

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

**INTERIM ORDER (I) AUTHORIZING CONTINUED USE OF EXISTING
CASH MANAGEMENT SYSTEM, (II) ACCORDING ADMINISTRATIVE
EXPENSE STATUS FOR INTERCOMPANY RECEIVABLES,
(III) AUTHORIZING CONTINUED USE OF EXISTING BUSINESS
FORMS, AND (IV) GRANTING CERTAIN RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) for entry of interim and final orders, pursuant to sections 105(a), 345(b), 363(b), 363(c), 364(a), 503(b)(1) and 507(a)(2) of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, (i) authorizing the Debtors’ continued use of their Cash Management System in accordance with the Debtors’ prepetition ordinary business practices, including the continued use of the Accounts, (ii) according administrative expense status to intercompany receivables generated through the Cash Management System, (iii) authorizing the continued maintenance of existing Business Forms, (iv) waiving the investment and deposit requirements of section 345(b) of the Bankruptcy Code for cause, and (v) granting related relief; and upon consideration of the *Declaration of Robert A. Mattes (I) In Support of Chapter 11 Petitions and First Day Motions and (II) Pursuant to Local Bankruptcy Rule 1007-2* (the “First Day Declaration”); and the Court finding that: (a) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. § 1334(b) and the *Amended Standing Order of*

¹ The other Debtors are Atari Interactive, Inc., Humongous, Inc., and California U.S. Holdings, Inc.

² Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Motion.

Reference M-431, dated January 31, 2012 (Preska, C.J.); (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) venue of the Debtors' chapter 11 cases and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; (d) the relief requested in the Motion is in the best interest of the Debtors, their estates and their creditors; (e) notice of the Motion and the hearing thereon was adequate and appropriate under the particular circumstances; (f) cause exists, within the meaning of section 345 of the Bankruptcy Code, to permit the Debtors to deposit and invest funds in accordance with the terms hereof; (g) there is good cause to waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h) to the extent it is applicable; (h) the requirements of Bankruptcy Rule 6003(b) have been satisfied with respect to the relief authorized by this Order; and (i) good and sufficient cause exists for the granting of the relief requested in the Motion after having given due deliberation upon the Motion, the First Day Declaration and all of the proceedings had before the Court in connection with the Motion. Therefore,

IT IS ORDERED THAT:

1. The Motion is **GRANTED** on an interim basis on the terms set forth herein, subject to becoming a final order as provided herein.
2. The provisions of this interim order (the "Interim Order") shall be effective *nunc pro tunc* to the date of the commencement of the Debtors' chapter 11 cases (the "Petition Date").
3. The Debtors are authorized to continue to manage their cash utilizing the Cash Management System maintained by the Debtors prior to the Petition Date in accordance with the agreements governing the Accounts (as defined below), including, without limitation, any prepetition cash management agreements or treasury service agreements (collectively, the "Bank Account Agreements"), and to collect, concentrate, and disburse cash in accordance with their pre-Petition Date practices, including intercompany transfers.

4. The Debtors are authorized to continue to use, with the same account numbers, all of the bank accounts in existence as of the Petition Date, including without limitation those accounts identified on **Exhibit C** to the Motion (collectively, the “Accounts”) in accordance with the Bank Account Agreements and to treat the Accounts for all purposes as debtor-in-possession accounts of the Debtors.

5. The Debtors are authorized to use, in their present form, all Business Forms, including but not limited to checks written manually and other documents related to the Accounts existing immediately before the Petition Date; provided, however, that as soon as reasonably practicable, the Debtors shall note their status as “Debtors-in-Possession” on all Business Forms.

6. Except as otherwise expressly provided in this Interim Order, the Banks are authorized to continue to service and administer the Accounts as debtor-in-possession accounts of the Debtors, without interruption pursuant to the Bank Account Agreements and in the ordinary course, and subject to paragraph 9 below, to receive, process, honor and pay any and all checks, drafts, wires and automated clearing house (“ACH”) transfers issued and drawn on the Accounts by the holders or makers thereof, whether before or after the Petition Date, as the case may be, to the extent the Debtors have good funds standing to their credit with the Banks, unless the Debtors specifically instruct the Banks otherwise in accordance with the terms of the Bank Account Agreements.

7. The Debtors are authorized to open any new bank accounts or close any of the existing Accounts as they deem necessary and appropriate subject to the terms and conditions set forth in the Bank Account Agreements and the Banks are authorized to honor the Debtors’ requests to open or close any of the Accounts; provided, however, that the Debtors may only

open a bank account with a bank designated as an Authorized Depository under the U.S. Trustee Guidelines, unless first obtaining the consent of the U.S. Trustee.

