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February 25, 2016

By ECF

Hon. James L. Garrity
United States Bankruptcy Judge
United States Bankruptcy Court for the
Southern District of New York
One Bowling Green
New York, New York 10004-1408

Re: In re Atari, Inc. et al., Case No. 13-10176 (JLG)

Dear Judge Garrity:

We represent Alden Global Capital LLC, as investment adviser for Alden Global Value Recovery Master Fund L.P. (“Alden”), in connection with its pending motion to reopen the referenced chapter 11 cases and to enforce provisions in the Debtors’ confirmed plan of reorganization and the related confirmation order [Doc. No. 579] (the “Motion”). As requested by the Court during the informal discovery conference on February 23rd, I am writing with the concurrence of Daniel Saval of Brown Rudnick LLP, who is counsel on the Motion for the Reorganized Debtors, Atari S.A. and Atari Europe SAS (collectively, “Atari”), to set forth our understanding of the resolution reached during the conference of the discovery dispute concerning Alden’s notice of deposition of Atari S.A. pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure served on February 4, 2016 (the “Deposition Notice”).

Based on the discussion at the discovery conference, the parties understand that the hearing scheduled for March 10, 2016 concerning the Motion will not be an evidentiary hearing. As more fully described in this letter, Alden will not at this time seek an order compelling the deposition of Atari, S.A. while reserving its right to seek that deposition if Alden determines it to be necessary based on the course of any further proceedings on the Motion following that hearing. Atari similarly reserves all of its rights and objections with respect to the Deposition Notice and with respect to its right to seek discovery if Atari determines it to be necessary based on the course of any further proceedings on the Motion following the March 10th hearing.

It was agreed during the conference that the March 10th hearing will focus on the threshold question of whether these cases should be reopened. All other relief sought in the



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Motion will be deferred until the Court has addressed that issue. Further, for purposes of the March 10th hearing, the parties acknowledge that there is a disputed issue of fact raised by the Declaration of Frédéric Chesnais dated January 21, 2016 [Doc. No. 591] (“Chesnais Decl.”), specifically, Mr. Chesnais’s statement that “[i]n or about March 2015, Atari Europe discovered that the effective global rate (Taux Effectif Global (“**TEG**”)) provided in the Credit Agreement was incorrect.” Chesnais Decl., ¶ 14. (The same paragraph quotes from a letter dated March 30, 2015 making the same assertion). The parties also disagree as to the relevance of French law for purposes of the March 10th hearing and the potentially applicable principles of French law if it applies, and the parties reserve their rights on those issues for all purposes.

Although Alden disputes the factual assertion set forth in Mr. Chesnais’s Declaration, it is prepared to go forward with the hearing on March 10th without having first taken the noticed deposition of Atari S.A. based on the understanding reached during the conference on February 23rd that no relief will be granted or denied on the basis of that disputed factual assertion without Alden first having the opportunity to renew its request for such discovery (with all of Atari’s rights reserved). Both Alden and Atari reserve all of their rights with respect to any other discovery that either of them might seek or determine to be necessary based on the course of any further proceedings.

In the event the Court determines to reopen the cases following the March 10th hearing, this letter and the agreement reflected herein shall not be construed as waiving the rights of any party in connection with any further proceedings on the Motion or otherwise.

All parties appreciate the Court’s time and attention with respect to these issues.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'John J. Clarke, Jr.', written in a cursive style.

John J. Clarke, Jr.

The foregoing is consistent with my understanding of the discussion with the Court:

A handwritten signature in blue ink, appearing to read 'Daniel J. Saval', written in a cursive style.

Daniel J. Saval