



**SHERIDANS**  
CHARTERED ACCOUNTANTS

# **DYNAMIC DIGITAL DEPTH RESEARCH PTY LTD**

(In Liquidation)  
ACN 060 154 912

## **Report to Creditors**

Section 70-40  
Insolvency Practice Rules (Corporations) 2016

**7 May 2018**

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### **Enclosures**

- (i) Proof of Debt or Claim form

## 1. Introduction

- 1.1 I refer to my appointment as Liquidator of the company on 9 February 2018 (AWST) and to my initial information for creditors dated 22 February 2018.
- 1.2 The purpose of this report is to provide creditors with an update on the progress of the liquidation in accordance with Section 70-40 of the Insolvency Practice Rules (Corporations) 2016, and to advise creditors of the likelihood that a dividend will be paid in the liquidation.

## 2. Receipts and payments

- 2.1 The following is a summary of receipts and payments in the liquidation to date:

	\$
<b>Receipts</b>	
Cash at bank	247.05
Contribution towards Liquidator's fees	26,104.84
Office and computer equipment	439.19
	26,791.08
<b>Payments</b>	
Agent's fees	92.32
Bank charges	21.85
Legal fees	2,857.50
Liquidator's fees	21,143.30
Liquidator's disbursements:	
Advertisements	35.50
Facsimiles	34.00
Postage	19.50
Printing & photocopying	100.00
Searches	38.50
Stationery	3.34
Telephone	2.00
Travel	11.11
GST (net)	2,384.94
	26,743.86
<b>Cash at bank as at 7 May 2018</b>	<b>47.22</b>

## 3. Assets

- 3.1 The company's director gave an estimate in his Report as to Affairs ("RATA") of potential realisations. Set out below is a comparison of this estimate with the Liquidator's estimate and actual realisations to date.

	Ref	RATA estimate \$	Liquidator's estimate \$	Liquidator's realisations to date \$
Cash at bank	3.2	292.14	247.05	247.05
R & D Tax credit	3.3	383,972.00	Unknown	Nil
Intellectual property	3.4	Nil	Unknown	Nil
Office and computer equipment	3.5	Nil	439.19	439.19
		<b>384,264.14</b>	<b>686.24</b>	<b>686.24</b>

### 3. Assets (cont.)

#### 3.2 *Cash at bank*

3.2.1 The sum of \$247.05 was realised following the closure of the company's bank accounts with Bankwest and City National Bank.

#### 3.3 *R&D Tax Credit*

3.3.1 Prior to my appointment, the company had submitted a claim with the Australian Taxation Office ("ATO") for a research and development tax offset in the sum of \$383,972.00 for the financial year ended 30 June 2016.

3.3.2 Subsequently, the ATO advised the company that they would be completing an audit in relation to the claim before making any payment. The company engaged Crowe Horwath to assist with responding to the ATO's queries during the audit.

3.3.3 I advise that this process is currently ongoing. At this stage, it is unknown whether the amount claimed by the company will be realised.

#### 3.4 *Intellectual property ("IP")*

3.4.1 The company's intellectual property comprises various patents and some data and source code relating to the technologies developed by the company.

3.4.2 I am in the process realising the company's IP. It is not known what value will be realised from the IP.

#### 3.5 *Office and computer equipment*

3.5.1 The company's nominal office and computer equipment was collected by my agent and realised \$346.87 (excluding GST, less agent's fees and disbursements) at auction.

### 4. Secured creditors

4.1 According to a search of the Personal Property Securities Register ("PPSR") on 17 January 2018, Arisawa Manufacturing Co., Ltd. ("Arisawa") have registered five security interests against the company's ACN.

4.2 These security interests were in respect of the company's patents, the R&D tax credit due to the company, and settlement proceeds resulting from litigation in which the company was successful prior to my appointment.

4.3 After seeking legal advice, I determined that Arisawa's security interest vested in me as Liquidator of the company pursuant to Section 588FL of the Corporations Act 2001.

