

1 Steven A. Marenberg (101033) (smarenberg@irell.com)
 Brian D. Ledahl (186579) (bledahl@irell.com)
 2 Carter R. Batsell (254396) (cbatsell@irell.com)
 IRELL & MANELLA LLP
 3 1800 Avenue of the Stars, Suite 900
 Los Angeles, California 90067-4276
 4 Telephone: (310) 277-1010
 Facsimile: (310) 203-7199

5 Attorneys for Plaintiffs

6
 7
 8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**
 10 **WESTERN DIVISION**

11 UMG RECORDINGS, INC., *et al.*,

12 Plaintiffs,

14 v.

15 VEOH NETWORKS, INC.,

17 Defendant.

Case No. CV-07-05744 AHM (AJWx)

DECLARATION OF BRIAN D. LEDAHL IN SUPPORT OF UMG'S OPPOSITION TO VEOH'S MOTION FOR ATTORNEYS' FEES AND COSTS

Filed Concurrently Herewith:

1. UMG's Opposition to Veoh's Motion for Attorneys' Fees and Costs
2. Declaration of Carter R. Batsell in Support of UMG's Opposition

Judge: Hon. A. Howard Matz
 Date: December 21, 2009
 Time: 10:00 AM
 Courtroom: 14

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF BRIAN D. 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 UMG Recordings, Inc., and other affiliated UMG entities (collectively, “UMG”) in the above-captioned action. I am a member in good standing of the State Bar of California and have been admitted to practice before this Court. I submit this declaration in support of UMG's Opposition to Veoh Networks, Inc.'s ("Veoh") Motion for Attorneys' Fees and Costs. Except where otherwise noted, 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 connection with UMG's Motion for Partial Summary Judgment, UMG and Veoh agreed to the following briefing schedule: UMG would files its motion during the week of September 2, 2008; Veoh would file its opposition not later than September 29, 2008; and UMG would file its reply not later than October 10, 2008. The *Io Group* decision came down on August 27, 2008.

3. In this action, UMG produced dozens of license and sales agreements between itself and technology companies regarding the online display, reproduction, and distribution of UMG’s copyrighted materials.

4. On October 24, 2008, Veoh propounded an interrogatory to UMG asking that: “for each work for which you claim copyright law remedies against Veoh in this case, please provide information sufficient to identify each alleged infringement of such work, including (a) the name or other unique identifier of the infringed work, (b) the copyright registration number of every copyright registration pertaining to the infringed work, (c) the Veoh Video ID number and Permalink for each video allegedly infringing the work for which you claim Veoh bears liability” On December 1, 2008, UMG timely responded to that interrogatory, identifying 1,591 videos for which it asserted claims of infringement.

1 5. Attached hereto as Exhibit A is a true and correct copy of the Court's
2 September 11, 2009 Order on Veoh's Motion for Summary Judgment.

3 6. Attached hereto as Exhibit B is a true and correct copy of a September
4 24, 2007 letter from Michael Elkin, counsel for Veoh, to my colleague Steven
5 Marenberg.

6 7. Attached hereto as Exhibit C is a true and correct copy of an October 1,
7 2007 letter from Mr. Marenberg to Mr. Elkin.

8 8. Attached hereto as Exhibit D is a true and correct copy of a printout
9 from <http://bits.blogs.nytimes.com/2007/07/15/veohs-vexing-visitor-numbers/>,
10 which is titled "Veoh's Vexing Visitor Numbers."

11 9. Attached hereto as Exhibit E is a true and correct copy of a printout
12 from [http://www.techcrunch.com/2007/04/04/forget-youtube-go-to-these-sites-if-](http://www.techcrunch.com/2007/04/04/forget-youtube-go-to-these-sites-if-you-want-hard-core-copyright-infringing-content/)
13 [you-want-hard-core-copyright-infringing-content/](http://www.techcrunch.com/2007/04/04/forget-youtube-go-to-these-sites-if-you-want-hard-core-copyright-infringing-content/), which is titled "Forget YouTube:
14 Go to These Sites if You Want Hardcore Copyright Infringing Content."

15 10. Attached hereto as Exhibit F is a true and correct copy of a printout
16 from [http://bits.blogs.nytimes.com/2007/08/09/veoh-vs-copyright-holders-is-a-war-](http://bits.blogs.nytimes.com/2007/08/09/veoh-vs-copyright-holders-is-a-war-brewing/)
17 [brewing/](http://bits.blogs.nytimes.com/2007/08/09/veoh-vs-copyright-holders-is-a-war-brewing/), which it titled "Veoh vs. Copyright Holders: Is a War Brewing?"

18 11. Attached hereto as Exhibit G is a true and correct copy of a compact
19 disc embodying audio captured from Stanford Law School's E-Commerce Best
20 Practices Conference. At minutes 5:50-7:05, Winston & Strawn LLP partner
21 Andrew Bridges introduces himself. At minutes 28:04-28:45, a panelist comments
22 that "whether these video sites qualify for the safe harbor of 512(c) is the open
23 question . . . it cannot be properly assumed." At minutes 50:30-51:06, Mr. Bridges
24 acknowledges the existence of "all the uncertainties of the DMCA."

25 12. Attached hereto as Exhibit H is a true and correct copy of Veoh's
26 Certification re: Complete Production per April 6, 2009 Order. After the Court
27 issued its April 6, 2009 Order, Veoh produced thousands of additional documents.
28

1 13. Attached hereto as Exhibit I is a true and correct excerpted copy of the
2 September 8, 2009 hearing transcript regarding Veoh's motion for summary
3 judgment.

4 14. Attached hereto as Exhibit J is a true and correct copy of the Court's
5 Civil Minutes, dated October 2, 2009.

6 15. Attached hereto as Exhibit K is a true and correct copy of the parties'
7 and the Court's Joint Stipulation and Order Requesting Entry of Judgment.

8 16. Attached hereto as Exhibit L is a true and correct copy of the Court's
9 Order Denying UMG's Motion for Partial Summary Judgment.

10 17. Attached hereto as Exhibit M is a true and correct excerpted copy of the
11 American Intellectual Property Law Association's Report of the Economic Survey
12 2009.

13 Executed on December 7, 2009, at Los Angeles, California.

14 I declare under penalty of perjury that the foregoing is true and correct.

15

16

17

18

19

20

21

22

23

24

25

26

27

28



Brian D. Ledahl