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ATTORNEYS FOR THE BLUEBAY VALUE
RECOVERY (MASTER) FUND LIMITED

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

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In re:	: Chapter 11
	: :
ATARI, INC., <u>et al.</u> ,	: Case No. 13-10176 (JMP)
	: :
Debtors.	: Joint Administration Pending
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OBJECTION OF THE BLUEBAY VALUE RECOVERY (MASTER) FUND LIMITED TO THE MOTION OF DEBTORS AND DEBTORS-IN-POSSESSION FOR ENTRY OF AN ORDER (I) AUTHORIZING, BUT NOT DIRECTING, PAYMENT OF CERTAIN PREPETITION CLAIMS OF CRITICAL VENDORS; AND (II) AUTHORIZING AND DIRECTING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS

The BlueBay Value Recovery (Master) Fund Limited (“BlueBay”), as Lender, Facility Agent and Security Agent under that certain Credit Facility Agreement, dated April 21, 2006 (as amended and restated, the “Credit Facility Agreement”) among Atari Europe SAS, as Borrower, Atari S.A., as Parent, and BlueBay, hereby submits this objection (the “Objection”) to the Motion of Debtors and Debtors-In-Possession for Entry of an Order (I) Authorizing, but Not Directing, Payment of Certain Prepetition Claims of Critical Vendors; and (II) Authorizing and Directing Financial Institutions to Honor and Process Related Checks and Transfers [Docket No.

9] (the “Motion”),¹ and by and through its undersigned counsel, respectfully represents as follows:

BACKGROUND

1. BlueBay holds claims against Debtor affiliates Atari Europe SAS, as borrower, and Atari S.A., as guarantor, in respect of debt under the Credit Facility Agreement totaling approximately €21 million.² The claims are secured by, among other things, a first priority lien on all the shares of Atari, Inc. (the “Share Pledge”), which are property of California U.S. Holdings, Inc.’s (“CUSH”) Chapter 11 estate, and a first priority lien in Atari, Inc.’s interest in the Test Drive IP (the “TD IP Lien,” and together with the Share Pledge, the “BlueBay Collateral”). In addition, BlueBay’s claims are secured by a lien on certain intercompany claims of Atari Europe SAS and Atari S.A. against Atari Interactive, Inc. (“Atari Interactive”) totaling over \$144 million as of June 30, 2009. As such, the interests of BlueBay are aligned with the unsecured creditors of Atari Interactive.

OBJECTION

2. BlueBay opposes the Motion because the Debtors have established no basis for seeking the relief requested on an expedited basis. Federal Rule of Bankruptcy Procedure 6003 requires that, “[e]xcept to the extent necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, grant relief regarding . . . a motion to use . . . property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition.” In this case, the Debtors do not allege any basis for the conclusion that irreparable harm will result if the relevant payments on prepetition claims to critical vendors are

¹ Capitalized terms not otherwise defined herein shall carry the meanings set forth in the Motion.

² BlueBay also owns equity in certain affiliates of the Debtors and holds a lien on the shares of Atari Interactive that also secures claims under the Credit Facility Agreement.

not made in 21 days and thus provide no basis for the Court to grant the requested relief on an expedited basis. The Motion should be denied on those grounds alone.

3. Moreover, as described in BlueBay's Objection to the Debtors' request for debtor in possession financing [Dkt. No. 24], the Debtors are essentially asking the Court (and parties in interest) to assume that there is meaningful going-concern value realizable in a Chapter 11 plan or sale process (over and above the amount of the DIP loans, the proposed DIP fees and other Chapter 11 administrative costs) which will exceed the value achievable, likely at much lower cost, in a simple Chapter 7 liquidation of the Debtors' assets. The Debtors have filed no schedules, and based on the little information available so far, no funds should leave the Debtors' estates without adequate consideration and solid proof of value to be returned.

CONCLUSION

4. Wherefore, BlueBay asks that the Motion be denied without prejudice and that this Court grant such other relief as it determines appropriate.

Dated: New York, New York
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