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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

)	
In re:)	Chapter 11
)	
TOYS “R” US, INC., <i>et al.</i> , ¹)	Case No. 17-34665 (KLP)
)	
Debtors.)	(Jointly Administered)
)	

**SELLING DEBTORS’
MOTION FOR ENTRY OF AN ORDER
(I) AMENDING THE U.S. INTELLECTUAL PROPERTY
BIDDING PROCEDURES ORDER TO INCLUDE INTERNATIONAL
AND PRIVATE BRANDS INTELLECTUAL PROPERTY ASSETS AND
EXTEND THE SALE TIMELINE AND (II) GRANTING RELATED RELIEF**

Toys “R” Us - Delaware Inc. (“Toys Delaware”) and Geoffrey LLC (“Geoffrey,” and together with Toys Delaware, the “Selling Debtors,” and each a “Selling Debtor”), two of the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are set forth in the *Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* [Docket No. 78]. The location of the Debtors’ service address is One Geoffrey Way, Wayne, New Jersey 07470.

above-captioned debtors and debtors in possession (collectively and including the Selling Debtors, the “Debtors”) respectfully state as follows in support of this motion (this “Motion”):

Introduction

1. The Debtors believe, based on their conversations with prospective bidders, that a value-maximizing sale of the Selling Debtors’ intellectual property assets should include international and private brands intellectual property assets in addition to the U.S. Intellectual Property Assets. Specifically, with the benefit of an extra month of conversation with interested parties since the filing of the U.S. Intellectual Property Bidding Procedures Motion,² the Debtors understand that certain credible parties attribute more value to the U.S. Intellectual Property Assets if they can also own the Other Intellectual Property Assets and certain additional intellectual property assets which include internationally-registered intellectual property and/or private brands intellectual property.

2. Following these conversations, the Selling Debtors, in consultation with their advisors and the Consultation Parties, determined that modifying the existing bidding procedures to include the sale of the Other Intellectual Property Assets and certain additional intellectual property assets and extending the entire sale timeline to encourage greater participation was a prudent step to facilitate the highest and best bids for both the U.S. Intellectual Property Assets and these other assets. The Debtors exercised their authority to adjourn the dates contemplated by the U.S. Intellectual Property Bidding Procedures Order and (i) did not send any notice of the U.S. Intellectual Property Auction or Hearing and (ii) informed all interested parties that they would be

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the *Selling Debtors’ Motion for Entry of an Order (I) Establishing Bidding Procedures for the Sale of the Debtors’ U.S. Intellectual Property Assets, Including the U.S. E-Commerce Assets, (II) Approving the Sale of the U.S. Intellectual Property Assets, Including the U.S. E-Commerce Assets, and (III) Granting Related Relief* [Docket No. 3066] (the “U.S. Intellectual Property Bidding Procedures Motion”) or the order related thereto [Docket No. 3233] (the “U.S. Intellectual Property Bidding Procedures Order”).

filing this Motion to modify dates and expand the scope of the U.S. Intellectual Property Sales. While the Selling Debtors seek authority to sell the intellectual property assets owned by Geoffrey and used in the operation of Toys (Labuan) Holding Limited (the “Asia JV”) and/or their rights in such license to the Asia JV by this Motion, the Debtors are not conducting a marketing process for such assets outside of the current marketing process related to the sale of the Debtors’ interests in the Asian JV.³

3. Accordingly, by this Motion, the Selling Debtors seek to amend the U.S. Intellectual Property Bidding Procedures Order to extend the timeline of the U.S. Intellectual Property Sales and include the Other Intellectual Property Assets and certain additional intellectual property assets as part of the sale contemplated by the U.S. Intellectual Property Bidding Procedures Order and U.S. Intellectual Property Bidding Procedures (collectively, the “Additional Intellectual Property Assets”), including:

- any right, title, or interest to the Toys “R” Us, Babies “R” Us, Kids “R” Us, or any other trademarks, service marks, trade names (whether applied for, registered, or subject to common law protection), or intellectual property in or arising under the laws of any non-U.S. jurisdiction, including any of the Selling Debtors’ intercompany or third-party licensing agreements with respect to or covering non-U.S. jurisdictions;
- any trademarks, service marks, or trade names for Toys “R” Us private label brands or any related intellectual property, including know-how, design rights, copyrights, molds, tooling, and any related specifications or proprietary or confidential information for private label products, whether in the U.S. or in any non-U.S. jurisdiction, and, to the extent salable, any related infrastructure, systems, software, or other assets related to such assets;
- any franchise or licenses under which any Debtors receive royalties or similar payments (or related Intellectual Property Assets) with respect to or covering

