

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11- 036 886 - 097

S U P E R I O R C O U R T
(Commercial Division)
(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act,
R.S.C. 1985, c. C-36)

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:**

ADALTIS INC., a legal person constituted under the *Canada Business Corporation Act*, having its domicile at 10900 Hamon Street, in the City and District of Montréal, Province of Québec, H3M 3A2

Petitioner

and

RSM RICHTER INC., a legal person duly constituted under the laws of Canada, having its principal place of business at 2 Place Alexis-Nihon, 21st Floor, in the City and District of Montréal, Province of Québec, H3Z 3C2

Monitor

**PETITION FOR AN INITIAL ORDER PURSUANT TO SECTIONS 4, 5 AND 11
OF THE COMPANIES' CREDITORS ARRANGEMENT ACT
(R.S.C. 1985, c. C-36)**

**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN
COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF
MONTRÉAL, PETITIONER RESPECTFULLY SUBMITS THE FOLLOWING:**

1. INTRODUCTION

1. Petitioner Adaltis Inc. ("Adaltis" or "Petitioner") seeks protection under the *Companies' Creditors Arrangement Act* R.S.C. 1985, c. C-36 (the "CCA") to enable the reorganization of its business as a going concern.

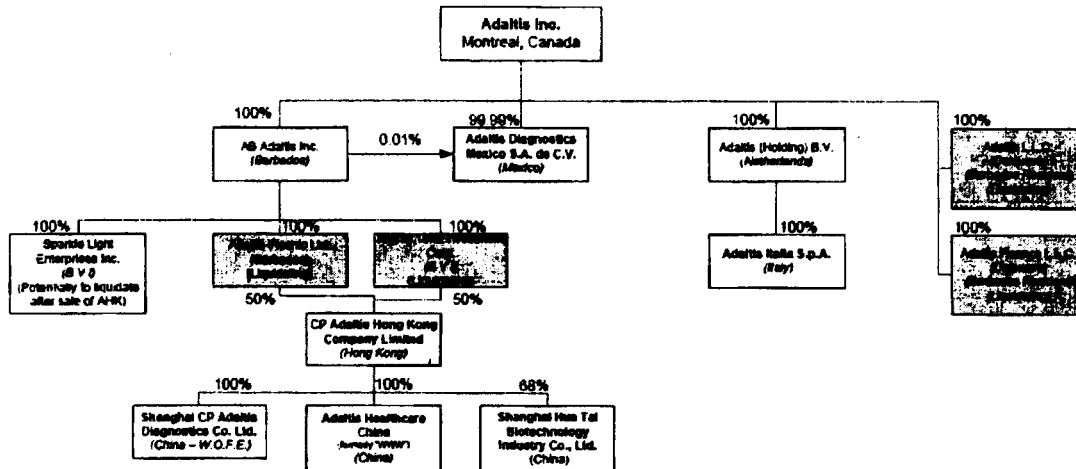
2. Adaltis has its domicile at 10900 Hamon Street, in the City and District of Montréal, Province of Québec, H3M 3A2, the whole as appears from extracts of the corporate registry (CIDREQ) communicated herewith as **Exhibit R-1**.
3. Adaltis is in the process of restructuring its operations and intends, in the context thereof, to file a plan of compromise and arrangement for all or part of its secured and unsecured debts, in accordance with their respective classes, and will request that this Court convene a meeting of its creditors so that they may vote on the plan of arrangement and compromise to be proposed.
4. As such, Adaltis is seeking the orders set forth herein from this Court in order to ensure the continuation of its operations and to prevent and stay any recourses and remedies of Adaltis' creditors for an initial period of thirty (30) days.

1.1. **ADALTIS' CORPORATE HISTORY**

5. On June 12, 1987, by articles of incorporation, 156496 Canada Inc. ("156496"), a predecessor of Adaltis, was incorporated under the *Canada Business Corporation Act* R.S.C. 1985, c. C-44.
6. On March 10, 1992, articles of amendment were filed to change the name of 156496 to BioChem ImmunoSystems Inc. / BioChem ImmuSystème Inc. ("BioChem").
7. On January 1, 1999, BioChem amalgamated with Biochem ImmunoSystems Canada Inc.
8. On May 2, 2002, BioChem change its name to Adaltis.

