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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	
In re:	:	Chapter 7
	:	
AIRFASTTICKETS, INC.,	:	Case No. 15-11951 (SHL)
	:	
Debtor.	:	
	:	
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**OBJECTION OF PANOS KORDONOURIS & ASSOCIATES E.E. A/K/A NEW MEDIA
CONCEPT LIMITED PARTNERSHIP AND GOODWIN SOLUTIONS GMBH TO
DEBTOR’S MOTION (I) FOR AUTHORIZATION TO (A) SELL SUBSTANTIALLY ALL
OF ITS PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES,
AND OTHER INTERESTS AND (B) ASSUME AND ASSIGN CONTRACTS AND
(II) FOR APPROVAL OF PROCEDURES FOR DETERMINING CURE AMOUNTS**

Panos Kordonouris & Associates E.E. a/k/a New Media Concept Limited Partnership
(together, the “Company”) and Goodwin Solutions GmbH (“Goodwin Solutions”), contract
counterparties and/or creditors of AirFastTickets, Inc. (the “Debtor”), by and through their
undersigned counsel, hereby object to the Debtor’s Motion (I) for Authorization to (A) Sell
Substantially All of Its Property Free and Clear of All Liens, Claims, Encumbrances, and Other
Interests and (B) Assume and Assign Contracts and (II) for Approval of Procedures for Determining
Cure Amounts (the “Sale Motion”) [Docket No. 27]. In support of this objection, the objectors rely

on the supporting Declaration of Panos Kordonouris, dated November 17, 2015 (the “Kordonouris Declaration”), and respectfully represent as follows:

BACKGROUND

The Debtor’s Bankruptcy Case

1. On July 27, 2015, certain of the Debtor’s creditors filed an involuntary petition against the Debtor seeking an order for relief under chapter 7 of the Bankruptcy Code.
2. On September 21, 2015, the Debtor filed an answer to the involuntary petition, consenting to the entry of an order for relief under the Bankruptcy Code. On the same date, the Debtor filed a motion to convert its chapter 7 case to one under chapter 11 of the Bankruptcy Code [Docket No. 10].
3. On October 28, 2015, the Court entered an Order converting the Debtor’s chapter 7 case to one under chapter 11 of the Bankruptcy Code [Docket No. 28].

The License Agreement

4. The Company created a software system that is used for on-line booking and payment of hotel rooms and air travel (the “Booking System”).
5. On May 14, 2013, the Debtor and the Company entered into that certain Agreement (the “License Agreement”) pursuant to which the Company provided the Debtor with a non-revocable and non-exclusive license to use the Booking System. License Agreement, § 1.1.¹
6. On April 28, 2014, pursuant to that certain Transfer Agreement of Intangible Assets (the “Transfer Agreement”), the Company transferred to Goodwin Solutions, among other things, the Booking System (including all associated intellectual property rights) and the License Agreement.

¹ On July 31, 2013, the Debtor and the Company entered into an Amendment to the License Agreement. The Amendment has no impact on this objection.

7. Under the License Agreement, the Debtor is required to make certain payments to the Company, including (but not limited to) for the Booking System, License Agreement, § 2.2, items added to the Booking System at the request of the Debtor, *id.* § 6.1, and a fee of seventy-five cents (€0,75) per PNR created for a Travel Reservation (as defined in the License Agreement) (“PNR Fees”). *Id.* § 7.

8. On or about September 22, 2014, the Company provided the Debtor with a written notice of breach of the License Agreement. A copy of the breach notice is attached to the Kordonouris Declaration as Exhibit A. Pursuant to such notice, the Company sought under the terms of the License Agreement payment by the Debtor within thirty (30) days of the breach notice of €214.688,50 (€188.452,50 of which was for PNR Fees, and €26.236,00 of which was for Development Fees) for the Debtor’s use of the Booking System and services rendered by the Company during the period May 2014 to August 2014. The Debtor has not made such payment despite its promises to do so. (The Debtor scheduled a general unsecured claim for the Company in the sum of \$321,488.68. *See* Schedule F (Sheet 18 of 25 total sheets in Schedule F).)

The Proposed Sale

9. On October 26, 2015, the Debtor filed the Sale Motion. The Debtor is seeking pursuant to the Sale Motion to among other things sell all of its intellectual property and software and certain related assets² to AirTourist, Inc. (the “Buyer”) free and clear of all liens, claims, encumbrances, and other interests.

