Docket #2421 Date Filed: 06/17/2026

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: **RHODIUM ENCORE, LLC**, et al., Debtors,	Chapter 11 Case No. 24-90448 (ARP) (Jointly Administered)

MIDAS GREEN TECHNOLOGIES, LLC'S OPPOSITION

DEBTORS' MOTION FOR SANCTIONS RELATING TO CLAIM NUMBERS 004, 062, AND 068-072 FILED BY MIDAS GREEN TECHNOLOGIES LLC

PURSUANT TO 11 U.S. CODE § 105 AND 35 U.S. CODE § 285

(Relates to ECF Nos. 953, 954, 1069, 1413, 1794)

Midas Green Technologies LLC. ("Midas") submits this opposition to Debtors' Motion for Sanctions pursuant to 11 U.S.C. § 105 and 35 U.S.C. §285 (ECF No. 1794).

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I. INTRODUCTION

1. District Court Judge Albright issued his final written order on May 4, 2026. Prior to that date Midas had a good faith understanding that the District Court may grant Midas leave to amend its infringement expert report. As a consequence, Midas had the ethical duty to protect its financial interests in this bankruptcy proceeding. It was only on May 4, 2026, that Midas learned it could not amend the expert report. It is clear that the District Court case was still active when Midas filed its Proof of Claims. As such, the entire basis for the Debtors' motion for sanctions is gone, and their motion should be denied. (J. Thomas Decl. ¶¶ 11, 31, 33, 35.)

2. While Section 105 is often viewed as a broad grant of authority, it is similarly well established that this Section also "limits the bankruptcy court's equitable powers, which 'must and can only be exercised within the confines of the Bankruptcy Code.'" *FDIC v. Colonial Realty Co.* (*In re Colonial Realty*), 966 F.2d 57, 59 (2d Cir. 1992) (quoting *Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 206, 108 S. Ct. 963, 99 L. Ed. 2d 169 (1988).) Debtors are barred from seeking patent-related damages pursuant 11 U.S.C § 105 ("§ 105"). Section 105 only permits the bankruptcy court to award damages that arise for the bankruptcy code, that is, 11 U.S.C. *et al*. Here, the debtors attempt to set the requested sanction damages under the patent codes, specifically 35 U.S.C. § 285. As the damages the debtors seek do not arise from the bankruptcy code, the Debtors are fully barred from seeking those damages under § 105.

3. The U.S. Constitution, the patent statutes, and case law are black-letter clear: This is a claim-objection proceeding, not a § 285 patent case, and Debtors are not a § 285 "prevailing party" in this forum; the court that presided over the patent action is the only

court that may make an exceptional-case determination. 35 U.S.C. § 285; *Octane Fitness, LLC v. ICON Health & Fitness, Inc.,* 572 U.S. 545, 548 (2014) ("Section 285 of the Patent Act authorizes ***a district court*** to award attorney's fees in patent litigation."(*emphasis added*)); see also *Amneal Pharms. LLC v. Almirall, LLC*, 960 F.3d 1368, 1371 (Fed. Cir. 2020). It is abundantly clear that it is only the district court that has such authority. See *Octane Fitness, LLC*, 572 U.S. at 548. This Court should decline to make any exceptional-case determination under 35 U.S.C. § 285. Motion at ¶¶ 19-20.

4. Debtors continue to seek damages pursuant to § 285 despite having no law or facts permitting even requesting § 285 damages in this Court. As a result, Midas filed a Motion[1] to have this Court determine if Debtors are even allowed to seek § 285 damages in this Court. Further, now that the District Court has issued its final written ruling, it is clear that the only forum where Debtors can seek any § 285 damages is with the District Court. To be clear, Midas is not asserting that Debtors do not have the right to seek § 285 damages, but if they do seek them, the only court that can make that determination is the District Cout that heard and presided over the patent case. Consistent with this understanding, Midas has requested that the Court withdraw the reference to the § 285 issue to the District Court under 28 U.S.C. § 157(d).

5. Midas has repeatedly asked Debtors' counsel for any legal support for it seeking § 285 damages in this Court. They have never responded or provided any such support.

6. Further, if this Court intends to allow Debtors to proceed under § 285, then

[1] MIDAS GREEN TECHNOLOGIES, LLC'S REQUEST TO DENY OR DEFER THE DEBTORS' REQUEST FOR ATTORNEY'S FEES UNDER 35 U.S.C. § 285, TO LIMIT ANY SANCTIONS TO FEES INCURRED IN THESE CASES, AND, IN THE ALTERNATIVE, TO WITHDRAW THE REFERENCE OF THE § 285 ISSUE (ECF No. 2397), filed June 4, 2026.

Midas will need to reschedule the June 30, 2026, hearing to arrange for extended expert testimony. Also, the Court indicated this would be to a 2-hour hearing. However, if § 285 is to be considered, then Midas requests that the Court set aside 2 days for the evidentiary hearing.

7. Debtors have no factual basis to assert Midas acted in bad faith when it filed its Proof of Claims. The District Court only issued its written final rulings on May 4, 2026, which Judge Albright entered on the docket on May 5, 2026, resolving the summary-judgment and expert-report issues taken up at the April 9, 2024, hearing. Judge Albright's written final order conclusively shows that the patent case was active when Midas filed its Proof of Claims with this Court. Debtors' Motion for Sanctions is fully reliant on the sole argument that Midas filed its Proof of Claims after the District Court allegedly issued an oral final judgment that dismissed the case in its entirety. Debtors filed this Motion on November 14, 2025, and argued that Judge Albright had dismissed the underlying patent case at an oral hearing on April 9, 2024. Midas vehemently disagreed with the Debtors' assertion and cited Judge Albright's actual words and his post-hearing actions to show the underlying patent case was active when Midas filed its Proof of Claims. Midas was proven correct, as the District Court did not issue its written order resolving those matters until May 4, 2026, entered on the docket on May 5, 2026. (J. Thomas Decl. ¶¶ 31, 45.)

8. From the date of the oral hearing, April 9, 2024, to the date Judge Albright issued his written final ruling on May 4, 2026, Midas had a good-faith and reasonable belief that the underlying patent case was active. Consequently, Midas had to protect its rights, which included filing Proof of Claims. Indeed, Midas counsel reasonably understood that it was obligated to protect Midas' rights, and the prudent course while the patent case

remained pending was to file. (J. Thomas Decl. ¶¶ 19–20, 36.)

9. Further, this Court has already indicated it believed the patent case was still active prior to May 5, 2026. On October 28, 2025, this Court issued its ruling sustaining the Debtors' Objections to Midas' Proofs of Claim or alternatively estimating the Claim at zero. (ECF 1878). In its ruling, this Court acknowledges that the District Court case is active and proactively seeks to accept this Court's report and recommendation. This Court found that:

> *"Continuing to wait indefinitely for a final resolution of the dispute will inevitably dissipate estate resources and possibly result in smaller distributions to stakeholders." (ECF 1878 at 20).*
> *"To the extent the District Court determines the reference should be withdrawn, this Memorandum Opinion will serve as a report and recommendation." (ECF 1878 at 21.)*

10. This Court clearly understood and articulated that the District Court still had to resolve the underlying patent issues, thereby further acknowledging that the case has not been dismissed. This Court even understood that if the District Court did not remove the reference, then this Court's Order would merely be a report to the District Court.

11. Further, on October 28, 2025, this Court issued its "Report and Recommendation to the District Court regarding Midas Green Technologies, LLC's Motion to Withdraw the Reference." (ECF 1880). This report made recommendations to Judge Albright on how to rule in the pending patent case. This Court recognized that Judge Albright still had sole jurisdiction over patent matters, and that the underlying patent case was still active.

