

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	Chapter 11
EPIC! CREATIONS, INC., <i>et al.</i> , ¹	Case No. 24-11161 (JTD)
Debtors.	(Jointly Administered)
Claudia Z. Springer, Chapter 11 Trustee,	Adv. Pro. No. 24-50233 (JTD)
Plaintiff,	(Jointly Administered)
vs.	
Google LLC, Voizzit Technology Private Ltd., Voizzit Information Technology LLC, Vinay Ravindra, Rajendran Vellapalath,	
Defendants.	

**CHAPTER 11 TRUSTEE'S MEMORANDUM OF LAW
IN SUPPORT OF CHAPTER 11 TRUSTEE'S
MOTION FOR ENTRY OF TEMPORARY RESTRAINING ORDER**

Plaintiff Claudia Z. Springer, Esq., in her capacity as Chapter 11 Trustee (the "Trustee") of the Estates of Epic! Creations, Inc. ("Epic"); Neuron Fuel, Inc. ("Neuron Fuel"); and Tangible Play, Inc. ("Tangible Play," together with Epic and Neuron Fuel, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases") respectfully submits this memorandum of law (the "Memorandum") in support of her motion for entry of a temporary restraining order (the "Motion") against Voizzit Technology Private Ltd. ("Voizzit India"), Voizzit Information Technology LLC ("Voizzit UAE" and together with Voizzit India, the "Voizzit Entities"),

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, are: Epic! Creations, Inc. (9113); Neuron Fuel, Inc. (8758); and Tangible Play, Inc. (9331).



Rajendran Vellapalath, and Vinay Ravindra (Vellapalath and Ravindra, together with the Voizzit Entities, the “Voizzit Defendants”). In support thereof, the Trustee relies upon the accompanying *Declaration of Jacob Grall in Support of Motion for Entry of Temporary Restraining Order* (the “Grall Declaration”) and states:

INTRODUCTION

1. By the TRO Motion, the Trustee seeks emergency injunctive relief to gain access and control over the Debtors’ Google Accounts (defined below) to ensure that the value of the Debtors’ Estates are maintained, and to obtain the Debtors’ records that are possessed by those accounts. Since September 30, 2024, the Trustee has been trying to resolve this issue with Google consensually, but Google has not responded to the Trustee’s efforts with any sort of urgency. As detailed below, in light of recent unauthorized infiltration into the Debtors’ Google Accounts, the Trustee cannot afford to wait any longer. She files the TRO Motion to avoid irreparable and ongoing harm, perpetrated by the Voizzit Defendants but enabled by Google, which, unlike the Debtors’ other online platforms, has not provided the Trustee with the access she needs to the Google Accounts, and in particular, the Google Cloud account.

2. Control over the Google Cloud accounts is critical because these accounts host much of Debtors’ records, data, and software codes and thus contain information critical to the Debtors’ operations. In addition, the Google Cloud accounts contain the software code that directs the payments from the Debtors’ websites and applications to the various payment processors. The Trustee seeks to enjoin the Voizzit Entities and related individuals, including the Debtors’ nominal (but no longer acting) chief executive officer Vinay Ravindra from continuing to commandeer and exercise control over the Debtors’ Google Accounts and other property of their estates in violation of the automatic stay.

3. These circumstances require swift and decisive relief to ensure that the Trustee can recover the unauthorized transfers and prevent similar efforts to divert assets from the Estates in the future. The Trustee therefore respectfully requests that the Court grant the TRO Motion.

FACTUAL BACKGROUND

I. Overview of the Debtors' Businesses and Chapter 11 Cases.

4. On June 4-5, 2024 (the "Petition Dates"), GLAS Trust Company LLC, in its capacity as administrative and collateral agent under the Credit Agreement, and certain lenders under the Credit Agreement (the "Prepetition Lenders") filed an involuntary chapter 11 petition against each Debtor, commencing these cases (the "Chapter 11 Cases"). [D.I. 1].

5. On June 27, 2024, this Court entered an order directing joint administration of the Debtors' cases for procedural purposes. [D.I. 61].

6. On June 27, 2024, this Court entered the 303(f) Order prohibiting the Debtors from transferring any of their respective property interests outside the ordinary course of business until the Court ruled on the involuntary petitions. The 303(f) Order also required the Debtors to provide weekly financial reports to the petitioning creditors disclosing all disbursements of estate funds. [D.I. 69].

7. On September 16, 2024 (the "Order for Relief Date"), this Court entered an order for relief in the Debtors' involuntary chapter 11 cases and directed the appointment of a chapter 11 trustee. [D.I. 147].

