

UNITED STATES BANKRUPTCY COURT FOR DISTRICT OF DELAWARE			PROOF OF CLAIM
Indicate Debtor against which you assert a claim by checking the appropriate box below. (Check only one Debtor per claim form.)			
<input checked="" type="checkbox"/> THQ Inc. (Case No. 12-13398) <input type="checkbox"/> THQ Wireless, Inc. (Case No. 12-13400) <input type="checkbox"/> Vigil Games, Inc. (Case No. 12-13402) <input type="checkbox"/> THQ Digital Studios Phoenix, Inc. (Case No. 12-13399) <input type="checkbox"/> Volition, Inc. (Case No. 12-13401)			
NOTE: This form should not be used to make a claim for an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) arising after the commencement of the case. A "request" for payment of an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) may be filed pursuant to 11 U.S.C. § 503.			
Name of Creditor (the person or other entity to whom the debtor owes money or property): <div style="text-align: right; font-weight: bold;">505 Games Srl</div>			<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where notices should be sent: <div style="text-align: right;"> Todd M. Arnold Levene, Neale, Bender, Yoo & Brill L.L.P. 10250 Constellation Blvd., Suite 1700 Los Angeles, CA 90067 tma@lnbyb.com </div>			
Telephone number: 310-229-1234 email:			<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
Name and address where payment should be sent (if different from above): <div style="text-align: right; font-weight: bold;">Same</div>			
<input checked="" type="checkbox"/> Date Stamped Copy Returned <input type="checkbox"/> No self addressed stamped envelope Telephone number: <input type="checkbox"/> No copy to return email:			5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5). <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(____). Amount entitled to priority: \$ _____ * Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment
1. Amount of Claim as of Date Case Filed: § Contingent, unliquidated - see Attachment If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.			
2. Basis for Claim: See Attachment (See instruction #2)			
3. Last four digits of any number by which creditor identifies debtor: _____	3a. Debtor may have scheduled account as: _____ (See instruction #3a)	3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)	
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable (when case was filed) Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____			
6. Claim Pursuant to 11 U.S.C. § 503(b)(9): Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. \$ _____ (See instruction #6)			
7. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #7)			
8. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction 8, and the definition of "redacted".) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:			
9. Signature: (See instruction #9) Check the appropriate box. <input type="checkbox"/> I am the creditor. <input checked="" type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3004.) (See Bankruptcy Rule 3005.)			
I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief. Print Name: <u>Abramo Galante</u> Title: <u>President and CEO</u> Company: <u>505 Games Srl</u> Address and telephone number (if different from notice address above):			
Telephone number: _____ Email: _____			

KURTZMAN CARSON CONSULTANTS

RECEIVED

APR 04 2013

ORIGINAL



121339813032800000000014

UNITED STATES BANKRUPTCY COURT FOR DISTRICT OF DELAWARE		PROOF OF CLAIM
Indicate Debtor against which you assert a claim by checking the appropriate box below. (Check only one Debtor per claim form.)		
<input checked="" type="checkbox"/> THQ Inc. (Case No. 12-13398) <input type="checkbox"/> THQ Wireless, Inc. (Case No. 12-13400) <input type="checkbox"/> Vigil Games, Inc. (Case No. 12-13402) <input type="checkbox"/> THQ Digital Studios Phoenix, Inc. (Case No. 12-13399) <input type="checkbox"/> Volition, Inc. (Case No. 12-13401)		
NOTE: This form should not be used to make a claim for an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) arising after the commencement of the case. A "request" for payment of an administrative expense (other than a claim asserted under 11 U.S.C. § 503(b)(9)) may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property):		<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
505 Games Srl		
Name and address where notices should be sent:		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
Todd M. Arnold Levene, Neale, Bender, Yoo & Brill L.L.P. 10250 Constellation Blvd., Suite 1700 Los Angeles, CA 90067 email: lma@lnbyb.com		
Telephone number: 310-229-1234		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier - 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5). <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(). Amount entitled to priority: \$ _____ * Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment
Name and address where payment should be sent (if different from above):		
Same		
Telephone number: _____ email: _____		
1. Amount of Claim as of Date Case Filed: \$ _____ Contingent, unliquidated - see Attachment If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: See Attachment (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: _____	3a. Debtor may have scheduled account as: _____ (See instruction #3a)	3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable (when case was filed) Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Claim Pursuant to 11 U.S.C. § 503(b)(9): Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. \$ _____ (See instruction #6)		
7. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #7)		
8. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3801(c)(3)(A). If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction 8, and the definition of "redacted".) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain: _____		
9. Signature: (See instruction #9) Check the appropriate box: <input type="checkbox"/> I am the creditor. <input checked="" type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.) <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)		
I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief. Print Name: <u>Abramo Galante</u> Title: <u>President and CEO</u> Company: <u>505 Games Srl</u> Address and telephone number (if different from notice address above): _____ _____ (Signature) _____ (Date)		
Telephone number: _____		COURT USE ONLY RECEIVED APR 04 2013 KURTZMAN CARSON CONSULTANTS
Email: _____		