² The proposed sale includes, among other things: “(a) All Intellectual Property and Software set forth on Exhibit A to the Purchase and Sale Agreement, including all designs, code, domain names, and licenses set forth on Exhibit A to the Purchase and Sale Agreement; (b) Subject to Section 1.1(e)(i) of the Purchase and Sale Agreement, Data, lists, records and other proprietary information as set forth on Exhibit A to the Purchase and Sale Agreement; (c) Seller’s rights and interests in all “Assumed Contracts” as set forth on Exhibit B to the Purchase and Sale Agreement; ...” Sale Motion, p. 12.

10. In addition, the Debtor seeks pursuant to the Sale Motion to establish certain procedures in connection with the Debtor's assumption and assignment of contracts to the Buyer in connection with the proposed sale. The Sale Motion provides that the Debtor shall file a notice of assumption with the Court not later than fourteen (14) days prior to the hearing on the Sale Motion (currently scheduled for November 24, 2015), and that such notice will list all contracts of the Debtor related to the property being sold that the Debtor and the Buyer believe may be assumed and assigned in connection with the sale and a good faith estimate of the cure amount applicable to each such contract. *See* Sale Motion, ¶ 68.

11. As of the date and time of the filing of this objection (which is seven (7) days prior to the hearing on the Sale Motion), the Debtor has not filed such assumption notice.

OBJECTION

The Objectors Object to the Sale Motion to the Extent the Debtor is Seeking to Sell the Booking System or the Source Code for the Booking System

12. The Booking System is a key component of the Debtor's website. Such software allows a user to book and pay for travel reservations. It appears that the Debtor has decompiled, reverse-engineered, disassembled or otherwise attempted to reconstruct the Booking System and that by doing so has obtained the full source code for the Booking System. *See* Kordonouris Declaration, ¶ 7.

13. Thus, the objectors believe that the Debtor intends to include the source code for the Booking System as part of its proposed sale to the Buyer. *See* Exhibit A to Purchase and Sale Agreement (which is attached to the Sale Motion) listing property subject of the Debtor's proposed sale, ¶ 2 ("All source code and rights to source code – past, present, and future – that is compiled and installed on machines that run the AirFastTickets Website, including all Amazon infrastructure

and hosted data contained in or associated with it, and all configuration data necessary in order for the systems to operate properly.”).

14. Moreover, as noted above the Booking System is a key component of the Debtor’s website. The Debtor is also seeking to sell “[a]ll physical servers, electronic storage and computing devices in New York, including a Microsoft Team Foundation Server containing source code and project management system.” Exhibit A to Purchase and Sale Agreement, ¶ 3. Thus, it appears the Debtor may also be seeking to sell the Booking System.

15. The Debtor does not have the right to sell the Booking System or the source code for the Booking System and the Booking System and the source code for the Booking System must be explicitly carved out of the property to be sold pursuant to the Debtor’s proposed Purchase and Sale Agreement.

The Debtor Must Comply with Section 365 of the Bankruptcy Code if It Seeks to Assume the License Agreement

16. While it does not appear from the Sale Motion (and the Debtor’s other filings to date) that the Debtor is seeking to assume and assign the License Agreement to the Buyer pursuant to the Purchase and Sale Agreement,³ if the Debtor sought to do so it would need to comply with the requirements of section 365 of the Bankruptcy Code including (i) paying the Company the total sum owed under the License Agreement and (ii) providing the Company with adequate assurance of the Buyer’s future performance under the License Agreement. *See* 11 U.S.C. § 365(b)(1) & (f).

³ Indeed, the License Agreement was not included by the Debtor in its Schedules as an executory contract, it was not included in any assumption notice (which notice was never filed by the Debtor as far as the objectors are aware), and it is not included in Exhibit B to the Purchase and Sale Agreement listing assumed contracts.

The Objectors Object to the Sale Motion to the Extent the Debtor is Including in the Sale Any of the Approximately \$40 Million in Receivables

17. Although this does not appear to be the case from the Sale Motion, the objectors also object to the Sale Motion to the extent that the Debtor is including in the proposed sale any of the approximately \$40 million in receivables listed in Schedule B.

CONCLUSION

WHEREFORE, the objectors respectfully request that this Court (i) direct the Debtor to explicitly carve out the Booking System and the source code for the Booking System from the property to be sold pursuant to the Debtor's proposed Purchase and Sale Agreement and (ii) in the event the Debtor seeks to assume the License Agreement, direct the Debtor to comply to the requirements of section 365 of the Bankruptcy Code, including (a) paying the Company the total sum owed under the License Agreement and (b) providing the Company with adequate assurance of the Buyer's future performance under the License Agreement, and grant the objectors such other and further relief as this Court deems just and proper.

Dated: New York, New York
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