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VEOH NETWORKS, INC.

16 **UNITED STATES DISTRICT COURT**  
 17 **CENTRAL DISTRICT OF CALIFORNIA**  
 18 **WESTERN DIVISION**

19 UMG RECORDINGS, INC., *et al.*,  
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 Plaintiffs,  
 21  
 vs.  
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 VEOH NETWORKS, INC. a California  
 23 Corporation, *et al.*,  
 24  
 Defendants.  
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Case No. CV 07 5744 – AHM (AJWx)

**JOINT STIPULATION AND  
 PROPOSAL RE VEOH'S MOTION  
 TO COMPEL CHAIN OF TITLE  
 DOCUMENTS**

1 **STIPULATION**

2 The parties to the above entitled action, by and through their respective counsel  
3 of record, hereby stipulate as follows:

4 WHEREAS this Court entered an Order on March 5, 2009 Re: Veoh's Renewed  
5 Motion to Compel Plaintiffs (collectively "UMG") to Produce Chain of Title/Rights  
6 Information Re Same (Dkt. No. 321) ("March 5, 2009 Order") requiring UMG to  
7 produce a 20% sample of chain of title documents;

8 WHEREAS Veoh filed its Motion to Compel UMG to Produce Chain of Title  
9 Documents for the Remaining 80% of Identified Copyrights Based on Defects  
10 Admitted by UMG ("Motion") on May 4, 2009 (Dkt. No. 432);

11 WHEREAS the Court held a hearing regarding Veoh's Motion on June 3, 2009,  
12 during which the parties agreed to further discuss the most efficient means by which  
13 to resolve the chain of title production and review given the current case schedule, and  
14 indicated that the parties would report back to the Court on the progress of those  
15 discussions;

16 WHEREAS on July 6, 2009 UMG filed a motion *in limine* seeking to exclude  
17 evidence or argument by Veoh of any alleged defects in UMG's chain of title or any  
18 invalidity of any of UMG's alleged copyrights other than those previously identified  
19 by Veoh. (Dkt. No. 508);

20 WHEREAS the Court held a further hearing regarding Veoh's Motion on July  
21 20, 2009 to consider proposed stipulations filed by both sides on July 13, 2009 (Dkt.  
22 No. 522), and at that hearing directed the parties to file a further joint stipulation with  
23 the Court by July 27, 2009;

24 NOW, THEREFORE, the parties to the above entitled action, by and through  
25 their respective counsel of record, hereby stipulate as follows:

26 The parties propose the following approach to further resolution of the issues  
27 surrounding the presentation of evidence relating to issues of copyright ownership,  
28 and challenges to ownership, in the trial of this matter.

1 The parties agree that the initial trial in this matter, set to begin on August 18,  
2 2009, will address issues of liability and the appropriate measure of statutory damages  
3 to be imposed for each infringed work, if any.

4 In the event that the first trial results in a finding of liability and damages, the  
5 parties agree that a subsequent proceeding would be scheduled, devoted to resolving  
6 any issues relating to UMG's rights to the works Veoh has been found to infringe at  
7 trial, and that no final judgment shall be entered until completion of such hearing.

8 The parties will not litigate issues of UMG's rights to any of the copyrights at  
9 issue during the initial trial of this matter, except that Veoh seeks to reserve a right to  
10 challenge the inclusion of any work as set forth in the final paragraph of this  
11 stipulation.

12 Within thirty (30) days after a verdict in favor of UMG (if any), the parties will  
13 submit a joint proposal setting forth a proposed procedure for addressing any issues  
14 regarding UMG's rights to any particular copyright in issue, including whether the  
15 issue is to be addressed to the Court or to a special master appointed for such purpose.

16 The parties' joint proposal shall also set forth their proposal(s) for addressing  
17 any issues of discovery relating to ownership rights in the works at suit. To the extent  
18 the parties cannot agree on the scope of ownership discovery to be provided by UMG  
19 in preparation for that procedure, this Court will rule on Veoh's Motion to the extent it  
20 has not already.

21 This stipulation is without prejudice to Veoh challenging in the initial phase of  
22 trial, any attempt by UMG to seek separate statutory damages awards in respect of  
23 individual sound recording copyrighted works that Veoh contends were published  
24 originally as a compilation. In addition nothing in this stipulation alters the ultimate  
25 burden of proof with respect to UMG's rights in valid copyrights.

26 The parties continue to disagree regarding certain issues relating to the matters  
27 set forth above. In particular, the parties disagree as to the nature and timing or  
28 presentation of evidence regarding UMG's rights in the asserted copyrights. Veoh

1 contends that UMG must come forward (in connection with the initial trial of this  
2 matter set for August 18, 2009) with certificates of U.S. copyright registration for each  
3 allegedly infringed work, and documentation sufficient to establish that one of the  
4 plaintiffs to this action owns the copyright registration and to make a prima facie  
5 showing of ownership of each alleged work. Veoh also contends that it should be  
6 entitled to challenge the inclusion of any work in the initial trial for which UMG  
7 cannot make this showing. The parties also disagree about the requirements for  
8 pursuit of an action for infringement of copyright. Veoh contends that UMG must  
9 establish ownership of each copyright as defined in the Copyright Act. UMG  
10 contends that the Copyright Act permits UMG to assert infringement of copyrighted  
11 works as to which UMG controls the relevant rights, including without limitation via  
12 an exclusive right to distribute or an exclusive license. UMG contends that the  
13 procedure Veoh proposes is unnecessary and inconsistent with the division of  
14 proceedings. UMG contends that it has already produced copyright registration  
15 information for the asserted copyrights in the form of either a copy of the Certificate  
16 of Registration issued by the Copyright Office, or a printout of the data regarding the  
17 registration from the internet website made available by the Copyright Office (with  
18 the exception of materials associated with a small number of copyrights as to which  
19 the relevant registrations remain pending before the Copyright Office). UMG further  
20 contends that presentation of registration information in the initial phase of  
21 proceedings is unnecessary and results in wasteful duplication. UMG continues to re-  
22 view its identification of infringements in advance of the trial of this matter, and is  
23 willing to provide a representation in advance of a trial in this matter, on information  
24 and belief, solely for the purposes of the initial phase of trial of this matter, that it  
25 owns or controls sufficient rights in each of the asserted copyrights, including without  
26 limitation through an exclusive right to distribute or an exclusive license, to assert a  
27 claim for damages in this action in connection with the infringement of such  
28 copyrights. These areas of disagreement remain for Judge Matz to resolve in advance

1 of a trial in this matter.

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IT IS SO STIPULATED.

Dated: July 27, 2009

**WINSTON & STRAWN LLP**

By /s/ Erin R. Ranahan \_\_\_\_\_  
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Thomas P. Lane  
Jennifer A. Golinveaux  
Rebecca Calkins  
Erin R. Ranahan  
Attorneys for Defendant  
VEOH NETWORKS, INC.

Dated: July 27, 2009

**IRELL & MANELLA LLP**

By /s/ Brian Ledahl \_\_\_\_\_  
Brian Ledahl  
Attorney for Plaintiffs  
UMG RECORDINGS, INC.,  
UNIVERSAL MUSIC CORP., SONGS OF  
UNIVERSAL, INC.; UNIVERSAL-  
POLYGRAM INTERNATIONAL  
PUBLISHING, INC.; RONDOR MUSIC  
INTERNATIONAL, INC.; UNIVERSAL  
MUSIC – MGB NA LLC; UNIVERSAL  
MUSIC – Z TUNES LLC; and  
UNIVERSAL – MBG MUSIC  
PUBLISHING LTD.

SF:257340.NY:1248771.1