

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE: Chapter 11
Case No. 24-11161 (JTD)
EPIC! CREATIONS, INC.,
et al. (Jointly Administered)
Debtors.
Claudia Z. Springer, Adv. Pro. No. 24-50233 (JTD)
Chapter 11 Trustee.
(Jointly Administered)
Plaintiff.
vs.
Google, LLC,
Voizzit Technology Private, Ltd.,
Voizzit Information 824 Market Street
Technology, LLC, Wilmington, Delaware 19801
Vinay Ravindra,
Rajendran Vellapalath,
Defendants. Tuesday, November 19, 2024
10:00 a.m.

TRANSCRIPT OF ZOOM HEARING
BEFORE THE HONORABLE JOHN T. DORSEY
CHIEF UNITED STATES BANKRUPTCY JUDGE

APPEARANCES (CONTINUED):

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1 (Proceedings commenced at 10:04 a.m.)

2 THE COURT: Good morning. This is Judge Dorsey.

3 We're on the record in Epic! Creations, Inc., Case
4 Number 24-50233.

5 I'll go ahead and turn it over to the Trustee's
6 counsel.

7 MR. BARSALONA: Good morning, Your Honor.

8 For the record, Joe Barsalona, from Pashman Stein
9 Walder & Hayden on behalf of the Trustee.

10 Thank you again, Your Honor, for hearing us on
11 such short notice. I know you're probably getting sick of
12 us, but these are very important issues so we very, very much
13 appreciate it.

14 With that, I will turn it over to my co-counsel,
15 Ms. Cathy Steege.

16 THE COURT: Okay.

17 MS. STEEGE: Good morning, Your Honor.

18 Catherine Steege on behalf of the Trustee, and I
19 want to reiterate Mr. Barsalona's thanks to the Court. We
20 appreciate that this is putting a burden on the Court but,
21 unfortunately, we don't really have any other choice, given
22 the conduct that's occurred.

23 By now, Your Honor is very familiar with the
24 ongoing systematic attempts to rest control over the debtors'
25 revenues and intellectual property from these estates.

1 Your Honor has been told multiple times that,
2 while the involuntary petition was pending, over \$3 million
3 in revenue was taken from these debtors and transferred over
4 to bad actors, in violation of an Order of this Court.

5 Since the entry of an Order for Relief and the
6 Trustee's appointment, the misconduct has only accelerated,
7 as the bad actors work to stay one step ahead of the Trustee.

8 On October 8th, Your Honor entered a Temporary
9 Restraining Order, and thereafter a preliminary injunction to
10 prevent the takeover of the debtors' Stripe account and stop
11 the theft of customer payments that are made through that
12 payment processing platform.

13 Last week, on November 12th, Your Honor entered an
14 Order finding the automatic stay was violated by an attempted
15 takeover of the debtors' Apple applications, which are a
16 significant source of revenue for these debtors.

17 On Thursday, there is a hearing scheduled to
18 determine sanctions in connection with that stay violation
19 against the Voizzit-related defendants that are now named in
20 the complaint that's pending before Your Honor this morning
21 and subject to this TRO.

22 The bad actors behind most of this post-Order for
23 Relief misconduct are Voizzit Technology Private, Limited,
24 Voizzit Information Technology, LLC, Vinay Ravindra, and
25 Rajendran Vellapalath, all of whom we believe have ties to

1 Think and Learn and the Ravindra brothers.

2 Mr. Ravindra is the person who attempted to
3 transfer the debtors' Stripe accounts to Voizzit Information
4 Technology, LLC, the entity that's registered in Dubai. He
5 also appears to be the person who changed the registered
6 ownership of the debtors' Apple accounts to Voizzit
7 Technology Private Limited, the entity that's registered in
8 India. Mr. Vellapalath is the founder and owner of these two
9 entities. And in a filing they made on Friday, these Voizzit
10 parties admitted that they are working with Mr. Ravindra, who
11 we know signed the debtors' engagement letter with DLA Piper
12 and, thus, knew of the bankruptcy filings.

13 Against this backdrop, we're here today to correct
14 yet another blatant violation of the automatic stay by the
15 Voizzit parties.