³ For the avoidance of doubt, to the extent the intellectual property assets used in the operation of the Asia JV are sold in connection with the sale of the Debtors’ interest in the Asia JV, the procedures proposed in the *Debtors’ Motion For Entry of an Order (I) Authorizing the Debtors to Take Any Corporate Action Necessary to Enter into a Sale and Purchase Agreement Related to the Asia Business, (II) Authorizing the Debtors to Provide Bid Protections in Connection with the Asia Sale and Purchase Agreement, and (III) Granting Related Relief*, filed contemporaneously herewith, shall govern any bid protections provided with respect to such intellectual property.

any non-U.S. jurisdiction;

- any and all domain names associated with the e-commerce business, other than the U.S. e-commerce operations;
- the Selling Debtors' IPv4 addresses, to the extent salable;
- content, infrastructure, or software used for purposes other than exclusively for the U.S. e-commerce operations (including content or software used for e-commerce operations in any non-U.S. jurisdiction), to the extent salable;
- to the extent the Geoffrey estates have causes of action relating to Intellectual Property Assets that a buyer may wish to preserve and/or pursue as the owner of such assets, those causes of action, including any avoidance claims against Toys (Labuan) Holding Limited or other entities; *provided, however*, that such claims will be limited by any applicable settlement agreement entered into prior to the sale; and
- any other intellectual property assets owned by the Debtors or their non-debtor affiliates, to the extent salable.

4. Consensus is conducting the sale and marketing process for the Additional Intellectual Property Assets. As of the date hereof, Consensus has contacted over 115 potential purchasers of Intellectual Property Assets, including major retailers, infant and juvenile consumer products businesses, brand buying and e-commerce organizations, and short-term strategic partners and has had substantive communication with over 85 of such parties. Moreover, Consensus and the Selling Debtors' other advisors have reengaged, or will reengage, parties who previously participated in discussions regarding potential transactions for certain of the Debtors' other assets. Consensus is preparing a "Fact Deck" detailing key facts and statistics regarding the Additional Intellectual Property Assets that will supplement the previously prepared fact deck and will include information in the virtual data room described in the U.S. Intellectual Property Bidding Procedures Motion.

Relief Requested

5. By this Motion, the Selling Debtors respectfully seek the entry of an order, substantially in the form attached hereto as **Exhibit A** (the “IP Bidding Procedures Amendment Order”), amending the U.S. Intellectual Property Bidding Procedures Order. Specifically, by the IP Bidding Procedures Amendment Order, the Selling Debtors seek:

- the application of the U.S. Intellectual Property Bidding Procedures, Bid Protections, form and manner of notices, and U.S. Intellectual Property Assumption and Assignment Procedures, and all other provisions approved by the U.S. Intellectual Property Bidding Procedures Order to the Additional Intellectual Property Assets;⁴
- entry of an order (the “Intellectual Property Sale Order”) after a hearing (the “Intellectual Property Sale Hearing”) authorizing the sale of the Additional Intellectual Property Assets (the “Additional Intellectual Property Sale,” and together with the U.S. Intellectual Property Sale(s), the “Intellectual Property Sale(s)”) and authorizing assumption and assignment of related executory contracts and unexpired leases, if necessary, under the procedures contemplated in the U.S. Intellectual Property Bidding Procedures Order and U.S. Intellectual Property Bidding Procedures; and
- extension of the dates set forth in the U.S. Intellectual Property Bidding Procedures Order to the dates set forth below, which will apply to both the U.S. Intellectual Property Assets and Additional Intellectual Property Assets (which dates may be adjourned from time to time by the Debtors in consultation with the consultation parties):⁵
- **Stalking Horse Deadline: July 2, 2018, at 5:00 p.m., prevailing Eastern Time**, until two days prior to the Intellectual Property Auction, as the period during which the Selling Debtors may choose a Stalking Horse Bidder or Stalking Horse Bidders.

⁴ For the avoidance of doubt, the only substantive modification to any of the notices, U.S. Intellectual Property Bidding Procedures Order, and U.S. Intellectual Property Bidding Procedures will be to include the Additional Intellectual Property Assets and modify applicable dates, as set forth herein.

⁵ Terms defined in the U.S. Intellectual Property Bidding Procedures Motion that apply only to the U.S. Intellectual Property Assets are modified in this Motion to apply to both the U.S. Intellectual Property Assets *and* the Additional Intellectual Property Assets by removing the modifier "U.S." (*e.g.* “Intellectual Property Auction” as used herein has the same meaning as “U.S. Intellectual Property Auction,” but includes the Additional Intellectual Property Assets).