8. On September 23, 2024, the United States Trustee for Region 3 duly appointed Claudia Z. Springer as chapter 11 trustee of each Debtor, subject to approval by the Court. [D.I.

152]. On October 7, 2024, this Court entered an order approving the appointment of the Trustee. [D.I. 180].

9. Immediately upon her appointment, the Trustee, with the support of her legal and financial advisors, took steps to familiarize herself with and stabilize the Debtors' businesses and operations, secure the Debtors' assets wherever located, identify reliable books and records, and assemble the information necessary to provide to this Court and other stakeholders.

10. During the Trustee's initial discussions with the Debtors' employees, she learned that the Debtors' businesses rely meaningfully on a variety of Google products and services, both as important distribution channel and source of revenue, as well as for important operational infrastructure. For example:

- a. The Debtors distribute their software-based applications to Android smartphones and tablets via the Google Play Store, which in turn collects and remits payments received from the Debtors' Android customers.
- b. Google hosts several of the software development platforms, as well as much of the Debtors' records, data, and software code via its cloud-based computing and storage service, Google Cloud. In addition, the Google Cloud accounts contain the software code that directs the payments from the Debtors' websites and applications to the various payment processors.
- c. Google hosts the Debtors' email archives and many of their other business records via Google Workspace, which is a suite of cloud-based collaboration and productivity software products including Gmail, Google Docs, and Google Drive.

11. The entirety of the Debtors' Google accounts are referred to collectively herein as the "Google Accounts").

12. As part of her initial steps, the Trustee reached out to Google and various other tech platforms that provided services to the Debtors' businesses, including Apple, Inc. ("Apple"), and Stripe, Inc. ("Stripe") among others, to notify them of her appointment as chapter 11 trustee and to request that they turn over the Debtors' accounts, property, and records to her.

13. This was particularly critical for Epic and Tangible Play because the relevant accounts for those entities were primarily controlled by individuals in India loyal to the Debtors' former management and ownership who were not cooperating with the Trustee and her team. Neuron Fuel, on the other hand, managed to remain comparatively more independent after it was acquired by the Byju's group and never relinquished control over its accounts to the overseas Byju's personnel.

II. The Trustee's Communication With Google And Google's Failure To Act.

14. The Trustee contacted Google by letter to Google's General Counsel on September 30, 2024 (sent via electronic mail to hdelaine@gmail.com and hdelaine@google.com) (the "September 30 Letter"). The September 30 Letter stated in relevant part:

I am the appointed Chapter 11 Trustee in the bankruptcy cases of Epic! Creations, Inc., Neuron Fuel, Inc., and Tangible Play, Inc. (the "**Debtors**"), Case No. 24-11161 (jointly administered), pending before the United States Bankruptcy Court for the District of Delaware. I enclose with this letter a copy of the *Notice Of Appointment of Chapter 11 Trustee* appointing me as Chapter 11 Trustee in each of these cases as of September 23, 2024.

I am informed that the Debtors use the services of Google to process certain payments by vendors and other users of the Debtors' products and services. I write to provide notice to Google that, pursuant to Section 542 of the Bankruptcy Code, any funds collected by Google relating to the Debtors' businesses are property of the Debtors' estates and are subject to my direction and turnover to the estates. Google should take no instructions from anyone other than me, as Chapter 11 Trustee of

the Debtors, with respect to the Debtors' funds. Further, I would like to speak to someone at Google regarding changing the administrator of the Google accounts associated with one or more of the Debtors to me or a person I designate.

Please be advised that the Bankruptcy Code's automatic stay, among other things, prevents Google from taking any act to take possession of the Debtors' property or to setoff or collect a claim from the Debtors.

Please either contact me or have the person who is responsible for each of the Debtors' accounts contact me to make certain that payments are being sent to the correct bank account and we can discuss a change regarding the administrator of the account(s) at Google. Thank you.

See Exhibit A to the Complaint.

15. The Trustee did not receive an immediate response to her September 30 Letter. The Trustee's counsel attempted to reach various other individuals at Google by e-mail, including by sending an email to Google's Chief Executive Officer, Sundar Pichai, on October 11, 2024. See Exhibit B to the Complaint.

16. After sending the September 30 Letter but before Google responded, the Trustee became concerned that unauthorized third parties had access to, among other things, the Epic e-mail accounts that were contained within the Google Workspace. This concern was based upon the fact that the Trustee learned that certain U.S. employees who are key to the operations of Epic and who were cooperating with the Trustee were removed without the Trustee's authorization from both their email accounts and from access to the software code housed within Google Cloud without cause or advance notice.