12. This Court further stated, "*The Court recommends that the District Court conclude that mandatory withdrawal of the reference is not required."* (ECF 1880 at pg. 12). As is clear from this Court's own words, this Court understood and acknowledged that

the District Court must undertake an analysis of Midas's Motion for Mandatory Withdrawal. (ECF 1579) and reach its own independent conclusion as to whether it will accept this Court's recommendation.

13. There had been no final adjudication of the merits in the pending case before Judge Albright, therefore, there was no basis for Debtors to claim Midas's conduct in filing Proof of Claims was sanctionable. For this reason, Midas respectfully requests this Court deny this second attempt to seek sanctions against Midas for simply doing what it was ethically required to do.

14. When Midas filed its Proof of Claims, Midas had an active pending patent case against the Debtors with a reasonable and good-faith belief that the Debtors' immersion cooling systems infringed Midas's patent. Based on this infringement and the status of the case, Midas estimated the Debtors' liabilities to be $12,306,387. Midas was ethically bound to file its Proof of Claims in this Court to protect its interests. There is no improper purpose, no unnecessary delay, and the claims were fully supported by evidence. Further, the patent case status fully supports the fact that the District Court was not over, and it was preparing a written ruling with regard to the issues taken up at the April 9, 2024, Pretrial Conference. For these reasons, Midas has conducted no sanctionable acts. In fact, Midas even filed *Amended* Proof of Claims to reduce the Debtors' exposure and to provide more clarity to damages to allow the bankruptcy plan to proceed timely. (J. Thomas Decl. ¶¶ 6–7, 23–24, 44.)

15. As Midas expected, Judge Albright issued his final ruling on May 4, 2026. In that written ruling, Judge Albright acknowledged that important issues in the patent case had not been resolved in his oral statements on April 9, 2024. At the hearing, Judge

Albright left open the possibility that he would grant Midas' request to allow its infringement expert to amend his report to address the issues raised at the hearing with regard to summary judgment. In his May 4, 2026, written order, Judge Albright states: "*The Court therefore clarifies that the expert report and infringement contentions may not be amended in an attempt to re-address the summary judgment of noninfringement issue*." Thus, from April 9, 2024, until May 4, 2026, Midas was correct in understanding that the District Court might permit amendment of the infringement expert's report. As a consequence, Midas's filing of the Proof of Claims during this period was not merely reasonable and in good faith; had the District Court ultimately permitted amendment of the expert report, a failure to preserve Midas's position could have exposed counsel to a claim that it failed to protect its client's rights.

16. Midas filed a patent infringement lawsuit against Rhodium on January 13, 2022. This patent case was active and pending and the parties were waiting for the District Court to issue its final written ruling regarding the issues taken up at the Pretrial Conference, including Rhodium's pending Motion for Summary Judgment on non-infringement. The District Court issued its final written order on May 4, 2026, which was entered on May 5, 2026. Prior to making that ruling, Judge Albright had requested and received detailed proposed orders from both parties and had indicated that a written final ruling is forthcoming. (J. Thomas Decl. ¶¶ 4, 16, 18, 31.)

17. The prior last communication from the District Court was on January 30, 2025, where it said that the parties' submission of draft proposed orders "*[w]ill help this case begin to progress towards a resolution*." Clearly, the case was active as of that date.

18. Midas filed its original Proof of Claims in this bankruptcy action to protect

its interest in the pending District Court litigation against the Debtors. Contrary to the Debtors' repeated assertion, Midas was not seeking to affirmatively reassert its patent claims against the Debtors in a different forum. Instead, Midas simply intended to ensure that its existing rights in the pending District Court litigation were not extinguished by adjudication in the Debtors' bankruptcy matter without a final written judgment on the merits in *Midas Green Technologies, LLC v. Rhodium Enterprise, Inc.et al,* Case No. 6:22-CV-00050-ADA. (J. Thomas Decl. ¶¶ 20–22.)

19. As discussed in the Introduction, at the time Midas filed its Proof of Claims, (1) there was no written final ruling regarding the MSJ; (2) the patent case was still active, (3) Midas believed the District Court could allow it to amend the expert infringement report; and (4) the District Court case had not been dismissed. As Midas acted in good faith in filing its Proof of Claims, this Court has no basis for finding any sanctionable conduct. On the contrary, Midas acted reasonably and prudently in filing its Proof of Claims to protect its rights in enforcing a possible future judgment in the patent case. Further, after Judge Albright gave guidance at the Pretrial Conference, Midas filed leave to amend its Proof of Claims to reduce the Debtors' potential liability. Midas's original and amended Proof of Claims were part of a good faith effort to pursue its claims for damages for patent infringement in the District Court. Midas's continued pursuit of its claims is consistent with the procedural history of the case and the rights afforded to it by the District Court.

II. BACKGROUND

20. On January 13, 2022, Midas filed a patent infringement suit against the Debtors in the Western District of Texas. In its Third Amended Complaint ("TAC") Midas asserted U.S. Patent No. 10,405,457 ('457 Patent) and US Patent No. 10,820,446 ('446

Patent), alleging that the Debtors' immersion cooling systems at both its Temple and Rockdale facilities infringe both patents. (J. Thomas Decl. ¶¶ 4, 6.)

21. It is disturbing that the Debtors attempt to mislead this Court by misrepresenting the record in the District Court. In particular, the Debtors repeatedly assert to this Court that Midas "abandoned" a patent and several claims and portrays this as concrete evidence of Midas's bad faith and shows a pattern of bad behavior. This misinterpretation is due to an unfamiliarity with patent law in general, or with the District Court local rules specifically, but Midas was REQUIRED by the local rules to simplify the case by reducing the number of asserted claims. As required by the District Court and its local patent rules, just prior to Markman briefing, Midas reduced the number of asserted claims to simplify and streamline the jury trial. The '457 and '446 are related patents, that is, they share a common specification and drawings, the claims are slightly different, but largely duplicative. As a result, Midas withdrew all of the '446 patent claims, as well as duplicative claims of the '457 patent. This withdrawal had no effect on the number of infringing products or the damages claim, and the reduction was required by the District Court. It is disingenuous for the Debtors to portray this court-required reduction of claims as some sinister "abandonment." (J. Thomas Decl. ¶ 8.)

22. The District Court held a pre-trial conference on April 9, 2024, and the Court excluded a portion of the Midas's damages report regarding lost profits, but the sections regarding reasonable royalty remained intact. As found in the Motion for Leave to File Amended Proof of Claims, Midas adjusted its damage model to portray only the reasonable royalty calculation model. The Court also excluded a portion of Midas's infringement report but appeared to grant the opportunity to amend and resubmit the infringement report.

Midas was waiting for Judge Albright to allow the Midas expert to amend his infringement report. (J. Thomas Decl. ¶¶ 9–11.)

23. Immediately after the pre-trial conference, the Court issued a brief Minute Entry which states:

> *Minute Entry for proceedings held before Judge Alan D Albright: ZOOM FINAL Pretrial Conference held on 4/9/2024. PARTIES ANNOUNCE READY. STATEMENTS AND ARGUMENTS OF COUNSEL HEARD. WRITTEN ORDER FORTHCOMING.* [ECF 186].

24. Importantly, the above Minute Entry makes no reference to any ruling made regarding the MSJ and certainly does not indicate that anything Judge Albright said at the oral hearing was made final. As such, no dismissal was issued either. Instead, the Minute Entry makes it abundantly clear that the Court has more work to do prior to making a final ruling, as there is a "written order forthcoming."

