

BAKER HOSTETLER LLP

S. Derek Bauer (admitted pro hac vice)
1170 Peachtree Street NW, Suite 2400
Atlanta, GA 30309
(404) 459-0050

Seanna Brown
Torello H. Calvani
45 Rockefeller Plaza
New York, NY 10111
(212) 589-4200

Counsel to Springshot, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

SPIRIT AVIATION HOLDINGS, INC., et al.,
Debtors.¹

Chapter 11

Case No. 25-11897 (SHL)

Jointly Administered

**SUPPLEMENTAL LIMITED OBJECTION OF SPRINGSHOT, INC.
TO THE PROPOSED SALE OF THE DEIDENTIFIED DATA**

Springshot, Inc. (“Springshot”) supplements its Limited Objection [ECF No. 1508] to the Debtors’ proposed sale of Deidentified Data, described in the *Notice of Auction Results and Scheduled Hearing for the Deidentified Data* [ECF No. 1463], and respectfully states as follows:

1. Since the filing of its Limited Objection, Springshot and the Debtors have engaged in substantial dialogue concerning Springshot’s data implicated by the proposed sale. It is apparent that the Debtors negotiated the data sale without adequately considering how the proposed sale

¹ The Debtors’ names and last four digits of their respective employer identification numbers are as follows: Spirit Aviation Holdings, Inc. (1797); Spirit Airlines, LLC (7023); Spirit Finance Cayman 1 Ltd. (7020); Spirit Finance Cayman 2 Ltd. (7362); Spirit IP Cayman Ltd. (4732); and Spirit Loyalty Cayman Ltd. (4752). The Debtors’ mailing address is 1731 Radiant Drive, Dania Beach, FL 33004.

includes third-party vendor data, including confidential and proprietary information that is not property of the Debtors. Accordingly, unresolved issues remain because the Debtors have failed to give adequate assurances that they know where the Springshot proprietary data they possess is located and have excluded that proprietary data from the sale.

2. Springshot has no desire to derail the Debtors' sale. Springshot only asks that its proprietary and confidential information is excluded from the sale and sufficient safeguards are in place to ensure that exclusion. In its discussions with the Debtors, which are ongoing, Springshot has requested transparency into the Debtors' claims that such an exclusion and safeguards already exist.

3. To simplify and narrow the scope of the Springshot data at issue, Springshot identified to the Debtors the three primary categories of confidential and proprietary information of concern: (1) confidential Springshot data and other information shared by Springshot with the Debtors through ordinary business communications and information-sharing channels, including, but not limited to, email, Microsoft Teams messaging, and SharePoint portals, and other electronic and written exchanges; (2) Springshot-generated data from its software platform routinely pushed directly to the Debtors; and (3) derivatives of that information, *i.e.*, internal sharing or analyses of that information by the Debtors.

4. To assist the Debtors in locating and excluding those categories of Springshot's data from the sale, Springshot has provided the Debtors with example reports created by Springshot that contains Springshot's proprietary and confidential information. Springshot also has explained how it sent data to the Debtors throughout each day using the Debtors' own URLs, and has provided the Debtors with examples of data payloads that were sent to the Debtors' URLs

on a routine basis, even though all of that information is, and always has been, in the Debtors' possession.

5. The Debtors' consistent response has been that they "do not believe" Springshot's data is included in the asset sale, but they have neither provided a reasonable basis for that purported "belief" or provided any sort of audit trail reflecting efforts they have undertaken to support that "belief". Based on representations from counsel, the Debtors have agreed to carve out from the data sale (i) an exemplar report created by Springshot and shared with them to assist them in locating other similar reports Springshot routinely provided, (ii) email correspondence between Springshot and the Debtors, (iii) Microsoft Teams messages with Springshot, and (iv) Springshot's documents located to date on the Debtors' SharePoint environment. The Debtors also have said that data received from Springshot via the Debtors' URLs would have been downloaded to a platform that is not part of the asset sale, but it is unclear from the asset schedules filed with the Court whether that representation is accurate.

6. More acutely, as the parties have attempted to resolve Springshot's objection through the conferrals, the Debtors have provided Springshot with incomplete, conflicting, and at times inaccurate information as to how the Debtors received and stored Springshot's data. That conflicting and incorrect information, coupled with a lack of transparency, is insufficient to assure Springshot that the Debtors have made reasonable, much less adequate, efforts to search for and remove Springshot's data from the asset sale. Given the risk of substantial and irreversible harm to Springshot arising from the exposure of its proprietary data to ingestion by AI models owned by Google or any other bidder, such a process is grossly inadequate.