8. The Debtors are directed to maintain accurate records of all transfers into and from the Accounts so that all postpetition transfers and transactions are adequately and promptly documented in their books and records to the same extent maintained by the Debtors prior to the Petition Date.

9. The Debtors are authorized to request the Banks, and the Banks are authorized to accept and honor all representations from the Debtors, as to which checks, drafts, wires or ACH transfers should be honored or dishonored whether the Banks believe the payment is or is not consistent with the order(s) of this Court and governing law, and whether such checks, drafts, wires or ACH transfers are dated or made prior to, on or subsequent to the Petition Date. The Banks have no duty to inquire as to whether such payments are authorized by an order of this Court, and have no duty to make payments in respect thereto unless obligated to do so under the Bank Account Agreements and the Debtors have good funds standing to their credit with the respective Bank. Notwithstanding any provision of this Order to the contrary, the Banks will not be liable to any party on account of (a) following the Debtors' instructions or representations as to any check or other item that may be honored or as to any order of this Court, (b) the honoring of any prepetition check or item in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) an innocent mistake made despite implementation of reasonable item handling procedures.

10. The Debtors are authorized, but not directed, to pay or reimburse any bank fees, claims, costs, expenses or charges associated with the Accounts and arising prior to and after the Petition Date, including, without limitation, (i) service charges or fees; (ii) checks deposited with

the Banks which have been dishonored or returned for insufficient funds; and (iii) any reimbursement or other payment obligations, such as overdrafts, arising under the Bank Account Agreements (collectively, the “Bank Account Claims”). In the course of maintaining any of the Accounts for the Debtors, the Banks are authorized, without further Order of this Court, to continue to deduct from the appropriate Accounts, the Bank Account Claims incurred in connection with the Accounts.

11. All intercompany claims and Bank Account Claims arising after the Petition Date and incurred in the ordinary course of business by and among the Debtors arising from intercompany transactions are accorded administrative expense status pursuant to sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code.

12. The Debtors shall put in place accounting procedures to identify and distinguish between prepetition and postpetition intercompany transactions and to track postpetition intercompany transactions.

13. Nothing contained in this Interim Order or the Motion shall constitute a rejection or an assumption by the Debtors of any executory contract or unexpired lease.

14. Within five (5) business days after the entry of this Interim Order on the Court’s docket, the Debtors shall serve a copy of the Motion and this Interim Order upon (a) the U.S. Trustee; (b) counsel to the proposed DIP Lender; (c) the creditors holding the thirty (30) largest unsecured claims against the Debtors’ estates, as identified in the Debtors’ chapter 11 petitions; (d) the Banks at which the Debtors maintain the Accounts; and (e) all parties that have filed a notice of appearance or have requested service in these chapter 11 cases. Service of this Interim Order with a copy of the Motion as provided herein shall be deemed good and sufficient service of the Motion and the Final Hearing (as defined below).

15. Any responses or objections to granting the relief requested in the Motion on a final basis shall be filed with the Clerk of the Bankruptcy Court electronically in accordance with the General Order M-399 (General Order M-399 and the User's Manual for the Electronic Case Filing System can be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court), and served so that they are received no later than three (3) business days prior to the Final Hearing (the "Objection Deadline") (with a courtesy copy delivered directly to the Chambers of the Honorable James M. Peck, United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004): by (i) proposed attorneys for the Debtors, Hunton & Williams LLP, 200 Park Avenue, 53rd Floor, New York, New York 10166, Attn: Peter S. Partee, Sr., Esq.; (ii) the Office of the United States Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004, Attn: Richard C. Morrissey, Esq.; (iii) counsel for the proposed DIP lender; and (iv) counsel for the statutory committee of unsecured creditors, once appointed.

16. The final hearing on the Motion (the "Final Hearing") shall be held on February 14, 2013 at 10:00 a.m. (prevailing Eastern Time), or as soon thereafter as counsel may be heard.

17. Pursuant to Bankruptcy Rule 6004(h), to the extent applicable, this Interim Order is immediately effective and enforceable upon its entry.

18. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion. To the extent any other order is entered by the Court directing any Banks to honor checks, drafts, ACH transfers, or other electronic funds transfers or any other withdrawals made, drawn, or issued in payment of prepetition or postpetition claims, the obligation to honor such items shall be subject to this Order.

19. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Interim Order.

Dated: New York, New York
January 25, 2013

s/ James M. Peck
HONORABLE JAMES P. PECK
UNITED STATES BANKRUPTCY JUDGE