

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

HII MISSION TECHNOLOGIES CORP.,
Plaintiff,

v.

Civil Action No. 3:25cv483

CYBERLUX CORP., *et al.*,
Defendants.

ORDER

This matter comes before the Court on an unopposed motion for interpleader deposit (the “Motion”) filed by the plaintiff, HII Mission Technologies Corp. (“HII”), pursuant to 28 U.S.C. § 1335, 28 U.S.C. § 2361, and Rule 67 of the Federal Rules of Civil Procedure. (ECF No. 143.) Upon due consideration of the Motion, and for good cause shown, the Court makes the following findings of fact and conclusions of law:

Findings of Fact

Background of the Cyberlux Receivable

1. Effective August 29, 2023, HII’s predecessor in interest and Cyberlux Corporation (“Cyberlux”) entered into Subcontract No. P000043846 (the “Subcontract”).
2. In accordance with the Subcontract’s applicable terms and conditions, on May 17, 2024, HII terminated for convenience the Subcontract.
3. Subsequently, HII and Cyberlux executed Modification No. 4 to Subcontract No. P000043846 to Effectuate a Termination Settlement (“Mod. 4”), effective February 26, 2025, which governs the parties’ respective duties and obligations on and after that effective date.
4. Under Section 7 of Mod. 4, Cyberlux agreed to indemnify and hold HII harmless from damages, expenses, liabilities, and losses, including attorneys’ fees and other out-of-pocket

expenses, incurred by HII in connection with threatened, pending, or completed inquiries, claims, actions, suits, or proceedings relating to Cyberlux's liabilities to its creditors, even if Cyberlux disputes such liabilities.

5. On May 28, 2025, HII received a partial payment from the Government¹ in the amount of \$2,757,254.39 related to termination and stop work costs under Mod. 4.
6. On July 15, 2025, HII received final payment from the Government as relevant to Cyberlux in the amount of \$23,012,114.64.
7. As a result, HII has received a total of \$25,769,369.03 from the Government related to the Subcontract (the "Received Funds").

Fairfax Garnishment Deposit

8. On March 11, 2025, HII was served with a garnishment summons by Atlantic Wave Holdings, LLC ("Atlantic Wave") and Secure Community, LLC ("Secure") (the "Garnishment Summons") in case number CL25-3413 in the Fairfax Circuit Court, seeking to garnish "[a]ny monies owed to" Cyberlux based on a judgment entered in favor of Atlantic Wave and Secure and against Cyberlux and Mark Schmidt by the Circuit Court of the City of Richmond on June 28, 2023.
9. Pursuant to the Orders of the Fairfax Circuit Court entered on July 22, 2025, and August 15, 2025, HII deposited the sum of \$1,444,543.11 of the Received Funds into the Fairfax Circuit Court on August 15, 2025 (the "Fairfax Garnishment Deposit").

¹ The parties define "the Government" as the Department of the Navy and the General Services Administration ("GSA"), Federal Systems Integration and Management Center, which is part of the GSA Federal Acquisition Service, Office of Assisted Acquisition Services.

HII Recoupment

10. HII asserts that it is entitled to recoup, under Section 7 of Mod. 4 and equitable principles of interpleader, its attorneys' fees and costs incurred in connection with Cyberlux's competing creditor claims and disposition of the Received Funds.
11. HII has incurred \$587,888.36 in such attorneys' fees and costs since the execution of Mod. 4.

