

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

In re:

VILLAGE ROADSHOW ENTERTAINMENT
GROUP USA INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 25-10475 (TMH)

(Jointly Administered)

Related Docket Nos. 11, 293 and 297

**OBJECTION AND RESERVATION OF RIGHTS TO THE DEBTORS' PROPOSED
SALE AND ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY
CONTRACTS**

Paramount Global and its affiliates, including Paramount Pictures Corporation, Paramount Pictures International, and Paramount Pictures International Limited (collectively, “Paramount”), by and through their undersigned counsel, hereby file this objection and reservation of rights (this “Objection”) to the *Debtors’ Motion for Entry of Orders (I)(A) Approving Bid Procedures for the Sale of the Debtors’ Assets, (B) Authorizing the Debtors’ Entry Into the Stalking Horse APA and Approving Bid Protections Thereunder, (C) Scheduling an Auction for, and Hearing to Approve, Sale of the Debtors’ Assets, (D) Approving Form and Manner of Notices of Sale, Auction, and Sale Hearing, and (E) Approving Assumption and Assignment procedures; (II)(A) Approving the Sale of the Debtors’ Assets Free and Clear of all Liens, Claims, Interests, and Encumbrances, and (B) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [Docket No. 11] (the “Sale Motion”), the *Notice of Possible Assumption and Assignment of Certain Executory Contracts* [Docket No. 293] (the “Assumption Notice”), and the *Supplemental Notice of Possible Assumption and Assignment of Certain Executory Contracts*

¹ The last four digits of Village Roadshow Entertainment Group USA Inc.’s federal tax identification number are 0343. The mailing address for Village Roadshow Entertainment Group USA Inc. is 750 N. San Vicente Blvd., Suite 800 West, West Hollywood, CA 90069. Due to the large number of debtors in these cases, which are being jointly administered for procedural purposes only, a complete list of the Debtors and the last four digits of their federal tax identification is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/vreg>.



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[Docket No. 297] (the “Supplemental Assumption Notice” and together with the Assumption Notice, the “Assumption Notices”). In support thereof, Paramount respectfully states as follows:

BACKGROUND

A. Procedural Background

1. On March 17, 2025 (the “Petition Date”), the above-captioned debtors (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”).

2. On April 24, 2025, the Court entered its *Amended Order (I) Approving Bid Procedures for the Sale of the Debtors’ Assets, (II) Authorizing the Debtors’ Entry Into Stalking Horse APA and Approving Bid Procedures Thereunder, (III), Scheduling an Auction for, and Hearing to Approve, Sale of Debtors’ Assets, (IV) Approving Form and Manner of Notices of Sale, Auction, and Sale Hearing, (V) Approving Assumption and Assignment Procedures, and (VI) Granting Related Relief* [Docket No. 276] (the “Sale Procedures Order”) in response to the motions filed by the Debtors, including the Sale Motion and supplemental sale motion filed on April 16, 2025 [Docket No. 197] (the “Supplemental Sale Motion”). The Supplemental Sale Motion requests, and the Sale Procedures Order designates, Alcon Media Group, LLC (the “Stalking Horse Bidder”) as Stalking Horse Bidder.

3. The Sale Procedures Order also specifies, among other things, the procedures for the assumption and assignment of executory contracts in connection with the Sale of the Debtors’ Assets.²

² All capitalized terms not defined herein shall have the meaning ascribed to them in the Sale Procedures Order.

4. In accordance with the Sale Procedures Order, the Debtors filed the Assumption Notice on April 28, 2025. Subsequently, the Debtors filed the Supplemental Assumption Notice on April 30, 2025.

5. Together, the Assumption Notices identify seventeen contracts (the “Paramount Contracts”) the Debtors *may* assume and assign in connection with the Sale of the Debtors’ Assets related to distribution rights for the films “Zoolander” and “Down to Earth:”

The Paramount Contracts are described in greater detail in the chart below.

