

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

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<b>In re</b>	:	<b>Chapter 15</b>
	:	
<b>CINRAM INTERNATIONAL INC., et al.,<sup>1</sup></b>	:	<b>Case No. 12-11882 (KJC)</b>
	:	
<b>Debtors in a Foreign Proceeding.</b>	:	<b>(Jointly Administered)</b>
	:	
	:	<b>Ref. Docket Nos. 6 and 30</b>
	:	
	X	

**ORDER GRANTING RECOGNITION OF FOREIGN MAIN PROCEEDING AND  
CERTAIN RELATED RELIEF ON A FINAL BASIS**

Upon the motion (the “**Motion**”)<sup>2</sup> of Cinram International ULC, in its capacity as the court-appointed monitor and authorized foreign representative for the above-captioned debtors (collectively, the “**Debtors**”) in a proceeding commenced under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and pending before the Ontario Superior Court of Justice, pursuant to sections 362, 364, 365, 1517, 1519, 1520, 1521, and 105(a) of title 11 of the United States Code, as amended from time to time (the “**Bankruptcy Code**”) for entry of (a) a provisional order (the “**Provisional Order**”):

(i) recognizing and enforcing in the United States, on an interim basis, the Initial Order (the “**Initial CCAA Order**”) issued on June 25, 2012 by the Canadian Court, including, without limitation, the Canadian Court’s decision (A) to authorize the Debtors to enter into and perform under that certain DIP Facility, and (B) to grant the DIP Charge to the DIP Lenders under the DIP Facility, (ii) granting, on an interim basis, to and for the benefit of the DIP Lenders and, to

<sup>1</sup> The last four digits of the United States Tax Identification Number or Canadian Business Number, as applicable, of each of the Debtors follow in parentheses: (a) Cinram International Inc. (4583); (b) Cinram (U.S.) Holding’s Inc. (4792); (c) Cinram, Inc. (7621); (d) Cinram Distribution LLC (3854); (e) Cinram Manufacturing LLC (2945); (f) Cinram Retail Services LLC (1741); (g) Cinram Wireless LLC (5915); (h) IHC Corporation (4225); and (i) One K Studios, LLC (2132). The Debtors’ executive headquarters is located at 2255 Markham Road, Toronto, Ontario, M1B 2W3, Canada.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Motion.

the extent of their adequate protection rights, the Prepetition Secured Lenders, certain protections afforded by the Bankruptcy Code, including those protections provided by sections 364(c), 364(d), and 364(e) of the Bankruptcy Code, as applicable, (iii) granting an interim stay of execution against the Debtors' assets and applying sections 362 and 365(e) of the Bankruptcy Code in these chapter 15 cases on an interim basis pursuant to sections 1519(a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, and (iv) granting such other and further relief as this Court deems just and proper; and (b) entry of a final order after notice and a hearing, (this "**Order**") (i) granting the petitions in these cases and recognizing the CCAA Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code, (ii) giving full force and effect in the United States to the Initial CCAA Order, including any extensions or amendments thereof authorized by the Canadian Court, and extending the protections of the Provisional Order to the Debtors on a final basis, (iii) granting the DIP Lenders and, to the extent of their adequate protection rights, the Prepetition Secured Lenders, certain protections afforded by the Bankruptcy Code, and (iv) granting such other and further relief as this Court deems just and proper; and it appearing that this Court has jurisdiction to consider the Motion pursuant to sections 157 and 1334 of title 28 of the United States Code, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having reviewed the Motion, the Petitions for Recognition, the Bell Declaration, and the Memorandum of Law, and having considered the statements of counsel with respect to the Motion at a hearing before this Court (the "**Hearing**"); and appropriate and timely notice of the filing of the Motion and the Hearing having been given; and no other or further notice being necessary or required; and this Court having determined that the legal and factual bases set forth in the Motion, the Petitions for Recognition, the Bell Declaration, the

Memorandum of Law, and all other pleadings and papers in these cases establish just cause to grant the relief ordered herein, and after due deliberation therefor;

**THIS COURT HEREBY FINDS AND DETERMINES THAT:**

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410.

C. The Foreign Representative is the duly appointed "foreign representative" of the Debtors within the meaning of section 101(24) of the Bankruptcy Code.