ADALTIS' CORPORATE STRUCTURE

9. The corporate structure of Adaltis and its subsidiaries (the "Adaltis Group") is illustrated in the diagram below:



10. Adaltis operates its business mainly through its subsidiaries located in China and Italy where a substantial portion of its operations take place.

1.2. ADALTIS' HISTORY

11. Founded in 1987, Adaltis initially pursued the infectious diseases area of the diagnostic market as a subsidiary of BioChem Pharma Inc., a leader in therapeutics for HIV.
12. In 1989, Adaltis launched its first product, Detect-HIV, which was one of the first commercially available tests for HIV.
13. In 1992, Adaltis entered the international diagnostic market pursuant to its acquisition of IFCI Clonesystems S.p.A. and Chemila S.p.A. which were private *in vitro* diagnostic companies based in Italy. This acquisition provided Adaltis with access to the European market through a proprietary sales network, as well as research and development expertise.

14. In 1994, Adaltis acquired the diagnostics arm of Serono S.A., a large international biopharmaceutical company based in Geneva, Switzerland. This strategic acquisition gave it many additional and complementary competencies that enabled Adaltis to better compete on a global basis.
15. On December 1, 2004, Adaltis completed an initial public offering (the "IPO"). The IPO resulted in the issuance of 10 million common shares to the public for gross proceeds of \$55 million.
16. Since the IPO, Adaltis's shares have been traded on the Toronto Stock Exchange under the symbol ADS. Based on a current price of \$0.075 per share (as of June 26, 2009), Adaltis has a market capitalization of approximately \$8,267,000.00.
17. On June 29, 2009, the Toronto Stock Exchange halted trading in Adaltis' shares.

1.3. ADALTIS' BUSINESS

18. Adaltis is an international *in vitro* diagnostic organization that develops, manufactures and markets *in vitro* diagnostic ("IVD") systems.
19. Adaltis offers diagnostic products, including, automated diagnostic systems consisting of instruments, reagents and software, which test for a broad range of medical conditions. It also provides services to its customers such as installation, technical, training and support.
20. Adaltis' customers consist primarily of small and medium-sized laboratories and hospitals. It has a diversified base of approximately 300 customers worldwide.
21. Adaltis' direct sales force is dedicated to the Chinese and Italian markets while its third party distribution network reaches customers in other countries worldwide.
22. Adaltis' main product lines are Eclectica, Nexgen Four and Personal Lab. Eclectica is a random access benchtop system, having the capabilities to test for immunoassay, clinical chemistry and specific protein. Eclectica's unique, combined platform is currently in demand as it provides an integrated multi-functionality which is needed in laboratories

today. In the second half of 2007, Adaltis identified several low cost improvements to its Eclectica system aimed at improving its reliability and performance, and elected to temporarily suspend the marketing of Eclectica while these changes were implemented.

23. Nexgen Four and Personal Lab are instruments capable of running all of Adaltis' microplate tests. While Nexgen Four targets customers with larger throughput requirements, Personal Lab caters to laboratories looking for a more compact design.
24. As at December 31, 2008, the Adaltis Group employed approximately 261 people in different locations.

1.4. ADALTIS' OWNERSHIP

25. As mentioned above at paragraph 15, Adaltis has been a publicly-traded corporation since 2004.
26. The authorized share capital of Adaltis consists of an unlimited number of common shares and an unlimited number of preferred shares.
27. As at June 29, 2009, there were 110,221,874 issued and outstanding common shares. The common shares are listed on the Toronto Stock Exchange.

2. FINANCIAL SITUATION

28. On March 20, 2009, Adaltis released its audited Consolidated Financial Statements for the year ending December 31, 2008, the whole as appears from a copy of said Consolidated Financial Statement communicated herewith as **Exhibit R-2**.
29. As appears from Exhibit R-2, Adaltis posted a net loss of \$41.4 million for the year ended December 31, 2008 compared to a loss of \$38.9 million in 2007 on a consolidated basis. Hence, for the last two years, Adaltis net losses amount to \$80.3 million.
30. Furthermore, Adaltis' financial statements as at May 31, 2009 shows an unconsolidated loss of \$5.8 million from January 1st, 2009 to May 31, 2009, the whole as appears from a

copy of Adaltis' unaudited financial statement for the five months period ending May 31, 2009 communicated herewith as **Exhibit R-3**.