Debtor	Additional Description	Contract Counterparty
Village Roadshow Distribution (BVI) Limited	Distribution Agreement (Foreign) License and Sublicense	Paramount Pictures International
Village Roadshow Distribution (BVI) Limited	Distribution Agreement (Foreign) License and Sublicense	Paramount Pictures International
Village Roadshow Distribution (BVI) Limited	Letter re: “Down To Earth” & “Zoolander” / Change of Account for Deposit of Foreign Gross Receipts	Paramount Pictures International Limited (as successor to Paramount Pictures International)
Village Roadshow Entertainment Group USA Inc.	Letter Agreement re: Extension of Fixed Term Under Distribution Agreement for “Down to Earth”	Paramount Pictures International Limited (as successor to Paramount Pictures International, a division of Viacom International (Netherlands B.V.))
Village Roadshow Entertainment Group USA Inc.	Letter Agreement re: Extension of Fixed Term under Distribution Agreement for “ZOOLANDER”	Paramount Pictures International Limited (as successor to Paramount Pictures International, a division of Viacom International (Netherlands B.V.)).
DTE Film Partners LP	Indemnification Agreement (“Down to Earth”), dated as of August 11, 2000	Paramount Pictures Corporation

Debtor	Additional Description	Contract Counterparty
Village Roadshow Distribution (BVI) Limited	Indemnification Agreement (“Zoolander”), dated as of August 11, 2000	Paramount Pictures Corporation
Village Roadshow Distribution (BVI) Limited	Indemnification Agreement (“Down to Earth”), dated as of August 11, 2000	Paramount Pictures Corporation
Village Roadshow Films (BVI) Limited	Co-Ownership Agreement (“Down to Earth”), dated as of August 11, 2000	Paramount Pictures Corporation
Village Roadshow Films (BVI) Limited	Co-Ownership Agreement (“Zoolander”), dated as of August 11, 2000	Paramount Pictures Corporation
Village Roadshow Films (BVI) Limited	Indemnification Agreement (“Zoolander”), dated as of August 11, 2000	Paramount Pictures Corporation
Village Roadshow Films (BVI) Limited	Indemnification Agreement (“Down to Earth”), dated as of August 11, 2000	Paramount Pictures Corporation
VR DTE Productions Limited	Indemnification Agreement (“Down to Earth”), dated as of August 11, 2000	Paramount Pictures Corporation
VR Zoo Distribution USA Inc.	Indemnification Agreement (“Zoolander”), dated as of August 11, 2000	Paramount Pictures Corporation
VR Zoo Productions Ltd	Indemnification Agreement (“Zoolander”), dated as of August 11, 2000	Paramount Pictures Corporation
Village Roadshow Distribution (BVI) Limited	Ancillary Rights Administration Letter (“Down to Earth”), dated as of August 11, 2000	Paramount Pictures International
Village Roadshow Distribution (BVI) Limited	Ancillary Rights Administration Letter (“Zoolander”), dated as of August 11, 2000	Paramount Pictures International

See Assumption Notice, at pg. 11 & Supplemental Assumption Notice, at pg. 8.

6. The Debtors assert the cure amount for all the Paramount Contracts is \$0.

7. The Assumption Notices are, however, incomplete and do not include all agreements related to the distribution rights for the films “Zoolander” and “Down to Earth.”

B. The Debtors’ Pre-Petition Contractual Relationship with Paramount

8. Prior to the Petition Date, Paramount and certain of the Debtors entered into numerous contracts related to the production and distribution of the films “Zoolander” and “Down to Earth” (together, the “Films”), including (i) that certain Film Co-Production/Acquisition/Distribution Terms With Respect to “Zoolander”, dated as of August 11, 2000, by and among Paramount Pictures Corporation, VR Zoo Productions, Paramount Pictures International and Village Roadshow Distribution (BVI) Ltd. (the “Zoolander Co-Production Agreement”), and (ii) that certain Film Co-Production/Acquisition/ Distribution Terms With Respect to “Down to Earth”, dated as of August 11, 2000, by and among Paramount Pictures Corporation, VR DTE Productions Ltd., Paramount Pictures International and Village Roadshow Distribution (BVI) Ltd. (the “Down to Earth Co-Production Agreement” and together with the Zoolander Co-Production Agreement, the “Co-Production Agreements”).

