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 8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA
 10 WESTERN DIVISION

11 UMG RECORDINGS, INC., <i>et al.</i> , 12 Plaintiffs, 13 vs. 14 VEOH NETWORKS, INC., 15 Defendant.) Case No. CV-07-05744 AHM (AJWx)) UMG'S OBJECTIONS TO VEOH'S) APPLICATION TO CLERK TO) TAX CERTAIN COSTS)) Date: December 10, 2009) Time: 11:00 AM) Ctrm: N/A
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1 **I. INTRODUCTION**

2 Pursuant to Local Rule 54-7, Plaintiffs UMG Recordings, Inc., *et al.*
3 ("UMG") object to Veoh Networks, Inc.'s ("Veoh") Application to the Clerk to Tax
4 Certain Costs. Veoh may only recover those costs provided under Rule 54(d) and
5 the applicable local rules.¹ It cannot recover all charges it incurred in this litigation.
6 But Veoh's Bill of Costs improperly includes costs not allowed by the governing
7 rules. The Clerk should reject those costs, totaling \$39,293.09.

8 **II. OBJECTIONS**

9 Veoh seeks costs either not allowed by the local rules, or not adequately
10 supported by the accompanying evidence. If the Clerk is inclined to grant any of
11 Veoh's costs, it should adjust the proper amount accordingly.

12 **1.** Veoh seeks costs for videotaped depositions, which are not allowed "unless
13 otherwise ordered by the Court." L.R. 54-4.6(a)-(b); *see, e.g.*, Application Ex. A at
14 19 ("Video reporting, etc. for Harvey Geller deposition"); *id.* at Ex. C at 50 ("Video
15 – Initial fee"). The Court has not entered any such order, and thus these costs,
16 totaling \$15,034.25, are inappropriate and should be rejected.

17 **2.** Veoh seeks costs for "rough" transcripts, which are not allowed under the
18 Local Rules. L.R. 54-4.6(a) ("[t]he costs of the original and one copy of the
19 transcription"); *see, e.g.*, Application Ex. C at 49 ("Transcript – Rough ASCII").
20 The Clerk should reduce Veoh's costs by \$5,251.00, the amount claimed for these
21 "rough" transcripts.

22 **3.** Veoh may only seek costs for "non-expedited transcripts." L.R. 54-4.6(a)-(b).
23 But Veoh seeks costs for at least two expedited transcripts. *See* Application Ex. C at
24 51 ("Delivery: Daily"), 61 ("Delivery: Expedited"). Veoh does not break out the
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27 ¹ While UMG respectfully submits that Veoh has not established its
28 entitlement to any award of costs under Federal Rule of Civil Procedure 54(b),
UMG does not address such arguments here. UMG reserves its right to present such
arguments in opposing Veoh's Motion for Attorneys' Fees and Costs.

1 cost of expediting a transcript, and thus fails to justify its request for costs related to
2 the expedited transcripts identified in its submission, which total \$4,724.40.

3 **4.** Veoh's Bill of Costs claims \$48,623.75 in "Fees of the court reporter for all or
4 any part of the transcript necessarily obtained for use in the case." *See* Bill of Costs
5 at 1. Exhibit C purportedly includes invoices for costs allowable by Local Rules 54-
6 4.5 and 54-4.6, *i.e.*, the costs included in Veoh's \$48,623.75 sum. But those
7 invoices only add to \$45,779.28. Thus Veoh has failed to submit invoices justifying
8 almost \$3,000 in costs it seeks.² Similarly, Veoh reports \$11,952.31 in costs
9 associated with outside vendor copying charges, *see* Application Ex. A at 5, but its
10 supporting invoices only sum to \$11,249.29. Thus \$1,955.99 should be deducted
11 from Veoh's request as a result of these incongruities.

12 **5.** Veoh seeks costs totaling \$24,655.49 "for exemplification and copies of
13 papers necessarily obtained for use in the case." But Veoh's supporting materials
14 nowhere confirm that all of its reproduction costs are allowed under Rule 54-4.11.
15 That rule only permits reproduction costs incurred in connection with (a) "copies of
16 an exhibit attached to a document necessarily filed and served[;]" (b) "copies of
17 documents admitted into evidence when the original is not available or the copy is
18 substituted for the original at the request of an opposing party[;]" (c) "an official
19 certification of proof respecting the non-existence of a document or record[;]" (d)
20 certain Patent Office charges; (e) notary fees; and (f) "fees for necessary
21 certification or exemplification of any document." L.R. 54-4.11. Many of Veoh's
22 invoices do not appear to cover costs allowed under this rule. *See* Application Ex. B
23 at 26 ("CD Duplication"), 27 ("DVD Duplication"), 40 ("92,340 Pages B&W Blow
24 Back with Blue Slip Sheets[;] UMG01611716-UMG01704055"). Further, the only
25 evidence Veoh submits in support of its claim that copies were "necessarily obtained
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27 ² Of this difference, \$1,591.50 is addressed in the \$15,034.25 total set forth in
28 objection no. 1. UMG has adjusted the total deduction warranted from Veoh's costs
accordingly, removing any potential double-counting.

1 for use in the case" is a form declaration signed by a single attorney. *See* Bill of
2 Costs at 1. Courts have reduced reproduction costs awarded by at least 50% in such
3 circumstances. *See, e.g., Haagen-Dazs Co., Inc. v. Double Rainbow Gourmet Ice*
4 *Creams, Inc.*, 920 F.2d 587, 588 (9th Cir. 1990) (affirming reduction of copying
5 costs sought by prevailing party by 50%); *In re Turn-Key-Tech Matters*, 2002 WL
6 32521815, *2 (C.D. Cal. Nov. 22, 2002) (citing cases and granting Defendants only
7 "50% of the total amount they are seeking for copying costs"). Consistent with
8 these prior cases, Veoh's reproduction costs should be similarly reduced by half, or
9 \$12,327.45.

10 **III. CONCLUSION**

11 For the foregoing reasons, the Clerk should deny those costs improperly
12 included in Veoh's Application, totaling \$39,293.09.

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14 Dated: December 1, 2009

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