

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

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In re:	)	Chapter 11 Case No.
	)	
ATARI, INC., <u>et al.</u> ,	)	13-10176 (JMP)
	)	
Debtors, <sup>1</sup>	)	

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**AMENDED ORDER, PURSUANT TO BANKRUPTCY RULE 2004,  
(I) DIRECTING THE PRODUCTION OF DOCUMENTS AND WITNESSES BY  
(A) THE DEBTORS, (B) ATARI, S.A. AND ATARI EUROPE SAS, (C) ALDEN GLOBAL  
DISTRESSED OPPORTUNITIES MASTER FUND, L.P. AND ITS AFFILIATES, AND  
(D) BLUEBAY VALUE RECOVERY (MASTER) FUND LIMITED AND ITS  
AFFILIATES, AND (II) AUTHORIZING THE ISSUANCE OF SUBPOENAS**

Upon the motion, dated April 26, 2013 (the “Motion”),<sup>2</sup> of the Official Committee of Unsecured Creditors (the “Committee”) of Atari, Inc., et al., as debtors and debtors-in-possession (the “Debtors”) seeking entry of an order, pursuant to section 105(a) of chapter 11 of title 11 of the United States Code, Rule 2004 of the Federal Rules of Bankruptcy Procedure, (i) directing the production of documents and the examination of individuals, corporate designee(s) or representative(s) of (a) the Debtors, (b) Atari, S.A. and Atari Europe SAS (collectively, the “Parent”), (c) Alden Global Distressed Opportunities Master Fund, L.P. and its affiliates (collectively, “Alden”), and (d) BlueBay Value Recovery (Master) Fund Limited and its affiliates (collectively, “BlueBay” and together with the Debtors, the Parent and Alden, the “Producing Parties”) and (ii) authorizing the Committee to issue such other subpoenas for testimony and the production of documents as it deems appropriate in its Investigation; and the Court having reviewed the Motion and the Cohen Declaration; and that it appearing that notice

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<sup>1</sup> The Debtors are Atari, Inc., Atari Interactive, Inc., Humongous, Inc., and California U.S. Holdings, Inc.

<sup>2</sup> Any capitalized term not defined herein shall have the meaning ascribed to it in the Motion.

of the Motion was good and sufficient under the circumstances and that no other or further notice need be given; and it appearing that the document requests and testimony sought from the Producing Parties is within the scope of permissible discovery under Bankruptcy Rule 2004; and this Court having entered an order (the "Final DIP Order") on March 7, 2013, authorizing the Debtors to incur post-petition financing from Alden on a final basis (ECF No. 125), pursuant to which an investigation deadline was set for 120 days from that date, or July 5, 2013 (the "Investigation Termination Date"); and this Court having entered an order (the "Original Order") on May 1, 2013 approving the Motion (ECF No. 201); and the Producing Parties, in resolution of the limited objections informally raised with counsel to the Committee, having agreed (i) not to seek reconsideration of the Original Order or this Amended Order and (ii) to limit any objections to the Document Requests as set forth below herein; and after due deliberation of the foregoing; and good cause appearing therefor, it is hereby

**ORDERED**, that the Motion is granted in its entirety; and it is further

**ORDERED**, this Amended Order amends and supersedes in its entirety the Original Order; and it is further

**ORDERED**, that the Investigation Termination Date set forth in the Final DIP Order is hereby extended through and including August 5, 2013, subject to further extension by this Court or upon written approval of Alden (with notice of such extension to be filed on the public docket and separately provided to the Court); and it is further

**ORDERED**, that by no later than June 15, 2013, unless such deadline is extended by this Court or by the Committee in writing, the Producing Parties shall produce to the Committee the documents requested by the Committee in the Document Requests attached as **Exhibit A** hereto, including all responsive ESI from appropriate custodians. The Producing

Parties shall also take immediate affirmative steps to preserve electronic correspondence, including, without limitation, any and all correspondence between and amongst BlueBay and its affiliates, the Debtors, the Parent and Alden and their representatives or employees; and it is further

**ORDERED**, that any objections asserted by the Producing Parties other than non-party BlueBay to the Document Requests shall only be asserted on the grounds of privilege, compliance with applicable law and the limitations set forth in Bankruptcy Rule 7026(b)(2)(C), provided, however, the Producing Parties' right to object to the Document Requests pursuant to Bankruptcy Rule 7026 as granted herein is not intended to, and shall not, limit the Committee's rights to seek discovery pursuant to Bankruptcy Rule 2004. Any permitted objection must be served so that it is received by Counsel to the Committee by no later than May 24, 2013 at 5 p.m., Prevailing Eastern Time; and it is further

**ORDERED**, that non-party BlueBay and the Committee will negotiate in good faith to seek to reach agreement on any potential objections to the Document Requests. In the event that BlueBay and the Committee cannot reach agreement, BlueBay may object to the Document Requests as if the requests had been served under Bankruptcy Rule 9016 and Fed. R. Civ. P. 45 and/or based on the limitations set forth in Bankruptcy Rule 7026(b)(2)(C) by serving objections and responses to the Document Requests so that they are received by Counsel to the Committee by no later than May 24, 2013 at 5 p.m., Prevailing Eastern Time, provided, however, that BlueBay shall not seek to quash the Document Requests in their entirety; and it is further

**ORDERED**, that if any objection to the Document Requests is timely served, the objecting party and the Committee are directed to meet and confer within seven (7) days of such objection in an effort to resolve the dispute(s) raised in the objection. Absent consensual

resolution of such objection, the Committee shall contact Chambers to schedule a conference with the Court.

**ORDERED**, that the Committee is authorized to take the oral examination of corporate designee(s) or representative(s) of the Producing Parties, to be selected by the Committee upon written notice. The oral examinations will take place as noticed by the Committee or at such times or adjourned times as shall be mutually agreed; and it is further

**ORDERED**, that the Committee is authorized to issue document and/or oral examination subpoenas to persons and entities as it deems appropriate in its Investigation; and it is further

**ORDERED**, that in the event that any Producing Party fails to comply with the provisions of this Amended Order, such Producing Party shall not be deemed to be in contempt of this order; rather, the Committee shall be permitted to seek an immediate conference with the Court (either in person or telephonically), subject only to the Court's availability and provided that the Committee shall have given such Producing Party at least one day's notice thereof; and it is further

**ORDERED**, that this Amended Order is without prejudice to the rights of the Committee or other parties in interest to apply for further discovery of any other material witness or document.

**Dated: May 14, 2013**  
**New York, New York**

**/s/ James M. Peck**

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**Hon. James M. Peck**  
**United States Bankruptcy Judge**