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Foreign Representative of MtGox Co., Ltd., a/k/a MtGox KK*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

_____ )	
In re )	Chapter 15
_____ )	
MtGox Co., Ltd. (a/k/a MtGox KK) )	Case No. 14-_____ (___)
_____ )	
Debtor in a Foreign Proceeding. )	<b>Hearing Date: TBD</b>
_____ )	<b>Response Deadline: TBD</b>

**VERIFIED PETITION FOR  
RECOGNITION AND CHAPTER 15 RELIEF**

Robert Marie Mark Karpeles ("Karpeles"), in his capacity as the foreign representative (the "Petitioner") of MtGox Co., Ltd. a/k/a MtGox KK (the "Debtor" or "MtGox"), a debtor in a civil rehabilitation proceeding under Japanese law (the "Japan Proceeding"), currently pending

before the Twentieth Civil Division of the Tokyo District Court, Japan (the "Tokyo Court"), respectfully submits this verified petition (the "Petition") for recognition as a "foreign representative" of MtGox; for recognition of the Japan Proceeding as a foreign main proceeding; and for emergency, preliminary, and permanent relief under Chapter 15 of title 11 of the United States Bankruptcy Code ("Chapter 15").

### **PRELIMINARY STATEMENT**

1. MtGox is a Japanese corporation formed in 2011. It is, and always has been, located in Tokyo. Since it was formed, and up to mid-February 2014, it was engaged in the business of operating an online bitcoin exchange through the website mtgox.com. At one time, MtGox was reported to be the largest online bitcoin exchange in the world. However, on February 7, 2014, MtGox halted all bitcoin withdrawals by its customers after MtGox became subject to a massive theft or disappearance of bitcoins being held by MtGox both on behalf of its customers and itself. This theft or disappearance is currently the subject of an intense investigation to which MtGox devotes most of its resources. The facts known to date indicate this it was caused or related to a flaw in the software algorithm that underlies bitcoin, and "hacking" attacks of one or more persons. On February 25, 2014, MtGox suspended all trading after internal investigations revealed hundreds of thousands of Bitcoins had been stolen or disappeared.

### **BACKGROUND**

#### **MtGox's Business**

2. MtGox is a Japanese corporation, which has always been located in Tokyo, Japan. Until on or around February 25, 2014, it operated an online bitcoin exchange through the website mtgox.com. MtGox has operated this exchange since the summer of 2011. There were times

during this period that MtGox was reported to be the largest online bitcoin exchange in the world, but that is no longer the case.

3. As set forth in the Declaration of Robert Marie Mark Karpeles (the "Karpeles Declaration"), bitcoin is a form of digital currency that was first conceived of in 2008 by a person or group going by the name of Satoshi Nakamoto. The first actual bitcoin was created, or "mined" in 2009. There are several ways in which a person can obtain bitcoin, including the following:

- Bitcoins are "created" through a computer software algorithm which, at any point in time, resides on thousands of computers on the Internet. Persons who accept to certify bitcoin transactions over the bitcoin peer-to-peer network are remunerated by the issuance of a fixed number of bitcoins which evolves over time. The certification is done by the solving of an "algorithm" with the use of ever-more powerful computers. These persons are called "miners" and the process of obtaining bitcoin in this fashion is called "mining."
- A person can also obtain bitcoins that have already been mined by buying them from another. These transactions can consist of "one-to-one" transactions between a buyer and seller. In addition, a person can buy or sell bitcoin through an online exchange, such as the exchange operated by MtGox on the mtgox.com website. In these exchange transactions, the buyer and seller create accounts at the exchange and then fund the account with currency funds, bitcoin or both. The user can then enter a buy or sell order online and the website will match the buy or sell order with one or more sell or buy orders. The buyer receives an increase in bitcoin in his/her account and the seller receives an increase in currency in his/her account. The bitcoin exchange receives a fee or commission for the transaction.
- A person can also obtain and use bitcoin through commercial or merchant transactions; that is, a person can use bitcoin in certain circumstances to pay for goods and services.

4. Users store bitcoins in a digital "wallet" using either the software provided as part of the bitcoin software or a wallet provided by various providers. MtGox provides a wallet

feature. A wallet can be materialized on a piece of paper and bitcoins need not be stored on a computer.