17. Finally, on October 14, 2024, attorneys at White & Williams contacted the Trustee and her counsel, asking their availability to discuss the September 30, 2024 letter.

18. The Trustee's counsel responded immediately, and counsel for the Trustee, counsel for Google, and Mr. Jacob Grall, a managing director at Novo Advisors and the Trustee's lead operations advisor, spoke via telephone on the afternoon of October 14, 2024. During that call, the Trustee's counsel and Mr. Grall explained the urgent need to gain access to all of the Debtors' Google accounts. During that call, counsel for Google advised that due to the Stored Communications Act, Google was unable to turn over account access to the Trustee.

19. Counsel for the Trustee requested a follow up call on October 15, 2024. Following the October 15th call, counsel for the Trustee and Mr. Grall provided counsel for Google with detailed information regarding the e-mail extensions, project information, and entity names that were critical for the Trustee to access on the Google platforms.

20. On October 16, 2024, counsel for Google provided the Trustee with an agreed order that counsel for Google indicated would be acceptable to it, and pursuant to which Google would provide the Trustee access to the Debtors' Google accounts. The next day the Trustee's counsel sent Google an adapted version of its preferred form of order with the Debtors' case caption and other case-specific information.

21. Despite the fact that the Trustee agreed to the form of order Google had proposed, the Trustee's counsel was required to contact counsel for Google repeatedly on October 17, October 18, October 21, October 22, and October 23, to determine if Google was ready to execute the order and submit it to the Court. Because Google did not promptly agree to submit the draft form of order to the Court, on October 18 the Trustee took the extreme step of directing Premier Cloud, a third-party reseller of Google's Workspace services through which Epic had originally set up its Google Workspace account, to suspend Epic's Google Workspace account so that the Trustee could be assured that bad actors could not continue to infiltrate and exploit it.

As a result of this necessary step, from October 18 through November 8, Epic's employees did not have access to their company email accounts.

22. Finally, on Thursday October 24, counsel for Google provided comments to the form of agreed order. Google changed the form of order to apply only to the Epic Workspace account (but not Epic's Google Cloud or Google Play Store accounts, nor any of Tangible Play's or Neuron Fuel's accounts for any of the three services). Over the next several days, counsel for the Trustee and counsel for Google engaged in further negotiations regarding the form of order. The Trustee's counsel asked the agreed order include at least the Epic Google Play Store account so that the Trustee could access the funds in the account, but counsel for Google responded that he did not have an answer to that request (and to date, the Trustee has not received any response).

23. Because regaining at least access to Epic's Google Workspace account, which hosts Epic's company email accounts, was essential to the Trustee's efforts to stabilize Epic's business, the Trustee agreed to the more limited form of agreed order on November 1, 2024, but reserved her rights with respect to the remaining accounts.

24. On November 4, 2024, this Court entered the *Agreed Order Regarding Google Workspace Account of Epic! Creations, Inc.* [D.I. 241] (the "Google Workspace Order"). The Google Workspace Order ordered Google to appoint the Trustee and Mr. Grall as administrators of the Epic Google Workspace Account. It further provided, "The Trustee reserves the right to seek any further relief with respect to the Google Account or any other Google Platforms as may be necessary in the future to enable the Trustee to carry out her duties in these cases."

25. Two days later, on November 6, 2024, the Trustee began receiving the necessary information from Google to access the Epic Workspace account. By November 7, 2024, the Trustee could access the emails. Based on this access, the Trustee was able to determine that for

Google Cloud, the administrators were all unauthorized users with “voizzit.com” email addresses.

26. On November 8, 2024, the Trustee sent an email to counsel for Google identifying the unauthorized users in the Cloud account and asking for immediate action. Google’s counsel responded: “I will raise this issue with Google and see if there is any information or guidance they can provide. However, projects on Cloud are largely customer managed. Google’s involvement and insight into projects is usually very limited.” The Trustee responded, also on November 8, by providing Google’s counsel with a form of agreed order, substantially similar to the Google Workspace Order, so that the Trustee could gain access and conduct her own diligence.

27. On the evening of November 8, 2024, counsel for the Trustee wrote counsel for Google: “do you have an update from your client?”