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
LAW OFFICES

L N B Y & B

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

10250 Constellation Boulevard, Suite 1700
Los Angeles, California 90067
Telephone No. (310) 229-1234
Telecopier No. (310) 229-1244

Date: April 3, 2012

To:

THQ Claims Processing Center
c/o KCC
2335 Alaska Avenue
El Segundo, CA 90245

Via Overnight Mail

From: Lourdes Cruz for Todd M. Arnold

Re: THQ, Inc., Bankr. Case No. 12-13398

Enclosed please find: 505 Games Srl Proof of Claim (original and two copies). Please file the original Proof of Claim and return a conformed copy to our office in the attached self-addressed, stamped envelope. Thank you.

For your information

Please telephone me

Please handle

me how to reply

Please sign

**Please acknowledge
receipt**

Please read

For your files

Please comment

**Please file and return
conformed copy**

Please return to me

Enclosures

ATTACHMENT TO GENERAL UNSECURED CLAIM AGAINST THQ, INC.

505 Games Srl ("505 Games") herby submits this attachment to its Proof of Claim.

505 Games previously filed a limited objection (the "Limited Objection") to the Motion of Debtors for Entry of an Order (A) Approving the Sale of Substantially All of the Debtors' Assets, (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection With the Sale, and (C) Granting Certain Related Relief (the "First Sale Motion") [Dkt 19] filed by THQ, Inc. ("THQ") in its affiliates (collectively, the "Debtors") in the Debtors' jointly administered Chapter 11 bankruptcy cases regarding the sale of certain assets (the "First Sale").

I.

SUMMARY OF INFORMATION PERTINENT TO PROOF OF CLAIM

A. THE LICENSE/CONTRACT BETWEEN THQ AND 505 GAMES.

On November 26, 2012, 505 Games and THQ entered into that certain License and Contingent Purchase and Sale Agreement (the "THQ Contract").¹ Pursuant to the THQ Contract, (1) in exchange for various payments, THQ granted to 505 Games, subject to certain exclusions, a worldwide license to THQ's rights, title, and interest, including intellectual property rights, in and to computer games known as "Drawn to Life" and "Drawn to Life: The Next Chapter"

¹ The THQ Contract contains a confidentiality clause and, therefore, it is not attached hereto. Since THQ is a party to the THQ Contract, THQ has a copy of the THQ Contract. Moreover, in the Debtors' Notice of the Filing of the Notice of (I) Entry Into Stalking Horse Agreement and (II) Potential Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection With the Sale of the Debtors' Assets (the "Contract Notice") [Dkt 155], the Debtors acknowledge the existence of the THQ Contract. Additionally, despite the confidentiality clause in the THQ Contract and a lack of consent from 505 Games', the THQ Contract was made available to other parties in the data room provided by THQ in conjunction with a sale of the Debtors' assets remaining after the First Sale (the "Second Sale"). In the event that a review of the THQ Contract is required to determine the issues raised by this Proof of Claim, 505 Games shall seek to submit it to the Court under seal.