- **Bid Deadline: July 30, 2018, at 5:00 p.m., prevailing Eastern Time**, as the deadline by which all bids must be actually received pursuant to the Intellectual Property Bidding Procedures.
- **Notice of Qualified Bid Deadline: August 3, 2018**, as the date by which the Selling Debtors shall notify the Bidders whether their bids are Qualified Bids.
- **Intellectual Property Auction: August 6, 2018 at 10:00 a.m., prevailing Eastern Time**, as the date and time by which the Intellectual Property Auction, if needed, will be held according to the instructions in the Intellectual Property Bidding Procedures Order and Intellectual Property Bidding Procedures.
- **Post-Auction Notice**: if applicable, as soon as reasonably practicable after the conclusion of the Intellectual Property Auction, but no later than the date that is three business days following the Intellectual Property Auction, as the date by which the Debtors must file the Post-Auction Notice.
- **Sale Objection Deadline**: if applicable, **August 1, 2018, at 5:00 p.m., prevailing Eastern Time**, as the deadline to object to the Intellectual Property Sale.
- **Assumption Objection Deadline**: if applicable, **August 1, 2018, at 5:00 p.m., prevailing Eastern Time**, as the deadline to object to the proposed assumption and assignment and/or to the Successful Bidder's proposed form of adequate assurance of future performance.
- **Hearing to Designate Successful Bidder: August 8, 2018**, as the date by which the Selling Debtors shall seek approval from this Court to designate the Successful Bidders in connection with the Intellectual Property Sales.
- **Intellectual Property Assumption and Assignment Notice**: On a date no later than seven days prior to the Intellectual Property Sale Hearing, the Selling Debtors shall file with the Court the Intellectual Property Assumption and Assignment Notice.

6. In support of this Motion, the Debtors submit the Declaration of Michael A. O'Hara in Support of Selling Debtors' Motion for Entry of an Order (I) Amending the U.S. Intellectual Property Bidding Procedures Order to Include International Intellectual Property Assets and Extend the Sale Timeline and (II) Granting Related Relief, attached hereto as **Exhibit B**, (the "**O'Hara Declaration**").

Jurisdiction and Venue

7. The United States Bankruptcy Court for the Eastern District of Virginia (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated July 10, 1984. The Selling Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

8. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

9. The bases for the relief requested herein are sections 105, 363, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, and rule 9013-1 of the Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia (the “Local Bankruptcy Rules”).

Basis for Relief

I. Including the Additional Intellectual Property Assets in the Intellectual Property Bidding Procedures, Notices, and Assumption and Assignment Procedures is a Reasonable Exercise of the Selling Debtors’ Business Judgment.

10. Courts have made clear that a debtor’s business judgment is entitled to substantial deference with respect to the procedures to be used in disposing of an estate’s assets. *See, e.g., In re Trilogy Dev. Co., LLC*, 2010 Bankr. LEXIS 5636, at *3–4 (Bankr. W.D. Mo. 2010) (holding that section 363 of the Bankruptcy Code permits the debtor to sell their assets if a sound business purpose exists); *In re Channel One Commc’ns, Inc.*, 117 B.R. 493 (Bankr. E.D. Mo. 1990) (same); *In re Schipper*, 933 F.2d 513, 515 (7th Cir. 1991) (“Under Section 363, the debtor in possession can sell property of the estate . . . if he has an ‘articulated business justification.’”) (citations

omitted); *see also In re Farmland Indus., Inc.*, 294 B.R. 855, 881 (Bankr. W.D. Mo. 2003) (holding that courts in this district are reluctant to interfere with corporate decisions unless “it is made clear that those decisions are, inter alia, clearly erroneous, made arbitrarily, are in breach of the officers’ and directors’ fiduciary duty to the corporation, are made on the basis of inadequate information or study, are made in bad faith, or are in violation of the Bankruptcy Code”); *In re Integrated Res., Inc.*, 147 B.R. 650, 656–57 (S.D.N.Y. 1992) (noting that bidding procedures that have been negotiated by a trustee are to be reviewed according to the deferential “business judgment” standard, under which such procedures and arrangements are “presumptively valid”).

11. The paramount goal in any proposed disposition of property of the estate is to maximize the proceeds received by the estate. *See In re Edwards*, 228 B.R. 552, 561 (Bankr. E.D. Pa. 1998) (“The purpose of procedural bidding orders is to facilitate an open and fair public sale designed to maximize value for the estate.”); *In re Food Barn Stores, Inc.*, 107 F.3d 558, 564–65 (8th Cir. 1997) (in bankruptcy sales, “a primary objective of the Code [is] to enhance the value of the estate at hand”); *In re Integrated Res., Inc.*, 147 B.R. at 659 (“[I]t is a well-established principle of bankruptcy law that the objective of the bankruptcy rules and the trustee’s duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate.”) (citations omitted).

