

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)

**ORDER 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**

Upon consideration of the motion (the “Motion”)² of the debtors and debtors-in-possession in the above-captioned chapter 11 cases (the “Debtors”) for entry of an order (this “Order”) (i) authorizing the Debtor to pay prepetition claims of certain critical developers, one licensor, and other third parties who provide services essential to the Debtors’ operations; and (ii) authorizing and directing banks and financial institutions at which the Debtors maintain disbursement and other accounts, to receive honor, process, and pay any and all related checks or electronic fund transfers; and the Court having held a hearing on January 24, 2013 (the “Hearing”) to consider the relief requested in the Motion; and having considered the arguments of counsel made, and the evidence submitted, proffered or adduced at the Hearing; and the Court finding that: (a) it has jurisdiction to consider the Motion pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference M-431*, dated January 31, 2012 (Preska, C.J.); (b) venue of the chapter 11 cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (d) notice of the Motion and the Hearing was adequate and appropriate under the particular circumstances; and

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

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

(e) the relief requested in the Motion is the best interests of the Debtors, their estates, their creditors and other parties in interest; and the Court having determined that the factual and legal bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein,

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** to the extent provided herein.
2. The Debtors are authorized, but not directed, to pay the Critical Vendor Claims held by the Critical Vendors who agree to continue to provide services to the Debtors on the normal trade terms, practices, and programs that were most favorable to the Debtors in effect prior to the Petition Date (“Customary Trade Terms”), or on other such favorable terms as are acceptable to the Debtors.
3. If a Critical Vendor refuses to continue to supply goods or services to the Debtors on the Customary Trade Terms or on such favorable terms as are acceptable to the Debtors, then the Debtors may, in their sole discretion and without further order of this Court, exercise the following rights: (i) declare the payment of the Critical Vendor Claim a voidable postpetition transfer under section 549(a) of the Bankruptcy Code that the Debtors may seek to avoid and recover; and (ii) return the parties to their original positions (*i.e.*, immediately prior to the entry of this Order) by reinstating the Critical Vendor Claim and demanding the immediate return of the Debtors’ payment of the applicable Creditor Vendor Claim (to the extent that the amount exceeds post-petition amounts owed by the Debtors without giving effect to setoff, recoupment, adjustments, etc.).
4. In accordance with this Order and any other order of this Court, each of the financial institutions at which the Debtors maintain their accounts relating to the prepetition or postpetition obligations the Debtors are authorized to pay pursuant to this Order is directed to

honor checks presented for payment and fund transfer requests made by the Debtors related to such obligations to the extent sufficient funds are on deposit in such accounts.

5. The Debtors are authorized to issue postpetition checks or to make additional electronic payment requests with respect to payment of the Critical Vendor Claims in the event prepetition checks or electronic payment requests are dishonored or rejected.

6. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied.

7. Notwithstanding anything to the contrary in this Order, the relief requested in the Motion with respect to Chris Sawyer will be heard on **February 14, 2013 at 10:00 a.m. (prevailing Eastern Time)**, or as soon thereafter as counsel may be heard, before the Honorable James M. Peck, United States Bankruptcy Judge, Courtroom 601, at the United States Bankruptcy Court for the Southern District of New York located at One Bowling Green, New York, New York 10004.

8. Any responses or objections to the relief requested in the Motion with respect to Chris Sawyer shall be filed electronically with the Clerk of the Bankruptcy Court in accordance with 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) days prior to the 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, 271 Cadman Plaza East, Suite 4529, Brooklyn, New York 11201, Attn: Richard C. Morrissey, Esq.; (iii) counsel for the

DIP lenders, Bracewell & Giuliani LLP, 1251 Avenue of the Americas, 49th Floor, New York, New York 10020, Attn: Robert G. Burns, Esq.; (iv) counsel for Atari, S.A., Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020, Attn: Ken Coleman, Esq.; and (v) counsel for any statutory committee.

9. Nothing contained in this Order or the Motion shall impair the Debtors' ability to contest, without prejudice, the validity or amount of any Critical Vendor Claim.

10. Nothing contained in this Order or the Motion shall prohibit the Debtors from seeking Court authority to increase the prepetition amounts authorized to be paid hereunder.

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

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

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

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

Dated: New York, New York
January 25, 2013

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