D. This chapter 15 case was properly commenced pursuant to sections 1504, 1509, and 1515 of the Bankruptcy Code.

E. The Foreign Representative has satisfied the requirements of section 1515 of the Bankruptcy Code and Bankruptcy Rule 2002(q).

F. The CCAA Proceeding is a "foreign proceeding" pursuant to section 101(23) of the Bankruptcy Code.

G. The CCAA Proceeding is entitled to recognition by this Court pursuant to section 1517 of the Bankruptcy Code.

H. Canada is the center of main interests of each of the Debtors, and accordingly the CCAA Proceeding is a “foreign main proceeding” as defined in section 1502(4) of the Bankruptcy Code, and is entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code.

I. The Foreign Representative has demonstrated that the borrowings under the DIP Facility authorized by the Initial CCAA Order are necessary to preserve the value of the Debtors’ business.

J. The Foreign Representative has demonstrated that the terms of the DIP Facility, as approved in the Initial CCAA Order, are fair and reasonable and were entered into in good faith by the Debtors and the DIP Lenders and that the DIP Lenders would not extend financing without the protections provided by sections 364(c), 364(d), and 364(e) of the Bankruptcy Code, as made applicable by section 1521(a)(7) of the Bankruptcy Code. The Foreign Representative has demonstrated that the terms of the DIP Facility are reasonable under the circumstances.

K. The Foreign Representative has demonstrated that the incurrence of indebtedness under the DIP Facility, as authorized by the Initial CCAA Order, is necessary to prevent irreparable harm to the Debtors and their affiliates because, without such financing, they will be unable to continue operations, which will significantly impair the value of the Debtors’ assets.

L. The Prepetition Agent, for itself and for the benefit of the Prepetition Secured Lenders, is entitled to adequate protection of their interests in the collateral securing their

indebtedness (the “**Prepetition Collateral**”) from any diminution in value resulting from the use of their “cash collateral” within the meaning of section 363(a) of the Bankruptcy Code (the “**Cash Collateral**”) and the use, sale, or lease of the Prepetition Collateral, the imposition of the automatic stay, and the priming of their liens by the DIP Lenders pursuant to section 364(d) of the Bankruptcy Code. Accordingly, the Debtors have agreed, in their reasonable business judgment, to provide adequate protection as set forth in this Order, which terms and conditions are fair and reasonable and were negotiated in good faith and at arm’s-length.

M. The Foreign Representative is entitled to all the automatic relief available pursuant to section 1520 of the Bankruptcy Code without limitation.

N. The Foreign Representative is further entitled to the discretionary relief expressly set forth in section 1521(a) and (b) of the Bankruptcy Code.

O. The relief granted herein is necessary and appropriate, in the interests of the public and international comity, consistent with the public policy of the United States, and warranted pursuant to sections 1517, 1520, and 1521 of the Bankruptcy Code.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND  
DECREED THAT:**

1. The Petitions for Recognition and the Motion are granted.
2. The CCAA Proceeding is granted recognition as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code.
3. The Initial CCAA Order, including any extensions, amendments, or modifications thereto, is hereby enforced on a final basis and given full force and effect in the United States.

4. All relief afforded foreign main proceedings pursuant to section 1520 of the Bankruptcy Code is hereby granted to the CCAA Proceeding, the Debtors, and the Foreign Representative, as applicable.

5. Sections 362 and 365(e) of the Bankruptcy Code shall hereby apply with respect to the Debtors and the property of the Debtors that is within the territorial jurisdiction of the United States; *provided* that upon the occurrence of an event of default under the DIP Documents (as defined below) or the DIP Lenders' Charge, this paragraph shall be deemed to be automatically modified to the extent necessary to allow the DIP Lenders and the Prepetition Secured Lenders to exercise their rights pursuant to Paragraph 54(b) of the Initial CCAA Order.

6. Subject to sections 1520 and 1521 of the Bankruptcy Code, the CCAA Proceeding and the Initial CCAA Order, and the transactions consummated or to be consummated thereunder, including without limitation, the DIP Facility, shall be granted comity and given full force and effect in the United States to the same extent that they are given effect in Canada, and each is binding on all creditors of the Debtors and any of their successors or assigns.

7. Pursuant to section 1521(a)(6) of the Bankruptcy Code, all prior relief granted to the Debtors or the Foreign Representative by this Court pursuant to section 1519(a) of the Bankruptcy Code shall be extended and the Provisional Order shall remain in full force and effect, notwithstanding anything to the contrary contained therein.