5. The MtGox exchange allowed persons with MtGox accounts to buy and sell bitcoin among themselves. In this regard, a person was to first open an account at MtGox and was assigned an account number. Once a user wanted to start buying or selling bitcoin on the mtgox website, he or she would need to “fund” the account with currency, bitcoin, or both. In addition, the account holder would be subject to “anti-money laundering” (“AML”) procedures. Once the account was “funded,” the account holder would have a “currency balance” in the account, corresponding to the amount of currency he or she had a right to withdraw; and, a “bitcoin balance” in the account, corresponding to the amount of bitcoin he or she had a right to withdraw.

**MtGox’s Capital Structure**

6. MtGox has approximately ¥6.5 billion (\$63.9 million) in liabilities and approximately ¥3.84 billion (\$37.7 million) of assets at present. MtGox has no secured debt. Approximately 12% of the equity in MtGox is held by the developer of the initial MtGox software, Jed MacCaleb, with the remaining equity held by Tibanne Co., Ltd., a Japanese corporation located in Japan.

**Business Challenges**

7. The mtgox.com website has been subject to numerous attempts by persons to breach its security, create denial of service (“DOS”) situations, or to otherwise “hack” the system, and this has been the case since MtGox started operating the website in July 2011. In certain circumstances such attempts have led to the company shutting down the site for periods at a time.

8. On February 7, 2014, all bitcoin withdrawals were halted by MtGox due to the theft or disappearance of hundreds of thousands of bitcoins owned by MtGox customers as well as MtGox itself. The cause of the theft or disappearance is the subject of intensive investigation. It is believed to have been caused or related to a defect or “bug” in the bitcoin software algorithm, which was exploited by one or more persons who had “hacked” the bitcoin network. On February 24, 2014, MtGox suspended all trading after internal investigations discovered a loss of 744,408 bitcoins presumably from this method of theft. These events among others caused MtGox to become insolvent and to file the Japan Proceeding.

**MtGox’s Japan Proceeding and Civil Rehabilitation under the JCRA**

9. In order to protect the MtGox business as a going concern and retain its value while MtGox investigates the theft of the bitcoins under its control and addresses any security defects in the bitcoin exchange, MtGox filed a petition (the “Japan Petition”) for the commencement of the Japan Proceeding in the Tokyo Court pursuant to Article 21(1) of the Japanese Civil Rehabilitation Act (*Minji Saisei Ho*) (the “JCRA”) on February 28, 2014, reporting that the company had lost almost 750,000 of its customers’ bitcoins, and around 100,000 of its own bitcoins, totaling around 7% of all bitcoins in the world, and worth around \$473 million near the time of the filing. The Japan Petition is attached as Exhibit A to the accompanying Declaration of Robert Marie Mark Karpeles (the “Karpeles Declaration”).<sup>1</sup>

10. The JCRA is intended to be used for the rehabilitation and reorganization of corporate debtors. The Japan Proceeding is a civil rehabilitation. The purpose of a civil rehabilitation proceeding is to formulate a rehabilitation plan as consented to by a requisite number of creditors and confirmed by the court, to appropriately coordinate the relationships of

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<sup>1</sup> A translation is currently being performed and will be filed, when available.

rights between creditors and the debtor, with the aim of ensuring rehabilitation of the debtor's business or economic life.

11. In addition to the petition for commencement, MtGox also filed applications for a temporary restraining order and for a comprehensive prohibition order, which were issued by the Tokyo Court on February 28, 2014. At the same time, the Tokyo Court issued orders for the appointment of a supervisor and examiner (collectively, the "Tokyo Court Orders"). The Tokyo Court Orders are attached, together with their English translation, as Exhibits B, C, D, and E respectively, to the Karpeles Declaration.

12. The Tokyo Court appointed Mr. Nobuaki Kobayashi, a Japanese attorney, as MtGox's supervisor and examiner. Under the Tokyo Court Orders, the Debtor cannot execute any agreement with any third party without the consent of the supervisor and examiner. The Debtor however remains free to initiate or pursue any legal proceeding provided that the costs of these proceedings be approved by the supervisor and examiner. On March 10, 2014, Mr. Kobayashi, pursuant to the powers conferred upon him by the Tokyo Court Orders, issued a consent allowing the Debtor to hire Baker & McKenzie to file this Chapter 15 case as counsel of Debtor, allowing the payment of Baker & McKenzie's fees and further acknowledging that this consent was granted at the condition that MtGox's Representative Director Mr. Karpeles, file this Chapter 15 case as the foreign representative of MtGox. A true and correct copy of the application for consent and the consent issued by Mr. Kobayashi is attached, together with an English translation, as Exhibit F to the Karpeles Declaration.

