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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:

VIDANGEL, INC.,

Debtor.

Case No. 17-29073

Chapter 11

Judge Kevin R. Anderson

**DEBTOR'S MOTION FOR ORDER TO SET LAST DAY
TO FILE PROOFS OF CLAIM**

VidAngel, Inc., the above-captioned debtor and debtor-in-possession (the “**Debtor**” or “**VidAngel**”) hereby moves the Court (the “**Motion**”) under sections 105 and 501 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2002(a), 6003, 6004(h), and 3003 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) for entry of an order setting a deadline for all creditors and parties-in-interest to file proofs of claim in this Chapter 11 case (this “**Case**”). This Motion is supported by the arguments and authorities set forth below, the *Declaration of Neal Harmon in Support of the Debtor’s Chapter 11 Petition and Requests for First-Day Relief* (the “**First-Day Declaration**”), and the entire record before the Court in this Case.

I.
SUMMARY OF RELIEF REQUESTED

1. The Debtor is operating its business as a debtor-in-possession, as detailed herein. Given its ongoing business operations, the Debtor believes it is essential for the Court to set a deadline for submission of proofs of claim in this Case (“**bar date**”). A reasonable bar date will allow the full extent of the estate’s liabilities to be fixed as soon as practicable, which in turn will allow the Debtor to expedite its reorganization processes and proposing a Chapter 11 plan. Accordingly, the Debtor makes the following requests:

- a. First, that the Court set a bar date for creditors to file proofs of claim that is sixty (60) days from the date of the mailing or service of the notice of the bar date;
- b. Second, and as an exception to the 60-day deadline, that any claim arising from the rejection of an executory contract, and as to such claimant, a reasonable time for the filing of such party’s claim would be thirty (30) days from the date of such rejection;
- c. Third, that the 60-day deadline apply to any claims by the United States, the State of Utah, and any subdivisions thereof so that tax liabilities, if any, can be factored into the Debtor’s proposed Chapter 11 plan;
- d. Fourth, that any claimants who fail to file proofs of claim by the requisite deadline shall be forever barred from asserting a claim against the Debtor or its estate; and
- e. Fifth, that the Debtor’s subscribers, who are owed an average of less than \$19 each, be excused from filing proofs of claim.

2. The statutory predicates for the relief sought herein are section 105 of the Bankruptcy Code and Bankruptcy Rules 2002, 3003, 6003, 6004, and Local Rule 3003-1.

II.
JURISDICTION

3. This Court has jurisdiction to consider the relief requested in this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b) and venue is proper in the District of Utah under 28 U.S.C. §§ 1408 and 1409.

III.
RELEVANT BACKGROUND

A. General.

4. On October 18, 2017 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under the Bankruptcy Code. The Debtor continues in possession of its properties and is operating and managing its businesses as a debtor-in-possession under sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner and a creditors’ committee has not yet been appointed in this Case.

5. The Debtor’s services allow its subscribers to filter the content of motion pictures (including television shows) and stream such content for its subscribers’ private viewing. The Debtor is also an original content provider, and it provides a streaming service to view the content it produces. The Debtor’s services give subscribers and their families choice over the content they wish to view and share with their families.

6. From early 2015 through late December 2016, VidAngel used a purchase model to provide video to its customers (the “**Disc Ownership Model**”). Under the Disc Ownership Model, VidAngel purchased DVDs and Blu-ray discs and sold them to its customers. VidAngel would decrypt the contents of the purchased discs and stream the content to the owner, filtered as each customer individually requested. VidAngel’s proprietary technology enabled (and required) users to filter the video for various types of potentially objectionable content, which would be silenced or deleted when the video was streamed. Once purchased, a customer could opt to sell the video disc back to VidAngel, or keep the disc (including the actual physical disc), which VidAngel would ship to purchasers, on request, or store for the customer in a secure vault.

7. VidAngel’s Disc Ownership Model was popular and growing, with more than 1 million unique users as of December 2016. However, in June 2016, Disney Enterprises, Inc.,

Lucasfilm Ltd. LLC, Twentieth Century Fox Film Corporation, and Warner Bros. Entertainment Inc. (the “**Studios**”) sued VidAngel in the United States District Court for the Central District of California, Case No. 2:16-cv-04109-AB-PLA (the “**Copyright Action**”), for copyright infringement of approximately 80 of the Studios’ copyrighted works. The Studios alleged that VidAngel’s decryption of its works was a technical violation of the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 1201(a) and that VidAngel’s filtering and streaming violated their exclusive rights to make copies of and publicly perform their works in violation of 17 U.S.C. § 106. On December 12, 2016, the District Court granted the Studios’ Motion for a Preliminary Injunction. VidAngel complied with the preliminary injunction, shutting down VidAngel’s and its customers’ use of the Disc Purchase Model. The Studios are attempting to amend their complaint to add additional plaintiffs and allege additional infringements before pursuing the Copyright Action to a judgment. The Studios rejected VidAngel’s Statutory Offer to Allow the Entry of Judgment against it.