9. The Co-Production Agreements are the primary agreements between the Debtors and Paramount related to the production and subsequent distribution of the Films and contemplate the parties entering into a series of additional agreements, including, without limitation, the Paramount Contracts and additional agreements that are not listed on the Assumption Notices. Collectively, the Co-Production Agreements, the Paramount Contracts, and the other contemporaneous and subsequent agreements between the Debtors and Paramount entered into in

accordance with the Co-Production Agreements (collectively, the “Transaction Documents”) are part of two separate, but wholly integrated transactions.

10. Under the Zoolander Co-Production Agreement, the Debtors were obligated to remit to Paramount not less than \$23,245.19³ for the period of April 1, 2018 to May 31, 2019. To date, the Debtors have failed to do so.

11. Paramount believes that the Debtors and their affiliates may owe additional amounts under the Transaction Documents, but it is unable to specify the exact amount because the Debtors have not provided reporting since December 2013 with respect to “Down to Earth”, and, with respect to “Zoolander”, for the following periods: January 1, 2014 – March 31, 2018 and June 1, 2019 through the present. Information related to any amounts due and owing is in the sole and exclusive possession of the Debtors.

OBJECTIONS AND RESERVATION OF RIGHTS

I. THE DEBTOR MAY NOT ASSUME THE PARAMOUNT CONTRACTS UNLESS IT ALSO ASSUMES THE CO-PRODUCTION AGREEMENTS AND THE OTHER RELATED TRANSACTION DOCUMENTS

12. A debtor must assume or reject an executory agreement “cum onere.” *See N.L.R.B. v. Bildisco & Bildisco*, 485 U.S. 513, 552 (1984); *In re Philadelphia Newspapers, LLC*, 424 B.R. 178, 183 (Bankr. E.D. Pa. 2010). Where multiple contracts are part of a single integrated agreement or transaction, the same principle applies, and they must all be assumed or rejected. *In re Exide Techs.*, 340 B.R. 222, 228 (Bankr. D. Del. 2006).

13. Here, Transaction Documents related to each of the Films form part of an interrelated and fully integrated contractual relationship related to the production, ownership, and

³ The unpaid amounts were reported in AUD. In accordance with the applicable exchange rate of \$1 AUD to .6386 USD provided by <https://www.wsj.com/market-data/quotes/fx/AUDUSD/historical-prices>, the amount of \$36,752.22 AUD was converted to USD as of the Petition Date using the exchange rate as of March 17, 2025.

subsequent distribution of the Film. Each of the Transaction Documents related to each Film are inseparably linked, and the Debtors may therefore not assume and assign the Paramount Contracts unless they also assume and assign the Co-Production Agreements and all other related Transaction Documents.

14. Moreover, the assumption and assignment of the Transaction Agreements must preserve any audit rights in favor of Paramount. As noted above, the Debtors have not reported amounts due and owing for multiple periods with respect to the Films, and Paramount has been deprived of the right to audit the Debtors' calculations. The Debtors must assume and assign these agreements "cum onere," which requires them to honor Paramount's audit rights, even for pre-sale time periods.

II. THE DEBTORS MUST CURE ALL MONETARY AND NON-MONETARY DEFAULTS

15. Pursuant to Sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code, a debtor must cure, or provide adequate assurance that it will promptly cure, all monetary and nonmonetary defaults under a contract prior to assuming or assigning the contract. 11 U.S.C. §§ 365(b)(1)(A), 365(f)(2)(A). As of the Petition Date, the Debtors owed at least \$\$23,245.19 to Paramount under the Zoolander Co-Production Agreement, plus all other unreported amounts due and owing to Paramount under the Transaction Documents that are in the exclusive possession of the Debtors. All amounts due and owing must be paid before the Transaction Documents may be assumed and assigned to the Stalking Horse Bidder or another winning bidder.