8. All entities (as that term is defined in section 101(15) of the Bankruptcy Code), other than the Foreign Representative and its expressly authorized representatives and agents, are hereby enjoined from:

- a. execution against any of the Debtors' assets;
- b. the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, arbitral, or other action or proceeding, or to recover a claim, which in either

case is in any way related to, or would interfere with, the administration of the Debtors' estates in the CCAA Proceeding or the solicitation, implementation, or consummation of the transactions contemplated by the Initial CCAA Order, including without limitation any and all unpaid judgments, settlements, or otherwise against the Debtors in the United States;

- c. taking or continuing any act to create, perfect, or enforce a lien or other security interest, set-off, or other claim against the Debtors or any of their property;
- d. transferring, relinquishing, or disposing of any property of the Debtors to any entity (as that term is defined in section 101(15) of the Bankruptcy Code) other than the Foreign Representative; and
- e. commencing or continuing an individual action or proceeding concerning the Debtors' assets, rights, obligations, or liabilities to the extent they have not been stayed pursuant to section 1520(a);

*provided*, in each case, that such injunction shall be effective solely within the territorial jurisdiction of the United States.

9. The obligations of the Debtors under the DIP Facility shall be an allowed administrative expense claim with priority, subject and subordinate only to the Carve-Out, under section 364(c)(1) of the Bankruptcy Code and otherwise over all administrative expense claims and unsecured claims against the Debtors, now existing or hereafter arising.

10. Pursuant to the Initial CCAA Order, the Debtors are hereby authorized to borrow up to USD \$15 million under and in accordance with the terms of the DIP Facility. In addition, the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees, and other documents as are contemplated by the DIP Facility (collectively, the "**DIP Documents**") or as may be reasonably requested by the DIP Lenders pursuant to the terms thereof, and the Debtors are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the DIP Lenders under and pursuant to the DIP Facility (and in accordance with the budget delivered in connection therewith) including, but not limited to, the fees and expenses of the DIP Lenders' Canadian and United States counsel, and other advisors,

as and when the same become due and are to be performed, notwithstanding any other provision of this Order and without any further order of this Court.

11. Pursuant to section 364 of the Bankruptcy Code and subject to the priorities, terms, and conditions of the Initial CCAA Order, to secure current and future amounts outstanding under the DIP Facility, the DIP Lenders are hereby granted the DIP Lenders' Charge on all of the Debtors' United States assets up to the maximum amount of the obligations under the DIP Facility.

12. Any obligations incurred by the Debtors as a result of entering into or performing their obligations under the DIP Facility do not and will not constitute preferences, fraudulent conveyances or transfers, transfers at under value, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

13. This Order shall be sufficient and conclusive notice and evidence of the grant, validity, perfection, and priority of the liens granted to the DIP Lenders in the Initial CCAA Order without the necessity of filing or recording this Order or any financing statement, mortgage, or other instrument or document, which may otherwise be required under the law of any jurisdiction; *provided* that the Debtors are authorized to execute and the administrative agent under the DIP Facility may file or record financing statements, mortgages, or other instruments to further evidence the liens authorized, granted, and perfected hereby and by the Initial CCAA Order

14. The Prepetition Agent, for itself and for the benefit of the Prepetition Secured Lenders, is entitled to adequate protection of their interests in the Prepetition Collateral from any diminution in value resulting from the use of the Cash Collateral and the use, sale, or lease of the Prepetition Collateral, the imposition of the automatic stay, and the priming of their liens by the DIP Lenders pursuant to section 364(d) of the Bankruptcy Code. Accordingly, the Prepetition Secured Lenders hereby are (a) granted valid, binding, enforceable, and perfected liens (the "**Adequate Protection Liens**") in all collateral under the DIP Facility to secure an amount of their indebtedness equal to any diminution in the value of their interests in the Prepetition Collateral