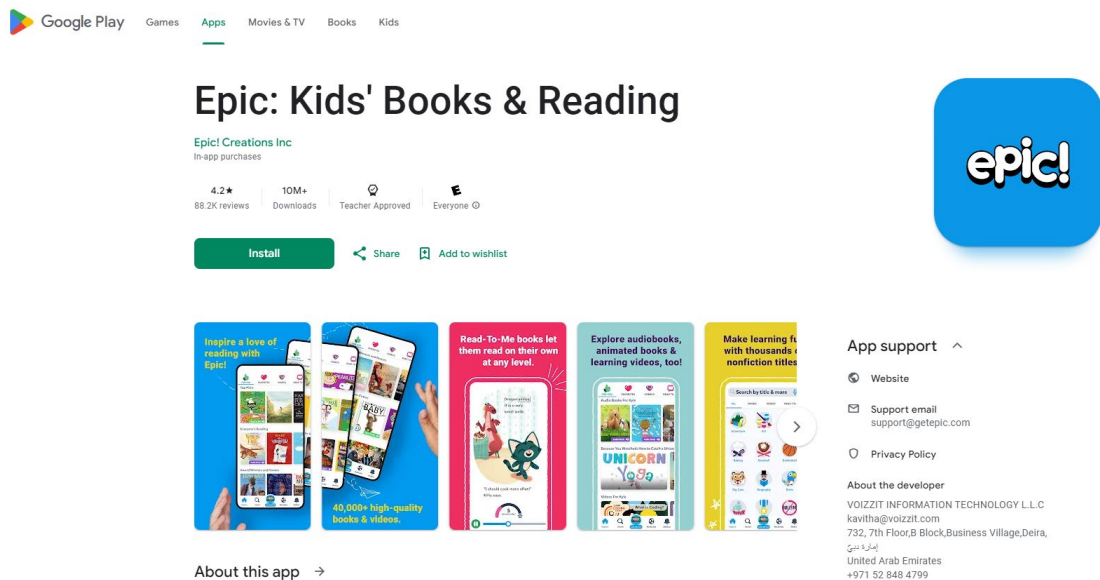
28. Having received no response to counsel’s November 8, 2024, email, on November 11, 2024, Mr. Grall wrote counsel for Google: “Do you have an update from Google? I know you understand the urgency, but this urgency needs to make it onto your client. Another weekend has gone by, and we’ve received more reports of unauthorized people using @tangibleplay email addresses to direct business efforts and divert money.”

29. On November 11, 2024, at 10:25 p.m. E.T., counsel for Google wrote: “Google advised that the project identified *was moved from the getepic.com organization to the voizzit.com organization*. This sounds similar to the issues involved with the Apple developer account. Google is continuing to review this matter and I will update you as soon as I have additional information.” The Trustee’s counsel responded within minutes, asking “When was

the project moved?” A copy of this email is attached as Exhibit C to the Complaint (emphasis added).

30. The Trustee’s counsel has followed up, both on the important factual question of when the Estate property was moved from the Epic Google account to the Voizzit Defendants’ Google account, and also the draft agreed order, by multiple e-mails and phone calls on November 12, 13, 14, 15, 17, and 18. As of the filing of this Complaint, Google has not answered the factual question of when the registered owner of the accounts was changed or agreed to the entry of an order that would allow the Trustee access to the accounts so she could find this information out herself.

31. On November 14, 2024, the Trustee further discovered that Voizzit Information Technology LLC is now listed as the developer of the Epic! App on the Google Play Store, as reflected in the below screenshot:



32. It therefore appears that Voizzit has now also seized control of Epic’s Google Play Store account (and thus all of Epic’s revenues from Android customers), as well as all of the data in Epic’s Google Cloud account. And although the Google Play Store pages for Tangible

Play's various Osmo apps do not currently reflect any signs of tampering by the Voizzit Defendants, the Trustee will not be able to rule out the possibility that Tangible Play's Google accounts have been compromised until Google gives her access to them.

33. Additionally, on November 15, 2024, in connection with reviewing the various audit logs available to the administrator of Epic's Google Workspace account, the Trustee discovered that many of the logs—including those reflecting, among other things, user log-in history and file deletions, downloads, and transfers—only display the applicable information dating back to late May 2024. Consequently, it appears that these logs only include information for the prior approximately six-month period, and that the account administrator has no ability to review the earlier data, meaning that if the Trustee is not granted access immediately, she risks losing historical data.

34. For this reason, it is even more critical that the Trustee immediately obtain exclusive access and control over Tangible Play's Google Workspace account. In particular, given that the six-month anniversary of the filing of the involuntary petitions against the Debtors is quickly approaching, there is a substantial risk that the Trustee will lose access to key information reflected in the Tangible Play account administrator logs from around that time if the Trustee does not immediately obtain access to Tangible Play's Google Workspace account.

