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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 UMG RECORDINGS, INC., *et al.*)
18 Plaintiffs,)
19 v.)
20)
21 VEOH NETWORKS, INC, *et al.*)
22 Defendants.)

Case No. CV 07 5744 – AHM (AJWx)
**SUPPLEMENTAL MEMORANDUM
IN SUPPORT OF VEOH'S MOTION
TO COMPEL UMG TO PRODUCE
CHAIN OF TITLE DOCUMENTS FOR
THE REMAINING 80% OF
IDENTIFIED COPYRIGHTS BASED
ON DEFECTS ADMITTED BY UMG,
OR ALTERNATIVELY, EXTENDING
VEOH'S DEADLINE TO COMPLETE
ITS ANALYSIS OF THE 20% SAMPLE
OF CHAIN OF TITLE DOCUMENTS**

Hearing: June 3, 2009
Time: 10:00 a.m.
Judge: Andrew J. Wistrich
Discovery Cut-off: May 11, 2009
Pretrial Conference: August 8, 2009
Trial Date: August 18, 2009
Complaint Filed: September 4, 2007

28 LA:244905.4

1 Veoh submits this short brief to update the Court on additional chain of title
2 defects located through Veoh's review of UMG's purported ownership documents
3 produced pursuant to this Court's order dated March 5, 2001 (Docket 321) ("Order").

4 In response to the Court's Order, UMG produced almost 100,000 pages of
5 documents electronically, which came to 26 boxes of documents when printed. Veoh
6 has dedicated hundreds of hours to reviewing and analyzing those documents.
7 (Supplemental Declaration of Erin R. Ranahan ("Ranahan Decl.") ¶ 2). Veoh spent
8 considerable time removing duplicate documents from the 100,000 pages of
9 documents, as well as chain of title documents relating to works no longer at issue.¹
10 *Id.* After this process was complete, what was originally 26 boxes of documents has
11 been whittled down to just 7 ½ boxes. *Id.* In other words, UMG produced what
12 amounted to 19 boxes of documents containing duplicates or documents not related to
13 the 20% sample. Based upon a preliminary review of the remaining documents, Veoh
14 has located numerous defects further confirming that production of all of UMG's
15 chain of title documents for works at issue in this action is warranted.

16 By way of example, Veoh has located the following defects in UMG's
17 purported chain of title production:

- 18 • **Failure to produce necessary assignment agreements transferring the**
19 **works at issue to any of the Plaintiffs in this action** (e.g., ABC The
20 Look of Love, Row 104; Backstreet Boys, Larger Than Life, Row 243;
21 Backstreet Boys, Show Me The Meaning of Love, Row 244; Backstreet
22 Boys, The One, Row 245; Belinda Carlisle, Mad About You, Row 260;;
23 Brittany Spears, Oops! I Did It Again, Row 366, Stronger, Row 369,
24 Baby, One More Time, Row 348; Christina Aguilera, Ain't No Other
25 Man, Row 415, Come On Over Baby, Row 421, Hurt, Row 422);

26
27 ¹ As discussed extensively in Veoh's moving and reply papers, UMG withdrew
28 allegations of infringement with respect to 24 of the 241 sample 20% works on April
22, 2009, and then removed allegations of infringement with respect to eight more of
the sample works on May 11, 2009.

- 1 • **Failure to produce recording agreements necessary to transfer rights**
2 **to any Plaintiff to this action** (e.g., Aqua, Cartoon Heroes, Row 133)
3 *See* Declaration of Rebecca Lawlor Calkins in Support of Veoh Network
4 Inc.'s Renewed Motions to Compel Plaintiff UMG to Identify Works At
5 Issue and Produce Chain of Title/Rights Information Re Allegedly
6 Infringed Works (Docket 221-3) ¶ 6 and Exh. D. (11/7 Hearing in
7 *MySpace/Grouper* Actions at p. 108: 18-20---UMG's Counsel, Mr.
8 Marenberg acknowledged that "**the most important document in the**
9 **chain of title is the recording agreement, which gives us rights to the**
10 **copyright.**");
- 11 • **Failure to produce songwriter agreements to any of the Plaintiffs in**
12 **this action** (e.g., pending PA for Akon "Smack That," Rows 1656, 1657,
13 1659, 1660, 1661, 1662, 1664, and 1668);
- 14 • **Failure to produce assignment agreements of pre-existing works with**
15 **respect to compilations** (e.g., ABC The Look of Love, Row 104) *See* 17
16 U.S.C. § 103(b);
- 17 • **Failure to produce work-for-hire agreements necessary to show**
18 **Plaintiffs have a right to the work** (e.g., Aqua, Cartoon Heroes, Row
19 133);
- 20 • **Failure to produce any chain of title documents relating to numerous**
21 **identified works;**
- 22 • **Failure to produce documents showing consent by author to**
23 **assignment agreement as required by co-publishing agreement** (e.g.,
24 Belinda Carlisle, Mad About You, Row 260);
- 25 • **Failure to produce documents that show percentages and shares of**
26 **ownership by a Plaintiff in this action necessary to prove the**
27 **extent/type of ownership** (e.g., Bobby Valentino, Tell Me, Row, Row
28 1752); and

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- **Failure to produce numerous copyright certificates for works for which Plaintiffs claim registrations.**

Id.

These defects are just the tip of the iceberg, as Veoh continues its review of the 20%, though they could result in the reduction of millions more in potential statutory damages. For all these and the reasons discussed in Veoh's Motion and Reply, UMG should be ordered to complete its chain of title production for all of the alleged infringements in this action.

Dated: June 1, 2009

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