

Bid Requirements

Unless the Debtors otherwise determine after consultation with the Reviewing Creditors, a bid will be considered only if the bid includes all of the following (the “Bid Requirements”):¹

- (a) a duly authorized and executed agreement to purchase (i) the DC Portfolio (excluding U.S. Patent No. 6,292,218 (the “**218 patent**”) and the assumption of all pending infringement actions premised on the ‘218 patent (“**the ‘218 Assets**”)), (ii) the DC Portfolio (including ‘218 Assets) and/or (iii) the KISS Portfolio, including the purchase price which shall be separately stated for each of the foregoing, together with all schedules, exhibits and annexes thereto, together with a version marked to show those amendments and modifications to the Form Agreement (a “**Marked Agreement**”) and the proposed Final Sale Order;
- (b) authorization for the Debtors to provide the Marked Agreement and proposed Final Sale Order for such bid to the Reviewing Creditors;
- (c) an agreement not to seek Bidder Confidential Information with respect to any other Potential Bidder or Qualified Bidder after the conclusion of the Bidding Process;
- (d) if the consideration is not entirely in the form of cash, the amount and terms of any non-cash consideration;
- (e) the identity of each entity that will be participating in connection with the bid and the terms of such participation, including, without limitation, the organizational and voting structure of any entity formed for the purpose of acquiring all or any portion of the Digital Imaging Patent Assets and any financing arrangements between the members of such entity;
- (f) information sufficient in the judgment of the Debtors, after consultation with the Reviewing Creditors, to demonstrate to the satisfaction of the Debtors that the Potential Bidder has the financial wherewithal to consummate the transaction contemplated by the Marked Agreement, or in the absence of such financial wherewithal, written evidence of a firm commitment for financing the consummation of the transaction contemplated by the Marked Agreement, or other evidence of ability to consummate the transaction contemplated by the Marked Agreement that is satisfactory to the Debtors after consultation with the Reviewing Creditors;
- (g) is not conditioned on any contingency other than those imposed by applicable law, including, without limitation, obtaining any of the following: (i) financing, (ii) equityholder approval or approval by the board of directors or equivalent governing body, and/or (iii) the outcome or completion of a due diligence review;
- (h) evidence of approval by the board of directors (or other appropriate governing body) of the Potential Bidder and, if applicable, its parent company, with respect to the submission of the bid and the execution and delivery of the Marked Agreement and the proposed Final Sale Order;

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures.

- (i) identifies with particularity each and every condition to closing;
- (j) is received on or before the Bid Deadline; and
- (k) includes a cash deposit of \$10 million to an escrow account designated by the Debtors (the “**Good Faith Deposit**”).