Competing Claims

12. HII is in receipt of, and/or on notice of, multiple competing claims to and alleged interests in the Received Funds, including: Cyberlux; Legalist SPV III, LP; Robert W. Berleth, solely in his capacity as receiver for Cyberlux; Advanced Navigation and Positioning Corporation; Atlantic Wave; Secure; the United States; Assure Global, LLC d/b/a WeShield; Roman Investments PR LLC, MAS USA MGT LLC, and Michael Sinensky; Fairwinds Technologies LLC; and Thin Air Gear, LLC (collectively, the "Cyberlux Creditors").
13. HII is uncertain as to priority, payment, and the validity of the alleged claims to and interests in the Received Funds and lacks sufficient present knowledge, information, and belief to make such a determination.
14. As such, HII seeks to interplead and deposit into a Disputed Ownership Fund within this Court's Registry Investment System, pursuant to Rule 67(a) of the Federal Rules of Civil Procedure and the Court's April 1, 2017, Standing Order re: Deposit and Investment of Registry Funds, for disbursement as the Court may direct, the amount of \$23,736,937.56 (the "Disputed Funds"), with the Disputed Funds being calculated as follows:

	\$25,769,369.03	Received Funds
Less	\$1,444,543.11	Fairfax Circuit Court Garnishment Deposit
Less	\$587,888.36	HII Attorneys' Fees and Costs
=	<u>\$23,736,937.56</u>	<u>Disputed Funds</u>

Conclusions of Law

15. Based on the foregoing and the evidence and filings before the Court, the Court has jurisdiction over this action and each party pursuant to 28 U.S.C. § 1335. The amount in dispute exceeds \$500 and there are two or more adverse claimants of diverse citizenship.
16. HII is entitled to interpleader relief under 28 U.S.C. §§ 1335 and 2361.
17. Pursuant to Section 7 of Mod. 4, Cyberlux agreed to indemnify and hold HII harmless from and against any and all expenses, including attorneys' fees and other out-of-pocket expenses incurred or suffered by HII in connection with any inquiry, claim, action, suit, or proceeding arising out of or relating to Cyberlux's liabilities to its creditors, even if Cyberlux disputes such liabilities.
18. The rights of the creditors of Cyberlux can rise no higher than the rights of Cyberlux. *See generally* Va. Code Ann. § 8.9-404(a) (the rights of an assignee of an account receivable "are subject to all terms of the agreement between the account debtor [HII] and assignor [Cyberlux] and any defense or claim in recoupment arising from the transaction that gave rise to the contract").
19. As a result, HII's right to recoup attorneys' fees and costs under Mod. 4 reduces the amount otherwise payable to Cyberlux, and, therefore, reduces the amount otherwise reachable by the creditors of Cyberlux, including the Cyberlux Creditors.

20. Accordingly, the Court GRANTS the motion for interpleader deposit, (ECF No. 143), and DIRECTS HII to deposit the amount of **\$23,736,937.56**, the Disputed Funds, into a Disputed Ownership Fund within this Court's Registry Investment System by **Friday, March 6, 2026**. The Court shall contact HII with further instructions to make this deposit.
21. Upon HII's deposit of the Disputed Funds into the registry of the Court, HII SHALL be discharged and released from any and all liability to Cyberlux, its creditors (including each of the Cyberlux Creditors and anyone later joined as a party to this action), and each of their respective agents, employees, affiliates, parents, subsidiaries, successors, predecessors, assigns, or anyone acting directly or indirectly on their behalf, related to or arising out of the Received Funds.
22. HII, including its agents, parent, affiliates, employees, representatives, trustees, predecessors, successors, and assigns, SHALL be released, discharged, and exculpated from and against any and all liabilities, claims, security interests, liens, writs, trusts, suits, debts, judgments, dues, sums, and/or causes of action, whether at law or in equity, related to or arising from the Received Funds.
23. All parties to this action and their privities other than HII, and each of their respective agents, employees, officers, attorneys, affiliates, parents, subsidiaries, successors, predecessors, assigns, or anyone acting directly or indirectly on their behalf, and any other persons who are in active concert or participation with any of the foregoing, are PERMANENTLY RESTRAINED AND ENJOINED from instituting, maintaining and/or prosecuting any suit, civil action, summons, writ, civil proceeding, petition, or arbitration in any state, federal or other court, tribunal, or forum against HII asserting any claims arising from or related to the Received Funds or any interest therein, to the fullest extent of the law.