25. On January 7, 2025, the debtors filed with this Bankruptcy Court: Debtors' Motion for Entry of An Order Granting Limited Relief from Automatic Stay to Continue District Court Litigation. [ECF 611]. In paragraph 1 of this motion, the Debtors told this Court:

> By this Motion, the Debtors seek entry of an order (the "Proposed Order"), pursuant to sections 362 and 105(a) of the Bankruptcy Code and Bankruptcy Rule 4001, granting limited relief from the automatic stay **solely to permit the resolution of the patent infringement claim** Midas Green Technologies, LLC v. Rhodium Enterprises, Inc., 6:22-cv-00050 (the "District Court Litigation") filed in the Western District of Texas (the "District Court") by Midas Green Technologies, LLC ("Midas") against the Debtors and certain non-debtor affiliates (collectively, "Rhodium"). Specifically, Debtors ask that the stay be lifted for the limited purpose **of allowing the District Court to enter an order** and judgment memorializing its April 9, 2024, bench ruling granting summary judgment to Rhodium. (emphasis added).

26. The Debtors already admitted to this Court that the oral ruling was not a final ruling, and that Judge Albright needed to take additional steps to make it final in order to

permit resolution of the patent infringement claims. This does not indicate a dismissal! Even the Debtors are fully aware that the District Court needed to "enter an order" for finality. But now the Debtors backtrack trying to convince this Court that the District Court does not need to "enter an order."

27. On January 30, 2025, the District Court, recognizing it needed to do more work to issue a final ruling, requested the Parties submit detailed proposed orders. The clerk stated:

> *Given the time that has passed, it is necessary that the parties in this case submit a joint proposed order reflecting the parties' understandings of Judge Albright's rulings at the 4/9/2024 hearing (if there are disputes, please include proposed language in different colors). Please submit an omnibus order for all of the pretrial motions and a separate single order comprising all of the MILs. The Court will compare with its internal notes and enter the order reflecting those rulings shortly thereafter.*

28. The District Court acknowledged that its oral comments were ambiguous and subject to differing interpretations, noting that it had only "notes" requiring comparison with the parties' submissions before entering a final order "shortly." The law clerk further confirmed that additional steps remained before resolution, emphasizing that the oral comments were neither binding nor final. This was the last communication from the Court, making clear that Judge Albright remains engaged with the case and is working toward a written ruling.

29. On February 5, 2025, this Court granted the motion for lifting the stay and agreed with the Debtors that the District Court needs to enter a final written ruling. (J. Thomas Decl. ¶ 28.)

30. On February 7, 2025, the Parties submitted their proposed orders with regard to the issues at the pretrial conference. As indicated above, the District Court stated that it

planned to issue its final written ruling "shortly" after getting the Parties' dueling proposed orders. However, those proposed orders were submitted almost 18 months ago, and the District Court has yet to issue its written order. If the District Court had planned to merely memorialize its discussion at the hearing, it would have done so promptly. Instead, it appears that the District Court was doing a full and careful analysis of the MSJ and intended to issue a complete and thoughtful written opinion. (J. Thomas Decl. ¶ 18.)

31. On May 4, 2026, the District Court issued its long-awaited written final ruling. In that written ruling, Judge Albright acknowledged that important issues in patent case had not been resolved in his oral statements on April 9, 2024. At the oral hearing, Judge Albright left open the possibility that he would grant Midas' request to allow its infringement expert to amend his report to address infringement issues raised at the hearing. In his May 4, 2026, written order, Judge Albright states: "*The Court therefore clarifies that the expert report and infringement contentions may not be amended in an attempt to re-address the summary judgment of noninfringement issue*." (J. Thomas Decl. ¶¶ 31–33.)

32. From April 9, 2024, until May 4, 2026, Midas was correct in understanding that the District Court might permit amendment of the infringement expert's report. As a consequence, Midas's filing of the Proof of Claims during this period was reasonable and made in good faith; had the District Court permitted amendment of the expert report, a failure to preserve Midas's position could have exposed counsel to a claim that it failed to protect its client's rights. (J. Thomas Decl. ¶¶ 19, 35.)

III. STATEMENT OF LAW

33. This Court may not rely on 11 U.S.C. § 105 as a free-standing basis to shift

the Debtors' attorney's fees. Section 105 does not create substantive rights; it authorizes orders to carry out other provisions of the Code and cannot be used to award fees the Code does not otherwise authorize. *Law v. Siegel*, 571 U.S. 415, 420-21 (2014). Nor is § 105 a roving commission to do equity or a source of substantive rights otherwise unavailable under applicable law; the Court may invoke § 105(a) only where the equitable remedy is demonstrably necessary to preserve a right provided elsewhere in the Code. See *In re Highland Cap. Mgmt., L.P.*, 98 F.4th 170, 175 (5th Cir. 2024); *Solow v. Kalikow (In re Kalikow),* 602 F.3d 82, 85 (2d Cir. 2010). Section 105 therefore cannot supply a Patent Act fee entitlement, which exists, if at all, only under § 285 and only before the District Court that presided over the patent action.

34. A Bankruptcy Court has statutory authority to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of" the Bankruptcy Code. *Law v. Siegel*, 571 U.S. 415, 420-421 (2014); citing 11 U. S. C. § 105(a). And it may also possess "inherent power . . . to sanction 'abusive litigation practices.'" *Marrama v. Citizens Bank of Mass*., 549 U. S. 365, 375-376, 127 S. Ct. 1105, 166 L. Ed. 2d 956 (2007). But in exercising those statutory and inherent powers, a bankruptcy court may not contravene specific statutory provisions. *Law*, supra 571 U.S. at 420-421. "[W]hatever equitable powers remain in the bankruptcy courts must and can only be exercised within the confines of" the Bankruptcy Code. [Citations omitted] *Id*. The Bankruptcy Code limits awarding attorney fees to the statutory authority which authorizes this Court to award fees. See 11 U.S.C. §§ 105, 303, 362, 707 and Bankruptcy Rule 7037, 7053, and 9011. None of these enumerated statutes allow this Court to award attorney fees under 35 U.S.C. § 285. Further, none of these statutes authorize this Court to award attorney fees from a case

pending before another Court to as sanction under Bankruptcy Rule 9011. See *Fund, L.P. v. Highland Cap. Mgmt., L.P.* (In re Highland Cap. Mgmt., L.P.), 98 F.4th 170, 175 (5th Cir. 2024).

35. The authority to determine that a patent case is exceptional under 35 USC § 285 resides only in the District Court. *Samsung Elecs. Co. v. Rambus, Inc.* (523 F.3d 1374, 1379). In its entirety, §285 provides: "The court in exceptional cases may award reasonable attorney fees to the prevailing party." This section of Title 35 provides attorney fees in exceptional cases. The statute requires the trial court to find a case "exceptional" before proceeding to consideration of attorney fees. Thus, exceptionality is an element or precondition for the imposition of attorney fees. The statute does not make a finding of exceptionality a separate sanction. Thus, a trial court does not retain jurisdiction to make an "exceptional case" finding.

