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9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 In re:

12
13 TECHNOLOGY PROPERTIES
14 LIMITED, LLC,

15 Debtor.

Case No: 13-51589 SLJ

Chapter 11

Date: October 2, 2014

Time: 3:00 p.m.

Place: Courtroom 3099

17
18 **U.S. TRUSTEE'S OBJECTION TO DISCLOSURE STATEMENT RE: MOORE**
19 **MONETIZATION PLAN OF REORGANIZATION**

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21 The United States Trustee for Region 17, Tracy Hope Davis (the "UST"), hereby files
22 this Objection to the Disclosure Statement re: Moore Monetization Plan of Reorganization ("DS"
23 or "Disclosure Statement") filed herein by Creditor Charles H. Moore ("Mr. Moore").

24 The UST objects on the grounds that the Disclosure Statement does not contain adequate
25 information as required under Bankruptcy Code sections 1125(a) and (b). The UST's specific
26 objections are as follows:
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28 UST's Objection to Disclosure Statement
Re: Moore Monetization Plan

- 1 1. The Disclosure Statement is 99 pages long and describes a complicated and
2 contentious history of the Debtor, its assets and liabilities, and its creditors. One area
3 that needs clarification, however, is the current status of the case. At page 4, Mr.
4 Moore references the fact that no joint plan or disclosure statement by the Debtor and
5 the Committee have ever been presented to the Court. But after Mr. Moore filed his
6 plan, a joint plan and a joint disclosure statement have been filed, and a hearing on
7 the disclosure statement is scheduled for October 14, 2014.
- 8
9 2. DS, pp. 20-23 – Mr. Moore states that Classes 1-5 are not impaired under the plan.
10 However, Class 1 (priority claims) do not get paid until six months after the effective
11 date – this is an impairment. Classes 2 and 3 (CCC and Venkidu) may also be
12 impaired, if they are not being paid in accordance with their contracts with the
13 Debtor. With respect to Class 4 (Leckrone), that claim is disputed – but to the extent
14 it is eventually allowed in any amount, it appears that the treatment impairs the claim.
- 15
16 3. DS, pp. 26-28 – it appears that only the filed claims are included in the list of
17 claimants in Class 6 general unsecured claims. Schedule F lists a number of claims
18 that are scheduled as non-contingent, undisputed and liquidated, including, e.g.,
19 Agility IP Law, Andrew Fulop, and Henneman & Associates. These claims and other
20 similarly scheduled claims are deemed allowed pursuant to Federal Rule of
21 Bankruptcy Procedure 3003(b)(1), and should be included in the list of creditors.
- 22
23 4. The Plan contemplates the election of a chapter 11 trustee to essentially serve as the
24 plan administrator. *See DS, pp. 30 et seq.* However, this raises some questions.
25 First, if a chapter 11 trustee is selected prior to confirmation, that trustee is required to
26 be an independent trustee, not an agent for Mr. Moore or controlled by Mr. Moore's
27 plan. A chapter 11 trustee must exercise his or her own business judgment, not the
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1 judgment of a single creditor. The plan obligates a chapter 11 trustee to, among other
2 things, dismiss the TPL/Moore litigation (DS, 32:17), object to and file an adversary
3 proceeding re the Leckrone Class 4 claim (DS, 23:1-5) and assume a seat on the PDS
4 Operating Committee (DS, 32:25). A chapter 11 trustee is also told how to manage
5 the various patent portfolios (DS, pp. 34-36). A chapter 11 trustee could easily
6 disagree with many of the provisions in the plan, as they restrict his or her fiduciary
7 duty to act independently and in the interest of all creditors – indeed, if the trustee
8 deems it appropriate, he or she could file a motion to convert the case to chapter 7, or
9 file a new plan per section 1106(a)(5). In addition, a chapter 11 trustee is restricted to
10 an annual budget, and his or her salary is limited (DS, 30:25-28). The overall effect
11 of the Moore plan is to strip any independence of a chapter 11 trustee. Under the
12 circumstances, the use of a “Liquidating Agent” or “Plan Administrator” appointed
13 pursuant to the plan, rather than a chapter 11 trustee appointed by the Court, would
14 appear to be more appropriate.
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17 5. In addition, the Bankruptcy Code only permits the appointment of a Chapter 11
18 trustee prior to confirmation of a plan. *See Bankruptcy Code §1104(a)*.

