

This order is SIGNED.



Dated: April 13, 2020

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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

**AGREED ORDER BETWEEN THE CHAPTER 11 TRUSTEE AND THE STUDIOS TO
RESOLVE THE TRUSTEE’S MOTION FOR ORDER AUTHORIZING USE OF
PROPERTY OUTSIDE OF THE ORDINARY COURSE OF THE DEBTOR’S BUSINESS**

George Hofmann, in his capacity as Chapter 11 Trustee (the “**Trustee**”) of VidAngel, Inc., the debtor (the “**Debtor**”) in the above-entitled Chapter 11 case (the “**Case**”), on the one hand, and each of Disney Enterprises, Inc., Lucasfilm Ltd., LLC, Twentieth Century Fox Film Corporation, Warner Bros. Entertainment Inc., MVL Film Finance LLC, New Line Productions, Inc. and Turner Entertainment Co. (collectively, the “**Studios**”), on the other hand, by and through counsel, agree (“**Stipulation**”) to the entry of the following regarding the *Trustee’s*

Motion for Order Authorizing Use of Property Outside of the Ordinary Course of the Debtor's Business (the “**DVR Motion**”) [Dkt. 423].

FINDINGS AND CONCLUSIONS

- A. The Debtor filed the above-entitled Chapter 11 case on October 18, 2017.
- B. The Trustee was appointed as the Debtor's Chapter 11 Trustee on August 28, 2019.
- C. On November 8, 2019, the Trustee filed the DVR Motion. The DVR Motion requested, in relevant part, that this Court enter an order authorizing the Trustee to “allow the Debtor to develop and implement” what the DVR Motion referred to as the “DVR Model.” DVR Motion ¶ 16.
- D. This Court has jurisdiction over the DVR Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of this case and the DVR Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
- E. Proper, timely, adequate and sufficient notice of the Motion was provided in accordance with Bankruptcy Code §§ 102(1) and 363 and Rules 2002, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure to (i) the Office of the United States Trustee, and (ii) all parties in interest on the mailing matrix in the above-captioned case. Such notice was reasonable, sufficient, and appropriate under the circumstances. No further notice of the Motion is or shall be required.
- F. The Studios filed a preliminary objection to the DVR Motion on November 25, 2019 (“**Initial Objection**”). [Dkt. 443]

G. Both the Trustee and the Studios have served written discovery concerning the DVR Model Motion (each a “**Discovery Request**”).

H. On March 10, 2020, the Court held a hearing on the Studios’ motion to compel certain discovery served and/or requested in connection with the DVR Motion. At that hearing, the Court described its preliminary thoughts on the standards it believed applied to consideration of the DVR Motion for the purposes of evaluating the relevance and proportionality of the discovery at issue, and in explaining the reasons it was denying the Studios’ motion to compel. While reserving their rights, and while respectfully disagreeing with the Court’s rulings, the Studios have agreed, in light of those rulings, to withdraw their Initial Objection and to agree to the entry of the Agreed Order resolving the DVR Motion on the terms herein.

I. Solely for purposes of this Order resolving the DVR Motion, and without prejudice to the rights of the Studios or the Trustee in any future contested matters or proceedings in this or any other Court, the parties stipulate to the following, which shall not be admissible for any purpose in any such matter or proceeding:

i. the Studios will not further contest the facts the Trustee has recited in the DVR Motion for purposes of the Trustee setting forth his evidence in support of the DVR Motion;

ii. the Studios do not contest the soundness of the Trustee’s business reasons to develop and implement the DVR Model as set forth in the Motion, and the Studios take no position herein regarding the soundness of those reasons;

iii. the Studios do not contest that the Trustee has not acted arbitrarily or capriciously;

iv. the Studios do not contest that the Trustee has exercised his business judgment in good faith, and not based upon improper or bad motives;

v. the Studios do not contest that the Trustee has shown good cause for the relief granted herein, or the granting of the DVR Motion as set forth below.

J. Under the circumstances, good cause exists for the granting of the DVR Motion as set forth in this Agreed Order.

AGREED ORDER

1. Withdrawal of Initial Objection and Entry of Order. The Studios' Initial Objection to the DVR Motion shall be deemed withdrawn, and the DVR Model Motion granted. Specifically, the Trustee's business decision to develop and implement the DVR Model as set forth in the DVR Motion shall be, and hereby is, confirmed as a decision within the scope of the Trustee's authority and discretion to direct the business and activities of the Debtor without the need for specific Court approval, pursuant to 11 U.S.C. §§ 1108 and/or 363(c).

2. No Prejudice. The Studios reserve all of their rights and objections regarding the DVR Model, including without limitation during the Chapter 11 Plan proposal and confirmation process and any future controversy over the DVR Model. The Trustee reserves all of his rights regarding the DVR Model.

3. Discovery Requests and Hearing. The parties' Discovery Requests are moot, and the April 28, 2020 hearing on the DVR Model Motion may be taken off calendar.

----- END OF DOCUMENT -----

Approved as to form:

COHNE KINGHORN, P.C.

/s/ Matthew M. Boley (signed with permission)

George Hofmann

Matthew M. Boley

Jeffrey Trousdale

Attorneys for George Hofmann, Chapter 11 Trustee

RAY QUINNEY & NEBEKER P.C.

/s/ Michael R. Johnson

Michael R. Johnson

Attorneys for the Studios

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2020, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which sent notification of such filing to the electronic filing users in this case as follows:

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/s/ Suzanne Williams