36. Beyond the exceptional-case requirement, § 285 carries two further limits that defeat the Debtors' request. First, § 285 authorizes fees only in a patent infringement action, only to the prevailing party, and the discretionary exceptional-case inquiry is committed to the district court that presided over that litigation. *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545, 548 (2014); *Highmark Inc. v. Allcare Health Mgmt. Sys., Inc.*, 572 U.S. 559, 563–64 (2014); *California E. Labs. v. Gould*, 896 F.2d 400, 403 (9th Cir. 1990); *Machinery Corp. of Am. v. Gullfiber AB*, 774 F.2d 467, 475 (Fed. Cir. 1985). Second, there can be no § 285 award absent a prevailing party—one in whose favor a judicially sanctioned, material alteration of the parties' legal relationship has occurred—and the request must ordinarily be made by motion in the patent case after entry of final judgment. *CRST Van Expedited, Inc. v. EEOC*, 578 U.S. 419, 422 (2016); Fed. R. Civ. P.

54(d)(2)(B); *IPXL Holdings, L.L.C. v. Amazon.com, Inc.*, 430 F.3d 1377, 1386 (Fed. Cir. 2005).

IV. ARGUMENT

A. The Motion Should be Denied as the District Court Case was Active when Midas Filed its Proof of Claims.

37. It was not until May 4, 2026, that the District Court issued a final written ruling that resolved the pending matters from the April 9, 2024, oral hearing. Between these dates, Midas had a good-faith basis to file its Proof of Claims and indeed was under an ethical obligation to do so. (J. Thomas Decl. ¶¶ 19, 31, 36.)

38. Debtors' sole basis for seeking sanctions in its Motion is they had the mistaken belief that Judge Albright had dismissed the underlying patent case before Midas filed its original Proof of Claims. The Debtors wrongly allege that Midas had conclusively lost in front of Judge Albright but was now trying to take another bite of the apple in bankruptcy court to undo the finality of the District Court ruling. Debtors had previously presented this issue to this Court. However, in its October 28, 2025, Order, this Court made no such finding, and in fact expressed its understanding that Judge Albright still had work to do to resolve the underlying patent case in the District Court. This Court found that:

> *"Continuing to wait indefinitely for a final resolution of the dispute will inevitably dissipate estate resources and possibly result in smaller distributions to stakeholders." (ECF 1878 at 20).*
> *"To the extent the District Court determines the reference should be withdrawn, this Memorandum Opinion will serve as a report and recommendation." (ECF 1878 at 21.)*

39. In its ruling, this Court acknowledges that the District Court case was active and proactively sought to accept the District Court's report and recommendation on this

matter. However, to protect the creditors in the bankruptcy matter, the Court exerted its power to protect assets. As a result, this Court has already confirmed that when Midas filed its original Proof of Claims, Midas had a good faith belief that the District Court case was active, and that it had a reasonable expectation to be awarded damages.

40. Further, on October 28, 2025, this Court issued its "Report and Recommendation to the District Court regarding Midas Green Technologies, LLC's Motion to Withdraw the Reference." (ECF 1880). This report makes recommendations to Judge Albright on how to rule in the pending patent case. Clearly, this Court recognizes that Judge Albright still had sole jurisdiction over patent matters, and that the underlying patent case is still active.

41. With Judge Albright not fully resolving the hearing issues until May 4, 2026, it is clear that the District Court case was still active when Midas filed its Proof of Claims. As such, the entire basis for the Debtors' motion for sanctions is gone, and their motion should be denied.

B. The Motion Should Be Denied as There is No Bad Faith.

42. In order for the Court to impose sanctions pursuant to its inherent power or § 105(a), it must make "a specific finding of bad faith." *In re Parsley*, 384 B.R. 138, 179 (S.D. Tex. 2008); citing *Goldin v. Bartholow*, 166 F.3d 710, 722 (5th Cir. 1999). Moreover, the threshold for imposing sanctions using the court's inherent powers is extremely high. The court should invoke its inherent powers if it finds "that fraud has been practiced upon it, or that the very temple of justice has been defiled. (citations omitted)." *In re Parsley*, 384 B.R. at 179. in order for sanctions to be warranted, [the moving party] must demonstrate bad faith by clear and convincing evidence. *Rodriguez v. Smith* (*In re*

Rodriguez), 652 B.R. 750, 760 (S.D. Tex 2023). None of Midas' claims have been pursued in bad faith. Midas has only attempted to protect its rights in a pending litigation before the District Court. Indeed, Midas reasonably understood that it was obligated to protect its client's rights by filing the Proof of Claims while the patent case remained pending, and pursuing a claim through a process Midas was entitled to invoke is not bad faith. See *Chambers v. NASCO, Inc*., 501 U.S. 32, 50 (1991) (inherent power must be exercised with restraint and discretion). Finally, even if any basis for sanctions existed, an award of all of the Debtors' fees would be improper: inherent-power fee sanctions are limited to the fees the movant would not have incurred but for the sanctionable conduct. *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 108-09 (2017).

43. To impose sanctions under its inherent power or § 105(a), the Court must find, by clear and convincing evidence, conduct that is in bad faith, vexatious, wanton, or undertaken for oppressive reasons. *Goldin v. Bartholow*, 166 F.3d 710, 722 (5th Cir. 1999); see also *Crowe v. Smith*, 261 F.3d 558, 563 (5th Cir. 2001); also *Bynum v. Am. Airlines, Inc*., 166 F. App'x 730, 735 (5th Cir. 2006) (citing *Chambers v. NASCO, Inc*., 501 U.S. 32, 44-46 (1991)); also *Matta v. May*, 118 F.3d 410, 416 (5th Cir. 1997). For purposes of § 105, bad faith is characterized as an attempt to abuse the judicial process. *In re Gorshtein*, 285 B.R. 118, 124 (Bankr. S.D.N.Y. 2002) (citing *In re Spectee Grp., Inc*., 185 B.R. 146, 155 (Bankr. S.D.N.Y. 1995)). The threshold is extremely high: the Court should invoke its inherent power only where it finds "that fraud has been practiced upon it, or that the very temple of justice has been defiled." *Chambers*, 501 U.S. at 46.The evidence shows that the sole reason for filing the proofs of claim was to ensure that in the event the Court granted leave to amend the expert report, Midas' rights would not be forfeit for failure to pursue

its rights before this Court. Debtors cite no evidence to support its position that Midas' filed its proofs of claim vexatiously, in bad faith or with the sole purpose to multiply proceedings. (J. Thomas Decl. ¶¶ 20, 36–37.)

44. Because any sanction the Debtors seek here is penal in nature—an award of attorney's fees—the clear-and-convincing standard of proof governs. *In re Parsley*, 384 B.R. 138, 179-80 (Bankr. S.D. Tex. 2008) (citing *Shepherd v. Am. Broad. Cos*., 62 F.3d 1469, 1478 (D.C. Cir. 1995)). To satisfy that standard, the evidence must be "so clear, direct and weighty and convincing as to enable the fact finder to come to a clear conviction, without hesitancy, of the truth of the precise facts." *In re Parsley*, 384 B.R. at 179-180; citing *In re Medrano*, 956 F.2d 101, 102 (5th Cir. 1992). The Debtors' evidentiary support comes nowhere near establishing by clear and convincing evidence that the Proofs of Claim were submitted vexatiously, in bad faith or with the sole purpose to multiply proceedings. This is because Midas submitted its claims in good faith to preserve its rights. As shown above, when Midas filed its proofs of claim the District Court indicated it was conferring with its clerks to determine whether to allow Midas to file an amended expert report; the District Court entered no final, written ruling; the minute entry stated that a written order was "forthcoming"; the District Court later solicited competing proposed orders; and this Court itself treated the patent case as unresolved. On that record there is no clear and convincing evidence—indeed, no evidence—that Midas acted in bad faith, vexatiously, wantonly, or for any oppressive purpose. At most, the Debtors disagree with Midas's litigation positions, and a contested or even losing position is not sanctionable.