31. In addition, Adaltis has committed cash obligations and expected levels of expenses for the next year exceeding its committed sources of cash, its net working capital on hand and its current anticipated revenues.
32. Adaltis is facing a liquidity crisis resulting from:
 - (i) an inability to ramp-up sales of its products in Asia as quickly as budgeted;
 - (ii) higher production costs and employee costs due to a slower than expected transfer of production and R&D functions from Italy and Canada to China;
 - (iii) the need to extend credit terms to its customers as a result of a general slowdown in various economies worldwide;
 - (iv) the inability to sell redundant assets to generate cash as previously budgeted; and
 - (v) significant losses incurred due to the asset-backed commercial paper meltdown.
33. The measures already undertaken to correct the financial situation are explained at Section 6 hereof.

3. ADALTIS' INDEBTEDNESS AND LIABILITIES

34. Adaltis' main liabilities are more fully described below.

3.1. THE 2006 DEBENTURES

35. On March 27, 2006, Adaltis issued \$15 million principal amount of convertible unsecured subordinated debenture which will mature on March 31, 2011 and bear interest at a rate of 8% per annum, payable semi-annually on March 31 and September 30 of each year (the "2006 Debentures"). The 2006 Debentures are convertible into common shares of Adaltis at a conversion price of \$2.95 per share.

3.2. THE 2008 NOTES

36. On September 5, 2008, Adaltis closed the first tranche of a private placement with Clarity China Partners, L.P. and certain of its affiliates (collectively, "Clarity") and FMRC Family Trust ("FMRC"). Under this transaction, Adaltis issued senior secured convertible notes with an issue price of \$16 million and a stated redemption price of \$16.6 million (\$15.6 million to Clarity and \$1 million to FMRC).
37. On December 5, 2008, Adaltis closed a second tranche of \$4 million with Clarity (together with the notes issued on September 5, 2008 the "2008 Notes").
38. The 2008 Notes bear interest at 10% per annum and mature five years from their respective issuance dates. The 2008 Notes are convertible into common shares of Adaltis at a conversion price of \$0.32 per share.
39. Interest of the 2008 Notes may be satisfied by Adaltis until September 30, 2011 for the 2008 Notes issued on September 5, 2008 and December 31, 2011 for the 2008 Notes issued on December 5, 2008, by a corresponding increase in the principal amount of the 2008 Notes, and thereafter with a cash payment only.
40. As security for the 2008 Notes, Adaltis granted or caused to be granted, the following security in favour of Clarity, as *fondé de pouvoir*:
 - (i) a hypothec on the universality of all movables assets of Adaltis;
 - (ii) a pledge of all of the shares or ownership interests owned by Adaltis in its directly owned subsidiaries AB Adaltis Inc., Adaltis Diagnostics Mexico S.A. de C.V. and Adaltis (Holding) B.V.;
 - (iii) a direct corporate guarantee of Adaltis's obligations under the 2008 Notes was given by its key operating subsidiaries CP Adaltis Hong Kong Company Limited ("Adaltis HK"), Shanghai CP Adaltis Diagnostics Co. Ltd. ("Adaltis Shanghai") and Adaltis Italis S.p.A. ("Adaltis Italia"); and

- (iv) the shares of its key operating subsidiaries Adaltis HK, Adaltis Shanghai and Adaltis Italia were pledged by each of the entities in Adaltis that directly hold such shares.

3.3. THE 2009 BRIDGE FINANCING

- 41. On May 21, 2009, Adaltis issued \$3 million principal amount of secured promissory notes to Clarity and to Victoria Square Ventures Inc. ("VSV"), in consideration of a bridge financing for a potential restructuring. These notes are secured under the security referred to in paragraph 40 above.
- 42. On June 22, 2009, Adaltis secured an additional bridge loan of up to \$2 million from VSV and issued that day a promissory note in the aggregate principal amount of \$750,000 to VSV. Additional advances under the facility are at the sole option of VSV. The note issued is also secured under the security referred to in paragraph 40 above.