(collectively "DTL Intellectual Property"), (2) 505 Games granted THQ a perpetual, exclusive license to use, reproduce, market, and sell certain pre-existing "Drawn to Life" and "Drawn to Life: The Next Chapter" games for certain original game platforms and a related limited right to license and use the related trademarks in connection therewith, (3) subject to the receipt of all payments required by the THQ Contract, THQ agreed to sell and assign all of its rights, title, and interest in and to DTL Intellectual Property to 505 Games, (4) 505 Games became solely responsible for reaching an agreement with a third-party for the development and completion of the "Drawn to Life" game in development at the time for certain video game platforms and making all payments for such development, (5) 505 Games became solely responsible for maintaining and protecting trademarks, copyrights, and intellectual property related to the "Drawn to Life" and "Drawn to Life: The Next Chapter" games, and (6) THQ retained the right to assign the THQ Contract with prior written notice to 505 Games, but without the need for 505 Games' consent, provided that any assignee shall agree to comply with, and fulfill and abide by all terms of the THQ Contract.

505 Games has made all payments required by the THQ Contract that have come due thus far and has performed all of its other obligations under the THQ Contract. Additional payments are coming due on the THQ Contract.

Pursuant to, and in reliance on, the THQ Contract, in December 2012, 505 Games entered into a contract with a third-party for the development and completion of the "Drawn to Life" game for certain video game platforms (the "Development Contract").² 505 Games and the third

² The Development Contract contains a confidentiality clause and, therefore, the Development Contract is not attached hereto, the identity of the other party to the Development Contract is not disclosed, and the specific terms of the Development Contract, including amounts paid and to be paid are also not disclosed. In the event that a review of the Development Contract is required to determine the issues raised herein, 505 Games shall seek

party continue to perform under the Development Contract in reliance on the THQ Contract. 505 Games has made material payments to the third party pursuant to the Development Contract. Additional payments are coming due on the Development Contract.

In total, 505 Games has paid not less than \$175,000 to THQ and other parties in reliance on the THQ Contract.

B. THE DEBTORS' BANKRUPTCY FILING, THE SALE MOTION, AND THE ASSET PURCHASE AGREEMENT.

On December 19, 2012, the Debtors filed voluntary Chapter 11 petitions. The Debtors are continuing to operate their businesses and manage their financial affairs as debtors in possession pursuant to Sections 1107 and 1108 of 11 U.S.C. § 101 et seq. (the "Bankruptcy Code").³

Also on December 19, 2012, the Debtors filed their First Sale Motion to approve the First Sale. Pursuant to the First Sale Motion, the Debtors sought among other things, to (1) sell substantially all of the Debtors' operating assets, defined as the "Acquired Assets" in the proposed Asset Purchase Agreement (the "APA") with Space Investors, LLC ("Space Investors") attached to the Sale Motion as Exhibit "2," to Space Investors or any successful overbidder (collectively the "Buyer"), (2) have the sale of the Acquired Assets deemed to be free and clear of any and all "Encumbrances," as defined in the APA, (3) assume and assign the "Assumed Contracts," as defined in the APA, to the Buyer.

The APA provided, among other things, that (1) the "Acquired Assets" included (a) the "Assumed Contracts" listed in Schedule 2.1(f) to the APA or listed in a "Cure List" to be

consent from the third party to disclose all terms of the Development Contract and to submit it to the Court under seal or otherwise.

provided by the Debtors to Space Investors (APA § 2.1(f)), and (b) the Debtors' "Intellectual Property" defined as, among other things, all copyrights, patent rights, trademarks, inventions, and all other "intellectual property," as defined by Section 101(35A) of the Bankruptcy Code, and identified in Schedule 5.9(a) to the APA (APA §§ 2.1(j) and 5.9), (2) title to the "Acquired Assets," with certain exceptions, shall be acquired free and clear of all "Encumbrances," which were defined in the APA as, among other things, any interest, claim, or option, but subject to, among other things, the "Encumbrances" on "Intellectual Property" set forth in Schedule 5.9(b) to the APA (APA §§ 1.1, 5.5, and 5.9), and (3) the identification of the Acquired Assets, including Assumed Contracts, was subject to change before closing (APA §2.1).

