

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

)	Chapter 11
In re:)	
)	Case No. 18-10834 (KG)
VER TECHNOLOGIES HOLDCO, LLC, et.)	
al.,)	Jointly Administered
)	
Debtors.)	Hearing Date: July 26, 2018 at 10:00 AM
)	Objection Date: July 19, 2018
)	Docket No. 551 & 572

**ORACLE AMERICA INC.’S RESERVATION OF RIGHTS REGARDING THE
(1) SECOND AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION
OF VER TECHNOLOGIES HOLDCO LLC AND ITS DEBTOR AFFILIATES
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE; AND
(2) NOTICE OF FILING OF PLAN SUPPLEMENT**

Oracle America, Inc., successor in interest to NetSuite, Inc. (“Oracle”), a creditor and contract counter-party in the above-captioned jointly administered Chapter 11 cases, submits this Reservation of Rights (the “Rights Reservation”) regarding both the Second Amended Joint Chapter 11 Plan of Reorganization of VER Technologies Holdco LLC and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code (“Plan”) and the Notice of Filing of Plan Supplement (“Plan Supplement”) filed by VER Technologies Holdco LLC, et al. (“Debtors”).

I. INTRODUCTION

1. The Debtors filed the Plan Supplement in connection with the Plan. By the Plan and Plan Supplement, the Debtors seek Bankruptcy Court authority to, among other things, assume certain executory contracts between the Debtors and Oracle, subject to various conditions.

2. Oracle files this Rights Reservation solely because, as Debtors indicated in the Plan Supplement, assumption of Oracle’s contracts is conditioned upon an anticipated amendment currently being negotiated between the parties.



3. This amendment will affect the cure, once it is finalized, and the cure amount identified in the Plan Supplement currently appears to be inaccurate.

4. Although Oracle anticipates, as Debtors suggest, that the cure and modification will be agreed upon prior to the Plan's hearing date, Oracle files this Rights Reservation in an abundance of caution to ensure it retains its right to be heard.

II. FACTUAL BACKGROUND

5. The above captioned case was filed on April 5, 2018 and an order directing joint administration was entered on April 6, 2018.

6. The Debtors filed the Plan on July 16, 2018. The Plan sets forth the following procedures for the assumption and rejection of executory contracts:

On the Effective Date, except as otherwise provided herein, each of the Debtors' Executory Contracts and Unexpired Leases not previously assumed, assumed and assigned, or rejected pursuant to an order of the Bankruptcy Court will be deemed rejected by the Debtors or the Reorganized Debtors, as applicable, as of the Effective Date in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, except any Executory Contract or Unexpired Lease (1) identified on the Assumed Executory Contract/Unexpired Lease List (which shall be filed with the Bankruptcy Court on or before the Plan Supplement Filing Date) as an Executory Contract or Unexpired Lease designated for assumption, (2) that is the subject of a separate motion or notice to assume (including a motion or notice pursuant to which the requested effective date of such assumption is after the Effective Date) filed by the Debtors and pending as of the Confirmation Hearing, (3) that has been previously assumed pursuant to a Bankruptcy Court order or the Assumption/Rejection Procedures, or (4) that previously expired or terminated pursuant to its own terms.

See Article V.A of the Plan.

7. On July 9, 2018, the Debtors filed their Plan Supplement. Exhibit C-2 to the Plan Supplement identifies the executory contracts which will be assumed through the Plan and lists the specific cure amount related to the contracts identified.

8. Exhibit C-2 includes two agreements between Full Throttle Films, LLC and NetSuite, Inc. which are described as (a) a "NetSuite Subscription Services Agreement dated 3/13/2015;" and (b) "NetSuite Subscription Services," each with a \$0.00 cure amount.

9. The NetSuite/Oracle agreements identified on Exhibit C-2 are referred to herein as the “Oracle Agreements”.

10. The Debtors also note in the Plan Supplement that amendments to certain agreements, including the Oracle Agreements, are under negotiation, and these agreements will be assumed only upon execution of those amendments. *See*, footnote 1 of the Plan Supplement.

11. Since filing the Plan Supplement, the Debtors and Oracle have been in discussions about, and continue to diligently negotiate, a mutually agreeable amendment to the Oracle Agreements.

12. These discussions are proceeding apace and include efforts to determine the appropriate associated cure amount.

13. Given the filing deadline, however, since the amendment to the Oracle Agreements is not yet finalized and the exact cure amount remains under discussion, Oracle files this Rights Reservation to preserve its right to be heard.

14. Oracle anticipates that the parties will continue to work together, in the hope that all issues will be resolved prior to the Plan confirmation hearing on July 26, 2018.

III. ARGUMENT

All Arrearages Must Be Paid In Cure Prior To The Assumption Of Any Oracle Agreement.

15. Before assuming any executory contract, the Debtors must cure (or provide adequate assurance of a prompt cure of) any default under the subject contracts. 11 U.S.C. § 365(b)(1).

16. The Debtors identify a cure amount of \$0.00 relating to the Oracle Agreements in the Plan Supplement.

17. Currently, Oracle’s records reflect that it is owed not less than \$2,641.39.

18. However, additional sums may be owed and the exact cure amount will not be known until the amendment to the Oracle Agreements is completed.

19. Oracle anticipates that the cure amount issues will be reconciled with the Debtors pursuant to the amendment negotiations, and the Debtors preliminarily have confirmed their willingness to satisfy any outstanding cure amount.

IV. CONCLUSION

20. For the reasons set forth above, Oracle respectfully requests that the Court allow Oracle to be heard regarding the Plan to the extent it seeks to assume any Oracle Agreements, and Oracle hereby reserves its right to be heard on all issues set forth herein.

Dated: July 19, 2018
Wilmington, Delaware

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CERTIFICATE OF SERVICE

I, James E. Huggett, hereby certify that on July 19, 2018, I served a copy of *Oracle America Inc.'s Reservation Of Rights Regarding The (1) Second Amended Joint Chapter 11 Plan Of Reorganization Of VER Technologies Holdco LLC And Its Debtor Affiliates Pursuant To Chapter 11 Of The Bankruptcy Code; And (2) Notice Of Filing Of Plan Supplement* on the parties listed on the attached Service List via service as indicated.

/s/ James E. Huggett
James E. Huggett (#3956)

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