19 6. The Disclosure Statement contains very little in the way of a feasibility analysis. At
20 page 69, Mr. Moore refers to certain *pro formas* attached as Appendices 1 and 2, and
21 refers to certain assumptions upon which the *pro formas* are based. But these
22 assumptions are not stated anywhere in the Disclosure Statement, and Mr. Moore
23 admits that the assumptions and estimates are “inherently uncertain” and “not
24 necessarily indicative of the future financial condition or results of operations of the
25 Reorganized Company” (DS, 69:22-25). Much more information is needed for
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1 creditors to make a reasonable and informed judgment about the feasibility of the
2 Moore plan.

3 For the foregoing reasons, the UST asserts that the Disclosure Statement should not be
4 approved.

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7 Dated: San Jose, California
September 25, 2014

Respectfully submitted,

8 TRACY HOPE DAVIS
UNITED STATES TRUSTEE

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1 **In re: Technology Properties Limited LLC**
2 **Case no: 13-51589 SLJ**

3 **CERTIFICATE OF SERVICE VIA 1st CLASS MAIL OR ECF NOTIFICATION**

4 I, the undersigned, state that I am employed in the City of San Jose, County of Santa
5 Clara, State of California, in the Office of the United States Trustee, at whose direction the service
6 was made; that I am over the age of eighteen years and not a party to the within action; that my
7 business address is 280 South First Street, Suite 268, San Jose, California 95113, that on the
8 date set out below, I served a copy of the attached:

9 **U.S. TRUSTEE'S OBJECTION TO DISCLOSURE STATEMENT RE: MOORE**
10 **MONETIZATION PLAN OF REORGANIZATION**

11 **upon each party listed below, by placing such a copy, enclosed in a sealed envelope with**
12 **prepaid postage thereon, in the United States mail at San Jose, California to:**

13 Technology Properties Limited LLC
14 Attention: Daniel E. Leckrone
15 20883 Stevens Creek Blvd., Suite 100
16 Cupertino, CA 95014

17 Adleson, Hess And Kelley, APC
18 577 Salmar Avenue, 2nd Floor
19 Campbell, CA 95008

20 Jeffrey R. Bragalone
21 Bragalone Conroy PC
22 2200 Ross Ave. #4500W
23 Chase Tower
24 Dallas, TX 75201

25 Brian E. Farnan
26 Farnan LLP
27 919 N Market St. 12th Fl
28 Wilmington, DE 19801

29 Larry E. Henneman
30 Henneman & Associates, PLC
31 70 N Main St.
32 Three Rivers, MI 49093

33 Sallie Kim
34 GCA Law Partners, LLP
35 1891 Landings Drive
36 Mountain View, CA 94043

37 Daniel E. Leckrone
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39 Cupertino, CA 95014

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45 Suite 1400
46 San Jose, CA 95113-2429

47 Anthony G. Simon
48 Simon Law Firm, P.C.
49 800 Market Street, Suite 1700
50 St. Louis, MI 63101

51 TR Capital Management, LLC
52 PO Box 633
53 Woodmere, NY 11598

54 Jim Otteson
55 Agility IP Law
56 149 Commonwealth Drive, Suite 1033
57 Menlo Park, CA 94025

58 Brett Bissett
59 K and L Gates LLP
60 10100 Santa Monica Blvd. 7th Fl
61 Los Angeles, CA 90067

1
2 **by ECF notification identified as addressed to**

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4 •Peter C. Califano pcalifano@cwclaw.com
5 •Gregory J. Charles greg@gregcharleslaw.com
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19 I declare under penalty of perjury that the foregoing is true and correct.

20 Executed at San Jose, California, on September 25, 2014.

21 By: /s/ Patricia M. Vargas

22 Patricia M. Vargas
23 Paralegal Specialist
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