

Court Denies AlphaCap's Motion for Reconsideration and Lifts Stay Citing Concerning Statements from AlphaCap's Attorneys in Gust Case

7.7.17

On July 6, 2017, Judge Denise Cote of the Southern District of New York issued an Opinion denying AlphaCap's Motion for Reconsideration of the Court's Order for AlphaCap and its attorneys at Gutride Safier LLP to pay Gust, Inc. more than \$550,000 in attorney's fees resulting from AlphaCap's unsuccessful patent litigation. In her opinion, Judge Cote found AlphaCap's motion inappropriate because it "presents new arguments that could have been made but were not in opposition . . . or repeats arguments that were previously made and rejected." (Op. at 9.)

In a contemporaneous Opinion, Judge Cote rejected AlphaCap's Motion for Attorney's Fees, finding several aspects of AlphaCap's motion "concerning," including AlphaCap's counsel's misstatement of crucial facts, and its assertion that it relied on the *DDR Holdings, LLC v. Hotels.com L.P.* case to justify its belief that its patents were valid, despite never citing that case in its earlier filings. Based on these rulings, the Court lifted the stay of execution, which will allow Gust to collect attorney's fees from AlphaCap and Gutride Safier.

The cases are captioned *Gust, Inc. v. AlphaCap Ventures, LLC and Richard Juarez*, 16-cv-1784-DLC (S.D.N.Y.) and *AlphaCap Ventures, LLC v. Gust, Inc.*, 15-cv-6192-DLC (S.D.N.Y.)

Gust is represented by Frank Bruno.