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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re:) Chapter 11
)
Eastman Kodak Company, *et al.*,) Case No. 12-10202 (ALG)
)
Debtors.) Jointly Administered
)
_____)

**OBJECTION OF FLASHPOINT TECHNOLOGY, INC.
TO ENTRY OF A FINAL SALE ORDER**

Pursuant to this Court’s Order Conditionally Authorizing the Sale of Patent Assets Free and Clear of Claims and Interests (the “Conditional Sale Order”), Kodak was required to serve the Notice of Final Sale Hearing, together with the proposed Final Sale Order and a copy of the Sale Agreements at least seven days prior to the Final Sale Hearing. Conditional Sale Order ¶ 15. Although it appears that the Final Sale Hearing is still scheduled to go forward on August 20, 2012, with objections due August 16, 2012, Kodak did not serve the



required notices on August 13, 2012. Instead, Kodak announced to the press that it would extend the auction of its patent portfolios for an unspecified amount of time.

Kodak similarly has failed to notify FlashPoint whether it intends to sell the Disputed Patents subject to FlashPoint's interests, or if it intends to propose some form of adequate protection. Pursuant to the Conditional Sale Order, any adequate protection must be determined by the Court on no less than 10 days' notice to FlashPoint. Conditional Sale Order ¶ 10.

Because Kodak failed to provide the notices required under the Conditional Sale Order, FlashPoint should not be put in the untenable position of having to formulate objections in a vacuum, with no knowledge as to whether or to what extent its interests may be affected by any potential sale. However, because the Conditional Sale Order does not expressly provide for an extension of the objection deadline, and because – despite repeated attempts to contact Kodak's counsel – FlashPoint was unable to obtain confirmation from Kodak that the Final Sale Hearing will be postponed and the objection deadline extended, FlashPoint submits this objection out of an abundance of caution.

For the reasons set forth at length in FlashPoint's Objection to the Conditional Sale Order, FlashPoint objects to the sale of the Disputed Patents free and clear of FlashPoint's interests, because those interests in unique assets cannot adequately be protected by transferring them to proceeds. *See In re Dewey Ranch Hockey, LLC*, 414 B.R. 577 (Bankr. D. Ariz. 2009). Moreover, it appears from reports in the press that the total amount that Kodak is likely to realize from the sale of all of its patents is significantly lower than anticipated. FlashPoint believes, and intends to prove in the event of an Adequate Protection Hearing, that the total amount of the sale proceeds may be less than the value that the Disputed Patents would have in the hands of

FlashPoint, their rightful owner. Thus, the transfer of FlashPoint's ownership interests to sale proceeds will not constitute adequate protection.

FlashPoint further objects to entry of any proposed Final Sale Order that does not recognize as Permitted Encumbrances FlashPoint's licensing rights under the agreements listed on the Permitted Encumbrance Schedule to the Conditional Sale Order as items # 126, 127 and 128 (the "Licenses"), and/or FlashPoint's rights under § 365(n) with respect to the Licenses.

FlashPoint reserves its right to supplement this objection within a reasonable time after it is served with notice of the proposed Final Sale Order and/or notice of any proposed adequate protection in connection with the Disputed Patents.

Dated: August 16, 2012

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