## 5. Priority creditors

- 5.1 Set out below is the director's estimate of the company's priority creditors compared to my estimate:

	RATA estimate \$	Liquidator's estimate \$
Wages	25,731.97	25,731.97
Superannuation	Nil	Nil
Leave of absence	10,373.05	10,373.05
Retrenchment	19,393.16	19,393.16
	<b>55,498.18</b>	<b>55,498.18</b>

- 5.2 The above amounts are owed to one former employee, being the former director.
- 5.3 If you were an employee of the company at the date that I was appointed, or you have previously been employed by the company, you may be a creditor of the company for any or all of the following debts: outstanding wages, annual leave, long service leave, pay in lieu of notice, redundancy and/or superannuation.
- 5.4 If you are owed accrued entitlements, you may be eligible for assistance under the Federal Government's Fair Entitlements Guarantee Act 2012 ("FEG"). For further information regarding FEG, please call the FEG hotline: 1300 135 040 or go to the website: [www.employment.gov.au/fair-entitlements-guarantee-feg](http://www.employment.gov.au/fair-entitlements-guarantee-feg). **Former employees have only 12 months to lodge a FEG claim and FEG has no discretion to extend this time.**
- 5.5 Please find enclosed a Proof of Debt or Claim form to enable any priority creditors who have not already done so to lodge their claim against the company. Note that any FEG claim must be lodged separately with FEG.

## 6. Unsecured creditors

- 6.1 According to the director's RATA, the company had three unsecured creditors, whose claims totalled \$17,418,370.28.
- 6.2 I have not received any Proofs of Debt to date. On the basis of current information, I estimate that the total amount owed to unsecured creditors is \$17,418,370.28.
- 6.3 I have identified the following related party creditors:

Creditor	Amount owed \$
DDD Group plc	3,763,931
Dynamic Digital Depth Australia Pty Ltd	13,654,439

- 6.4 Please find enclosed a Proof of Debt or Claim form to enable any unsecured creditors who have not already done so to lodge their claim against the company.

## 7. Dividend

- 7.1 The likelihood that a dividend will be paid to creditors will be affected by a number of factors including:
- (i) The size and complexity of the administration.
  - (ii) The amount of assets realisable and the costs of realising those assets.
  - (iii) The statutory priority of certain claims and costs.
  - (iv) The value of various classes of claims including secured, priority and unsecured creditor claims.
  - (v) The volume of enquiries by creditors and other stakeholders.
- 7.2 At this stage of the liquidation, I consider the likelihood of sufficient funds being available to pay a dividend to creditors of the company largely dependent on whether the R&D tax credit is paid by the ATO and the extent of realisations made from the company's IP.
- 7.3 If a dividend is payable, creditors will be contacted prior to payment of the dividend and will be asked to lodge a Proof of Debt. This will formalise creditors' claims against the company.

## 8. Reasons for the company's failure

- 8.1 I note that the company's business ceased to trade on or around 9 February 2018.
- 8.2 From my preliminary inquiries to date (see Section 9, below), I consider that the reasons for the company's failure are likely to be as follows:
- (i) A decline in the stereoscopic 3D consumer market, being the company's main area of expertise; and
  - (ii) The insolvency of the parent company, DDD Group plc.

## 9. Inquiries undertaken to date

- 9.1 The following inquiries have been made to date:
- (i) Undertaking searches including a company search, PPSR search, vehicle search, director search and property search.
  - (ii) Contacting the Sheriff's Office to determine whether any recovery action has been undertaken on behalf of creditors.
  - (iii) Contacting the Child Support Agency and Workcover WA to determine the company's outstanding liabilities.
  - (iv) Contacting the Office of State Revenue and the Australian Taxation Office ("ATO") to determine the company's outstanding tax-related liabilities.
  - (v) Requesting that the ATO provide me with access to the company's taxation records via the Business Portal.
  - (vi) Attending the company's storage unit.
  - (vii) Collecting and preparing a listing of the company's books and records and office and computer equipment obtained from the company's storage unit.