12. Here, the Debtors believe that it is appropriate to add the Additional Intellectual Property Assets and related assets to the bidding and sale procedures, related notices, and assumption and assignment procedures already approved in the U.S. Intellectual Property Bidding Procedures Order. After communication with perspective purchasers and understanding their needs, the Selling Debtors believe that this process will maximize value for all stakeholders and reduce administrative burdens on the estate of conducting two separate processes. Further, the

Selling Debtors believe that the Bidding Procedures and other forms of notice related to the U.S. Intellectual Property Sale are equally applicable to the sale of the Additional Intellectual Property Assets and any procedures the Debtors would separately seek would be substantially similar to those already approved, for all of the reasons and benefits of such procedures described in the U.S. Intellectual Property Bidding Procedures Order.

13. Accordingly, for all of the foregoing reasons and those set forth in the U.S. Intellectual Property Bidding Procedures Motion, the Selling Debtors believe that it is appropriate to apply all procedural relief related to the sale of the U.S. Intellectual Property Assets to the sale of the Additional Intellectual Property Assets.

II. The Additional Intellectual Property Sales, Including the Assumption and Assignment of Related Contracts, Should Be Approved as a Reasonable Exercise of Business Judgment.

14. As set forth in the U.S. Intellectual Property Bidding Procedures Motion, section 363(b)(1) of the Bankruptcy Code authorizes a bankruptcy court, after notice and a hearing, to authorize a debtor to “use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). To approve a use, sale or lease of property other than in the ordinary course of business, the court must find “some sound business purpose” that satisfies the business judgment test. *See In re W.A. Mallory Co.*, 214 B.R. 834, 836 (Bankr. E.D. Va. 1997). Courts generally show great deference to a debtor’s decisions when applying the business judgment standard. *See In re Alpha Nat. Res., Inc.*, 546 B.R. 348, 356 (Bankr. E.D. Va. 2016) (“Courts apply the deferential business judgment test when analyzing transactions under § 363(b)(1)”). Deference to a debtor’s business judgment is inappropriate only if such business judgment is “so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice.” *Lubrizol Enters., Inc. v. Richmond Metal Finishers, Inc.*, 756 F.2d 1043, 1047 (4th Cir. 1985).

15. Once the Selling Debtors articulate a valid business justification, “[t]he business judgment rule is a presumption that in making the business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action was in the best interests of the company.” *In re S.N.A. Nut Co.*, 186 B.R. 98, 102 (Bankr. N.D. Ill 1995) (citations omitted); *In re Filene’s Basement, LLC*, 11-13511 (KJC), 2014 WL 1713416, at *12 (Bankr. D. Del. Apr. 29, 2014).

16. The Debtors hereby incorporate by reference paragraphs 37–78 of the U.S. Intellectual Property Bidding Procedures Motion, setting forth the standard for approval of the U.S. Intellectual Property Sales, including the assumption and assignment of related contracts.

17. The case law and rationale supporting a finding that the sale of the Additional Intellectual Property Assets should be approved is substantially the same as addressed in that motion. Specifically, for all the reasons set forth therein, the sale of the Additional Intellectual Property Assets: (i) should be approved as an appropriate exercise of the Debtors’ business judgement for a valid business purpose; (ii) will satisfy all applicable notice requirements; (iii) reflects fair market value; (iv) is proposed in good faith, and without collusion, and the purchaser is a good-faith purchaser; (v) should be approved “free and clear” under section 363(f) of the Bankruptcy Code; and (vi) includes appropriate assumption and assignment procedures for contracts related to the Additional Intellectual Property Assets.

III. Relief Under Bankruptcy Rules 6004(h) and 6006(d) Is Appropriate.

18. Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration of fourteen days after the entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). Additionally, Bankruptcy Rule 6006(d) provides that an “order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the expiration of fourteen days after the entry of the order, unless the court

orders otherwise.” Fed. R. Bankr. P. 6006(d). The Selling Debtors request that the IP Bidding Procedures Amendment Order be effective immediately upon its entry by providing that the fourteen-day stays under Bankruptcy Rules 6004(h) and 6006(d) are waived.

19. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to appeal before an order can be implemented. *See* Advisory Committee Notes to Fed. R. Bankr. P. 6004(h) and 6006(d). Although Bankruptcy Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should “order otherwise” and eliminate or reduce the fourteen-day stay period, the leading treatise on bankruptcy suggests that the fourteen-day stay should be eliminated to allow a sale or other transaction to close immediately “where there has been no objection to procedure.” 10 Collier on Bankr. ¶ 6004.10 (15th rev. ed. 2006). Furthermore, if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time actually necessary to file such appeal. *Id.*

20. To maximize the value received for the U.S. Intellectual Property Assets and Additional Intellectual Property Assets, the Selling Debtors seek to close the Intellectual Property Sales as soon as possible after the Intellectual Property Sale Hearing. Accordingly, the Selling Debtors hereby request that the Court waive the 14-day stay period under Bankruptcy Rules 6004(h) and 6006(d).