13. The schedule of MtGox's reorganization proceedings has not yet been determined. Upon issuance of the commencement order, the Tokyo Court will set a deadline to file proof of claims, submit a rehabilitation plan, and take other acts consistent with a reorganization or

corporate rehabilitation. As additional steps are taken in the Japan Proceeding, this Court will be advised.

14. This Chapter 15 case is being filed in an effort to maximize recoveries to, and provide for an equitable distribution of value among, all creditors. The enjoining of certain ongoing litigation to which MtGox and its affiliates are parties in conjunction with the protections afforded by the Japan Proceeding is essential to this effort. Please refer to the Gamlen Declaration, which is incorporated and made a part of this Petition as if restated herein, regarding the pending litigation against MtGox and its affiliates.

15. There are no other known foreign proceedings that have been filed by, regarding, or against MtGox and which are pending.

#### **JURISDICTION AND VENUE**

16. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157.

17. Venue is proper in this district pursuant to 28 U.S.C. § 1410. The statutory predicates for relief are sections 105, 1504, 1515, 1517, 1519, 1520 and 1521 of the Bankruptcy Code.

#### **RELIEF REQUESTED**

18. The Petitioner respectfully requests the entry of an order granting recognition, in substantially the form attached hereto as **Exhibit A**, and protection pursuant to sections 105, 1504, 1515, 1517, and 1520 of the Bankruptcy Code to the effect that: (i) Mr. Karpeles is duly appointed as MtGox's "foreign representative," as that term is defined in section 101(24) of the Bankruptcy Code; (ii) the Japan Proceeding is granted recognition as a "foreign main proceeding," which includes an interim proceeding, under a law relating to insolvency or the

adjustment of debts, pursuant to sections 101(23) and 1517(a) and (b)(1) of the Bankruptcy Code; and (iii) upon recognition, MtGox shall be entitled to the protections of section 1520(a).

**RECOGNITION IS APPROPRIATE**

19. As set forth more fully in the accompanying Memorandum of Law in support of, *inter alia*, this Petition, the Petitioner has satisfied each of the requirements for recognition contained in Chapter 15 of the Bankruptcy Code. The Petitioner qualifies as a “foreign representative” as defined in section 101(24) of the Bankruptcy Code. The Japan Proceeding is a “foreign main proceeding” as defined in section 1502(4) of the Bankruptcy Code. The Japan Proceeding is pending in Japan, which is the “center of main interests” for MtGox, as such term is used in sections 1502(4), 1516(c) and 1517(b)(1) of the Bankruptcy Code. There are no other known foreign proceedings by, regarding, or against MtGox that are pending in any other country. The Japan Proceeding is a judicial proceeding under which MtGox’s assets and affairs are subject to the supervision of the Tokyo Court, thus meeting the definition of a foreign proceeding as defined in section 101(23) of the Bankruptcy Code.

**NOTICE**

20. Notice to the parties in accordance with Bankruptcy Rules 1011(b), 2002(q)(1) and 9007 will be provided pursuant to the accompanying Application for an Order Granting Provisional Relief, Scheduling Recognition Hearing, and Specifying Form and Manner of Notice.

**NO PRIOR REQUEST**

21. The Petitioner has not previously sought the relief requested herein from this or any other court.

\* \* \* \*

WHEREFORE, the Petitioner respectfully requests that this Court enter an Order



granting the relief requested herein and such other and further relief as is just and proper.

Dated: March 9, 2014  
Dallas, Texas

Respectfully submitted,

**BAKER & McKENZIE LLP**

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*Attorneys for the Petitioner Robert Marie  
Mark Karpeles, Foreign Representative of  
MtGox Co., Ltd., a/k/a MtGox KK*

**VERIFICATION**


I, Robert Marie Mark Karpeles, hereby declare:

1. I have been authorized by the supervisor and examiner of MtGox to commence this Chapter 15 proceeding.

2. I have read the foregoing Petition and I am informed and I believe that the factual allegations contained therein are true and correct.

3. I verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed: Tokyo, Japan  
March 10, 2014



Robert Marie Mark Karpeles