3.4. NATIONAL BANK OF CANADA

- 43. On November 17, 2005, the National Bank of Canada (the "Bank") made available to Adaltis an amount of \$1 million which was used to finance its operations. As of March 31, 2009, the balance on that loan was approximately \$777,778.00. This loan shall mature on November 26, 2010 and is secured by a hypothec on the universality of all movable and immovable assets of Adaltis, including the immovable property located at 10900 Hamon Street, in the City and District of Montréal.
- 44. On March 20, 2009, Adaltis concluded a Credit Agreement with the Bank pursuant to which the Bank loaned approximately \$9.4 million to Adaltis.
- 45. The obligations of Adaltis towards the Bank under the above-mentioned Credit Agreement are secured by the asset-back commercial paper held by Adaltis.

4. APPLICATION OF THE CCAA

- 46. As explained above at Section 3, Adaltis is indebted to its various creditors in an amount that well exceeds \$5 million.

47. Furthermore, Adaltis is not able to or will imminently not be able to meet its obligations as they become due since it faces a liquidity crisis.
48. Thus, Adaltis qualifies as a “debtor company” under the *CCAA* and meets the requirements of Section 3 of the *CCAA*.

5. NEED FOR RESTRUCTURING

49. As shown above in Section 2, Adaltis is facing serious financial difficulties.
50. Adaltis is facing an important liquidity crisis resulting from the combined effect of the factors below.
51. The financial difficulties experienced by Adaltis may be explained, *inter alia*, by the following factors:
- (i) an inability to ramp-up sales of its products in Asia as quickly as budgeted;
 - (ii) higher production costs and employee costs due to a slower than expected transfer of production and R&D functions from Italy and Canada to China;
 - (iii) the need to extend credit terms to its customers as a result of a general slowdown in various economies worldwide;
 - (iv) the inability to sell redundant assets to generate cash as previously budgeted; and
 - (v) significant losses incurred due to the asset-backed commercial paper meltdown.

6. RESTRUCTURING EFFORTS

52. Since the beginning of 2008, Adaltis has taken significant steps to streamline its operations and focus on profitability. Its efforts were based on right-sizing the operations and focusing the organization on its mission to become a leading IVD product provider in emerging markets. The execution of its 2008 plan revolved around four main objectives:
- (i) disposal of certain assets of its European operations and streamlining of its European and Canadian Organization;

- (ii) concentration of its senior management team in China;
- (iii) focusing on its Asian organization and its core IVD product lines; and
- (iv) completion and validation of various product improvements to enhance their marketability.

6.1. SALE OF CERTAIN EUROPEAN OPERATIONS/ STREAMLINING OF EUROPEAN AND CANADIAN ORGANIZATIONS

- 53. On May 8, 2008, the Adaltis Group concluded the sale of certain of its European assets to Radim S.p.A. The transaction included the sale of specific assets and commercial operations, including customers lists and non-core product lines, in Italy, as well as the sale of its German subsidiary Adaltis Deutschland GmbH.
- 54. In parallel with the above-mentioned transaction, the Adaltis Group initiated the downsizing of its remaining European operations, which resulted in a decrease of close to 50% of its headcount in Europe.
- 55. In 2008, Adaltis also pursued the streamlining of the Canadian organization by significantly reducing the manufacturing operations. It maintained a small Canadian organization for its infectious diseases product lines worldwide.

6.2. CONCENTRATION OF ITS SENIOR MANAGEMENT TEAM IN CHINA

- 56. In 2008, the Adaltis Group completed an important reorganization of its management team, with the objective of streamlining the operations and optimizing the global efficiency and accountability of the organization, by concentrating most of the senior management team in China.
- 57. New hires of senior management were made to strengthen the management team in China and better position the Adaltis Group to seize the growing opportunities in the Asian market.

58. Effectively, through these important changes implemented at the senior management level, the Adaltis Group reinvigorated the leadership of the organization.

6.3. FOCUSING ON ASIAN ORGANIZATION AND ON CORE IVD PRODUCT

59. Consistent with its strategy of focusing on higher margin IVD products, the Adaltis Group completed in 2008 the streamlining of its operations through the sale of its lower-margin product business located in Hong Kong and the shutdown of the remainder of its lower-margin product business in China.

