

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

)	
In re:		)	Chapter 11
CONEXANT SYSTEMS, INC., <i>et al.</i> , ¹		)	Case No. 13-10367 ()
)	
Debtors.		)	Joint Administration Requested
)	

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND
FINAL ORDERS AUTHORIZING, BUT NOT DIRECTING,
THE DEBTORS TO MAINTAIN AND ADMINISTER CUSTOMER
PROGRAMS AND HONOR PREPETITION OBLIGATIONS RELATED THERETO**

Conexant Systems, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "**Debtors**"),² respectfully represent:

Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The bases for the relief requested herein are sections 105(a), 363, 1107(a) and 1108 of the Bankruptcy Code, Rules 6003 and 6004(h) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and Rule 9013-1(m) of the Local Rules of Bankruptcy

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-identification number, are: Conexant Systems, Inc. (9439); Conexant CF, LLC (6434); Brooktree Broadband Holding, Inc. (5436); Conexant, Inc. (8218); and Conexant Systems Worldwide, Inc. (0601). The Debtors' main corporate address is 4000 MacArthur Blvd., Newport Beach, California 92660.

² A detailed description of the Debtors and their businesses, and the facts and circumstances supporting this motion and the Debtors' chapter 11 cases, are set forth in greater detail in the Declaration of Sailesh Chittipeddi, President and CEO of Conexant Systems, Inc., in Support of First Day Pleadings (the "**First Day Declaration**"), filed contemporaneously with the Debtors' voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"), on February 28, 2013 (the "**Petition Date**").

Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "*Local Rules*").

Relief Requested

4. By this motion, the Debtors request entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (the "*Interim Order*" and the "*Final Order*," respectively), (a) authorizing, but not directing, the Debtors to (i) maintain and administer the Debtors' customer-related programs, including equipment manufacturer and distributor price adjustment, rebate, and warranty programs (each a "*Customer Program*" and collectively, the "*Customer Programs*") and (ii) make payments to customers or otherwise honor accrued prepetition obligations owed under their Customer Programs (collectively, and as identified below, the "*Customer Program Obligations*") and to continue, replace, modify or terminate any Customer Program in the ordinary course of business, (b) authorizing financial institutions to receive, process, honor and pay all related checks and electronic payment requests for payment of Customer Program Obligations and (c) scheduling a final hearing (the "*Final Hearing*") to consider entry of the Final Order, to the extent necessary.

5. Absent honoring Customer Program obligations in the ordinary course of business, the Debtors may lose a number of significant customers who have come to expect and rely on such Customer Programs, thereby resulting in a potential surge of cancellations on orders in process. Thus, the Customer Programs are necessary for the Debtors to stay competitive and maintain their customer base during this critical juncture as well as during the course of these chapter 11 cases.

Basis for Relief

6. For more than fourteen years, the Debtors have created numerous long-standing

customer relationships through their distribution channels. These relationships have, in large part, been sustained by the Customer Programs, which encourage sales, foster brand loyalty, manage pricing and establish (and maintain) customer goodwill. Failure to continue the Customer Programs and honor the Customer Program Obligations will erode hard-earned customer loyalty and goodwill, substantially reducing sales and jeopardizing the Debtors' ability to effectuate a successful reorganization. Because the Debtors' industry is highly competitive, these customers will likely seek to replace the Debtors as suppliers if the Debtors fail to honor Customer Programs, thereby crippling revenue, collection of accounts receivable and the Debtors' opportunity to effectively reorganize. Accordingly, the Debtors seek authorization to continue, modify or terminate the Customer Programs in the ordinary course of business and to honor the Customer Program Obligations, as described below, so that customer relationships are maintained and business operations can continue uninterrupted.

A. Overview of the Debtors' Sales Practices

7. The Debtors primarily sell their products through independent sales consulting firms ("*Sales Consultants*") and distributors ("*Distributors*"),³ who present the Debtors' products to original design manufacturers ("*ODMs*"),⁴ or contract manufacturers ("*Contract Manufacturers*,"⁵ and together with the ODMs and Distributors, the "*Indirect Customers*") who ultimately resell or distribute to original equipment manufacturers ("*OEMs*" or "*Direct*

³ Distributors include entities that purchase and resell the Debtors' products to Indirect Customers (defined herein) within a defined territory in the retail or industrial markets.