## 9. Inquiries undertaken to date (cont.)

- (viii) Reviewing the company's financial statements and draft accounts to determine whether there are any unaccounted for assets and/or liabilities.
- (ix) Reviewing the director's Report as to Affairs.
- (x) Reviewing the Questionnaire for Directors & Officers completed by each of the current director and the former director.
- (xi) General inquiries of the company's director(s) regarding assets and liabilities.
- (xii) Sending an initial notice to creditors, encouraging creditors to submit their claim against the company.
- (xiii) Correspondence with Crowe Horwath regarding the progress of the ATO's audit.
- (xiv) Enquiries with the company's director, former director, and third parties regarding the potential realisation of the company's IP.

## 10. Further inquiries that may need to be undertaken

10.1 I note the following further inquiries may need to be undertaken:

- (i) Extensive review of the company's books and records.
- (ii) Conducting an investigation into the company's affairs and the conduct of its officers.
- (iii) Determining whether there are any possible recovery actions (see Section 11, below).
- (iv) Lodging a report with the Australian Securities and Investments Commission ("ASIC") detailing my investigation findings.
- (v) General inquiries of the company's director and former director regarding assets and liabilities.
- (vi) Potential realisation of the company's IP.
- (vii) Potential receipt of the R&D tax credit.

10.2 If creditors are aware of a particular matter that requires further investigation, please contact this office immediately.

## 11. Possible recovery actions

11.1 I am yet to determine any possible recovery actions but note that the most common recovery actions available to a liquidator are as follows:

- (i) Insolvent trading.
- (ii) Unfair preferences.
- (iii) Uncommercial transactions.
- (iv) Unfair loans.
- (v) Unreasonable director-related transactions.

## 12. What happens next?

- 12.1 I will proceed with the liquidation, including:
- (i) Realising the remaining assets.
  - (ii) Recovering any further available property.
  - (iii) Completing my investigations into the company's affairs.
  - (iv) Completing my reporting to the corporate insolvency regulator, ASIC.
- 12.2 I may write to creditors again with further information on the progress of the liquidation.

## 13. More information

- 13.1 Creditors can access information which may be of assistance on the following websites:
- (i) Sheridans at [www.sheridansac.com.au/downloads/](http://www.sheridansac.com.au/downloads/)
  - (ii) ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors)
  - (iii) ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for "insolvency information sheets")

If you wish to discuss the above matters, please contact David Blanchett or Melissa Ledger of this office.

Yours faithfully



JENNIFER E. LOW  
Liquidator of  
Dynamic Digital Depth Research Pty Ltd



**DYNAMIC DIGITAL DEPTH RESEARCH PTY LTD**  
**ACN 060 154 912**  
**(In Liquidation) (“the company”)**

**PROOF OF DEBT OR CLAIM**

This is to state that the company was on 9 February 2018 (AWST) and still is justly and truly indebted to \_\_\_\_\_ for:

\$ \_\_\_\_\_ and \_\_\_\_\_ cents

Date	Consideration (how the debt arose)	Amount \$	Remarks (include details of voucher substantiating payment)

To my knowledge or belief the creditor has not, nor has any person by the creditor’s order, had or received any satisfaction or security for the sum or any part of it except for the following: *(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).*

Date	Drawer	Acceptor	Amount \$	Due date

I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied. ①

I am the creditor’s agent authorised in writing to make this statement in writing. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied. ①

① *Delete both if this proof is made by the creditor personally. Otherwise, strike out or leave, as appropriate.*

**Please ensure this proof is signed for completion, before lodgement.**

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Occupation:** \_\_\_\_\_

**Creditor’s address:** \_\_\_\_\_

I nominate to receive electronic notification of notices or documents in accordance with Section 600G of the Corporations Act 2001 at the following email address:

\_\_\_\_\_