Waiver of Memorandum of Points and Authorities

21. The Selling Debtors respectfully request that this Court treat this Motion as a written memorandum of law or waive any requirement that this Motion be accompanied by a written memorandum of law as described in Local Bankruptcy Rule 9013-1(b).

Reservation of Rights

22. Nothing contained herein is intended or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against the Selling Debtors under the Bankruptcy Code, any foreign bankruptcy or insolvency law, including the CCAA, or other applicable nonbankruptcy law; (b) a waiver of the Selling Debtors' or any other party in interest's right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code or pursuant to the CCAA; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Selling Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code, the CCAA, or any other applicable law.

Notice

23. The Selling Debtors will provide notice of this Motion via first class mail and email (where available) to: (a) the Office of the United States Trustee for the Eastern District of Virginia, Attn: Robert B. Van Arsdale and Lynn A. Kohen; (b) counsel to the committee of unsecured creditors; (c) DIP ABL Agent and the advisors and counsel thereto; (d) DIP Taj Term Loan Agent and the advisors and counsel thereto; (e) DIP Delaware Term Loan Agent and the advisors and counsel thereto; (f) the indenture trustee for the TRU Taj 12.00% Senior Notes and the advisors and counsel thereto; (g) the administrative agent for the prepetition Secured Revolving Credit Facility and the advisors and counsel thereto; (h) the administrative agent for the prepetition Secured Term Loan B Facility and the advisors and counsel thereto; (i) the prepetition administrative agent for the Propco I Unsecured Term Loan Facility and the advisors and counsel thereto; (j) the agent for the Propco II Mortgage Loan and the advisors and counsel thereto; (k) the

agent for the Giraffe Junior Mezzanine Loan and the advisors and counsel thereto; (l) the administrative agent for the prepetition European and Australian Asset-Based Revolving Credit Facility and the advisors and counsel thereto; (m) the administrative agent for the Senior Unsecured Term Loan Facility and the advisors and counsel thereto; (n) the indenture trustee for the Debtors' 7.375% Senior Notes and the advisors and counsel thereto; (o) the indenture trustee for the Debtors' 8.75% Unsecured Notes and the advisors and counsel thereto; (p) counsel to the Ad Hoc Group of B-4 Lenders; (q) counsel to the Ad Hoc Committee of Taj Noteholders; (r) the monitor in the CCAA proceeding and counsel thereto; (s) the Debtors' Canadian Counsel; (t) the Internal Revenue Service; (u) the office of the attorneys general for the states in which the Debtors operate; (v) the Securities and Exchange Commission; and (w) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties"). The Selling Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

24. No prior request for the relief sought in this Motion has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors respectfully request that the Court enter the IP Bidding Procedures Amendment Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Richmond, Virginia
Dated: June 11, 2018

/s/ Jeremy S. Williams

KUTAK ROCK LLP

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*Co-Counsel to the Debtors
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Exhibit A

Proposed Order

“Selling Debtor”), two of the above-captioned debtors and debtors in possession (collectively and including the Selling Debtors, the “Debtors”), for entry of an order (this “Order”), (a) amending the U.S. Intellectual Property Bidding Procedures and U.S. Intellectual Property Bidding Procedures Order to include the sale of the Additional Intellectual Property Assets and modify the dates, and (b) granting related relief, all as more fully set forth in the Motion; and the Court having considered the O’Hara Declaration; and the upon having found that it has jurisdiction to consider this Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and the Court having found that consideration of the Motion and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that it may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the Debtors provided due and proper notice of the Motion that is adequate and appropriate under the particular circumstances; and the Court having held a hearing to consider the relief requested in the Motion (the “Hearing”); and upon consideration of 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 and the O’Hara Declaration and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and any objections to the relief requested herein having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor it is **HEREBY ORDERED THAT:**

1. The Motion is granted as provided herein.

2. This Order amends the U.S. Intellectual Property Bidding Procedures Order, only as set forth herein.

3. All objections to the relief requested in the Motion that have not been withdrawn, waived, or settled as announced to this Court at the hearing on the Motion or by stipulation filed with this Court, are overruled.

I. Amendment to U.S. Intellectual Property Bidding Procedures Order.

4. The U.S. Intellectual Property Bidding Procedures Order and U.S. Intellectual Property Bidding Procedures shall be amended to apply to the Additional Intellectual Property Assets: except for the amended dates and deadlines included herein, all of the provisions of the U.S. Intellectual Property Bidding Procedures Order and U.S. Intellectual Property Bidding Procedures apply equally to the sale of the Additional Intellectual Property Assets; *provided, however*, if the intellectual property assets used in the operation of the Asia JV are sold in connection with the sale of the Debtors' interest in the Asia JV, the procedures set forth in the *Order (I) Authorizing the Debtors to Take Any Corporate Action Necessary to Enter into a Sale and Purchase Agreement Related to the Asia Business, (II) Authorizing the Debtors to Provide Bid Protections in Connection with the Asia Sale and Purchase Agreement, and (III) Granting Related Relief* shall govern any bid protections provided with respect to that intellectual property.