60. The resources of the Adaltis Group in China are now almost fully dedicated to the sale of higher-margin core IVD products.

7. FUTURE AND NEED FOR PROTECTION PURSUANT TO THE CCAA

61. Adaltis is of the view that its overall business can be viable and, in fact, will be profitable over time.

62. Adaltis has previously attempted to improve its profitability by increasing the efficiency of and streamlining its business process. Nonetheless, Adaltis continues to face a liquidity crisis and further restructuring changes are required to certain business operations to make them profitable.

63. Although Adaltis strongly believes that it has significant competitive advantages in its field and a strong customer base, it is recognized that in the absence of these proceedings, it will be extremely difficult, if not impossible, to maintain value for all stakeholders, given the current liquidity problems.

64. Adaltis, together with its advisors, continue to review restructuring alternatives. At this stage a restructuring within a court supervised process is necessary to ensure fair and equitable treatment for all stakeholders. Once the business is stabilized, Adaltis will be able to update this Court on its restructuring efforts and alternatives, including Adaltis' proposed plan of arrangement and compromise.

65. Adaltis needs to obtain the Court's protection in Canada to ensure that it can continue to operate in the normal course of business and preserve the value of its assets as a going concern including its foreign subsidiaries, for the benefit of all stakeholders.

66. Adaltis files in support hereof as **Exhibit R-4**, its cash flow projection, which has been prepared together with the proposed monitor.

8. FILING OF A PLAN OF ARRANGEMENT

67. Adaltis has, as already explained hereinabove, began a restructuring process both for its operations and its financial situation.

68. Given the present situation, Adaltis has to conclude that the measures already undertaken or implemented are not sufficient.

69. Therefore, Adaltis together with its advisors are in the process of preparing a business plan, which will allow Adaltis to be profitable overtime on a consolidated basis. Such plan will probably include the following:

- (i) reducing indebtedness;
- (ii) financing options;
- (iii) reducing financial costs;
- (iv) focusing manufacturing operations in fewer locations;
- (v) reducing significantly the man power in China; and
- (vi) streamlining and consolidating other business functions in Italy.

70. Although, Adaltis is not yet in a position to provide the details of a plan of arrangement and compromise to be submitted to its creditors, it is confident that, together with their advisors, it will be able to do so for the benefit of all stakeholders.

71. It is Adaltis' intent to continue to carry on operations in a restructured matter which will maintain its customer-base and a large number of jobs.

9. **RELIEF SOUGHT**

9.1. **INTERIM FINANCING**

72. As appears from Exhibit R-4, Adaltis has an immediate need for financing to meet obligations as they fall due and to stabilize operations while Adaltis considers all its restructuring options.
73. Adaltis requires and has been offered up to \$3,000,000 of DIP Financing from VSV of Montréal which is or is related to a shareholder of Adaltis. As appears from the term sheet communicated herewith as **Exhibit R-5**, such financing would be available in weekly draws and bear interest at 16% per annum. The amounts advanced are repayable in the earlier to occur of:
- (i) Bankruptcy proceedings of Adaltis;
 - (ii) court approval of a CCAA plan of arrangement;
 - (iii) the termination of the stay order sought herein;
 - (iv) Ninety (90) days from the date hereof.
74. With the DIP Financing Adaltis will have sufficient cash to meet its liabilities during the restructuring process.
75. In consideration for the Interim Financing, VSV is seeking a first ranking hypothec on the universality of Adaltis' assets senior to any other charges, save for the D&O Charge and the Administrative Charge (both as defined in the conclusions of this Petition). However, the Interim Financing (i) will not charge the asset-back commercial paper held by Adaltis and secured in favour of the National Bank of Canada as explained at paragraphs 44 and 45 above and (ii) will enjoy second rank on the immovable property located at 10900 Hamon Street, in the City and District of Montréal after the National Bank of Canada.