⁴ ODMs include entities that purchase, design and manufacture the Debtors' products to specifications required by specific OEMs.

⁵ Contract Manufacturers manufacture pre-designed product for specific OEMs.

Customers”, and collectively with the Indirect Customers, “*Customers*”)⁶ for use in “end-user,” or retail goods. Indirect Customers purchase, customize and resell the Debtors’ products for integration into an OEM’s final product, such as a television or other audio-sensitive—often voice-controlled—device. Indirect Customers, particularly Distributors, are responsible for approximately half of the Debtors’ sales, while the other half of the Debtors’ sales and are made directly from the Debtors to OEMs.

8. The vast majority of the Debtors’ sales are not pursuant to a formal agreement. Instead, Customers send purchase orders to the Debtors, and the Debtors provide the Customer with a sales order acknowledgement, which typically contains the terms and conditions of the sale (the “*T&Cs*”). For example, the T&Cs generally provide that Customers may not cancel orders for the Debtors’ product within 30 to 90 days of scheduled delivery, depending on order requirements. In addition to cancellation policies, the T&Cs also provide for shipment scheduling and warranties, each of which is described further below.

B. Customer Programs

i. Distributor and Other Indirect Customer Agreements and Direct Rebates

9. The Debtors sell devices to Distributors at a pre-determined list price (the “*Book Price*”). The purpose of the Book Price is to ensure consistency among sales channels such that none of the sales channels are afforded special pricing. The Book Price may be discounted for, among other things, target Distributor margins (i.e., whether Distributors meet certain sales milestones) (the “*Competitive Price Approval*”). The Debtors also negotiate a margin that the Distributor will earn upon resale of the product to an Indirect Customer or Direct Customer that

⁶ OEMs are “end-customers” who sell goods incorporating the Debtors’ product in the retail markets.

is ultimately credited back to Distributor (the "*Price Deviation Adjustment*").

10. The Price Deviation Adjustment is triggered by volume sales or sales to highly valued customers through Distributors. To effectuate a Price Deviation Adjustment, the Debtors ship the product to Distributors based on the Book Price and debit back credits to the Distributor based on the Debtors' pricing guidelines. This so-called "ship and debit" method results in a credit equal to the difference between the price actually paid by the Distributor and the Book Price.

11. With respect to ODMs and Contract Manufacturers, rather than credit back money via the ship and debit method, the Debtors control and standardize the prices that ODMs and Contract Manufacturers offer to OEMs by subsequently providing cash rebates, a credit toward future purchases or free product directly to OEMs ("*Direct Rebates*"). The value of the Direct Rebate is ultimately determined by product specifications, volume and the historical purchasing pattern with a specific OEM. For example, if the Debtors determine in their business judgment that a Direct Rebate is warranted and that the sales opportunity maximizes value, the Direct Rebate will be granted.

12. In 2012, the Debtors honored approximately \$15,407,000 in Price Deviation Adjustments and provided \$21,622,000 in Direct Rebates to their Customers. As of the Petition Date, the Debtors estimate that approximately \$2,100,000 with respect to Price Deviation Adjustments is outstanding and \$6,100,000 with respect to Direct Rebates is outstanding. The Debtors request the authority to honor these obligations in their discretion and to continue the Price Deviation Adjustment and Direct Rebate program in the ordinary course of business on a postpetition basis.

ii. Sales Consultant Commissions

13. In addition to Distributors, the Debtors utilize a network of Sales Consultants to market products to OEMs, typically within a defined territory. The Sales Consultants have unique knowledge and relationships with respect to OEMs and often present opportunities to the Debtors that result in direct sales to OEMs for specialized semi-conductor designs. The Debtors pay the Sales Consultants a percentage of revenue directly resulting from the Sales Consultants' efforts (the "*Sales Consultant Commissions*"). In 2012, the Debtors paid approximately \$380,000 in Sales Consultant Commissions to the Sales Consultants. As of the Petition Date, the Debtors estimate that approximately \$30,000 in Customer Program Obligations with respect to Sales Consultant Commissions is outstanding. The Debtors request the authority to honor these obligations in their discretion and to continue the Sales Consultant Commissions program in the ordinary course of business on a postpetition basis.

iii. Warranty and Exchange Programs

14. Because of the nature of the Debtors' business and the extent to which the Debtors' product is customized before integration into final products, the Debtors provide the Distributors with non-cash credits for such returned product that can be used toward future orders. Specifically, if a Customer is not satisfied with product purchased from the Debtors' Distributors and the Debtors' product fails to otherwise meet the Debtors' published product specifications, a Customer has the option to return the product through the Distributor (a "*Return Authorization*") and request replacement goods from the Distributor within one year from the date of purchase so long as the Debtors have a record of the sale and the Debtors validate the claim (the "*Return Authorization Policy*").