II. Amendment to Important Dates and Deadlines.

5. The following dates and deadlines are hereby approved (and may be adjourned from time to time by the Debtors in consultation with the Consultation Parties) for the Additional Intellectual Property Assets. Such dates shall also apply to the U.S. Intellectual Property Assets and modify the approved dates in the U.S. Intellectual Property Bidding Procedures Order.

6. **Intellectual Property Auction and Hearing Notice:** Within three business days of the entry of this IP Bidding Procedures Amendment Order or as soon thereafter as reasonably practicable, the Selling Debtors shall cause the Intellectual Property Auction and Hearing Notice to be served upon the Notice Parties. Within seven business days after entry of this IP Bidding Procedures Amendment Order, or as soon as practicable thereafter, the Debtors shall place a publication version of the Intellectual Property Auction and Hearing Notice for one day in the *USA Today (National Edition)* and the *Richmond Times-Dispatch*, and post it onto the Case Website.

7. **Stalking Horse Deadline:** **July 2, 2018, at 5:00 p.m., prevailing Eastern Time,** until two days prior to the Intellectual Property Auction, is the period during which the Selling Debtors may choose a Stalking Horse Bidder or Stalking Horse Bidders.

8. **Bid Deadline:** **July 30, 2018, at 5:00 p.m., prevailing Eastern Time,** is the deadline by which all bids must be actually received pursuant to the Intellectual Property Bidding Procedures.

9. **Notice of Qualified Bid Deadline:** **August 3, 2018,** is the date by which the Selling Debtors shall notify the Bidders whether their bids are Qualified Bids.

10. **Intellectual Property Auction:** **August 6, 2018 at 10:00 a.m., prevailing Eastern Time,** is the date and time by which the Intellectual Property Auction, if needed, will be held according to the instructions in the U.S. Intellectual Property Bidding Procedures Order and U.S. Intellectual Property Bidding Procedures.

11. **Post-Auction Notice:** if applicable, as soon as reasonably practicable after the conclusion of the Intellectual Property Auction, but no later than the date that is three business days following the Intellectual Property Auction, as the date by which the Debtors must file the Post-Auction Notice.

12. **Sale Objection Deadline**: if applicable, **August 1, 2018, at 5:00 p.m., prevailing Eastern Time**, is the deadline to object to the Intellectual Property Sale.

13. **Assumption Objection Deadline**: if applicable, **August 1, 2018, at 5:00 p.m., prevailing Eastern Time**, is the deadline to object to the proposed assumption and assignment and/or to the Successful Bidder's proposed form of adequate assurance of future performance.

14. **Hearing to Designate Successful Bidder**: **August 8, 2018**, as the date by which the Selling Debtors shall seek approval from this Court to designate the Successful Bidders in connection with the Intellectual Property Sales.

15. **Intellectual Property Assumption and Assignment Notice**: On a date no later than seven days prior to the Intellectual Property Sale Hearing, the Selling Debtors shall file with the Court the Intellectual Property Assumption and Assignment Notice.

III. Miscellaneous.

16. In the event of any inconsistencies between this Order and the Motion, this Order shall govern. In the event of any inconsistencies between this Order and the Intellectual Property Bidding Procedures, the Intellectual Property Bidding Procedures shall govern. For the avoidance of doubt, in the event of a conflict between one Debtor and another Debtor with respect to any aspect of the Intellectual Property Bidding Procedures and/or the Intellectual Property Auction, all decisions with respect to any such conflict will be determined by the Disinterested Directors of the applicable Debtor.

17. The Selling Debtors may, in consultation with the Consultation Parties, choose to delay or cancel the Intellectual Property Auction and (a) not sell any U.S. Intellectual Property Assets and/or any Additional Intellectual Property Assets and/or (b) seek the sale of U.S.

Intellectual Property Assets and/or the Additional Intellectual Property Assets to any party by separate motion.

18. For the avoidance of doubt, a single bidder or group of bidders may purchase all or a portion of the U.S. Intellectual Property Assets and/or the Additional Intellectual Property Assets, as provided under the procedures detailed in the Intellectual Property Assets Bidding Procedures.

19. For the avoidance of doubt, notwithstanding anything to the contrary in this Order, Debtors Toys “R” Us Europe, LLC, TRU Taj Holdings 1, LLC, TRU Taj Holdings 2, Limited, TRU Taj Holdings 3, LLC, TRU Taj LLC, TRU Taj (Europe) Holdings, LLC, TRU Taj Asia, LLC, and Tru Taj Finance, Inc. shall not be authorized to make any payments under this Order, including any payments in respect of the Bid Protections.