C. This Court Has No Jurisdiction to Decide Under 35 U.S.C. § 285.

45. The Debtors have repeatedly urged this Court to dive deep into the underlying

patent case to evaluate the complex technology, judge claim scope, make infringement determinations, and assess a reasonable patent royalty. These determinations are all required to be made by the District Court, as fully set out in Midas's Motion for Mandatory Withdrawal. (ECF 1579). But now the Debtors take it even further and ask this Court to make a determination that Midas's actions in the District Court patent case make it an exceptional case under 35 USC § 285. The law on § 285 is crystal clear: only the District Court can make a determination that a case is exceptional. *Amneal Pharms. LLC v. Almirall, LLC*, 960 F.3d 1368, 1371 (Fed. Cir. 2020). (Courts have recognized a district court's ability to award attorney fees under section 285 for work done in district court patent infringement actions.) This is clear from the words of § 285 itself, and by court interpretation. It is also clear that a § 285 determination can only be made by an Article III judge, which does not include bankruptcy judges. Id. see also *Bowmar Instr. Corp. v. Tex. Instr., Inc*., No. F74-137, 1978 U.S. Dist. LEXIS 16234, 1978 WL 21733, at *1 (N.D. Ind. Aug. 1, 1978) (explaining that, under *Reddy and Meitzner*, § 285 does "not authorize it to award fees to a party prevailing in that court in an interference proceeding" before the USPTO). Moreover, § 285 shifts fees against the losing party, not its attorneys. To the extent the Debtors seek § 285 fees against Midas's counsel, that request is defective on the face of the statute, which authorizes an award only to the prevailing party and only against the opposing party.

46. As a result, this Court must ignore all the Debtors' assertions and arguments it makes with respect to 35 USC § 285.

D. Midas's Pending Motion (ECF No. 2397) Independently Requires That the § 285 Request Be Denied or Deferred and That Any Sanction Be Limited to

Fees Incurred in These Cases.

47. On June 4, 2026, Midas filed its *Motion to Deny or Defer the Debtors' Request for Attorney's Fees Under 35 U.S.C. § 285, to Limit Any Sanctions to Fees Incurred in These Cases, and, in the Alternative, to Withdraw the Reference of the § 285 Issue* (ECF No. 2397). That Motion is directed at the single component of the Debtors' sanctions request at issue here—the demand for the attorney's fees the Debtors incurred in the separate patent litigation under § 285—and Midas incorporates its arguments by reference. For the reasons summarized below and set out in full in ECF No. 2397, the § 285 request should be denied or, at a minimum, deferred, and any sanction the Court awards should be limited to the fees and costs incurred in these chapter 11 cases.

48. First, this Court did not preside over a patent infringement action; it presided over the allowance and disallowance of Midas's proofs of claim. A creditor that files a proof of claim triggers the claims-allowance process and submits to the bankruptcy court's equitable jurisdiction, but that process does not transform a claims objection into a patent infringement action within the meaning of Title 35. *Langenkamp v. Culp*, 498 U.S. 42, 44 (1990); *Katchen v. Landy*, 382 U.S. 323, 336 (1966); see *Stern v. Marshall*, 564 U.S. 462, 495–501 (2011). Because § 285 fees are available only in a patent infringement action, *California E. Labs.*, 896 F.2d at 403, the statute does not reach this proceeding.

49. Second, the § 285 request is not ripe because there is no prevailing party and no final judgment in the patent action. Although the District Court entered summary judgment of noninfringement, Rhodium's affirmative counterclaim that the '457 Patent is invalid remains pending and unadjudicated, and the District Court has directed the parties to advise whether Rhodium will pursue it. A judgment of noninfringement does not moot

or resolve a counterclaim of invalidity. *Cardinal Chem. Co. v. Morton Int'l, Inc.*, 508 U.S. 83, 93–98 (1993). Until that counterclaim is resolved and final judgment is entered, no party has prevailed, and any § 285 request—which must be made by motion after final judgment—is premature in any forum. Fed. R. Civ. P. 54(d)(2)(B); *IPXL Holdings*, 430 F.3d at 1386. The request should therefore be denied without prejudice or deferred until the patent action is finally resolved.

50. Third, even if the Court reaches sanctions, any award must be limited to the fees and costs incurred in these chapter 11 cases. The Debtors seek more than $5 million in fees generated over two years of patent litigation in the Western District of Texas—a separate action this Court did not preside over, much of it predating both these cases and current counsel's involvement. A court's inherent power and Rule 9011 reach only the fees caused by the misconduct before it. *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 108–09 (2017). And § 285 does not permit recovery of fees incurred in a separate, parallel proceeding that the awarding court did not oversee. *Dragon Intell. Prop. LLC v. DISH Network L.L.C.*, 101 F.4th 1366, 1372 (Fed. Cir. 2024). The fees the Debtors incurred litigating patents before Judge Albright were not caused by any filing in this Court and are recoverable, if at all, only under § 285 in the patent action.

51. Fourth, to the extent the Court reaches the § 285 issue at all, Midas does not consent to its final adjudication by this Court and reserves its objections under Article III and *Stern v. Marshall*, 564 U.S. at 469, 487. A determination of entitlement to fees generated in a separate Article III patent action is not a matter a non-Article III tribunal may finally decide, regardless of the "core" label, and Midas's non-consent is not waived by its appearance at the June 30, 2026, hearing. *Wellness Int'l Network, Ltd. v. Sharif*, 575

U.S. 665, 685–86 (2015). The proper course, if the issue is addressed, is for the Court to proceed by proposed findings of fact and conclusions of law subject to de novo review by the District Court, 28 U.S.C. § 157(c)(1), or, in the alternative, to recommend withdrawal of the reference of the discrete § 285 issue under 28 U.S.C. § 157(d). *In re Nat'l Gypsum Co.*, 145 B.R. 539, 541 (N.D. Tex. 1992).

E. Midas Filed Its Proofs of Claim in Good Faith

52. As will be more fully discussed below, Midas's filing of its original Proof of Claims and its Motion for Leave to Amend its Proof of Claims are both done in good faith. It is clear from the record and the court docket that the underlying patent case had not been dismissed, and that no final ruling had been made at the time Midas filed its Proof of Claims. As a result, Midas had a good faith belief that any issues raised in the pretrial hearing can be resolved, and that Midas would get to present its case to a jury. Midas believed it would prevail at trial, and that the jury will award substantial damages for the Debtors' years of infringement of the Midas '457 Patent. (J. Thomas Decl. ¶¶ 23, 43–44.)

i. Sanctions Cannot Be Imposed for Actions Midas Took While the Patent Action was Still Active

53. As discussed fully above, it was not until May 4, 2026, that Judge Albright finally ruled on all the issues raised at the April 9, 2024, oral hearing. As a result of the patent case still pending at the time it filed the Proofs of Claims, Midas had a good faith belief that it would be allowed to amend the expert infringement report, could win an infringement determination at a jury trial, and that the Debtors would be found liable for substantial patent damages. (J. Thomas Decl. ¶¶ 31, 35.)

ii. The District Court Did Not Enter a Final Order Until May 4, 2026

54. Until May 4, 2026, the Court had not entered a final judgment as required by Federal Rule of Civil Procedure 58, nor had it issued a minute order granting the Debtors' Motion for Summary Judgment under Rule 79(a). In the absence of either a final written order or a qualifying minute order, the limited exception in Rule 58(d) which permits appeal 150 days after entry of a compliant minute order — does not apply. As a result, Midas was left without any avenue for review. Simply put, there was no final judgment under Rule 58 or Rule 79(a) until May 4, 2026, and without one, appellate rights cannot be triggered.