On January 14, 2013, the Debtors filed their Notice of Filing of the Contract Notice [Dkt. 155]. The Contract Notice listed the Contracts that the Debtors might seek to assume and assign to the Buyer as Assumed Contracts. The Contract Notice included the THQ Contract. However, under the terms of the APA and the sale procedures approved by the Court, the identification of the Acquired Assets, including Assumed Contracts, was subject to change before closing and, as discussed below there was a change that led to the exclusion of the THQ Contract from the First Sale.

C. OBJECTION TO THE FIRST SALE.

Based on the facts set forth above, 505 Games filed its Limited Objection to the First Sale on the following bases:

Section 363(f) provides as follows:

The trustee [or debtor in possession] may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

³ All section references herein are to the Bankruptcy Code.

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

The term “interest” as used in Section 363(f) is not defined in the Bankruptcy Code, but it is used in Section 363 to mean a third party's interest in property that is to be sold, used, or leased. In re Mirant Corp., 389 B.R. 481, 493 (Bankr. N.D.Tex. 2008).

It is the Debtors’ burden to demonstrate that one of the subsections of Section 363(f) is satisfied regarding the DTL Intellectual Property in order to sell free and clear of 505 Games’ interest therein. BAC Home Loans Servicing LP v. Grassi, 2011 WL 6096509, 5 (1st Cir. BAP 2011); In re Grand Prix Associates Inc., 2009 WL 1850966, 4 (Bankr. D.N.J.).

Section 363(e) provides as follows:

Notwithstanding any other provision of this section, at any time, on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased, by the trustee, the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest. . . .

Section 365(n) provides as follows:

(1) If the trustee [or debtor in possession] rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

(A) to treat such contract as terminated by such rejection if such rejection by the trustee [or debtor in possession] amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms,

applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

(B) to retain its rights (including a right to enforce any exclusivity provision of such contract, but excluding any other right under applicable nonbankruptcy law to specific performance of such contract) under such contract and under any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

- (i) the duration of such contract; and
- (ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

(A) the trustee [or debtor in possession] shall allow the licensee to exercise such rights;

(B) the licensee shall make all royalty payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

(C) the licensee shall be deemed to waive—

- (i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and
- (ii) any claim allowable under section 503 (b) of this title arising from the performance of such contract.

(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee [or debtor in possession] shall—

(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such

embodiment) held by the trustee [or debtor in possession];
and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment) including any right to obtain such intellectual property (or such embodiment) from another entity.

(4) Unless and until the trustee [or debtor in possession] rejects such contract, on the written request of the licensee the trustee [or debtor in possession] shall—

(A) to the extent provided in such contract or any agreement supplementary to such contract—

(i) perform such contract; or

(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee [or debtor in possession]; and

(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.

The APA attached to the First Sale Motion did not include any Schedules, including Schedule 1.1(a) (Copyrights), 1.1(b) (Patent Rights), 1.1(c) (Products, Product Registrations), 1.1(d) (Trademarks), 2.1(f) (Assumed Contracts), 2.2(g) (Certain Excluded Assets, Property and Rights), 5.5 (Title to Acquired Assets), 5.9(a) (Intellectual Property), 5.9(b) Intellectual Property Encumbrances, and 5.10 (Assumed Contracts and Leases). Moreover, as discussed above, at the time of the transaction under the First Sale Motion, it was possible that the items included in the foregoing Schedules could change due to designations or re-designations to be made by Space Investors or any other Buyer.

As a result, 505 Games was unable to ascertain (a) whether the DTL Intellectual Property licensed to 505 Games pursuant to the THQ Contract was included in the "Acquired Assets" to be sold to the Buyer, (b) if the DTL Intellectual Property was to be sold to the Buyer, whether 505 Games' interest in the DTL Intellectual Property was disclosed, (c) whether the THQ Contract was to be an Assumed Contract.