16 To put this matter in context, on September 23rd,
17 the Trustee is appointed. As set forth in Mr. Jacob Grall's
18 Declaration, in support of the TRO, the Trustee discovered
19 upon her appointment that the debtors had three types of
20 accounts with Google.

21 The debtors have a Google Workstation account that
22 houses the debtors' email systems. The debtors had a Cloud
23 account which stores most of the debtors' software codes and
24 other IP, including the software codes that direct revenues
25 from the payment processing platforms into the debtors'

1 accounts and allow the debtors' systems to work. In other
2 words, this Google Cloud account is really the hub of the
3 debtors' businesses where its important IP is stored and
4 which allows the debtors' computer internet-based platforms
5 to work for its customers.

6 Finally, the debtor has a Google Play Store
7 account where customers who purchase things on Google can
8 purchase the debtors' various applications.

9 Almost immediately upon her appointment, the
10 Trustee was told by the debtors' employees that individuals
11 who were not cooperating with her and who were associated
12 with Think and Learn in India were accessing the email system
13 and doing things on that system.

14 The Trustee reached out to Google's general
15 counsel. She ultimately reached out to Google's Chief
16 Executive Officer. Finally, after two weeks, outside counsel
17 from Google contacted the Trustee and they spoke that very
18 same day, on October 14th.

19 The next day, because they indicated that they
20 needed more information about these accounts, the Trustee
21 provided Google's outside counsel with all of the information
22 it knew about these various accounts that the debtor was in
23 possession of or should have possession of.

24 On October 16th, Google said to the Trustee,
25 here's the form of Order we like to use when we're

1 transferring control over to a bankruptcy trustee, let's use
2 this Order. The Trustee conformed that Order so that it had
3 this case caption and this case's particulars, sent it back
4 to Google's counsel.

5 During this time period, the Trustee understood
6 that Google had frozen all of these various accounts so bad
7 actors could not continue to act within them.

8 And then almost daily for a week, the Trustee
9 pushed Google to enter the Order.

10 Finally, on October 24th, Google said well, we
11 only want to enter an Order covering the Workspace account.
12 So the parties discussed that for a number of days,
13 ultimately, to at least get control of the email system. The
14 Trustee agreed to the entry of just an Order governing the
15 Workspace account, with the understanding that she was
16 reserving her rights with regard to the other accounts.

17 That Order was submitted on Friday, November 1st.
18 Your Honor entered it on Monday, November 4th. It took about
19 three days for the Trustee to be able to get from Google the
20 information that was needed to be able to take over control
21 as the administrator of the email system.

22 Because of that access which she gained on
23 November 7th, the Trustee was able to discover that the
24 Google Cloud account had been changed from control by Epic!
25 Employees to individuals with Voizitt.com email addresses.

1 And so over the next several days, the Trustee asked Google
2 to identify who these Voizzit individuals were, exactly when
3 they had taken over control of the Cloud account, although
4 the Trustee is informed and believed, based upon information
5 from the employees, that this definitely did happen post-
6 petition and around the time of her appointment and after the
7 Order for Relief.

8 She also asked Google to enter into the same
9 Orders that had been entered in connection with the
10 Workstation account, and in response to those requests, on
11 November 11th, Google's counsel responded, in an email that
12 we attached to the complaint as Exhibit C, "Google advised
13 that the project identified was moved from the Get Epic
14 organization to the Voizitt.com organization. This sounds
15 similar to the issues involved with the Apple developer
16 account. Google is continuing to review this matter and I
17 will update you as soon as I have additional information."

18 And virtually every day since November 11th, the
19 Trustee has been calling and emailing and speaking with
20 Google's counsel in an attempt to get their agreement to
21 transfer control of these accounts back to the Trustee and
22 -- so that we would then file a motion to void this out as in
23 violation of the automatic stay.

24 On November 14th, we then discovered that Voizzit
25 Information Technology, LLC -- if you go to the Google Play

1 Store account for Epic! and you click on the developer link,
2 you will see now that Voizzit Information Technology, LLC is
3 listed as the developer, as opposed to Epic!.

4 And things finally came to a head yesterday when
5 Google told the Trustee it was not going to change the
6 registered owners of these applications back to the debtors
7 and under the Trustee's control and that it was not going to
8 freeze any of these accounts going forward.