55. A "final decision is one by which a district court disassociates itself from a case" and "terminate[s] an action." *Hignell-Stark v. City of New Orleans*, 46 F.4th 317, 329 (5th Cir. 2022); citing *Gelboim v. Bank of Am. Corp.*, 574 U.S. 405, 408-09, 135 S. Ct. 897, 190 L. Ed. 2d 789 (2015). "[A]n order resolving liability without addressing a plaintiff's requests for relief is not final." *Riley v. Kennedy*, 553 U.S. 406, 419, 128 S. Ct. 1970, 170 L. Ed. 2d 837 (2008).

56. "To understand whether an order is final, we look chiefly to the language the district court used. For example, we noted in Logue that a district court's memorandum saying that "'[a] preliminary injunction will be issued' . . . did not reflect the district court's intent that the opinion act as an operable judgment."…" *Ueckert v. Guerra*, 38 F.4th 446, 450 (5th Cir. 2022). In *Midas v. Rhodium*, the Court's oral ruling mirrored the wording, "will grant," to the wording "will issue" which is recognized as being nonfinal. Further, "the test for finality is whether the District Court intended that its order be 'effective immediately'. Said another way, a court's ruling is only final if a judge 'intends to have nothing further to do' with the motion or the case. Id. (citations removed).

57. Here, Midas had a reasonable understanding that the District Court did not intend his comments at the oral hearing to be effective immediately and had left the issue regarding amendment of the expert report open. Indeed, Judge Albright made those comments over 2 years ago and did not act to finalize the pretrial hearing until May 4, 2026. The only action he had taken prior to that was to request the parties submit proposed orders, which again leads to the conclusion that his discussion at the hearing was never intended to be "effective immediately," particularly with the outstanding issue of whether Midas could amend the infringement expert report.

58. Further, the Court's words and actions reasonably showed that the Court intended to do more with the case and clearly did not intend to have "nothing further to do" with the case. As shown by the words and actions of the Court prior to May 4, 2026, the underlying patent case had not been dismissed, and Judge Albright's discussions at the pretrial conference were not intended to have any final effect.

a. In his April 9, 2024, discussion at the pretrial conference, the Court indicated it was going to meet with his law clerks and determine if Midas could refile expert reports and the MSJ.

b. At the end of the hearing, the Judge indicated to Midas he had not determined the basis or scope of any ruling.

c. In its minute entry of April 9, 2024, the Court indicated it was going to have a "written order forthcoming."

d. On January 30, 2025, the District Court requested the Parties submit proposed orders regarding the pretrial conference and indicated the Court would compare the proposed orders to the Court's own internal notes.

e. The last communication from the District Court was on January 30, 2025, where it said that the Parties submission of draft proposed orders "will help this case begin to progress towards a resolution." Clearly, the District Court is still working toward a resolution, and the case is active.

f. On February 7, 2025, the Court received the Parties' proposed orders for review.

59. No final, appealable order or judgment had been issued in this case prior to May 4, 2026. The District Court expressly stated it would confer with its clerks before deciding whether to grant summary judgment or permit amendment of the Midas expert report, and it never articulated any reasoning or basis for a finding of non-infringement on the record, as required by Rule 56(a). Moreover, the Court had not entered a final written judgment under Rule 58, nor had it entered a docket entry granting summary judgment as required by Rule 79(a). Without such an entry, the narrow exception under Rule 58(d) does not apply, and the appellate court lacks jurisdiction under 28 U.S.C. § 1291. Accordingly, the case remained pending when Midas filed its Proof of Claims. The Court's oral comments were tentative, nonfinal, and expressly conditioned on further review of its notes and comparison with the proposed orders, with a final written order still "forthcoming," particularly as it related to amending the expert opinion.

F. This Court Does Not Have Jurisdiction to Decide Underlying Patent Issues

60. Once again, the Debtors wrongly ask this Court to do a deep dive into the extremely complex and difficult technology of immersion cooling, and to then apply patent law to determine infringement under 35 USC §271, damages under 35 USC §284, and sanctions under 35 USC §285. As fully set out in the pending Motion for Mandatory Withdrawal, this Court does not have jurisdiction over these complex patent matters, and

these damages fall outside of the scope of this Court's authority.

61. "Once subject matter jurisdiction vests with the district court, bankruptcy judges then have authority by reference under 28 U.S.C. § 157. Section 157 states that each district court may provide that "proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges." 28 U.S.C. § 157(a). The statute distinguishes between cases directly under or arising under title 11 and cases which are only "related to" a case under title 11. *Id.* at *§ 157(c)*; *Wood, 825 F.2d at 95*. A case which is arising under or arising in a case under title 11 is a core proceeding. *28 U.S.C.§ 157(b)*; *Wood, 825 F.2d at 97* (a "proceeding is core under *section 157* if it invokes a substantive right provided by title 11 or if it is a proceeding that, by its nature, could arise only in the context of a bankruptcy case."). The statute provides [*6] a nonexclusive list of sixteen matters considered "core." *28 U.S.C. § 157(b)(2)(A) - (P)*. A matter is considered non-core if it is "related to" a case under title 11. *Id.* at *§ 157(c)(1)*." *In re Electro-Mechanical Indus. 2008 Bankr. Lexis 5177* at *5-7 (S.D. Tex. Feb. 20, 2008).

62. *Electro-Mechanical* is very much on point to the facts presented here. Universal had a pending patent infringement case against Electro-Mechanical ("EMI"). EMI filed for chapter 11 in the Southern District of Texas, Houston Division. Universal filed proof of claim for over $5M, and EMI filed a Motion to Estimate. Universal then filed a Motion to Withdraw the reference to the extent it called for a determination of liability under patent law. (Id. at *2-4) The court granted the Motion, finding that withdrawal was mandatory of the determination of infringement in a patent case. (Id. at *10-11)

63. *Electro*-Mechanical at *7-9 states Section 157(d) states that the "district court shall, on timely motion of a party, so withdraw a proceeding if the court determines

that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce." 28 U.S.C. § 157(d) (emphasis added). Patent infringement claims such as "this proceeding involves a question of non-Bankruptcy federal law, and, as set forth above, a question of Title 11."

64. [C]ourts have generally held that a mandatory withdrawal of reference is warranted where "substantial and material consideration" of federal statutes other than the Bankruptcy Code is "necessary" to the resolution of a case or proceeding. *In re Nat'l Gypsum*, 145 B.R. at 541.

65. Patent "infringement analysis will likewise require substantial application of Title 35. Indeed, examining claim construction to determine the invention's scope has been held to be a matter of law reserved to the court." citing *Markman v. Westview Instruments*, 517 U.S. 370 (1996).

66. As noted by Justice Souter in Markman, "the claims of patents have become highly technical in many respects as the result of special doctrines relating to the proper form and scope of claims that have been developed by the courts and the Patent Office." *Id.* at 388 (quoting Woodward, Definiteness and Particularity in Patent Claims, 46 MICH. L.REV. 755, 765 (1948)). Unique aspects of claim construction have developed based on the dictates of Title 35. See e.g. *Tech. Prop. Ltd. v. Matsushita Elec. Indus*, 514 F. Supp. 2d 916, 921-22 (E.D. Tex. 2007) (explaining the "guideposts" for courts to follow in construing claims).

67. The Court found that a finding of infringement was subject to mandatory removal: "The Court, therefore, finds the determination of patent validity and infringement

falls under the mandatory withdrawal provision of § 157(d) and recommends the reference be withdrawn accordingly." *Electro-Mechanical* at *10.