15. Consistent with industry practice, Distributors — but not other Customers — are

generally able to exchange a limited portion of the Debtors' product on hand. Specifically, with the Debtors' authorization, a Distributor may, not more than once every six months, return up to ten percent of their then-current inventory, provided the Customer places a new order with the Distributor equal in value to the value of product being returned in accordance with the formula and procedures specified in the applicable Distributor agreement (a "*Stock Rotation*").

16. Upon the Debtors' receipt of product through a Stock Rotation or Return Authorization, subject to the Debtors' inspection and audit, the Debtors will issue a credit to the Distributor for the lower of the Book Price or the Distributor's net cost or the most recent average selling price for the return products. If the Distributor fails to return products under an authorized Stock Rotation or Return Authorization within the appropriate parameters (i.e., in accordance with correct procedures within the required time frame), the Distributor is deemed to have waived its right to return products to the Debtors. In 2012, the cost of the Stock Rotation program and Return Authorizations were approximately \$1.5 million. As of the Petition Date, the Debtors estimate that approximately \$700,000 is owed to Customers on account of authorized, prepetition Return Authorization and Stock Rotations.

17. The Debtors request the authority to honor these obligations in their discretion and to continue the Stock Rotation program and Return Authorization Policy in the ordinary course of business on a postpetition basis.

iv. Indemnification Obligations

18. As described above, the Debtors provide Direct Customers and Indirect Customers with the T&Cs in connection with their sales. Patent-related indemnification obligations, subject to and limited by their respective terms, are typically included in the T&Cs and may require that the Company to indemnify Customers for any damages sustained from

potential patent infringement suits, as well as the costs of their defense (collectively, the “*Indemnification Obligations*”). Because of the implementation of the automatic stay and the procedural posture of impending lawsuits against Customers, the Debtors do not believe that any Indemnification Obligations will arise during these chapter 11 cases, but out of an abundance of caution, are seeking this Court’s authority to honor the Indemnification Obligations. If the Debtors do not honor the Indemnification Obligations, the Debtors believe it would have a detrimental effect on their ongoing and important business relationships with Customers at a juncture when such continued relationships are critical to the Debtors’ reorganization efforts.

19. The Debtors request the authority to honor the Indemnification Obligations in their discretion in the ordinary course of business on a postpetition basis.

Supporting Authority

A. The Court Should Authorize the Debtors to Maintain Their Customer Programs and Honor Customer Program Obligations Under the Doctrine of Necessity

20. Courts generally acknowledge that, under appropriate circumstances, they may authorize a debtor to pay (or provide special treatment for) certain prepetition obligations. *See, e.g., In re Just for Feet, Inc.*, 242 B.R. 821, 824-45 (Bankr. D. Del. 1999) (noting that, in the Third Circuit, debtors may pay prepetition claims that are essential to the continued operation of the debtor’s business); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (granting the debtor the authority to pay prepetition wages); *Armstrong World Indus., Inc. v. James A. Phillips, Inc.*, (*In re James A. Phillips, Inc.*), 29 B.R. 391, 398 (Bankr. S.D.N.Y. 1983) (granting the debtor the authority to pay prepetition claims of suppliers who were potential lien claimants). When authorizing payments of certain prepetition obligations, courts have relied upon several legal theories rooted in sections 1107(a), 1108, 363(b) and 105(a) of the

Bankruptcy Code.

21. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, debtors in possession are fiduciaries charged with “holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners.” *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Inherent in a debtor in possession’s fiduciary duties is the obligation to “protect and preserve the estate, including an operating business’s going-concern value,” which, in certain instances, can be fulfilled “only . . . by the preplan satisfaction of a prepetition claim.” *Id.* Indeed, the *CoServ* court specifically noted that the preplan satisfaction of prepetition claims would be a valid exercise of the debtor’s fiduciary duty when the payment “is the only means to effect a substantial enhancement of the estate . . .” *Id.*

22. Consistent with a debtor’s fiduciary duties, where there is a sound business purpose for the payment of prepetition obligations, and where the debtor is able to “articulate some business justification, other than the mere appeasement of major creditors,” courts have authorized debtors to make such payments under section 363(b) of the Bankruptcy Code. *See, e.g., In re Ionosphere Clubs, Inc.*, 98 B.R. at 175 (finding that a sound business justification existed to pay prepetition wages); *In re James A. Phillips, Inc.*, 29 B.R. at 397 (relying upon section 363 as a basis to allow a contractor to pay the prepetition claims of suppliers who were potential lien claimants).⁷

⁷ Courts have also authorized payment of prepetition claims in appropriate circumstances pursuant to section 105(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code, which codifies the inherent equitable powers of the bankruptcy court, empowers the bankruptcy court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Under section 105(a), courts may permit preplan payments of prepetition obligations when such payments are essential to the continued operation of the debtor’s business and, in particular, where nonpayment of a prepetition obligation

(Continued...)

23. In addition to the authority granted a debtor in possession under sections 1107(a), 1108, 363(b) and 105(a) of the Bankruptcy Code, courts have developed the “doctrine of necessity” or the “necessity of payment” rule, which originated in the landmark case of *Miltenberger v. Logansport, C. & S.W.R. Co.*, 106 U.S. 286 (1882). Since *Miltenberger*, courts have expanded their application of the doctrine of necessity to cover instances of a debtor’s reorganization, see *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (holding, in a hotel reorganization matter, that the court was not “helpless” to apply the rule to supply creditors where the alternative was the cessation of operations), including the United States Court of Appeals for the Third Circuit, which recognized the doctrine in *In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981).

24. In *Lehigh*, the Third Circuit held that a court could authorize the payment of prepetition claims if such payment was essential to the continued operation of the debtor. *Id.* (stating that a court may authorize payment of prepetition claims when there “is the possibility that the creditor will employ an immediate economic sanction, failing such payment”); see also *In re Penn Cent. Transp. Co.*, 467 F.2d 100, 102 n.1 (3d Cir. 1972) (holding that the necessity of payment doctrine permits “immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims have been paid”); *In re Just for Feet, Inc.*, 242 B.R. at 824-45 (noting that debtors may pay prepetition claims that are essential to continued operation of the business); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (same).

would trigger a withholding of goods or services essential to the debtors’ business reorganization plan. See *In re UNR Indus.*, 143 B.R. 506, 520 (Bankr. N.D. Ill. 1992) (permitting the debtor to pay prepetition claims of suppliers or employees whose continued cooperation is essential to the debtors’ successful reorganization); *Ionosphere Clubs*, 98 B.R. at 177 (finding that section 105 empowers bankruptcy courts to authorize payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor).

25. Today, the rationale for the necessity of payment rule – the rehabilitation of a debtor in reorganization cases – is “the paramount policy and goal of Chapter 11.” *In re Ionosphere Clubs, Inc.*, 98 B.R. at 176; *Just For Feet*, 242 B.R. at 826 (finding that payment of prepetition claims to certain trade vendors was “essential to the survival of the debtor during the chapter 11 reorganization.”); *see also In re Quality Interiors, Inc.*, 127 B.R. 391, 396 (Bankr. N.D. Ohio 1991) (“[P]ayment by a debtor-in-possession of pre-petition claims outside of a confirmed plan of reorganization is generally prohibited by the Bankruptcy Code”, but “[a] general practice has developed . . . where bankruptcy courts permit the payment of certain pre-petition claims, pursuant to 11 U.S.C. § 105, where the debtor will be unable to reorganize without such payment.”); *In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (approving payment of prepetition unsecured claims of tool makers as “necessary to avert a serious threat to the Chapter 11 process”); *Burchinal v. Cent. Wash. Bank (In re Adams Apple, Inc.)*, 829 F.2d 1484, 1490 (9th Cir. 1987) (finding that it is appropriate to provide for the “unequal treatment of pre-petition debts when [such treatment is] necessary for rehabilitation”); Collier on Bankruptcy P 105.02[4][a] (Alan N. Resnick & Henry J. Sommer eds., 16th ed. rev.) (discussing cases in which courts have relied upon the “doctrine of necessity” or the “necessity of payment” rule to pay prepetition claims immediately).