9 In addition, yesterday, the Tangible Play Account
10 went down and schools were calling employees, saying that
11 they couldn't get access to their Tangible Play applications,
12 and that is definitely connected to what's on the Cloud
13 account because that is where the software is that interacts
14 with the software that allows parties to access their
15 applications.

16 And we discovered this morning that someone moved
17 the Cloudflare account, which is an account that interacts
18 with this Google Cloud account to provide the Tangible Play
19 applications to customers. So we've got another transfer of
20 ownership of debtors' property that we discovered this
21 morning after the filing of this motion.

22 And given all of this, the Trustee had no choice
23 but to seek relief in the form of a TRO against Google to
24 order them to do the things that Apple had frankly agreed to
25 do and why we were able to handle that matter in a different

1 format so that we can get the debtors' Cloud and Play Store
2 accounts back into the debtors' name and under the Trustee's
3 control and to direct and order Voizzit to cease interfering
4 with these accounts and to assist the transfer, as necessary.

5 We believe this relief is justified under the
6 standards established in the Third Circuit for injunctive
7 relief.

8 First, we are likely to prevail on the merits.
9 The taking by Voizzit of these accounts is a clear stay
10 violation. Section 362(a)(3) stays, "Any act to obtain
11 possession of property of the estate or property from the
12 estate or to obtain control over property of the estate."

13 Changing the registered owner of these accounts so
14 as to gain control over the debtors' IP and revenues is an
15 act to obtain control over property of the estate that is
16 void *ab initio* under controlling Third Circuit precedent,
17 including the decision, Constitution Bank v. Tubbs, 68 F.3d
18 685 (3d Cir. 1995).

19 This taking also violates Section 549 because it
20 was done without permission of this Court and no Bankruptcy
21 Code provision authorizes this taking.

22 Second, the debtors' estates and their creditors
23 will be irreparably harmed if injunctive relief is not
24 granted. Google has stated it is not freezing these
25 accounts. Thus, if relief is not granted, Voizzit will be

1 able to and will be free to take the debtors' IP, move it off
2 of this Cloud account, cause havoc with its businesses, and
3 divert its revenues.

4 The Voizzit entities and the individuals named
5 here have demonstrated that notwithstanding the pending
6 sanctions request, they are able and willing to continue to
7 violate the state in their efforts to take control over the
8 debtors' property. Google's assistance ordered by the Court
9 is necessary to prevent this harm.

10 Third, the balancing of interests of the parties
11 here also favors injunctive relief.

12 Without such relief, these overseas actors may
13 very well make it impossible for the Trustee to get these
14 assets back by moving them beyond the Trustee's reach and the
15 reach of process of this Court.

16 In contract, the Voizzit entities and Google have
17 no interest that should be considered. From Google's
18 perspective, my suspicion is is that they just simply want
19 the Court to order all of this, rather than to do it on their
20 own so that they won't be accused of anything by Voizzit.

21 As to the Voizzit entities, last week we heard
22 from Voizzit's counsel, who appears to be here today, that
23 his clients were innocent parties, that they didn't know
24 about the stay, and they told you in a filing on Friday they
25 were going to stand down and they also told you that they

1 were, in fact, the owners of the debtor. This was something
2 that no one had ever heard before. And, in fact, Your Honor
3 can take judicial notice of the multiple letters you've
4 received from the Indian equivalent of a bankruptcy trustee,
5 indicating that the entity he is in charge of, Think and
6 Learn, is actually the party that owns the debtors' equity.

7 And in any event, on Friday, these Voizzit
8 entities filed three documents that they say purport to
9 justify their taking of the debtors' assets. None of these
10 documents are signed by the debtors. None of these documents
11 purport to grant any interest in the debtors' assets. And
12 while they might set up a dispute over ownership of the
13 debtors, although we sincerely question the veracity of these
14 documents, there's nothing in the Bankruptcy Code that says a
15 shareholder can take assets of a debtor, in violation of the
16 automatic stay. Shareholders are subject to the stay just
17 like everybody else.