35. On the morning of November 18, 2024, during another call initiated by the Trustee's counsel, Google's counsel reported that Google: (1) could not or would not answer the question of when Epic's Google Cloud project was moved out of Epic's Google Cloud account and into the Voizzit Defendants' Google Cloud account or when the Voizzit Defendants took control of Epic's Google Play Store account; and (2) was still "considering" the draft agreed order the Trustee's counsel sent to Google on November 8, 2024. During that call, the Trustee's

counsel advised Google's counsel that the Trustee had no choice but to move forward with a complaint and motion for temporary restraining order if the issue was not resolved by close of business on November 18, 2024.

36. In a call with Google's counsel on the afternoon of November 18, 2024, Google's counsel reported that Google's position had not changed. The Trustee's counsel and financial advisor informed Google that the Trustee had just been made aware that the Tangible Play App was not launching, upon information and belief because of the unauthorized actions of the Voizzit Defendants, and that the Trustee was justifiably very concerned about the Epic App. Google's counsel also stated that Google would refuse to take any steps to put a hold or block on the Voizzit Defendants' Google Cloud account.

III. The Impact of This Harm on the Debtors' Business and Compliance With the Interim DIP Financing Order.

37. On October 31, 2204, this Court entered the Interim DIP Financing Order. [D.I. 236] As set forth in the Interim DIP Order, the Trustee's financing is subject to certain milestones, including milestones for the sale of the Debtors' businesses. The financing is also subject to a budget, which assumes ongoing revenue streams into the Estates from the sale of the Debtors' apps, including through the Google Play Store. *See* Interim DIP Financing Order [D.I. 236] at Exs. 2-3.

38. Google's delay in working with the Trustee to regain access to the Estates' Google platforms threatens both the timing of the sale milestones and the budget requirements of the Interim DIP Financing Order.

39. In sum, Google is in possession and control of funds, electronic data, accounts, and records that belong to the Estates. To date, despite the Trustee's requests for such information to be turned over to the Trustee, including control over any information stored in the

cloud, Google has not turned over such documents and electronically stored information or provided access or control over information stored in a cloud service to the Trustee, other than the limited access the Trustee has received following the entry of the Google Workspace Order.

40. Given the urgent need for the Trustee to obtain access and control over *all* of the Debtors' Google accounts, it is necessary for the Trustee to preserve the Estates' value as a going concern and to safeguard the Estates' assets, coupled with Google's laissez-faire attitude towards this emergency, the Trustee had no choice but to bring this matter before the Court.

IV. The Voizzit Stay Violation.

41. The Voizzit Defendants' unlawful usurpation of the Epic and Tangible Play Google accounts follows a broader pattern of similar violations of the automatic stay affecting the estates' accounts with several other technology platforms and payment processors.

42. For example, on or around October 8, 2024, upon obtaining access to Epic's account with Stripe, Inc., which collects and processes payments for orders placed through Epic's website, the Trustee discovered that Mr. Ravindra had changed the name of Epic's Stripe account to "Voizzit Information Technology LLC" on September 27, 2024.

43. Similarly, upon obtaining access to the Debtors' Apple accounts on November 1, 2024, the Trustee discovered that all of Epic's and Tangible Play's applications were clandestinely transferred from the Epic and Tangible Play Apple accounts to Voizzit India's Apple account on or around September 26, 2024 (for the Epic application) and October 14, 2024 (for the Tangible Play applications). The Trustee further discovered, that on October 3, 2024, \$1,049,044 was transferred from the Epic Apple Account, and \$14,719.74 was transferred from the Tangible Play Apple Account, in each case to Voizzit UAE's bank account at Emirates Islamic Bank in Dubai.

44. On November 12, 2024, the Court entered an order which, among other things, found that “[t]he change in the registered ownership of the Debtors’ Apps from the Estates to the Voizzit Account violated the automatic stay, and thus were void *ab initio*.” [D.I. 276, ¶ 1]

45. As yet another example, on or around October 29, 2024, the Trustee was informed by the Debtors’ employees that all of Tangible Play’s source code on GitHub, a software code development, management, and storage platform, had been transferred to an unknown had been transferred to an unknown GitHub account named “edunest-tp.” That same day, the Trustee’s counsel sent an email to GitHub’s chief legal officer to notify GitHub of the Debtors’ chapter 11 cases, the Trustee’s appointment, and the unauthorized removal of Tangible Play’s software code.