II. LIMITED OBJECTION TO SALE

A. The Sale Order May Not Extinguish Defenses, Including Recoupment Rights

16. The proposed Stalking Horse APA impermissibly extinguishes rights of recoupment. Under the Stalking Horse APA, the Debtors' Assets will be sold free and clear of

any “Adverse Claims.” [See Sale Procedures Order, Ex. 2, at pg. 28, 54]. Adverse Claims are defined under the Stalking Horse APA to include any “Claim”, which, in turn is defined to include “recoupment rights.” *Id.* at pg. 2, 5.

17. However, it is well established law that section 363 sales do not extinguish affirmative defenses, such as recoupment rights. *See, e.g., Folger Adam Sec., Inc. v. DeMatteis/MacGregor, J.V.*, 209 F.3d 252, 254, 261 (3d Cir. 2000) (“[A]ffirmative defenses do not constitute an ‘interest’ for purposes of section 363(f) and, therefore, were not extinguished by the Bankruptcy sale.”); *In re Ditech Holding Corp.*, 606 B.R. 544, 596 (Bankr. S.D.N.Y. 2019) (“[D]efenses to enforcement, such as recoupment, cannot be extinguished in bankruptcy—whether through a sale or discharged under a plan—because they are neither ‘claims’ nor ‘debts,’ nor ‘interests.’”); *Hispanic Indep. TV Sales, LLC v. Kaza Azteca Am. Inc.*, 2012 U.S. Dist. LEXIS 46239, at *14 (S.D.N.Y. Mar. 30, 2012) (“[S]ales pursuant to section 363(f) do not extinguish affirmative defenses. As recoupment is a defense, it is not extinguished by a section 363(f) sale.” (citations omitted)).

18. Accordingly, any order approving a Sale to the Stalking Horse Bidder or another bidder must provide that Paramount’s recoupment rights will be preserved, notwithstanding any contrary language in the Stalking Horse APA or any other APA that is approved by the Court.

B. The Sale Order Must Protect the Section 365(n) Rights of Intellectual Property Licensees

19. The Stalking Horse APA proposes to transfer the rights to certain films that Paramount has the right to exploit as licensee under the Transaction Documents, including the Paramount Contracts.

20. In the event the Debtors assume and assign all of the Transaction Documents to the Stalking Horse Bidder (or any other bidder(s)) along with the Debtors’ interest in the Films,

Section 365(n) will not be an issue. However, if the Stalking Horse Bidder purchases the Debtors' interest in the underlying copyrights but does not acquire the associated Transaction Documents, Paramount may need to rely on Section 365(n) in order to continue to exploit its rights under the Transaction Documents. Accordingly, any Sale Order should provide that any transferred copyright rights remain subject to the rights afforded to intellectual property licensees under Section 365(n) of the Bankruptcy Code. *See, e.g., In re Dynamic Tooling Sys., Inc.*, 349 B.R. 847, 854–56 (Bankr. D. Kan. 2006) (holding that in a Section 363 sale, a licensee's Section 365(n) rights must be adequately protected pursuant to Section 363(e) of the Bankruptcy Code such that the sale cannot be effectuated free and clear of a licensee's Section 365(n) rights).

III. RESERVATION OF RIGHTS

21. Paramount reserves the right to file a further or supplemental objection on any basis, including, without limitation, objections based on the Successful Bidder's ability to provide adequate assurance, and the performance necessary to cure monetary and nonmonetary defaults under the Paramount Contracts (whether known or unknown at this time). Paramount reserves the right to be heard and to present evidence at any hearing on the proposed Sale or assignment, including by way of declaration or witness testimony.

CONCLUSION

WHEREFORE, Paramount respectfully requests that the Court (i) deny assumption or assignment of the Paramount Contracts unless the Debtors cure the existing defaults and agree to assume all Transaction Documents, (ii) require that the Sale of the Debtors' Assets not extinguish or otherwise impair Paramount's rights and defenses, including its recoupment rights, (iii) require that any Sale preserve licensee's rights under Section 365(n) of the Bankruptcy Code, and (iv) grant such other relief as is just.

[Signature Page Follows]

Dated: May 14, 2025
Wilmington, Delaware

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