18 They simply have no interest that justifies
19 protection here in connection with the relief that we're
20 seeking.

21 Finally, because the public interest in a
22 bankruptcy case favors reorganization and payments to
23 creditors from the debtors' assets, the public interest
24 favors granting this relief. Granting this relief is
25 necessary to protect the Trustee's ability to be able to sell

1 these debtors as going concerns, to meet the milestones that
2 are set forth in the DIP agreement, and to fund the debtors'
3 operations so that we can maximize what value is here for the
4 creditors of this estate.

5 And so for these reasons, we would ask the Court
6 to admit the Declaration of Jacob Grall in support of the
7 relief that the Trustee seeks and to enter the form of Order
8 attached to the motion.

9 I will say, Your Honor, prior to this hearing,
10 shortly prior, we did receive from Google's counsel some
11 requested suggestions and revisions to the TRO, some of which
12 are acceptable, some of which are not. Specifically, they
13 asked that we try to identify with domain names and certain
14 other identifying information, the various accounts that
15 we're referencing, and we don't have any issues with doing
16 that.

17 They've asked for a provision in the Order that
18 states that Google shall not be held liable for any
19 violations of the Stored Communications Act in its efforts to
20 comply with the Temporary Restraining Order and, you know,
21 they indicated it would take some time to reassign these
22 projects.

23 Apple was given seven days, while everything was
24 frozen, to do that, and we would have no same if they had a
25 certain number of business days to accomplish this, so long

1 as these accounts are all frozen, including those that
2 Voizzit had transferred over to its registered name.

3 And so we would ask Your Honor enter the relief
4 and we would amend the Order if Your Honor is inclined to
5 grant us the relief we request.

6 THE COURT: All right.

7 Is anyone on the call from Google?

8 MR. INGRASSIA: Good morning, Your Honor.

9 Michael Ingrassia, White and Williams, on behalf
10 of Google, LLC.

11 I appreciate the Court entering my colleague, Mr.
12 Vandermark's pro hac very quickly this morning so, with your
13 permission, I'll go ahead and turn it over to Mr. Vandermark.

14 THE COURT: All right.

15 MR. VANDERMARK: Good morning, Your Honor.

16 James Vandermark, White and Williams, on behalf of
17 Google.

18 I believe Ms. Steege represented sort of Google's
19 concerns accurately in our request for modifying the proposed
20 TRO.

21 I haven't had an opportunity to discuss the
22 proposed TRO with my client, but based on from having
23 represented Google in previous matters and discussions in
24 this, the primary concerns are with, you know, the Stored
25 Communications Act and turning over communications that may

1 not belong to the debtor entities.

2 I believe the proposals that we made for amending
3 the TRO substantially address that concern.

4 THE COURT: All right.

5 Well, I'm not clear -- Ms. Steege, what provisions
6 of it do you not agree with, the changes that they've
7 proposed?

8 MS. STEEGE: The only other change that they
9 proposed, Your Honor, that we didn't think was appropriate
10 was a paragraph in their email that suggested that we just
11 suspend everything while Your Honor makes some determination
12 about Voizzit's rights, and that suspension, in and of
13 itself, would harm the debtors' business, unless it was made,
14 you know, pretty instantaneously, which I don't think is
15 appropriate, and I don't think there's any reason to do that.

16 Voizzit has no right to take the debtors' assets.
17 Even if it's correct that it owns the debtors' stock, which
18 we don't think is actually the case, and there's a lot of
19 reasons to question the veracity of these documents, which
20 aren't really relevant to this, but we don't think just
21 suspending everything and basically putting the debtor out of
22 business makes any sense, and so that's what we did not agree
23 to in this email, if I read his paragraph 3 of the email
24 correctly.

25 THE COURT: Mr. Vandermark?

1 MR. VANDERMARK: Just responding briefly, Your
2 Honor, just to clarify that point.

3 It wasn't in regards to any accounts that had been
4 transferred to Voizzit. This is if Google identifies a
5 transfer to another entity unrelated to Voizzit.

6 So in that process that we would suspend that and
7 then, you know, allow the Court to determine ownership at
8 that point. So this is -- I guess is maybe going beyond the
9 relief that the Trustee is seeking at this time. But it's
10 really to address, potentially under the transfers, two other
11 entities to give, you know, a Court Order addressing Google's
12 concerns in the ability to move on that at that time. But
13 it's in addition to any transfers to Voizzit.