46. On November 1, 2024, GitHub’s legal department confirmed it had placed a legal hold on both Tangible Play’s and the “edunest-tp” account and that it was investigating the issue further.

47. On November 7, 2024, GitHub informed the Trustee that all 72 of Epic’s source code repositories were transferred to an “edunest-ep” account on September 24, 2024 and that all 321 of Tangible Play’s repositories were transferred to an “edunest-tp” account on October 14, 2024. GitHub also confirmed that it had locked all of the Debtors’ repositories pending a resolution of this issue.

48. On November 11, 2024, GitHub further informed the Trustee that an unknown user named “edutechplus” carried out both sets of transfers, and that the “edutechplus” user also controlled both the “edunest-ep” and “edunest-tp” accounts. Upon information and belief, one or more of the Voizzit Defendants or family members of the Voizzit Defendants owns and/or controls each of these accounts.

49. On November 16, 2024, the Trustee discovered that, at some point between November 1, 2024 and November 16, 2024, the Voizzit Defendants modified Voizzit's website to: (a) add links to the Epic and Tangible Play websites to the list of Voizzit's services and products; and (b) delete the "about us" page that contained information detailing Mr. Vellapalath's biography and relationship to the Voizzit Entities.

RELIEF REQUESTED

50. By the Motion, the Trustee seeks to temporarily preserve the status quo pending the filing and adjudication of a fully noticed motion seeking entry of a preliminary injunction to safeguard the Trustee's interests during the duration of this adversary proceeding by:

(a) temporarily enjoining Google and all persons acting in concert with Google, (i) from accepting, authorizing, or implementing any changes to the Google Accounts² by any entity or person other than the Trustee; and (ii) from transferring any funds Google is holding related to the Debtors including in the Google Accounts to any entity or person other than the Trustee;

(b) directing Google to provide the Trustee with complete control of the Google Accounts and account access along with all records of the Google Accounts;

(c) temporarily enjoining the Voizzit Defendants, and all persons acting in concert with any of them, from exercising ownership over, or transferring to any party other than the Trustee, the Debtors' applications, data, project, funds, or any other information or property of the Debtors; and

(d) directing the Voizzit Defendants to transfer to the Trustee at instructions provided by the Trustee the Debtors' applications, data, project, funds, or any other

² A capitalized term used but not defined herein shall have the meaning ascribed to it in the complaint initiating this adversary proceeding.

information or property of the Debtors; given that any such transfer to the Voizzit Defendants was void *ab initio* and a legal nullity, such that the technical return transfer to the Trustee maintains the status quo.

(e) directing Google to take any further action that is reasonably necessary to enforce the relief granted to the Trustee.

ARGUMENT

51. The standard for injunctive relief in the Third Circuit is settled. The Trustee, as the movant, must: (i) have a “reasonable probability of eventual success in the litigation” and (ii) show that it will be “irreparably injured” if an injunction is not granted. *Reilly v. City of Harrisburg*, 858 F.3d 173, 176, 179 n.3 (3d Cir. 2017); *see also Takeda Pharm. USA, Inc. v. W.-Ward Pharm. Corp.*, 2014 WL 5088690, at *1 (D. Del. Oct. 9, 2014) (“A request for a TRO is governed by the same general standards that govern the issuance of a preliminary injunction.”). These two factors are the “most critical,” and a stronger case of the merit requires less by way of irreparable harm (and *vice versa*). *Reilly*, 858 F.3d at 179. If they are met, then the Court should also evaluate (iii) the possibility of harm to other interested persons from a grant or denial of the injunction, and (iv) the public interest, then balance all four factors together. *Id.* at 176, 179.

52. Bankruptcy courts have particularly broad powers to order emergency injunctive relief, since section 105(a) of the Bankruptcy Code “grants the extensive equitable powers that bankruptcy courts need in order to be able to perform their statutory duties.” *In re Caesars Entertainment Operating Co., Inc.*, 808 F.3d 1186, 1189 (7th Cir. 2015); *accord In re Yellowstone Mountain Club, LLC*, 646 Fed. Appx. 558, 558 (9th Cir. 2016); *In re Focus Media Inc.*, 387 F.3d 1077, 1085-87 (9th Cir. 2004); *In re DeLoraeon Motor Co.*, 755 F.2d 1223, 1230 (6th Cir. 1985); *In re Mastro*, 585 B.R. 587, 589-90 (9th Cir. B.A.P. 2018).

