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10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA  
 13 WESTERN DIVISION

13 UMG RECORDINGS, INC., <i>et al.</i> , 14 15 Plaintiffs, 16 17 v. 18 VEOH NETWORKS, INC., <i>et al.</i> , 19 20 Defendant.	) Case No. CV-07-05744 AHM (AJWx) ) ) <b>DECLARATION OF BRIAN LEDAHL</b> ) <b>IN SUPPORT OF UMG'S</b> ) <b>OPPOSITION TO VEOH'S <i>EX PARTE</i></b> ) <b>APPLICATION REGARDING</b> ) <b>DISCOVERY</b> ) ) <b>Filed concurrently herewith:</b> ) ) <b>UMG's Opposition to Veoh's <i>Ex Parte</i></b> ) <b>Application Regarding Discovery</b> ) ) Magistrate: Hon. Andrew Wistrich ) ) Date: TBD ) Time: TBD ) Ctrm: 690 ) ) Discovery Cutoff: January 12, 2009 ) Pretrial Conference: April 6, 2009 ) Trial Date: April 21, 2009
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DECLARATION OF BRIAN LEDAHL

I, Brian D. Ledahl, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for plaintiff UMG Recordings, Inc. and other affiliated UMG entities (“UMG”) in this case. I am a member in good standing of the State Bar of California and have been admitted to practice before this Court. This declaration is submitted in support of UMG’s Opposition to Veoh’s *Ex Parte* Application Regarding Discovery. I have personal knowledge of the facts set forth below and if called as a witness, I could and would testify to these same facts under oath.

2. In addition to the documents produced by UMG in the *MySpace* and *Grouper* litigations, UMG has also searched the files of five additional custodians:

- John Bartelson, Vice President, New Media Marketing, Def Jam;
- Steve Berman, President, Sales & Marketing, IGA;
- Andrew Mains, Director, New Media, Interscope;
- David Spingarn, Vice President, New Ventures & Strategic Investments, IGA; and
- Jordan Walker, Artist Development Coordinator, Universal Motown/Universal Republic.

UMG also re-searched the files of all its custodians with various additional search terms:

- ((DMCA OR “digital mill\*”) AND (notice\* OR violat\* OR infring\* OR demand\* OR request\* OR claim\* OR “take down” OR remov\* OR pull\*) AND (copyright\*)) AND (“AIMPages.com” OR “Bebo.com” OR “BlackPlanet.com” OR “Bolt.com” OR “Break.com” OR “Broadcaster.com” OR “Classmates.com” OR “cyworld.com” OR “dailymotion.com” OR “facebook.com” OR “flickr.com” OR “friendster.com” OR “grouper.com” OR “hi5.com” OR “ilike.com” OR “imeem.com” OR “last.fm” OR “linkedin.com” OR “livejournal.com”

1 OR “mog.com” OR “mystrands.com” OR “orkut.com” OR  
2 “photobucket.com” OR “piczo.com” OR “reunion.com” OR  
3 “revver.com” OR “rockyou.com” OR “secondlife.com” OR  
4 “sixdegrees.com” OR “slide.com” OR “tagworld.com” OR “windows  
5 live spaces” OR “spaces.live.com” OR “xanga.com” OR “yahoo!360”  
6 OR “youtube.com”))

- 7 • gracenote OR “grace note”
- 8 • notice AND “take down”
- 9 • Veoh\*

10 3. UMG and Grouper filed a stipulation to make additional productions,  
11 which was entered by the Court on November 8, 2007. UMG produced the  
12 materials called for by this stipulated order in the *MySpace* and *Grouper* matters,  
13 and has produced such documents to Veoh in this case as well.

14 4. UMG has searched its custodians’ files for documents containing the  
15 terms Bolt\*, Grouper\*, MySpace\*, Veoh\*, and YouTube\*. UMG has produced  
16 responsive documents identified by these and other searches, including any  
17 documents captured by these searches addressing the “promotional value” of  
18 websites offering “video sharing” capabilities.

19 5. UMG has produced extensive documents about its finances, including  
20 documents regarding UMG’s quarterly profits and losses, revenues from digital  
21 downloads, revenues from video streaming, and revenues by licensing partner.  
22 UMG has also produced over 50 license agreements, including agreements for video  
23 streaming, which include the financial terms that determine UMG’s revenues from  
24 video streaming.

25 6. When Veoh first produced a spreadsheet to UMG containing a list of  
26 links to the Flash format versions of its videos, the information Veoh provided  
27 regarding how to access these videos was inaccurate. Veoh only provided workable  
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1 access to these videos after I contacted Veoh's counsel to note UMG's inability to  
2 access videos in the manner identified by Veoh.

3 7. Once UMG obtained access to these videos, and began its automated  
4 searches of Veoh's video files for UMG's videos, Jennifer Golinveaux, counsel for  
5 Veoh, wrote me to indicate that Veoh had unilaterally terminated UMG's access to  
6 Veoh's video files, purportedly because UMG's requests to access the video files  
7 were too frequent. Veoh demanded that UMG slow its database accesses to  
8 approximately one request per second.

9 8. The spreadsheet Veoh provided UMG containing data about Veoh's  
10 video files excluded the substantive data about videos returned by the Audible  
11 Magic filtering software. Ms. Golinveaux informed me that this data was excluded  
12 from the spreadsheet because Veoh stores the Audible Magic metadata in separate  
13 log files. Veoh only agreed to produce this material when UMG threatened motion  
14 practice.

15 9. When Veoh finally produced additional materials containing Audible  
16 Magic metadata, on October 14, 2008, Veoh only produced imaged printouts of the  
17 log files, not the electronic files themselves. Moreover, the printouts were missing  
18 much of the basic information provided by Audible Magic, including the song title  
19 and performing artist of works identified by the filter.

20 10. When I noted, in a letter to Ms. Golinveaux, that this information was  
21 missing from Veoh's production, Ms. Golinveaux acknowledged that Veoh has  
22 implemented a system that does not retain some of the data returned to it by Audible  
23 Magic about each video that matches a fingerprint in the Audible Magic database.

24 11. On October 17, 2008, UMG received a production of documents from  
25 Veoh, including Veoh's terms of use, "Frequently Asked Questions," financial  
26 presentations, valuations of Veoh, and other documents. Many of these documents  
27 bear Bates-stamps indicating that they were produced by Veoh in its *Io Group*  
28 litigation.