In consideration of the foregoing, in the Limited Objection, 505 Games asserted that any sale of the DTL Intellectual Property without an accompanying assumption and assignment of the THQ Contract would raise serious issues under Sections 363(e) and 365(n) that may prohibit the sale from going forward, at least in regards to the DTL Intellectual Property. If the DTL Intellectual Property was sold to the Buyer free and clear of THQ's interest therein, but the THQ Contract was not assumed and assigned to the Buyer, then 505 Games would arguably lose its interest in the DTL Intellectual Property and its ability to potentially exercise its rights under Section 365(n)(1)(B) to continued performance under the THQ Contract. The same would also be true if the DTL Intellectual Property was not sold to the Buyer, but the THQ Contract was assumed and assigned to the Buyer. Thus, any decoupling of the DTL Intellectual Property and the THQ Contract would require adequate protection to protect 505 Games' interest in the DTL Intellectual Property.

In addition to the foregoing, in the Limited Objection to the First Sale Motion, 505 Games asserted that the Debtors did not meet their burden of demonstrating that they can decouple DTL Intellectual Property from the THQ Contract and sell the DTL Intellectual Property to the Buyer free and clear of 505 Games' interest in the DTL Intellectual Property pursuant to Section 363(f). As a result, 505 Games asserted that there can be no such decoupling and sale of only the THQ Contract or only the DTL Intellectual Property. Those assets must be sold in tandem.

THQ filed a reply to the 505 Games' Limited Opposition.

Ultimately, at the hearing on the First Sale Motion, THQ confirmed that neither the THQ Contract, nor the DTL Intellectual Property, were part of the First Sale and that they would not be affected by the First Sale.

D. THE SECOND SALE.

On February 27, 2013, THQ sent an email regarding the Second Sale (i.e., the sale of assets remaining with the Debtors after the First Sale) and related bid procedures (the "Second Bid Procedures"). The Second Sale includes assets separated into 6 lots. Lot 5 includes the DTL Intellectual Property. In documents provided to potential bidders for the assets subject to the Second Sale (the "Second Sale Assets"), the Debtors acknowledge the THQ Contract and that it is an encumbrance on the DTL Intellectual Property. In addition to making a bid before the Second Bid Procedures were issued to buyout the THQ Contract and acquire the DTL Intellectual Property pursuant to such buyout, 505 Games made a bid on certain of the Second Sale Assets, including the DTL Intellectual Property. However, at the time of the filing of this Proof of Claim, it was not known and could not be known whether 505 Games will be the successful purchaser of the DTL Intellectual Property.

II.

POTENTIAL CLAIM

The Notice of Deadline for Filing Proofs of Claim (the "Bar Date Notice") requires that all entities with claims, including unliquidated, contingent, and unmatured claims and claims arising from a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such remedy is contingent or unmatured, must file a Proof of Claim by the claims bar date of April 8, 2013.

In the event that 505 Games is not the successful bidder and closes a purchase of the DTL Intellectual Property and/or if THQ attempts to decouple and sell only the THQ Contract or only the DTL Intellectual Property to a third-party, then 505 Games may have a claim against THQ. In consideration of the foregoing, 505 Games files this Proof of Claim to preserve its right to prove up a claim in the event that any claim against THQ matures.

III.

RESERVATION OF RIGHTS

The filing of this Proof of Claim shall not constitute a waiver of the right to seek withdrawal of the reference or a consent that any claims or counterclaims the Debtors may assert against 505 Games are core proceedings.

The filing of this Proof of Claim shall not constitute a waiver of any right to jury trial or a consent to a jury trial being conducted by the Bankruptcy Court.

505 Games reserves its right to amend and/or supplement this Proof of Claim, in any respect, at any time, including, without limitation, to assert other obligations that may become liquidated, fixed, matured, or due after the date of this Proof of Claim. 505 Games reserves the right to amend its Proof of Claim should additional, relevant information become available during the pendency of these cases, including information related to the Second Sale. 505 Games reserves the right to file a claim, within the extended dates provided for in the Bar Date Notice, for any damages resulting from any rejection of the THQ Contract.