I. The Trustee is Likely to Succeed on the Merits.

53. To obtain a temporary restraining order, the Trustee must demonstrate that she can win on the merits, “which requires a showing significantly better than negligible *but not necessarily more likely than not*.” *Reilly*, 858 F.3d at 179 (emphasis added); *see also id.* at 179 n.3 (emphasizing that “likelihood of success on the merits does not mean more likely than not”) (cleaned up); *In re Team Sys. Int’l, LLC*, 2023 WL 1428572, at *10 (Bankr. D. Del. Jan. 31, 2023) (only requiring the plaintiff to make out “a *prima facie* case” to satisfy the first factor).

54. Here, this standard is easily met for each of the Complaint’s causes of action, any one of which provides a sufficient basis for the relief sought. **First**, there is no question that the Epic and Tangible Play Apps, projects, and data which were transferred from Epic’s and Tangible Play’s Google accounts to the Voizzit Defendants are property of the Estates, and that the unauthorized postpetition transfer of the Estates’ property was a blatant violations of the automatic stay and was thus void *ab initio*, as this Court has previously held with respect to the Voizzit transfers to Apple. [D.I. 276.]

55. **Second**, it is also without dispute that the Estate property that was taken postpetition in violation of the stay is subject to turnover pursuant to section 542.

56. **Third**, the Trustee is also likely to prevail on her section 549 claim. Under section 549, “the trustee may avoid a transfer of property of the estate . . . that occurs after the commencement of the case; and . . . that is not authorized under [the Bankruptcy Code] or the court.” 11 U.S.C. § 549(a). Under section 550 of the Bankruptcy Code, the Trustee may recover the value of any transfer avoided under section 549 from the initial transferee of such transfer, the entity for whose benefit such transfer was made, or any subsequent transferee. 11 U.S.C. § 550(a). Here, the unauthorized transfers occurred after the Petition Dates (as well as after the Order for Relief was entered). Each of them involved the Debtors’ applications or related funds

held in Epic’s and Tangible Play’s Google Accounts, which constitute property of the Debtors’ estates. *See* 11 U.S.C. § 541. None of these transfers were authorized by the Court, the Trustee, or under the Bankruptcy Code. The Trustee is therefore entitled to avoid and recover the postpetition transfers from the Voizzit Defendants as the initial transferees and/or entities for whose benefit such transfers were made.

II. The Estates Will Otherwise Face Irreparable Harm & Have No Adequate Remedy at Law.

57. The Trustee can also satisfy the “irreparable harm” and “no adequate remedy” requirements. As noted, the Trustee must show that, without injunctive relief, she “more likely than not will be unable to recover damages from the Defendant[s].” *EHT US1, Inc. v. EHT Asset Mgmt, LLC*, 2021 WL 3828556, at *2 (Bankr. D. Del. Aug. 27, 2021). This could be because “the defendant intended to frustrate any judgment on the merits.” *Hoxworth v. Blinder, Robinson & Co.*, 903 F.2d 186, 205 (3d Cir. 1990) (cleaned up). Or, it could be because the Debtor will be left “unable to recover damages,” as “the [d]efendants’ assets will dissipate.” *EHT US1*, 2021 WL 3828556, at *2; *see also Tanimura & Antle, Inc. v. Packed Fresh Produce, Inc.*, 222 F.3d 132, 141 (3d Cir. 2000) (agreeing with “a number of district courts in this circuit[] that have held that trust dissipation can satisfy this [irreparable harm] factor if, absent such relief, ultimate recovery is rendered unlikely”). The Court should be “especially sensitive” to either scenario, because it “could result in the dissipation of estate assets.” *In re Am. Tissue, Inc.*, 2006 WL 3498065, at *3 (Bankr. D. Del. Dec. 4, 2006).

58. Courts routinely find a threat of irreparable harm and a lack of an adequate remedy at law when freezing the defendants’ assets is necessary to prevent the dissipation of property sought to be recovered, especially where a defendant has a demonstrated track record of dissipating or concealing assets. *See, e.g., Focus Media*, 387 F.3d at 1085-87; *In re EHT US1*,

Inc., 2021 WL 3828556, at *2; *Industry Xperience, LLC v. Dance XPerience*, 2020 WL 1888977, at *3 (N.D. Ill. April 16, 2020); *In re Soundview Elite Ltd.*, 543 B.R. 78, 116-17 (Bankr. S.D.N.Y. 2016); *In re Sledziejowski*, 533 B.R. 408, 425 (Bankr. S.D.N.Y. 2015); *In re Atlas Fin. Mortg., Inc.*, 2014 WL 172283, at *5 (Bankr. N.D. Tex. Jan. 14, 2014); *Team Sys.*, 2023 WL 1428572, at *12 (finding irreparable harm, because “without an injunction restraining the use of such transfers, defendants may move or conceal assets”).