76. The National Bank of Canada will have sufficient security to guarantee repayment of its advances and the other existing secured creditor, Clarity, agrees with the DIP Financing and its delegates on Adaltis' board of directors approved same.
77. Given that VSV is deemed to be a related party under applicable securities legislation, the Interim Financing may be subject to the formal valuation and minority approval requirements contained in *Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions* ("M1 61-101"). However, sections 5.5(f) and 5.7(d) of M1 61-101 contain exemptions from these two requirements in the event the transaction is subject to court approval, or a court orders that the transaction be effected under bankruptcy or insolvency law, and the court does not require compliance with the two above-mentioned requirements.

9.2. D&O CHARGE

78. A successful restructuring of Adaltis will only be possible with the continued participation of Adaltis' board of directors and its officers. These members of personnel are essential to the ongoing viability of Adaltis' business, and the successful restructuring thereof.
79. Even though Adaltis intends to comply with all applicable laws and regulations, Adaltis' directors and officers may nevertheless be concerned about the potential for their personal liability in the context of the present restructuring.
80. Absent the protections sought in the conclusions of the present Petition, Adaltis is concerned that its directors or officers will be advised to resign their posts, which would jeopardize the continuation of Adaltis' business operations, and its successful restructuring.
81. Accordingly, Adaltis requests that the initial order to be granted pursuant hereto include the protections sought in the conclusions of the present Petition, namely, the orders related to the indemnification and charge in favour of the directors and officers of Adaltis.

82. For the reasons set out herein, Adaltis seeks a \$650,000 D&O Charge, which shall charge all Adaltis' assets, the whole as set forth more fully in the conclusions of the present Petition. The amount of the D&O Charge takes into account hourly and salaried payroll, sales commissions, vacation pay and sales taxes.

83. Adaltis already subscribes to a D&O insurance in an amount of \$10,000,000.00. However, there is still a need for a D&O Charge.

9.3. **APPOINTMENT OF MONITOR**

84. Adaltis requests that this Court appoint RSM Richter Inc. ("RSM") as Monitor, in accordance with the provisions of the CCAA and the initial order to be rendered by the Court (the "Monitor").

85. RSM has agreed to act as Court appointed Monitor to Adaltis.

86. In addition to any powers or obligations provided for by the CCAA, Adaltis hereby requests that this Court grant the Monitor the powers, rights, obligations and protections detailed in the conclusions of the present Petition, namely the orders related to the Administration Charge.

9.4. **ADMINISTRATION CHARGE**

87. For the reasons set out herein, Adaltis seeks an Administration Charge in an amount of \$850,000, which shall charge all Adaltis' assets, the whole as set forth more fully in the conclusions of the present Petition.

9.5. **BAMBIĆ RETENTION AGREEMENT**

88. Adaltis' board of directors has expressed concern that certain employees, including and especially the senior management, may not remain with Adaltis during its restructuring efforts because of the uncertainty of their continued long-term employment, and Adaltis' financial situation.

89. In this context, Adaltis concluded a retention agreement on June 26, 2009 with its President and Chief Executive Officer, Peter Bambic (the “**Bambic Retention Agreement**”), a copy of which will be filed under seal at the hearing of the present Petition as **Exhibit R-6**.
90. It is believed that in view of his specific skill set and experience Peter Bambic was likely to receive competitive employment offers.
91. Adaltis requires the continued service and assistance of Peter Bambic in order to maintain its assets and business and to complete its restructuring process.
92. In view of the sensitive and confidential nature of the Bambic Retention Agreement and that it is part of an employment agreement, Adaltis hereby requests an order that Exhibit R-6 remains under seal.
10. **CONCLUSIONS**
93. The initial order being sought by Adaltis is based on the standard form of *CCAA* Order of the Superior Court of Québec, Commercial Division, with changes that will be identified to this Court by counsel for Adaltis.
94. The filing and presentation of this Petition has been approved by the Directors of Adaltis in accordance with the rules, regulations and by-laws governing Adaltis.
95. For the reasons explained above, Adaltis believes it is both appropriate and necessary that the relief being sought be granted. With such relief, Adaltis will be able to restructure its business and affairs to maximize long term value for the benefit of all stakeholders.
96. Considering the urgency of the situation, Adaltis respectfully submits that the notices given of the presentation of the present Petition are proper and sufficient.
97. Adaltis respectfully submits that Petition should be granted in accordance with its conclusions.
98. The present Petition is well founded in fact and law.