20. The requirement under Local Bankruptcy Rule 9013-1(b) to file a memorandum of law in connection with the Motion is waived.

21. The requirement under Local Bankruptcy Rule 6004-2(B) to submit objections at least seven (7) days prior to a proposed sale of assets outside the ordinary course of business is waived.

22. Notice of the Motion as provided therein shall be deemed good and sufficient notice as to such Motion and the requirements of the Bankruptcy Rules and the Local Bankruptcy Rules for the Eastern District of Virginia are satisfied by such notice.

23. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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

25. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: _____
Richmond, Virginia

THE HONORABLE KEITH L. PHILLIPS
UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

/s/ Jeremy S. Williams

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Peter J. Barrett (VA 46179)
Jeremy S. Williams (VA 77469)
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Co-Counsel to the Debtors and Debtors in Possession

CERTIFICATION OF ENDORSEMENT
UNDER LOCAL BANKRUPTCY RULE 9022-1(C)

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Jeremy S. Williams

Exhibit B

O'Hara Declaration

Edward O. Sassower, P.C.
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Co-Counsel to the Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)
) Chapter 11
)
TOYS “R” US, INC., *et al.*,¹)
) Case No. 17-34665 (KLP)
)
Debtors.) (Jointly Administered)
)

**DECLARATION OF MICHAEL A.
O’HARA IN SUPPORT OF SELLING
DEBTORS’ MOTION FOR ENTRY OF AN ORDER
(I) AMENDING THE U.S. INTELLECTUAL PROPERTY
BIDDING PROCEDURES ORDER TO INCLUDE INTERNATIONAL
INTELLECTUAL PROPERTY ASSETS AND (II) GRANTING RELATED RELIEF**

I, Michael A. O’Hara, declare pursuant to 28 U.S.C. § 1746, under penalty of perjury, to the best of my knowledge and belief, that:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are set forth in the *Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* [Docket No. 78]. The location of the Debtors’ service address is One Geoffrey Way, Wayne, New Jersey 07470.

1. I am over the age of 18 and competent to testify. I am the founder and Managing Member of Consensus.² Consensus is an investment banking firm with its principal offices located at 660 Madison Avenue, New York, New York 10065 and 100 River Ridge Drive, Suite 202, Norwood, Massachusetts 02062. Since founding Consensus, I have provided restructuring advice within the context of chapter 11 restructurings, out-of-court restructurings, and distressed transactions, including transactions involving the marketing and sale of assets in consumer-facing industries, including footwear and apparel.

2. I am authorized to execute this declaration (the “Declaration”) on behalf of Consensus in support of the Selling Debtors’ Motion for Entry of an Order (I) Amending the U.S. Intellectual Property Bidding Procedures Order to Include International Intellectual Property Assets and Extend the Sale Timeline and (II) Granting Related Relief (the “Motion”).³ Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein.⁴

3. I am the founder and Managing Member of Consensus and am leading, along with other senior-level management, Consensus’ engagement on behalf of the Debtors. I have more than 25 years of relevant transactional experience, focusing particularly in the consumer products (including the footwear, apparel, infant and juvenile products, jewelry, sporting goods, consumer electronics, accessories, health and beauty, and food and beverage sectors) and retail industries. Prior to founding Consensus in February 2006, I was a Managing Director at Financo, Inc., an investment banking firm focused on retailing and consumer businesses; served as the President

² “Consensus” is, collectively, Consensus Advisory Services LLC and Consensus Securities LLC.

³ Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to such terms in the Motion.

⁴ Certain of the disclosures herein relate to matters within the personal knowledge of other professionals at Consensus and are based on information provided by them.

and CEO of Casual Male Corporation and its subsidiaries, including during its chapter 11 reorganization; served as general counsel and head of real estate at Brookstone, Inc., a national specialty retailer; and practiced as an attorney in the corporate department of the law firm Ropes & Gray LLP.

4. Consensus and I have considerable experience advising financially distressed consumer and retail companies and their stakeholders in sale and capital raise transactions, including extensive experience in chapter 7 and chapter 11 cases and bankruptcy proceedings in Canada under the Companies' Creditors Arrangement Act (the "CCAA").⁵

5. My additional investment banking and financial advisory experience includes advising growing and mature companies in consumer-facing industries, as well as lenders, investors, and other strategic stakeholders of such parties in capital and M&A transactions. Consensus' clients range from large multinational conglomerates to early stage companies with