59. Here, the Debtors’ Estates will be irreparably harmed if the Voizzit Defendants continue to dissipate the Debtors’ assets or are otherwise permitted to freely convey assets amongst themselves. As chronicled above, the Voizzit Defendants have repeatedly demonstrated that they can and will shuffle assets amongst themselves and corporate proxies (and out of the Debtors’ Estates and even out of the country) if given the opportunity. Moreover, Google has refused to take any steps to freeze or place a hold on the Voizzit Defendants’ Google accounts, so unless emergency relief is granted, it is possible—and indeed likely—that further diversion will occur. These facts clearly show that the Estates are at risk of immediate and irreparable harm in the absence of emergency injunctive relief. *See, e.g., EHT USI*, 2021 WL 3828556 at *2 (finding that preliminary injunction freezing assets is appropriate against defendants who “have a history of wrongful acts and have proven that they are capable of shuffling assets”); *Soundview*, 543 B.R. at 117 (“[The defendant’s] past actions underscore this Court’s view that [he] cannot be allowed to do this again.”).

III. Balance of the Equities Favor Injunctive Relief.

60. Finally, balancing the interests of the Debtors’ Estates, the Defendants, and the public interest supports the entry of the requested emergency relief. If the Voizzit Defendants are permitted to continue shuffling assets amongst themselves without oversight, the Trustee will

be forced to spend precious resources from the Estates investigating and unwinding those transactions without any assurance of recovery. *See, e.g., Soundview*, 543 B.R. at 116 (“And while a dissipation of assets after this ruling would be a slam-dunk intentional fraudulent conveyance, recovering [the defendant’s] assets from diverse transferees may well be impossible—and plainly extraordinarily burdensome and expensive.”). And if Google continues to drag its feet on the steps necessary to secure the Estates’ assets, the Trustee’s sale efforts seeking to maximize the value of the Debtors’ Estates will be impaired and the entire value of the Epic and Tangible Play businesses may be compromised without an adequate remedy at law for the Trustee to recover the lost value.

61. By contrast, the Trustee is not aware of any evidence that would demonstrate undue harm to Defendants following an injunction. *See In re Revel AC, Inc.*, 802 F.3d 558, 572 (3d Cir. 2015) (“Absent some sort of declaration or other evidence in the record that a stay would cause substantial harm, the harm to [the non-movant] was at best speculative.”). And because the Trustee is exceedingly likely to prevail on the merits, any potential harm to the Defendants must be discounted accordingly. *See Ayres v. City of Chicago*, 125 F.3d 1010, 1013 (7th Cir. 1997). The balance of the harms thus weighs decidedly in favor of granting the requested relief.

62. The final factor, the public interest, strongly weighs in favor of granting the requested relief. “In the context of bankruptcy proceedings, the ‘public interest’ element means the promoting of a successful reorganization.” *In re Am. Film Techs., Inc.*, 175 B.R. 847, 849 (Bankr. D. Del. 1994) (cleaned up); *see also id.* (“It is one of the paramount interests of this court to assist the Debtor in its reorganization efforts.”) (cleaned up). Additionally, “[t]he public interest is served when the Court imposes relief which maintains integrity in financial and

business dealings and *protects bankrupt estates from misappropriation of assets.*” *Am. Tissue*, 2006 WL 3498065, at *5 (emphasis added); *accord Team Sys.*, 2023 WL 1428572, at *13.

63. Here, the public interest is served for both of these reasons by an injunction. The Debtors’ businesses provide a valuable and popular learning tool for children, that is compromised by the Voizzit Defendants’ bad acts and Google’s failure to move quickly to assist the Trustee in securing Estate assets. The Interim DIP Financing Order provides milestones and budget requirements that are premised on the Trustee’s ability to control the businesses operations and receive the revenue. All of this work is necessary to preserve value for the Estates’ creditors, which are unfortunate victims of the Voizzit Defendants’ bad acts, as well as the many bad acts that precipitated the filing of these cases. The public interest thus militates strongly in favor of granting the requested injunction.

CONCLUSION

64. For all of the reasons set forth herein, cause exists to enter a temporary restraining order, and thereafter a preliminary injunction, against the Defendants, in substantially the form attached to the Motion.

[intentionally left blank]

Dated: November 18, 2024
Wilmington, Delaware

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