14 THE COURT: Ms. Steege, it sounds like -- is there
15 a way to tweak the language? I mean it sounds like a
16 reasonable -- if there are other transfers you don't know
17 about yet, you certainly would want to suspend those until
18 --

19 MS. STEEGE: Yes. Your Honor, we misunderstood
20 their paragraph and what he suggests is fine.

21 We'd also like -- I'm reminded by one of the
22 business folks at Novo that if we could get the name of a
23 tech person at Google that we could work with, as we've done
24 with the other internet companies, Apple and Stripe and so on
25 -- there's been individuals who are computer savvy, not

1 lawyers, that we can have Jacob Grall communicate with, that
2 will probably make this whole process a whole lot easier.

3 THE COURT: Okay. Well, I'll let you guys discuss
4 that offline. I don't think that's something I can order at
5 this point.

6 Is there anyone on for the other defendants?

7 (No verbal response)

8 THE COURT: No response.

9 Oh, Mr. Samis?

10 MR. SAMIS: Sorry, Your Honor. I had raised my
11 hand first.

12 Your Honor, Chris Samis from Potter Anderson for
13 the Voizzit entities.

14 Your Honor, obviously, we haven't had a ton of
15 time to review the TRO either. It was filed late last night.

16 We do have a couple of comments that we'd like to
17 issue to the form of Order. But beyond that, I just wanted
18 to respond to Ms. Steege briefly.

19 First, you know, we had so represented in our
20 pleading that we filed last Friday, going into early Saturday
21 morning, that we were in compliance, substantial compliance,
22 with the Stay Order.

23 My client confirmed that. We had discussions with
24 them on it. We have not heard anything from them that they
25 had deviated from that course that we have been able to

1 confirm. We did reach out to them immediately. I will
2 follow up with them again today so we can try to see if we
3 can confirm these facts.

4 The only thing that I would suggest is that in our
5 pleading, we did note that, regardless of the confusion on
6 ownership, and we're still looking at that issue, we've
7 attached those pleadings to our filing more to show Your
8 Honor why the actions were taken that were taken from the
9 perspective of establishing willfulness under the sanctions
10 prong of 363 but -- or I'm sorry, 362.

11 But, Your Honor, you -- and we also attached them,
12 you know, in support, obviously, of our request to adjourn to
13 just show, you know, what we were dealing with, what we were
14 wading through.

15 I would just also add that, you know, we're here
16 again. Well -- sorry, Your Honor. I would also add that we
17 noted that there has been maintenance and IT services that
18 were provided by the Voizzit entities to the debtors during
19 the pendency of the time that, you know, they believed they
20 were in sole driver -- the sole driver's seat of the debtor.

21 So they were actually investing funds into the
22 entities in order to have engineers, software engineers,
23 maintain these apps. Obviously, with the onset of the Stay
24 Order and the notice of what was going on, once they realized
25 that this dispute existed, you know, they are no longer

1 providing some of those services -- or any of those services.

2 So the idea is that, you know, with respect to the
3 crashed website over the weekend, there are alternate
4 explanations. This could simply be a degradation of the
5 system due to a failure to maintain it. So I don't know that
6 to be the case. I want to talk to my client. But they did
7 identify that as a problem and it was also identified in our
8 papers.

9 But the representations that we made in our papers
10 were verified. We have a declaration supporting them. We'll
11 bear them out at the hearing on Thursday.

12 But with respect to today's relief, I just wanted
13 to be clear that we're not aware of any of the allegations,
14 these new allegations, and the facts surrounding them.

15 We did -- the only thing we heard yesterday was a
16 call from debtors' counsel informing us of the crashed
17 website issue and we immediately are looking into that.
18 We're still awaiting a response from the client.

19 But I didn't want to leave Your Honor in the dark
20 as to what, you know, we were doing and why we were doing it.

21 But, unless Your Honor has questions of me, I
22 would turn the podium over to my litigation colleague, Mr.
23 Mozal, to talk a little bit about the Order.

24 THE COURT: Well, I mean you're telling me you
25 don't know -- Voizzit doesn't know anything, but the email

1 addresses were all changed to Voizzit email addresses. They
2 know something.

