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# SIGHTSOUND TECHNOLOGIES

CONFIDENTIAL OFFERING MEMORANDUM

*ALLEN & COMPANY* LLC

## TABLE OF CONTENTS

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<b>I. EXECUTIVE SUMMARY .....</b>	<b>1</b>
Overview .....	1
Acquisition Considerations.....	1
Ownership.....	2
Acquisition Option.....	3
Patents.....	3
Litigation Settlement .....	3
Management .....	4
<b>II. COMPANY HISTORY .....</b>	<b>5</b>
Background.....	5
Timeline.....	5
<b>III. SUMMARY OF INTELLECTUAL PROPERTY ASSETS .....</b>	<b>9</b>
Audio/Video ECommerce .....	10
Audio/Video Compression .....	10
Applied Encryption.....	11
<b>IV. SUMMARY OF THE PATENT INFRINGEMENT SUIT.....</b>	<b>12</b>
Patents at Issue.....	12
Complaint Filed .....	12
Discovery Phase .....	12
Markman Report and Recommendation .....	13
Burden of Proof on the Defendants .....	13
Summary Judgment .....	14
Settlement .....	14
<b>V. MARKET OPPORTUNITY .....</b>	<b>15</b>
Disadvantages to Content Owners of the Current Physical Distribution System .....	15
Disadvantages to Consumers of the Current Physical Distribution System .....	15
Online Music Landscape .....	16
Video-on-Demand Landscape .....	17
<b>VI. SUMMARY OF LIABILITIES AND CASH BALANCE.....</b>	<b>18</b>
<b>VII. MANAGEMENT .....</b>	<b>19</b>
Executive Officers and Directors.....	19

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All communications, inquiries and requests for information relating to these materials should be addressed to Allen & Company. **Under no circumstances should the management or employees of SightSound be contacted directly.**

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## **I. EXECUTIVE SUMMARY**

### **Overview**

SightSound Technologies, Inc. (“SightSound” or the “Company”) pioneered and patented digital delivery solutions for the commercial distribution of digital audio and video recordings/files (including but not limited to movies and music), over telecommunications lines, including the Internet, satellite, wireless, and digital cable systems. Recent litigation tested three of the Company’s patents covering download and streaming delivery and both pay-per-use and subscription models. The suit in U.S. District Court for the Western District of Pennsylvania, initiated by SightSound in 1998, concluded in February 2004 when the company reached a favorable settlement in which Bertelsmann subsidiaries CDnow and N2K acknowledged that the three SightSound patents in question were valid and enforceable. The settlement was reached after SightSound had received two highly favorable decisions: a Markman decision, which supported the Company’s position regarding the construction of the patent claims in every material respect, and a decision on Summary Judgment, which granted SightSound’s motion for summary judgment with regard to the defendants’ affirmative defenses and counterclaims of unenforceability, and rejected the defendants’ summary judgment motion attacking the validity of SightSound’s patents. Following the successful settlement, the Company has retained Allen & Company to advise the Company on strategic alternatives, including a potential sale of the Company.

SightSound is a Delaware corporation with its principal executive offices located at 733 Washington Road, Suite 400, Mt. Lebanon, PA 15228. The Company’s website can be found at <http://www.sightsound.com>. The information contained at the Company website is not, and shall not be deemed to be, a part of this Confidential Offering Memorandum.

### **Acquisition Considerations**

**Large and Growing Market.** The SightSound patents cover a vast emerging market of digital content distribution which includes, but is not limited to, online music purchases and Video-on-Demand (“VOD”) provided through telecommunications lines, whether via Internet, satellite, wireless, or digital cable systems.<sup>1</sup> The aggregate revenue potential of these markets is estimated to be \$1.2 billion in 2004, and is projected to grow to \$8.7 billion in 2008.<sup>2</sup> In the last year, improvements in user interface, expansion of offerings and increased marketing by major media and communications companies are rapidly increasing revenues in the music e-commerce market. VOD is growing in reach and popularity as the electronic delivery of movies continues to replace the physical home video market. A robust VOD market has begun to emerge; at the end of 2003, there were approximately 44 million VOD homes passed, 5.4 million VOD subscribers, and 24 million households with high-speed Internet connections.<sup>3</sup>

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<sup>1</sup> The description in this section is for informational purposes only and is not intended to limit or otherwise affect the scope of claims in any one or more of the patents mentioned herein. The full scope of the inventions described in these patents is defined by the claims and their equivalents. Nothing herein shall be used for claims construction, infringement determination or for any another purpose, except to apprise the reader of the general nature of the patents described.

<sup>2</sup> Source: Forrester Research 8/2003. Includes online downloads and subscription services and cable, internet and other VOD.

<sup>3</sup> Source: VOD Homes Passed, Kagan Cable TV Investor 12/22/2003, VOD Subscribers and high speed internet households, Veronis Suhler Stevenson Communications Industry Forecast.

**SightSound's patent portfolio offers a substantial competitive advantage within the VOD and digital music marketplace and a huge licensing opportunity.** Due to its patents, SightSound has a government issued monopoly position through 2016 covering paid digital delivery of audio and video files (2016 is when the last of the SightSound core eCommerce patents will expire – SightSound has additional patents and applications which extend beyond 2016). Following the successful litigation and recent settlement in which SightSound was paid \$3.3 million by CDnow and N2K, any purchaser of SightSound will be able to exploit a myriad of licensing opportunities from these patents.

**Industry pioneering management team knowledge base available to purchaser.** From both a technological and business perspective, SightSound's team has led the development of electronic distribution and the related fields of applied encryption, compression and trusted peer-to-peer networks. Arthur R. Hair, Chairman and CTO, invented the patented eCommerce technology in 1986. He filed for patent protection in 1988 and received his first patent in 1993. Mr. Hair received related continuation patents in 1997 and 1999, as well as two additional patents on related technology. SightSound was the first company to legally and commercially sell and distribute music and feature films on an electronic basis. Scott C. Sander, CEO, negotiated the world's first Internet music distribution agreement and Internet motion picture distribution agreement, as well as the first Internet studio motion picture distribution agreement. Mr. Sander has testified before the U.S. Patent and Trademark Office; U.S. Department of Commerce; U.S. Federal Trade Commission; and the U.S. Department of Justice as well as participated on various industry panels, advocating the value of intellectual property and the future of digital distribution. Mr. Sander has also advised members of the House and Senate Judiciary Committees on issues related to patent rights and eCommerce. SightSound's management has been intimately involved in the patent litigation. Christopher J. Reese, EVP and General Counsel, navigated the successful legal proceedings that bolstered the company's intellectual property claims. Members of the SightSound team are available to be retained by the purchaser on a mutually agreeable basis.

### **Ownership**

Sightsound is a privately held company with 97.3 million fully diluted common shares and no preferred shares outstanding. There are approximately 125 shareholders. Significant shareholders include:

<u>Shareholder</u>	<u>Shares Held<sup>4</sup></u>	<u>% Total</u>
BMW Technology, Inc.	23.1	23.7%
Intertainment AG	11.2	11.6%
WaterView Partners	9.9	10.2%
A.R. Hair, L.P.	8.9	9.1%
Scott Sander & Trust	5.7	5.9%
Alexander LePore	5.6	5.7%
Christopher Reese	4.2	4.3%
Robert Arnoni & Trust	2.1	2.2%
BMW Properties	2.0	2.0%
Matt Smith	1.9	2.0%
Jay Lustig	1.7	1.7%
Miramax Film Corp.	1.5	1.5%

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<sup>4</sup> Fully diluted shares, includes options and warrants.

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