7. Discussions between Springshot and the Debtors remain ongoing. Late last night, the Debtors provided certain revised drafts of documents relating to the data sale. Springshot has

not had a meaningful opportunity to review or discuss these documents with Debtors' counsel before today's filing deadline. But even after a cursory review, it appears that the Debtors still have not undertaken meaningful efforts to identify Springshot proprietary data and information stored in its systems, and instead their proposal anticipates sending most of their data assets to a third-party Deidentification Agent, assign to Springshot (and other third-parties whose data is implicated by the proposed sale) the burden of describing with specificity what proprietary data it believes the Debtors have and how the Deidentification Agent should search for and exclude it, but cedes all discretion to the Debtors to determine if the Deidentification Agent was successful in locating and excluding Springshot's data from the corpus of data to be delivered to Google.

8. If that is the proposed solution to Springshot's concerns, the Debtors are placing too much faith in Google's selected Deidentification Agent and are also asking Springshot to assume too much faith that the Deidentification Agent can identify and exclude any (much less all) of Springshot's confidential and proprietary information that is included in the data sale. Moreover, there remains a significant concern that the Debtors have not offered a meaningful protection or remedy should that proposed process fail.

9. The Debtors should and do bear the burden of establishing that Springshot's property is excluded from the data sale. At a minimum, in advance of any sale hearing, the Debtors should submit to the Court a revised Sale Agreement and Asset Schedule that includes a detailed description of the scope and nature of the assets included in *and excluded* from the sale, together with sufficiently detailed analysis of how those assets are being segregated so that concerned third parties and the Court can adequately assess whether that process is sufficient. It should not be the burden of third parties to guess what of their proprietary information the Debtors continue to hold and where they hold it; and those third parties should not be subjected to the Debtors' discretion

about whether their information has been properly excluded from the data actually sold and delivered to Google. Given the substantial harm an imperfect process poses to the rights of affected third parties like Springshot, approval of the sale cannot rest on the unsubstantiated representations of Debtors' counsel or a process that shifts the burdens of identifying where Debtors' are holding their information to the affected third parties while also surrendering to Debtors' discretion any validation of whether their information has been properly excluded from the sale.

10. Finally, Springshot joins the supplemental Limited Objections filed by the Association of Flight Attendants [ECF No. 1656] and the Air Line Pilots Association, International [ECF No. 1658] to request an evidentiary hearing. The proposed data sale raises novel issues under the Bankruptcy Code concerning third parties' confidential information. The interested parties' objections should be resolved on a full record, not rushed through to meet arbitrary deadlines.

RESERVATION OF RIGHTS

Springshot reserves all rights, including the right to further supplement or amend this limited objection, to conduct discovery, to be heard at the hearing, and to object to the form of any proposed sale order.

CONCLUSION

Despite more than a month of negotiations, it remains clear that the Debtors do not know to any reasonable degree what Springshot confidential information they retain, or where they have it. No new proposal has yet been filed with the Court. However, if the process to be proposed includes simply sending Debtors' data to a vendor, shifting the burden to affected third parties to describe with specificity how the vendor should go about looking for their information among

Debtors' data systems, and then ceding all discretion to Debtors to decide if the vendor does that correctly, Springshot will respectfully request that the Court decline to approve the sale of data unless and until the order approving the sale expressly and unequivocally provides that, notwithstanding the language in the proposed Sale Agreement, Springshot's intellectual property is excluded from the Assets to be sold to Google or any other bidder under the Sale Agreement, and there are sufficient protocols in place to ensure that Springshot's property is removed from the assets to be sold and will not otherwise be transferred or used in a manner inconsistent with the parties' agreements. Springshot believes that adequate protections and protocols are possible, but the burden to establish those protections, and the risk of inadequacy in those protections, should be borne entirely by the Debtors and not shifted to the third-parties whose interests are placed at risk by the proposed transaction.

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By: /s/ S. Derek Bauer

BAKER & HOSTETLER LLP
S. Derek Bauer (admitted pro hac vice)
1170 Peachtree Street NW, Suite 2400
Atlanta, Georgia 30309
Telephone: (404) 459-0500
Email: dbauer@bakerlaw.com

Seanna Brown
Torello H. Calvani
45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Email: sbrown@bakerlaw.com
Email: tcalvani@bakerlaw.com

Counsel to Springshot, Inc.