8. Upon issuance of the preliminary injunction, VidAngel launched a new streaming based service (the “**Stream-Based Model**”), which avoids any decryption of the Studios’ copyrighted works, and does not involve any physical video discs. Under the Stream-Based Model, VidAngel’s more than 200,000 subscribers pay a monthly fee that allows them to filter content from other streaming providers. Subscribers who use the Stream-Based Model select video content from third-party services such as Amazon, Netflix, and Hulu using their own accounts with the third-party streaming services.¹ Using VidAngel’s proprietary technology, subscribers can elect to have VidAngel remove or silence various types of potentially objectionable content when they view the selected video.

¹ Users must maintain and pay the third-party content providers directly.

9. To ensure that the new Stream-Based Model does not violate the DMCA, VidAngel initiated a declaratory relief action in the United States District Court for the District of Utah, Case No. 2:17-cv-00989-EJF (the “**Declaratory Relief Action**”), and joined the Studios and other copyright owners whose copyrighted works might be streamed and filtered. The Declaratory Relief Action is in its early stages, and none of the defendants have answered.

10. At this time, the Debtor requires the breathing space of the Automatic Stay of section 362(a) of the Bankruptcy Code. The Studios are pressing forward with the preliminary injunction in the California District Court, attempting to apply it to enjoin VidAngel’s new Stream-Based Model. The Declaratory Relief Action is in its early stages, and the Utah District Court needs an opportunity to consider the issues and confirm that the Stream-Based Model does not violate any of the Studios’ copyrights. Further, the Stream-Based Model, which is profitable, will provide sufficient revenue to enable the Debtor to reorganize its business and pay its creditors.

B. Facts Specific to the Motion.

11. The Debtor intends to continue to operate its business with as little disruption as possible during the Case. The Debtor also intends to move forward with the bankruptcy process, including reorganizing and confirming a Chapter 11 plan. As explained below, ordering the requested 60-day bar date will allow the Debtor’s liabilities to be fixed within a reasonable time and permit it to propose a Chapter 11 plan in an expeditious manner for the benefit of its estate, creditors, and other interested parties.

12. The Debtor’s streaming-based service has 250,000 subscribers. These subscribers may be owed a return or credit towards services averaging less than \$19. The Debtor hereby seeks exemption for these subscribers from the need to file any proofs of claim whatsoever for the value of this credit. The Debtor has up-to-the-minute real-time information about the amounts of these credits, and does not dispute that they are usable by its subscribers to pay for services on the new

Stream-Based Model. The credits owed to subscribers change on a daily basis as credits are used for the new streaming service and, in any event, are small amounts owed to a large number of subscribers, and the administration of so many claims would be administratively burdensome.

13. The Debtor's other creditors – sophisticated commercial entities like American Express, utility companies, Zion's Bank, or its landlord, etc. – which will be able to submit proofs of claim well within the requested 60-day timeframe.

IV. **ARGUMENTS & AUTHORITIES**

14. Federal Bankruptcy Rule 3003(c)(3) provides that the Court shall, in Chapter 11 cases, set a bar date for creditors to file proofs of claim.

15. Local Rule 3003-1 provides this Court with discretion to deviate from the standard bar dates set forth in that Rule.

16. The Debtor is requesting the Court set a 60-day deadline for filing proofs of claim in this Case (a) whether such claim is listed in the schedules or amendments thereto as disputed, contingent, or unliquidated, (b) whether a disagreement as to the amount exists, (c) whether such asserted claim or interest is against any assets alleged to be property of the estate, and (d) whether such claim is asserted as secured or unsecured.

17. The Debtor further requests an exception to the 60-day deadline for claims arising from the rejection of an executory contract. Specifically, the Debtor proposes that any such claimant have thirty (30) days from the effective date of such rejection to file a proof of claim with the Court.

18. The Debtor also requests that the 60-day deadline apply to claims of the United States and the State of Utah, and any subdivision thereof. The United States, the State of Utah, and subdivisions thereof may have claims for taxes against the Debtor from which liability arose

prior to the Petition Date. Nevertheless, the Debtor has requested and received authority to continue paying these tax obligations current throughout the Case. Accordingly, the Debtor does not anticipate that any taxing authority will be in any way prejudiced by setting a claims bar date.