⁵ See, e.g., *In re Nine West Holdings, Inc.*, Case No. 18-109467 (SCC) (Bankr. S.D.N.Y. May 7, 2018) (order authorizing the Debtors to retain Consensus as sale process investment banker); *In re The Walking Co. Holdings*, Case No. 18-10474 (LSS) (Bankr. D. Del. Apr. 4, 2018) (order authorizing the Debtors to retain Consensus as financial advisor); *In re Evoshield LLC*, Case No. 16-31159 (JPS) (Bankr. M.D. Ga. Nov. 7, 2016) (noting that Consensus was retained in February 2016 to serve as debtors' investment banker); *In re Frederick's of Hollywood, Inc.*, Case No. 15-10836 (KG) (Bankr. D. Del. May 18, 2015) (order authorizing Consensus as debtors' financial advisor and investment banker); *In re Karmaloop, Inc.*, Case No. 15-10635 (MFW) (Bankr. D. Del. Apr. 30, 2015) (order authorizing Consensus as debtors' investment banker); *In re Cache, Inc.*, Case No. 15-10172 (MFW) (Bankr. D. Del. Mar. 3, 2015) (authorizing Consensus as debtors' intellectual property broker); *In re Love Culture Inc.*, Case No. 14-24508 (NLW) (Bankr. D.N.J. Aug. 7, 2014) (order authorizing Consensus as debtors' investment banker); *In re Connaught Group, Ltd.*, Case No. 12-10512 (SMB) (Bankr. S.D.N.Y. Mar. 5, 2012) (order authorizing Consensus as debtors' financial advisor); *In re RoomStore, Inc.*, Case No. 11-37790 (DOT) (Bankr. E.D. Va. Aug 30, 2012) (order authorizing Consensus as debtors' investment banker and exclusive financial advisor for selling a portion of the debtors' equity stake); *In re The Rugged Bear Co.*, Case No. 11-10577 (HJB) (Bankr. D. Mass. Feb. 18, 2011) (order authorizing Consensus as debtors' financial advisor and management consultant); *In re Ultra Stores, Inc.*, Case No. 09-11854 (BRL), (Bankr. S.D.N.Y. May 15, 2009) (order authorizing Consensus as the debtors' financial advisors); *In re Lexington Jewelers Exchange, Inc.*, Case No. 08-10042 (WCH) (Bankr. D. Mass. Jan. 10, 2008) (order authorizing Consensus as debtors' restructuring advisor and management consultant); *In re L.I.D., Ltd*, Case No. 07-10725 (JMP) (Bankr. S.D.N.Y. May 29, 2008) (amended order authorizing Consensus as the debtors' financial advisor); *In re M. Fabrikant & Sons, Inc.*, Case No. 06-12737 (SMB) (Bankr. S.D.N.Y. Jan. 9, 2007) (order authorizing Consensus as the debtors' financial advisors); *In re Tyringham Holdings, Inc.*, Case No. 06-32385 (DOT) (Bankr. E.D. Va. Oct. 17, 2006) (order authorizing Consensus as debtors' financial advisor); *In the Matter of Danier Leather, Inc.* (CCAA proceeding, Toronto, ON, Feb. 2016); and *In the Matter of JSN Jewelry* (CCAA proceeding, Toronto, ON, July 2016).

high growth trajectories. I perform all of the foregoing services for Consensus' clients in my role as founder and Managing Member, and have played a leadership role in many of Consensus' restructuring projects.

6. Consensus serves as the Debtors' sale process investment banker for the sale of intellectual property assets. Over the course of its engagement with the Debtors, Consensus has contacted over 115 potential purchasers and has had substantive communication with over 85 of such parties. Through that process, Consensus has gained an understanding of what purchasers are interested in, and how the Debtors can maximize the value of their intellectual property in a sale.

7. Certain interested parties that I believe have the ability to complete a comprehensive purchase of the Selling Debtors' intellectual property have expressed the desire for the sale process of the Additional Intellectual Property Assets to be consolidated with the sale process of the U.S. Intellectual Property Assets. Specifically, certain potential purchasers have indicated that they ascribe greater value to the U.S. Intellectual Property Assets if they are also able to control certain Additional Property Assets. I therefore believe that if the sale process for the U.S. Intellectual Property Assets continues without the Additional Intellectual Property Assets, certain potential bidders who are interested in purchasing the U.S. Intellectual Property Assets will abstain from bidding, or bid a materially less amount, and the Selling Debtors' may therefore not receive the highest possible bid for such assets. Further, certain bidders have indicated that they require additional time to complete diligence related to the U.S. Intellectual Property Sales. By consolidating the sale process for the U.S. Intellectual Property Assets and the Additional Intellectual Property Assets, and extending the timeline thereof, I believe that the Selling Debtors will have the best opportunity to maximize the value of the Intellectual Property Assets.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on June 11, 2018

/s/ Michael A. O'Hara
Michael A. O'Hara
Founder and Managing Member
Consensus Advisory Services LLC and Consensus
Securities LLC