68. As in Electro-*Mechanical*, the Debtors are improperly asking this Court to evaluate the underlying patent case and make both legal and factual determinations on infringement liability. The issues here involve highly technical questions concerning complex immersion cooling systems, and any determination of infringement of the Midas '457 Patent necessarily requires a substantial and material application and interpretation of Title 35 of the U.S. Code. This is not a routine application of federal law to straightforward facts, and such determinations fall outside the jurisdiction and authority of the Bankruptcy Court. This Court does not have jurisdiction to make a determination as to infringement of the '457 Patent, amounts of damages due to an infringement, or the application of sanctions as an exceptional case under 35 USC § 285.

CONCLUSION

69. Debtors are barred from using § 105 to seek non-bankruptcy damages under 35 U.S.C § 285.

70. Debtors are fully barred from seeking § 285 damages under § 105. The U.S. Constitution, the patent statutes, and case law are black-letter clear: This is a claim-objection proceeding, not a § 285 patent case; an exceptional-case determination may be made only by the District Court that presided over the patent action, not in this forum. This Court should not consider any sanctions related to the underlying patent case, as it lacks jurisdiction to find an exceptional case.

71. From the date of the oral hearing, April 9, 2024 to the date Judge Albright issued his written final ruling on May 4, 2026, Midas had a good-faith and reasonable belief

that the underlying patent case was active. Consequently, Midas had to protect its rights, which included filing Proof of Claims.

72. For the reasons set forth above, this Court should deny the Debtors' Motion for Sanctions in its entirety.

DATED: June 17, 2026

Respectfully submitted,
/s/ Joseph E. Thomas

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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2026, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The CM/ECF system will send notification of such filing to all counsel of record who are registered CM/ECF users.

I further certify that all participants in this case who are registered CM/ECF users will be served by the CM/ECF system pursuant to the Federal Rules of Civil Procedure and the Local Rules of this Court.

Dated: June 17, 2026

Respectfully submitted,

THOMAS WHITELAW & KOLEGRAFF LLP

By: /s/ Joseph E. Thomas
Joseph E. Thomas
Attorneys for Midas Green Technologies

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: **RHODIUM ENCORE, LLC**, et al., Debtors,	Chapter 11 Case No. 24-90448 (ARP) (Jointly Administered)

DECLARATION OF JOSEPH E. THOMAS IN SUPPORT OF MIDAS GREEN TECHNOLOGIES, LLC'S OPPOSITION TO

DEBTORS' MOTION FOR SANCTIONS RELATING TO CLAIM

NUMBERS 004, 062, AND 068-072 FILED BY MIDAS GREEN TECHNOLOGIES LLC

PURSUANT TO 11 U.S. CODE § 105 AND 35 U.S. CODE § 285

(Relates to ECF Nos. 953, 954, 1069, 1413, 1794)

I, Joseph E. Thomas, declare as follows:

1. I am the managing partner at Thomas Whitelaw & Kolegraff LLP, counsel of record for Midas Green Technologies, LLC ("Midas") in this action. The facts stated in this declaration are true to my knowledge, and if called as a witness, I can and would testify competently to them.

2. I submit this declaration in support of Midas's opposition to the Debtors' Motion for Sanctions relating to Claim Numbers 004, 062, and 068-072.

3. My declaration is based on my personal involvement in the patent litigation styled Midas Green Technologies, LLC v. Rhodium Enterprises, Inc., et al., Case No. 6:22-cv-00050-ADA, pending in the United States District Court for the Western District of Texas, as well as my involvement in the filing and amendment of Midas's proofs of claim in these chapter 11 cases.

4. On January 13, 2022, Midas filed its patent infringement action against Rhodium in the Western District of Texas. In that action, Midas asserted infringement claims involving U.S. Patent No. 10,405,457 and U.S. Patent No. 10,820,446 concerning Rhodium's immersion cooling systems.

5. In connection with the patent action, Midas retained Dr. Himanshu Pokharna as its independent technical expert on infringement. Dr. Pokharna holds a Ph.D. in Nuclear Engineering from Purdue University and an M.B.A. from the Wharton School of the University of Pennsylvania, is a named inventor on more than 120 issued or pending patents, previously led thermal-management engineering teams at Intel Corporation, and has served as a testifying expert in numerous liquid-cooling and thermal-management patent disputes. He was retained at his standard hourly consulting rate, and his opinions

were not contingent on the substance of his conclusions or the outcome of the litigation.

6. On December 22, 2023, Dr. Pokharna served a detailed expert report under Federal Rule of Civil Procedure 26 which is Attorneys Eyes Only and filed Under Seal as EXHIBIT A. The report was based on, among other things, his personal inspection of Rhodium's Temple and Rockdale mining facilities, his review of Rhodium's technical documents and deposition testimony, and his analysis of the '457 patent and its file history. Applying the district court's claim constructions on an element-by-element basis, Dr. Pokharna opined that Rhodium's R30 and R70 immersion cooling systems infringe Claims 1 and 5 of the '457 patent, both literally and under the doctrine of equivalents. I reviewed that report.

7. Dr. Pokharna's report provided me, as counsel for Midas, with an objective, expert-supported basis to believe that Midas held a meritorious infringement claim against Rhodium. The existence of a qualified expert's detailed, element-by-element infringement opinion confirmed my good-faith belief that the patent action was substantively supported and that maintaining it was proper. I did not understand the patent action, or the infringement claim underlying it, to be baseless, frivolous, or pursued for any improper purpose.

8. During the district court litigation, Midas reduced the number of asserted claims and withdrew claims associated with the '446 patent and duplicative claims of the '457 patent in order to streamline the case in accordance with the district court's procedures and local patent rules. Based on my experience in patent litigation, that narrowing of asserted claims was consistent with common patent-case management practice and was not understood by me as an abandonment of damages or of the underlying infringement

dispute.[1]

9. On April 9, 2024, Judge Alan D. Albright held a final pretrial conference in the patent case. I attended that hearing on behalf of Midas.

10. At that hearing, the district court addressed issues relating to Midas's damages report and infringement report. My understanding from the hearing was that the court excluded part of Midas's lost-profits theory, while reasonable royalty remained in the case. My understanding was also that the court addressed issues relating to the infringement report, but did not enter a final written order that day.

11. Based on the court's statements at the April 9, 2024 hearing, I understood that the possibility remained open that Midas might seek or receive permission to amend its infringement expert report to address issues raised by the court. The Court previously stated on the record that it had granted leave to amend both Midas' infringement expert Himanshu Pokharna and Midas' damages expert Duross O'Bryan.

12. Further, the oral ruling at the April 9, 2024 hearing could not have been a final ruling because the oral ruling failed to state the reasoning for granting summary judgment on the record, which is required for a ruling to be final. Further, the Court stated plainly that the Court intended to discuss with his clerks whether summary judgment would be reconsidered after leave to amend Midas' infringement expert Himanshu Pokharna.

13. Immediately after the April 9, 2024 hearing, the district court entered a minute entry stating, in substance, that a written order was forthcoming. I reviewed that minute

[1] Judge Albright has strict guidelines requiring the Plaintiff to reduce the number of patents and claims asserted. His **Standing Order Governing Proceedings-Patent Cases** states: *26 weeks after Markman hearing is the deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court to arrange a teleconference with the Court to resolve the disputed issues.*

entry.

14. The April 9, 2024 minute entry did not, in my understanding, constitute a final written judgment disposing of the patent case. It indicated to me that the court intended to issue a later written order.