19. The above-described 60-day deadlines are reasonable given the circumstances of this Case. The Debtor continues to operate its business as a debtor-in-possession. Given its continued business operation and plans to reorganize, it is important for the Debtor to proceed as quickly as possible through these proceedings – including having the full extent of the estate’s liabilities fixed as soon as practical. Moreover, the Debtor intends to and hereby requests that the Court exempt subscribers from the need to file proofs of claim up to \$20 in credit per individual. The other creditors and parties in interest are generally sophisticated commercial entities. Given their relative sophistication, the Debtor expects that these interested parties will have no trouble submitting proofs of claim within the proposed 60-day timeframe.

V.
NOTICE

20. The Debtor has provided notice of this Motion to (a) the Office of the United States Trustee for the District of Utah; (b) the entities listed on the List of Creditors Holding the 20 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); and (c) all ECF notice parties and parties who have requested notice on the Court’s docket. If the Motion is approved the Debtor will send the order setting the claims bar date to all of its subscribers by email and to all of the parties on the Debtor’s mailing matrix as required by Bankruptcy Rule 2002(a)(7). In light of the nature of the relief requested in this Motion, the Debtor respectfully submits that no further notice is necessary.

VI.
CONCLUSION

21. For the reasons stated above, the Debtor requests that the Court grant the Motion and enter the Interim Order lodged herewith and, after holding the Final Hearing, the Final Order.

Respectfully submitted this 25th Day of October, 2017.

/s/ Brian M. Rothschild

Brian M. Rothschild

J. Thomas Beckett

PARSONS BEHLE & LATIMER

Proposed Attorneys for VidAngel, Inc.

Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:

VIDANGEL, INC.,

Debtor,

Case No. 17-29073

Chapter 11

Judge Kevin R. Anderson

ORDER SETTING LAST DAY TO FILE PROOFS OF CLAIM

Upon the motion (the “**Motion**”)¹ filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**”) requesting entry of an order setting a deadline for all creditors and parties-in-interest to file proofs of claim; and it appearing that the relief requested in the Motion is appropriate in the context of this case and in the best interest of the Debtor and its estate, creditors, and other all parties-in-interest; and it appearing that notice of the Motion was adequate and proper under the circumstances of this case, and it appearing that no other or further notice need be given; and after due deliberation and sufficient cause appearing, therefore

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

2. All proofs of claims for creditors shall be in the form prescribed by Section 11 of Title 11 of the United States Code and shall be filed with the U.S. Bankruptcy Court for the District of Utah, on or before be sixty (60) days from the date of mailing the notice of bar date, with the exception of any claim arising from the rejection of an executory contract, and as to such claimant, a reasonable time for the filing of such party's claim would be thirty (30) days from the date of such rejection.

3. Sixty (60) days from the date of mailing the notice of bar date, which will be the same date as the entry of this Order, which date is February [], 2018, be and it hereby is fixed as the last day to file within which the United States of America, the State of Utah, or any subdivision thereof, shall file its claim for taxes, if any, against the Debtor, for liability that arose prior to the filing of the petition of the Debtor under Chapter 11 of the Bankruptcy Code, after which no such claims may be filed or asserted against the Debtor, except on order for cause shown.

4. The Debtor's subscribers and customers are hereby exempt from filing proofs of claim for the value of any credits or refunds unless the Court at a later time orders otherwise and sets a bar date therefor.

5. Proofs of claims of creditors filed to date in these proceedings in such form as herein required shall be deemed to have been filed in accordance with the provisions and requirements of this Order.

6. This Order and bar date shall apply to all claims whether listed or not on the Debtor's Schedules with this Court, (a) whether such claim is listed in the schedules or amendments thereto as disputed, contingent, or unliquidated; (b) whether a disagreement as to the amount exists; (c) whether such asserted claim or interest is against any assets alleged to be property of the estate; and (d) whether such claim is asserted as secured shall be filed in the manner and no later than sixty (60) days from date of mailing the notice of bar date, and failure to timely

file a claim may result in such claim being barred from any recovery from the estate. A claimant is not required to file a proof of claim or interest by the applicable bar date for any claim listed in the Debtor's Schedules if such claim is not designated therein as disputed, contingent, or unliquidated and if the claimant does not dispute the scheduled amount or classification of its claim.

7. The Debtor shall serve this Order on (a) the Office of the United States Trustee for the District of Utah; (b) all of its subscribers by email and (c) all of the parties on the Debtor's mailing matrix.

[END OF DOCUMENT]