26. The relief requested by the Debtors satisfies this standard. The necessity of the Customer Programs in a retail industry cannot be overstated. Most, if not all, of the Customer Programs are standard practice in the Debtors’ industry. If the obligations under the Customer Programs are not honored, the Debtors risk alienating their customers and encouraging them to purchase products from the Debtors’ competitors. The failure to honor the Customer Programs could erode the Debtors’ hard-earned reputation and brand loyalty, adversely affecting the

Debtors' prospects for a successful reorganization.

27. Courts in this District have routinely granted relief similar to the relief requested herein. *See, e.g., In re Vertis Holdings, Inc.*, No. 12-12821 (CSS) (Bankr. D. Del. Oct. 31, 2012) (authorizing Debtors to continue Customer Programs and honor their prepetition obligations under the Customer Programs); *In re Neb. Book Co.*, No. 11-12005 (PJW) (Bankr. D. Del. June 28, 2011) (authorizing the Debtors to continue the Customer Programs in the ordinary course of business); *In re Appleseed's Intermediate Holdings, LLC*, No. 11-10160 (KG) (Bankr. D. Del. Jan. 20, 2011) (authorizing the Debtors to maintain and administer the Customer Programs and satisfy the Customer Program obligations in the ordinary course of business); *In re Local Insight Media Holdings, Inc.*, No. 10-13677 (KG) (Bankr. D. Del. Nov. 19, 2010) (authorizing Debtors to honor certain prepetition obligations to customers and continue prepetition customer programs and practices in the ordinary course of business); *In re The Majestic Star Casino, LLC*, No. 09-14136 (KG) (Bankr. D. Del. Nov. 23, 2009) (authorizing the Debtors to honor Customer Programs and related prepetition customer obligations).⁸

B. Cause Exists to Authorize the Debtors' Financial Institutions to Honor Checks and Electronic Fund Transfers

28. The Debtors represent that they have sufficient availability of funds to pay the amounts described herein in the ordinary course of business by virtue of cash reserves, expected cash flows from ongoing business operations and anticipated access to debtor in possession financing. Also, under the Debtors' existing cash management system, the Debtors represent that checks or wire transfer requests can be readily identified as relating to an authorized

⁸ Because of the voluminous nature of the orders cited herein, such orders are not attached to this motion. Copies of these orders are available upon request to the Debtors' counsel.

payment of the Customer Program Obligations. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that all applicable financial institutions should be authorized, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests with respect to the Customer Program Obligations.

The Requirements of Bankruptcy Rule 6003 are Satisfied

29. As described above, the Debtors are seeking authority pursuant to this motion to pay prepetition Customer Program Obligations during the first 21 days of these chapter 11 cases. Under Bankruptcy Rule 6003, the Court may authorize the Debtors to satisfy the prepetition claims arising from their Customer Programs during the first 21 days of these chapter 11 cases to the extent such relief is necessary to avoid immediate and irreparable harm to the Debtors' estates. *See* Fed. R. Bankr. P. 6003(b). Immediate and irreparable harm exists where the absence of relief would impair a debtor's ability to reorganize or threaten the debtor's future as a going concern. *See In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 36 n.2 (Bankr. S.D.N.Y. 1990) (discussing the elements of "immediate and irreparable harm" in relation to Bankruptcy Rule 4001).

30. The Debtors firmly believe that continuing the Customer Programs and honoring the Customer Program Obligations uninterrupted in these chapter 11 cases is necessary to prevent immediate and irreparable harm to the Debtors' estates and business operations. As described above, the Customer Programs are integral to the Debtors' continued operations because they are necessary to maintain the confidence and goodwill of the Debtors' customer base. This is especially true in light of the competitive nature of the Debtors' retail businesses, where the Customer Programs are standard practice and demanded by consumers. Indeed, a

reputation for excellent customer service and brand integrity is one of the Debtors' most valuable assets and must be preserved. Accordingly, the Debtors respectfully submit that they have satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 and seek authority to honor and, where necessary, pay, the Customer Program Obligations in the ordinary course of business and pursuant to the Interim Order.

Waiver of Bankruptcy Rules Regarding Notice and Stay of an Order

31. To implement the foregoing successfully, the debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and any stay of an order granting the relief requested herein pursuant to Bankruptcy Rule 6004(h), 7062, 9014 or otherwise.