3 MR. SAMIS: I understand.

4 THE COURT: And if they're --

5 MR. SAMIS: I understand.

6 THE COURT: -- violating my Order, there's going
7 to be consequences, my previous Stay Order.

8 MR. SAMIS: I do understand, Your Honor.

9 The only response I think I have to that is that,
10 you know, it may be simply residual, you know, actions that
11 they've taken to correct so far and it may just be an
12 oversight. I don't know, but I need to track that down.

13 THE COURT: All right.

14 Mr. Mozal?

15 MR. MOZAL: Thank you, Your Honor.

16 Nick Mozal of Potter Anderson.

17 I think I just want to make two points.

18 The first is that we've heard from counsel this
19 morning and saw in the correspondence and the filings that
20 they've been working with Google since September 30th and
21 that -- you know, they've been going on about this for more
22 than 45 days and then dropped the TRO last night on us with
23 less than ten -- about ten hours' notice.

24 They seem to have been further corresponding about
25 a revised TRO that they were just discussing. We have not

1 been -- I have not been copied on those communications so I
2 can't comment on how that has changed at all, but I think
3 there's just a -- sort of a combination of a laches and a
4 notice issue in terms of what the actual TRO is that we are
5 now focused on -- or that they are now focused on and we are
6 responding to.

7 The second point that's related to that I think
8 that's most problematic from our perspective about the --
9 what was filed is that it seeks -- the Order seeks mandatory
10 final relief, not temporary relief, and I think that's most
11 clear if you look at paragraph 4 of the TRO motion, which
12 requests the specific transfer information and rights and
13 mandatory injunctions such as that at the TRO stage are not
14 permitted absent a showing and satisfying the higher
15 standards for mandatory relief, and the Trustee has not even
16 set out those standards, let alone argued that they've met
17 them.

18 That's all I have, Your Honor.

19 THE COURT: All right.

20 Ms. Steege?

21 MS. STEEGE: Your Honor, with regard to the
22 notice, we did advise Mr. Samis and Mr. Mozal yesterday not
23 only about the crashing of the site, but also about the fact
24 that we were going to be seeking this TRO because of what was
25 going on with the Google account.

1 And I would also say, Your Honor, on Friday, in
2 connection with discussions with Mr. Samis, I advised him
3 that we had learned about this email chain -- change. We had
4 spoken of it. I mean I mentioned it during the presentation
5 last week on the 12th and asked him if his client would agree
6 to get that changed back as a means of rectifying what had
7 occurred here. They say innocently, we think in willful
8 violation of the automatic stay, as a means of purging
9 themselves on their stay violation and we never really heard
10 back.

11 So it's not any secret to them that this has been
12 an issue that's been ongoing and it came to a head when we
13 learned yesterday that Google was not freezing the accounts
14 with the Voizzit name on, simultaneously with this crash of
15 this system, which is interrelated with the Cloud account and
16 which we have been told this morning by Cloudflare happened
17 because of a change in that account.

18 And we've asked them who it was changed to. We
19 suspect we're going to find out it was Voizzit, but we'll
20 find out and we'll report and seek appropriate relief if we
21 need to in connection with that once we have more of the
22 facts.

23 With regard to the mandatory nature of this
24 injunction, I believe we have set forth reasons for this.
25 This is clearly the debtors' property. There is no excuse

1 for it having been taken post-petition. To not grant
2 mandatory relief -- and Your Honor could accelerate this into
3 a preliminary injunction hearing if you chose to do so, so
4 that you could grant that relief, to not grant that relief
5 will harm this debtor irreparably.

6 We need to be able to control the Cloud account
7 which contains the debtors' IP. We need to be able to
8 control the Play Store account, which generates revenues for
9 the debtor.

10 If these accounts are left open to Voizzit over
11 the next several weeks to a preliminary injunction hearing or
12 whenever Your Honor schedules that, in the interim, we have
13 seen that when orders are entered, things happen to the
14 debtors' estates before orders are entered and even after
15 orders are entered.

16 So we think we have set forth extraordinary
17 circumstances where such relief is justified.

18 THE COURT: All right.

19 Mr. Mozal?

20 MR. MOZAL: Your Honor, I just wanted to -- I
21 received an email from Ms. Root at Jenner Block indicating
22 that she had sent -- or sorry, the White and Williams email
23 that I mentioned I had not received, was sent to another
24 member of my team and there was a request that I correct the
25 record on that.

