco Division property and other redundant assets.
21. BTI also intends to consolidate its Head Office administration into the Burlington Division to further reduce overhead (lease payments). BGI has entered into an agreement to sell the Head Office real property which is expected to close on June 30, 2009.
22. As noted in the First Report, BTI has retained Trenwith Group, LLC to assist in efforts to secure refinancing for the core business and to canvass the market regarding a sale of some or all of the remaining BTI operations.

CONCLUSION

23. As a result of the actions described above and in the First Report, I verily believe that the Company has made good progress in its restructuring efforts and negotiations with its primary stakeholders. BTI has acted and is acting in good faith and with due diligence.
24. BTI continues to believe that its core business and operations are viable and that, if it is provided with a reasonable period of protection, it will be in a position to refine and implement a restructuring plan for BTI so as to maximize value for its stakeholders and preserve jobs for its employees.

25. I swear this Affidavit in support of BTI's motion for an order extending the Stay Period and for related relief and for no other or improper purpose.

SWORN before me at the Town of)
Oakville in the Province of Ontario this)
5th day of January, 2009)



A Commissioner, etc.)
/)



ERWIN A. OVERMEYER

Jarvis Hector Héту,
a Commissioner, etc.,
Province of Ontario,
while a Student-at-Law.
Expires May 4, 2010.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BURLINGTON TECHNOLOGIES INC.

ONTARIO

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF ERWIN A. OVERMEYER
(Sworn January 5, 2009)

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Court File No: 08-CL-7888-00-CL
IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BURLINGTON TECHNOLOGIES INC.

ONTARIO

SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

(Motion returnable January 8, 2009)

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