subsequent to the date of the filing of the Petitions for Recognition resulting from the use of the Cash Collateral and the use, sale, or lease of the Prepetition Collateral, the imposition of the automatic stay, and the priming of their liens by the DIP Lenders, which Adequate Protection Liens shall be immediately junior to the DIP Lenders' Charge identified in the Initial CCAA Order, (b) granted on allowed administrative expense claim with priority under section 364(c)(1) of the Bankruptcy Code, subject and subordinate only to the carve-out and the obligations under the DIP Facility, and otherwise over all administrative expense claims and unsecured claims against the Debtors, now existing or hereafter arising and (c) entitled to receive payment for, and the Debtors are authorized to pay, the reasonable and documented fees and expenses incurred by Wachtell, Lipton, Rosen & Katz, Morris, Nichols, Arsht & Tunnell LLP, Blake Cassels & Graydon LLP, and Zolfo Cooper, as advisors to the Prepetition Secured Lenders, whether incurred before or after the Petition Date. Nothing herein shall prejudice, impair, or otherwise affect the rights of the Prepetition Secured Lenders to seek any other or supplemental relief in respect of their adequate protection rights.

15. The DIP Documents and the DIP Facility have been negotiated in good faith and at arm's-length between the Debtors and the DIP Lenders. Any financial accommodations made to the Debtors by the DIP Lenders pursuant to the Initial CCAA Order and the DIP Documents shall be deemed to have been made by the DIP Lenders in good faith, as that term is used in section 364(e) of the Bankruptcy Code. Accordingly, pursuant to sections 364(e), 1519(a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, section 364(e) of the Bankruptcy Code hereby applies for the benefit of the DIP Lenders, and the validity of the indebtedness, and the priority of the liens authorized by the Initial CCAA Order made enforceable in the United States by this Order, shall not be affected by any reversal or modification of this Order on appeal or the entry of an order denying recognition of the CCAA Proceeding pursuant to section 1517 of the Bankruptcy Code.

16. No action, inaction, or acquiescence by the DIP Lenders or the prepetition secured lenders, including funding the Debtors' ongoing operations under this Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the DIP Lenders or

the prepetition secured lenders to a charge against the collateral pursuant to sections 506(c), 552(b), or 105(a) of the Bankruptcy Code. The DIP Lenders and the prepetition secured lenders shall not be subject in any way whatsoever to the equitable doctrine of “marshaling” or any similar doctrine with respect to the collateral.

17. Effective upon entry of this Order, no person or entity shall be entitled, directly or indirectly, whether by operation of sections 506(c), 552(b), or 105 of the Bankruptcy Code or otherwise, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of collateral or property after an Event of Default under the DIP Facility, First Lien Credit Agreement, or Second Lien Credit Agreement, or termination or breach under the DIP Facility, the First Lien Credit Agreement, the Initial CCAA Order, the Provisional Order, or this Order.

18. Notwithstanding anything to the contrary contained herein, this Order shall not be construed as (a) enjoining the police or regulatory act of a governmental unit, including a criminal action or proceeding, to the extent not stayed pursuant to section 362 of the Bankruptcy Code or (b) staying the exercise of any rights that section 362(o) of the Bankruptcy Code does not allow to be stayed.

19. The Foreign Representative is hereby authorized to apply to this Court to examine witnesses, take evidence, seek production of documents, and deliver information concerning the assets, affairs, rights, obligations, or liabilities of the Debtors, as such information is required in the CCAA Proceeding.

20. The Foreign Representative, the Debtors and/or each of their successors, agents, representatives, advisors, or counsel shall be entitled to the protections contained in sections 306 and 1510 of the Bankruptcy Code.

21. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (a) this Order shall be effective immediately and enforceable upon entry; (b) neither the Foreign Representative nor the DIP Lenders are subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order; and (c) the Foreign Representative is authorized


and empowered, and may in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

22. A copy of this Order, confirmed to be true and correct, shall be served, within three business days of entry of this Order, by facsimile, electronic mail, or overnight express delivery, upon all persons or bodies authorized to administer foreign proceedings of the Debtors, all entities against whom provisional relief was granted pursuant to section 1519 of the Bankruptcy Code, all parties to litigation pending in the United States in which any of the Debtors were a party at the time of the filing of the Petitions for Recognition, the Office of the United States Trustee for the District of Delaware, and such other entities as this Court may direct.

23. Such service shall be good and sufficient service and adequate notice for present purposes.

24. This Court shall retain jurisdiction with respect to: (a) the enforcement, amendment, or modification of this Order; (b) any requests for additional relief or any adversary proceeding brought in and through these cases; and (c) any request by an entity for relief from the provisions of this Order, for cause shown.

Dated: Wilmington, Delaware  
July 25, 2012

  
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KEVIN J. CAREY  
UNITED STATES BANKRUPTCY JUDGE