1 I believe I said I had not received it, which is
2 true, but it appears that other lawyer -- another attorney at
3 Potter Anderson had received it about an hour before the
4 hearing. So apologies for that if there was any
5 miscommunication there.

6 THE COURT: All right. Anything else from
7 anybody?

8 (No verbal response)

9 THE COURT: All right.

10 I believe the debtors have established that, 1)
11 the property that has been moved was property of the debtors'
12 estates and, therefore, they are likely to prevail on the
13 merits of any claim that the estate assets were taken.

14 There certainly would be irreparable harm to the
15 debtors if the transfer of these assets is not reversed.
16 This is not a situation where somebody is just holding a
17 piece of property and could just hold on to it until there is
18 a preliminary injunction hearing and, therefore, we could
19 wait for a preliminary injunction to decide whether or not
20 there was an improper transfer.

21 Here, these are assets that are ongoing. They're
22 operating assets. These are things that the debtors use in
23 their day-to-day business and if they don't have them,
24 they're losing clients, they're losing money, they're losing
25 the ability to control their IP, which has been taken from

1 them, and, therefore, I believe the debtors have met the
2 higher standard for imposition of a mandatory injunction at
3 this point, and this will only be for 14 days and we'll have
4 a preliminary injunction hearing before that 14-day period.

5 Balance of the harm certainly favors the debtors.
6 I don't see any harm to Voizzit. They haven't established
7 any harm. They haven't said that they're going to suffer any
8 harm if this injunction is entered. And, certainly, the
9 public interest is in making sure that assets of a debtors'
10 estate are not illegally transferred from one party to
11 another without some kind of a recourse.

12 So I find the standards for imposition of a
13 Temporary Restraining Order have been met and I will enter
14 the Order.

15 I'm going to order the parties to -- I know
16 there's some discussion about potential tweaks to it. I want
17 those done by the end of the day today, before 5:00, so that
18 we can get this Order entered.

19 I'm also going to -- we -- I think I skipped over
20 this. I didn't ask if anybody objected to it. I don't think
21 there's going to be an objection to the introduction of Mr.
22 Grall's Declaration. I will admit that declaration into
23 evidence.

24 (Declaration of Jacob Grall received into evidence)

25 THE COURT: And we'll deal with the other issues

1 that are coming up on Thursday when we get there. So I know
2 Mr. Samis raised some of the -- some things about Thursday,
3 but we're not there yet. We'll get there when we get there.

4 Any questions? Concerns? Comments? Did I miss
5 anything?

6 MS. STEEGE: No, Your Honor. Thank you very much.

7 THE COURT: Okay. Mr. Samis?

8 MR. SAMIS: Your Honor, just one question, a
9 housekeeping matter for Thursday's hearing.

10 We are in the process of determining whether or
11 not Mr. Vellapalath will be present as a witness. We would
12 like to have him participate by Zoom, if possible, given his
13 location in the UAE, but, you know, I wanted to raise that
14 here in front of all the parties and Your Honor, you know,
15 just I thought it would be more efficient that way.

16 MS. STEEGE: Your Honor, we oppose Zoom
17 participation by Mr. Vellapalath.

18 The fact that he's in Dubai isn't the type of
19 circumstances that Rule 43 and Bankruptcy Rule 9017 indicate
20 would be a basis for him not to testify live.

21 I would also note, Your Honor, that we, in
22 connection with this hearing, asked to take his deposition.
23 We noticed that deposition for Monday, along with 30(b)(6)
24 depositions of the two Voizzit entities.

25 Although we expected that they would probably say

1 one witness would -- Mr. Vellapalath would testify for all
2 three, we were told on Friday evening/Saturday morning, I
3 forget which, that they were not going to appear for the
4 depositions, which we did schedule by Zoom and we attempted
5 to schedule at a time that would not be in the middle of the
6 night, so we did it very early in the morning here so that it
7 would accommodate them on the time difference. No one
8 appeared for that examination.