15. After the April 9, 2024 hearing, I did not understand the patent case to have been finally dismissed. To the contrary, I understood that material issues remained unresolved until the court entered a written order.

16. On January 30, 2025, the district court requested that the parties submit proposed orders reflecting their understandings of the rulings from the April 9, 2024 hearing. I reviewed that communication.

17. The district court's January 30, 2025 request for proposed orders confirmed my understanding that the court had not yet entered its final written ruling and that further judicial action remained necessary before the case would be finally resolved.

18. On or about February 7, 2025, the parties submitted proposed orders to the district court in response to that request.

19. Based on the April 9, 2024 hearing, the minute entry stating that a written order was forthcoming, the January 30, 2025 request for proposed orders, and the absence of a final written judgment, I understood from April 9, 2024 through May 4, 2026 that the patent case remained active.

20. During that period, I believed in good faith that Midas needed to preserve its rights in the bankruptcy cases by filing proofs of claim.

21. I believed that if Midas failed to file proofs of claim while the patent action remained pending, Midas risked prejudicing its ability to recover on any judgment or

allowed claim that might later result from the district court litigation.

22. Midas filed its proofs of claim to preserve its rights while the district court action remained unresolved, not to relitigate patent issues in the bankruptcy court or to harass the Debtors.

23. At the time Midas filed its proofs of claim, I believed in good faith that Midas had a pending, unresolved patent dispute against the Debtors and a legitimate basis to estimate the value of that dispute for bankruptcy claim-preservation purposes.

24. I also understood that Midas's damages position had been narrowed in light of the district court proceedings, and Midas later amended its proofs of claim to reduce the amount asserted and provide additional clarity.

25. In my professional judgment, filing the original and amended proofs of claim was a prudent and necessary step to protect Midas's interests while awaiting final action from the district court.

26. On January 7, 2025, the Debtors filed in this Court a motion seeking limited relief from the automatic stay so that the district court could enter an order and judgment memorializing its April 9, 2024 bench ruling. I reviewed that filing.

27. That filing further reinforced my understanding that even the Debtors recognized that additional action by the district court was necessary before the patent case would be finally resolved.

28. On February 5, 2025, this Court granted stay relief to permit the district court to proceed. I understood that order as consistent with the position that a further district court order was still required.

29. I also reviewed this Court's October 28, 2025 rulings, including the

memorandum opinion sustaining the Debtors' objections to Midas's proofs of claim or alternatively estimating the claims at zero, and the report and recommendation concerning withdrawal of the reference.

30. In my understanding, those rulings likewise recognized that the district court still had unresolved patent issues before it and that district court action remained relevant to final resolution of the patent dispute.

31. On May 4, 2026, Judge Albright issued the written order resolving the pending matters from the April 9, 2024 hearing, and that order was entered on the docket on May 5, 2026.

32. I reviewed the May 4, 2026 written order.

33. In that written order, the district court stated: "The Court therefore clarifies that the expert report and infringement contentions may not be amended in an attempt to re-address the summary judgment of noninfringement issue."

34. That language confirmed my prior understanding that, before entry of the written order, the amendment issue had not been finally resolved in writing.

35. Until the district court issued that written order, I believed there remained a possibility that Midas might be permitted to amend its infringement expert report. That belief was genuine and held in good faith.

36. Because I understood the patent case to be active until the district court's written ruling, filing proofs of claims in the bankruptcy action was necessary to preserve its interest in the pending litigation. Without filing proofs of claims prior to the cut of date, all interest in the pending litigation would have been forfeit. Based on the lack of a final order and the Court's inconsistent statements on the record, I believed it was necessary and proper to file

these proofs of claims to ensure that Midas maintained its rights. I did not believe that filing proofs of claim on Midas's behalf was improper, vexatious, or undertaken in bad faith.

37. At no time did Midas file any proof of claim for an improper purpose, to multiply proceedings unnecessarily, or to mislead this Court.

38. At all times relevant here, my actions were guided by my obligation to protect my client's rights in light of an unresolved district court patent action and the deadlines and consequences associated with the bankruptcy claims process.

39. I further understood that any request for attorney's fees under 35 U.S.C. § 285 would ordinarily be determined, if at all, by the court presiding over the patent action after final judgment, not by this Court in the claims-objection process. In defending against the sanctions request, Midas has also argued that any request for fees under 35 U.S.C. § 285 belongs, if at all, in the district court that presided over the patent litigation. Midas had a good faith basis to file its patent infringement case against the Debtors. The issue at the heart of the Debtors Motion for Summary Judgment was that the claim language "control facility adapted to coordinate the operation of the primary and secondary fluid circulation facilities as a function of the temperature of the dielectric fluid in the tank". My reading of the claim language: "as a function of the temperature of the dielectric fluid in the tank" differed from the Court's claim language interpretation which, in my opinion, added an additional element that requirement the Midas patent to take a temperature measurement inside of the tank, rather than a system which coordinated the operation of the circulation facilities with a mathematical calculation capable of controlling the temperature of the tank, was not reasonably foreseeable prior to the Court's ruling. My understanding of the

claim language was supported by my expert Himanshu Pokharna, who confirmed from the patent specification that Midas' own invention measured temperature outside of the tank in its proposed embodiments. Therefore, it was not reasonably foreseeable to Midas that in prosecuting Midas' claims that the claim language would be interpreted so narrowly.

40. My understanding was based on the language of 35 U.S.C. § 285 and the Supreme Court's description of that statute in *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545 (2014), which states that Section 285 authorizes a district court to award attorney's fees in patent litigation.

41. I was also aware that sanctions under a court's inherent authority require bad faith and must be exercised with restraint. That understanding is consistent with *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991), and with Fifth Circuit and Southern District of Texas authority requiring a specific bad-faith finding before such sanctions may be imposed.

42. Consistent with those principles, I did not believe that preserving Midas's rights by filing proofs of claim while the patent action remained unresolved could properly be characterized as sanctionable conduct.

43. Everything Midas did in filing and amending its proofs of claim was done in the good-faith belief that the district court litigation remained pending and that Midas was obligated to preserve its position in the bankruptcy cases.

44. Because Midas's proofs of claim were filed to preserve and estimate the value of that same infringement claim, Dr. Pokharna's report likewise furnished a good-faith, expert-supported basis for filing the original and amended proofs of claim. The report gave me a reasonable and well-founded basis to conclude that Midas held a genuine, expert-supported claim against the Debtors worth preserving through the bankruptcy claims

process, and it informed my professional judgment that filing the proofs of claim was a prudent and necessary step to protect Midas's interests while the district court action remained unresolved.

45. The Debtors filed for bankruptcy on August 29, 2024. Midas was required under the bankruptcy rules to file any Proof of Claim by November 22, 2024, and if it missed that date, any right to collect from the Debtors would be extinguished. Midas filed its Proof of Claims on September 18, 2024, approximately 1 month before the drop dead bar date. At the time of filing the Proofs of Claim, Midas had a good faith understanding that the District Court patent case was active, and the court was considering allowing Midas to amend its technical expert report.

46. I make this declaration to provide the factual basis for Midas's position that its proofs of claim were filed in good faith while the district court patent action remained active and unresolved.

DATED: June 17, 2026

Respectfully submitted,
/s/ Joseph E. Thomas

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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2026, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. The CM/ECF system will send notification of such filing to all counsel of record who are registered CM/ECF users.

I further certify that all participants in this case who are registered CM/ECF users will be served by the CM/ECF system pursuant to the Federal Rules of Civil Procedure and the Local Rules of this Court.

Dated: June 17, 2026

Respectfully submitted,

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