The Debtors' Reservation of Rights

32. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' rights to dispute any claim or an approval or assumption of any agreement, agreement, contract or lease under section 365 of the Bankruptcy Code. Additionally, nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors or a waiver of the Debtors' rights to dispute any claims regarding escheatment. The Debtors expressly reserve their rights to contest any claim or billing dispute. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

Notice

33. The Debtors have provided notice of this motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the entities listed on the Consolidated List of

Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the Debtors' prepetition secured lender and debtor in possession lender; (d) the agent for the Debtors' prepetition secured notes; (e) counsel to each of the prepetition equity holders; (f) the Delaware Secretary of State; (g) the Delaware Secretary of Treasury; (h) the Delaware State Attorney General; (i) the Office of the United States Attorney General for the State of Delaware; (j) the Internal Revenue Service; and (k) the Securities and Exchange Commission. In light of the nature of the relief requested in this motion, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

34. No prior motion for the relief requested herein has been made to this or any other court.

WHEREFORE, for the reasons set forth herein and in the First Day Declaration, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, (a) authorizing, but not directing, the Debtors to, in the ordinary course of business, (i) continue, maintain, administer or terminate the Customer Programs; (ii) honor the Customer Program Obligations; (b) authorizing financial institutions to receive, process, honor and pay all related checks and electronic payment requests for payment of Customer Program Obligations; and (c) granting such other and further relief as may be appropriate.

Dated: February 28, 2013
Wilmington, Delaware

/s/ Domenic E. Pacitti

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*Proposed Co-Counsel to the Debtors
and Debtors in Possession*

Exhibit A

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	)	)	Chapter 11
))	
CONEXANT SYSTEMS, INC., <i>et al.</i> , ¹	)	)	Case No. 13-10367 ()
))	
Debtors.	)	)	Joint Administration Requested
))	
	)	)	Related to Docket No.

**INTERIM ORDER AUTHORIZING, BUT NOT DIRECTING,
THE DEBTORS TO MAINTAIN AND ADMINISTER CUSTOMER
PROGRAMS AND HONOR PREPETITION OBLIGATIONS RELATED THERETO**

Upon the motion (the "**Motion**")² of the Debtors for entry of an order (this "**Order**"), pursuant to sections 105(a), 363, 1107(a) and 1108 of the Bankruptcy Code, Rules 6003 and 6004(h) of the Bankruptcy Rules and Rule 9013-1(m) of the Local Rules, (a) authorizing, but not directing, the Debtors to maintain and administer the Customer Programs and satisfy the Customer Program Obligations in the ordinary course of business and (b) authorizing financial institutions to receive, process, honor and pay all related checks and electronic payment requests for payment of Customer Program Obligations, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-identification number, are: Conexant Systems, Inc. (9439); Conexant CF, LLC (6434); Brooktree Broadband Holding, Inc. (5436); Conexant, Inc. (8218); and Conexant Systems Worldwide, Inc. (0601). The Debtors' main corporate address is 4000 MacArthur Blvd., Newport Beach, California 92660.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

§§ 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances; and a hearing having been held to consider the relief requested in the Motion (the "*Hearing*"); and upon consideration of the First Day Declaration, the record of the Hearing and all proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted on an interim basis to the extent provided herein.
2. The Debtors are authorized, but not directed, to continue, maintain, administer or terminate, in the ordinary course of business, the Customer Programs and to pay or otherwise honor any Customer Program Obligation, consistent with the Debtors' ordinary course procedures, including any Price Deviation Adjustment, Direct Rebate, Sales Consultant Commission, Return Authorization, Stock Rotation or Indemnification Obligation.
3. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in this Order or any payment made pursuant to this Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim against the Debtors, a waiver of the Debtors' rights to subsequently dispute such claim or the assumption or adoption of any agreement, contract or lease under section 365 of the Bankruptcy Code.
4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as being approved by this Order.

6. Notwithstanding anything to the contrary contained herein, any payment to be made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any approved debtor-in-possession financing facility, or budget in connection therewith approved by this Court in these cases.

7. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion or are otherwise deemed waived.

8. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014 or otherwise, this Order shall be immediately effective and enforceable upon its entry. The Final Hearing on the Motion shall be held on _____, 2013 at ___:___ a.m./p.m. prevailing Eastern Time. Any objections or responses to entry of the proposed Final Order shall be filed **seven days before** the Final Hearing and served on the following parties: (a) the Debtors, 4000 MacArthur Blvd., Newport Beach, California 92660, Attn: Dennis Gallagher, Esq.; (b) proposed counsel for the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Joshua A. Sussberg, Esq.; (c) proposed co-counsel for the Debtors, Klehr Harrison Harvey Branzburg LLP, 919 N. Market Street, Suite 1000, Wilmington, Delaware 19801, Attn: Domenic E. Pacitti, Esq.; (d) counsel to the senior secured noteholders, Akin Gump Strauss Hauer & Feld LLP, One Bryant Park, New York, New York 10036, Attn:

Michael S. Stamer, Esq.; (e) counsel to Golden Gate Private Equity, Inc., DLA Piper, 203 North LaSalle Street, Suite 1900, Chicago, Illinois 60601, Attn: Chris L. Dickerson, Esq.; (f) counsel to August Capital, Cooley LLP, 101 California Street, 5th Floor, San Francisco, California 94111-5800, Attn: Robert L. Eisenbach III, Esq.; (g) counsel to any statutory committee appointed in these chapter 11 cases; and (h) the office of the United States Trustee for the District of Delaware, Caleb Boggs Federal Building, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Tiiara Patton, Esq. In the event no objections to entry of the Final Order are timely received, the Court may enter the Final Order without need for the Final Hearing.

9. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Date: _____, 2013
Wilmington, Delaware

United States Bankruptcy Judge

Exhibit B

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
CONEXANT SYSTEMS, INC., <i>et al.</i> , ¹	)	Case No. 13-10367 ()
)	
Debtors.	)	Joint Administration Requested
)	
	)	Related to Docket No.

**FINAL ORDER AUTHORIZING, BUT NOT DIRECTING,
THE DEBTORS TO MAINTAIN AND ADMINISTER CUSTOMER
PROGRAMS AND HONOR PREPETITION OBLIGATIONS RELATED THERETO**

Upon the motion (the "*Motion*")² of the Debtors for entry of an order (this "*Order*"), pursuant to sections 105(a), 363, 1107(a) and 1108 of the Bankruptcy Code, Rules 6003 and 6004(h) of the Bankruptcy Rules and Rule 9013-1(m) of the Local Rules, (a) authorizing, but not directing, the Debtors to maintain and administer the Customer Programs and satisfy the Customer Program Obligations in the ordinary course of business and (b) authorizing financial institutions to receive, process, honor and pay all related checks and electronic payment requests for payment of Customer Program Obligations, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-identification number, are: Conexant Systems, Inc. (9439); Conexant CF, LLC (6434); Brooktree Broadband Holding, Inc. (5436); Conexant, Inc. (8218); and Conexant Systems Worldwide, Inc. (0601). The Debtors' main corporate address is 4000 MacArthur Blvd., Newport Beach, California 92660.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

§§ 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances; and a hearing having been held to consider the relief requested in the Motion (the "**Hearing**"); and upon consideration of the First Day Declaration, the record of the Hearing and all proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted to the extent provided herein.
2. The Debtors are authorized, but not directed, to continue, maintain, administer or terminate, in the ordinary course of business, the Customer Programs and to pay or otherwise honor any Customer Program Obligation, consistent with the Debtors' ordinary course procedures, including any Price Deviation Adjustment, Direct Rebate, Sales Consultant Commission, Return Authorization, Stock Rotation or Indemnification Obligation and the relief provided in the Interim Order is approved on a final basis.
3. Notwithstanding anything to the contrary contained herein, any payment to be made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any approved debtor-in-possession financing facility, or budget in connection therewith, or any order regarding the use of cash collateral approved by this Court in these cases.
4. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in this Order or any payment made pursuant to this Order shall constitute, nor

is it intended to constitute, an admission as to the validity or priority of any claim against the Debtors, a waiver of the Debtors' rights to subsequently dispute such claim or the assumption or adoption of any agreement, contract or lease under section 365 of the Bankruptcy Code.

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

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as being approved by this Order.

7. Notwithstanding anything to the contrary contained herein, any payment to be made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any approved debtor-in-possession financing facility, or budget in connection therewith approved by this Court in these cases.

8. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014 or otherwise, this Order shall be immediately effective and enforceable upon its entry.

9. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Date: _____, 2013
Wilmington, Delaware

United States Bankruptcy Judge