9 We had a meet-and-confer conference with -- Mr.
10 Shankar was there, along with Ms. Root, and Mr. Mozal and Mr.
11 Samis, I believe, was on the phone, but perhaps not. Maybe
12 there was another one of his colleagues. We discussed this
13 on Sunday. At that time, we asked if they were intending on
14 calling anyone and they indicated they would let us know
15 yesterday. We never heard anything yesterday, although we
16 did get an email saying that they hadn't actually really
17 committed to that and now we're hearing this morning that
18 they want to have their person testify by video deposition.

19 We think it isn't justified under the rules for
20 video testimony and, in addition, their refusal to produce
21 someone for a deposition disqualifies their ability to bring
22 this individual in now to testify at trial.

23 THE COURT: Mr. Shankar?

24 MR. SHANKAR: Your Honor -- Ravi Shankar from
25 Kirkland & Ellis on behalf of GLAS Trust Company.

1 Your Honor, we've seen this play out in the Alpha
2 case with respect to Raju Ravindran. We have seen witnesses
3 abroad claim to be unavailable to testify in the U.S.

4 Without getting into the substance, Your Honor,
5 Mr. Vellapalath's credibility as a witness, the credibility
6 of his declaration, his truthfulness, are core issues, in my
7 mind, that are going to be up on Thursday, and so it is not
8 just the failure to satisfy unavailability to testify live,
9 it is also the nature of an examination of Mr. Vellapalath,
10 if he were allowed to testify in light of his failure to sit
11 for a deposition. That would be central to some of the
12 issues for Thursday.

13 THE COURT: Okay. Mr. Samis?

14 MR. SAMIS: Your Honor, as a response, I would say
15 this.

16 The exigencies I think of these circumstances
17 demand it given the witness's location and the seriousness of
18 the allegations.

19 When we were seeking to impose the Stay Order, I
20 believe that that hearing was held by Zoom. I know that at
21 the time, there were no objections that were present. But,
22 obviously, given the compressed timetable, I think it was
23 readily -- you know, readily assumable that one of the
24 parties may emerge to object.

25 I think that when we look at the situation, you

1 know, that's going on here, we have been consistent I think
2 in our communications that our client was trying to determine
3 his availability over the course of this extremely
4 prejudicial litigation schedule.

5 So, you know, he's running a company -- several
6 companies, actually, at the same time that, you know, he's
7 participating in this litigation and, obviously, he'd need to
8 travel across the world in order to be here.

9 His failure to attend the deposition or refusal to
10 attend the deposition is, again, driven by this litigation
11 schedule, nothing more. You know, we've said from the
12 beginning that it was aggressive. We tried to adjourn it
13 when it was at the Stay Order stage. We'll be trying again
14 on Thursday now that it's at the sanction stage.

15 But it's -- I think that, again, the TRO that was
16 dropped last night, the -- you know, that what we've seen
17 with respect to service and the timetable that's being
18 proposed by the Trustee and GLAS, it's just been -- it's too
19 aggressive, quite frankly, with their teams and advisors for
20 Voizzit to keep up with and that's why we're seeking a little
21 bit of parity and that's why we'll be seeking that on
22 Thursday.

23 THE COURT: Well, seems to me the exigencies of
24 the scheduling are caused by Voizzit. They're taking these
25 actions and they need to be addressed and they need to be

1 addressed quickly because the debtors are being harmed.

2 So if he wants to testify, he's got to be here.

3 And I'll note that the declaration that you --
4 proposed declaration that you submitted is invalid. It
5 doesn't have proper language, as required by 17 -- 28 U.S.C.
6 1746. So it's not even admissible. So -- and the fact that
7 he didn't appear for a deposition, I mean that would have
8 been a way to potentially avoid this problem, but he chose
9 not to do so. So if he wants to testify, he's going to have
10 to be here.

11 All right? Anything else?

12 MR. SAMIS: Very well, Your Honor.

13 THE COURT: Okay. Anything else for today?

14 MS. STEEGE: No, Your Honor. Thank you very much.

15 THE COURT: All right. Thank you.

16 We are adjourned. I'll see everybody on Thursday.

17 (Proceedings concluded at 10:41 a.m.)
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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

/s/ William J. Garling

November 20, 2024

William J. Garling, CET-543

Certified Court Transcriptionist

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