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VEOH NETWORKS, INC.

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

20 UMG RECORDINGS, INC., *et al.*,
21 Plaintiffs,

22 vs.

23 VEOH NETWORKS, INC. a California
24 Corporation, DOES 1-10, inclusive,
25 Defendants.

Case No. CV 07 5744 – AHM (AJWx)
Discovery Matter

**JOINT STIPULATION PURSUANT
TO LOCAL RULE 37-2 RE VEOH
NETWORKS, INC.'S MOTION TO
COMPEL FURTHER RESPONSES
AND FOR PRODUCTION OF
DOCUMENTS FROM PLAINTIFFS
UMG RECORDINGS, INC., ET AL.**

**[Filed Concurrently With:
[Proposed] Order; Declaration of
Rebecca Lawlor Calkins; Declarations**

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) **of Brian Ledahl, Michael Ostroff,
Charles Ciongoli, Gayle Moore]**

) Magistrate: Hon. Andrew Wistrich

) Date: August 11, 2008
) Time: 10:00 a.m.
) Crtrm: 690

) Judge: A. Howard Matz

) Discovery Cut-Off: January 12, 2009
) Pretrial Conference: April 6, 2009
) Trial Date: April 21, 2009

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1 Pursuant to Federal Rule of Civil Procedure 37(c) and Local Rule 37-2,
2 Defendant Veoh Networks, Inc. ("Veoh"), and Plaintiffs UMG Recordings, Inc.,
3 Universal Music Corp., Songs of Universal, Inc., Universal-Polygram International
4 Publishing, Inc., Rondor Music International, Inc., Universal Music—MGB NA LLC,
5 Universal Music—Z Tunes LLC and Universal Music—MBG Music Publishing LTD
6 ("Plaintiffs"), respectfully submit the following Joint Stipulation Regarding Veoh's
7 Motion to Compel Further Responses to Veoh's Interrogatories and Requests for
8 Production, and For Production of Documents. The parties have met and conferred in
9 good faith in an unsuccessful attempt to resolve this matter and now seek this Court's
10 assistance.

11 **I. INTRODUCTORY STATEMENTS**

12 **A. Veoh's Introductory Statement**

13 **1. Veoh Networks, Inc.**

14 Veoh Networks, Inc. provides a forum for, among other things, high quality,
15 user generated video content ("UGC") on the Internet. From its inception, Veoh has
16 remained committed to providing strong protections for intellectual property and
17 works diligently with content owners to keep unauthorized works off of Veoh's
18 service. As part of this effort, Veoh maintains a rigorous Digital Millennium
19 Copyright Act ("DMCA") policy which includes promptly terminating access to
20 allegedly infringing content upon proper notice, and promptly terminates any repeat
21 infringers.

22 Veoh's policies have always strictly prohibited the use of its website or
23 software in connection with infringing content. In fact, Veoh's system was designed
24 to enable Veoh to terminate access to inappropriate content once it received notice of
25 such content. Veoh has always promptly removed access to allegedly infringing
26 content upon adequate notice, and has always had a policy whereby it terminates
27 repeat infringers.

1 Despite Veoh's strict enforcement of its policies prohibiting infringing content,
2 Plaintiffs filed their latest action against Veoh alleging infringement of "thousands" of
3 unidentified sound recordings and musical compositions. As discussed further below,
4 Plaintiffs have yet to identify any of the "thousands" of recordings and compositions
5 purportedly being infringed.

6 **2. Plaintiffs' Discovery Failures Giving Rise to this Motion**

7 This motion to compel ("Motion") arises from: 1) UMG Recordings, Inc.'s
8 ("UMGR") refusal to provide verified, proper written responses to Veoh's
9 Interrogatories; 2) Plaintiffs' refusal to provide proper written responses to Veoh's
10 Requests for Production; and 3) Plaintiffs' refusal to produce documents in any
11 reasonable manner. Plaintiffs even refuse to produce documents and written
12 responses with regard to categories (*e.g.* viral marketing, financial documents) to
13 which Plaintiffs were already ordered to provide responses and documents in *UMG*
14 *Recordings, Inc., et al. v. MySpace, Inc. et al*, Case No. 06-07361 and *UMG*
15 *Recordings, Inc., et al. v. Grouper Networks, Inc., et al.* Case No. CV 06-06561.
16 (Declaration of Rebecca Lawlor Calkins ["Calkins Decl."] ¶¶ 17-20). With this
17 Motion, Veoh seeks information and documents critical to Veoh's defense.

18 Rather than respond in good faith and comply with its discovery obligations,
19 UMGR provided sweeping, meritless objections to Veoh's Interrogatories, refusing to
20 respond to eighteen of Veoh's twenty four interrogatories and providing deficient
21 responses for the remaining six. Plaintiffs treated Veoh's Requests for Production in
22 similar fashion, relying on boilerplate objections and blanket refusals to provide
23 documents responsive to even the most basic requests. Where Plaintiffs did not refuse
24 to produce outright, they largely repeated the same meaningless response, agreeing to
25 produce an arbitrarily circumscribed subset of responsive documents, located in a
26 search of unnamed employees' files, using unidentified search terms selected by
27 Plaintiffs. Plaintiffs' attempt to unilaterally redefine and narrow the scope of their
28

1 discovery obligation is improper, and falls far short of the requirements under the
2 Federal Rules and governing case law.

3 As Veoh was readying this Motion, Plaintiffs dumped more than 1.4 million
4 pages on Veoh via a hard drive on June 27, 2008. The 1.4 million pages of documents
5 are in a state of total disarray with no discernable organization or categorization.
6 Veoh would be forced to spend hundreds of hours at a minimum, attempting to
7 organize the documents into a workable state. Such a production is clearly not in
8 good faith and falls far short of satisfying Plaintiffs' discovery obligations.

9 **B. UMG'S INTRODUCTORY STATEMENT**

10 As the Court is well aware, UMG brought this action to address the rampant
11 and ongoing infringement of its copyrights in recorded music and musical
12 compositions. Necessarily, the primary focus of discovery in a copyright
13 infringement action is the conduct of the defendant. Though this action has been
14 pending for more than 10 months, Veoh has only begun to trickle out the barest
15 minimum of discovery. Veoh has yet to produce any of its internal email
16 communications. It has yet to produce the specifications for its software client
17 product and website (where infringement takes place). It has yet to even produce the
18 media files that evidence its infringement. Though UMG pursued discovery from
19 Veoh diligently, Veoh continues to withhold many of the most centrally relevant
20 materials in its possession and offers no suggestion of when (if ever) it will produce
21 such information. After an extensive effort to obtain meaningful discovery from Veoh
22 voluntarily, UMG was forced to bring a motion to compel.

23 In a tactic that smacks of tit for tat, Veoh sent back its own joint stipulation for
24 a motion to compel after receiving UMG's motion. Unlike Veoh, however, UMG has
25 already undertaken a massive effort to make an extensive production of information.
26 While Veoh has produced fewer than 72,000 pages of documents, UMG has already
27 produced more than 1,400,000. UMG's production includes copyright registration
28

1 information, hundreds of thousands of email communications, presentations, reports,
2 financial information, licensing agreements, and numerous other documents
3 responsive to Veoh's 241 document requests.

4 Notwithstanding UMG's sizable production, Veoh bulls ahead with this motion.
5 Veoh cannot, however, support its contentions that more discovery is due from UMG.
6 Indeed, throughout this Joint Stipulation, Veoh offers little more than the required
7 inclusion of the verbatim language of its requests. Indeed, in one section, Veoh
8 argues that UMG's production as to more than 100 document requests is insufficient,
9 yet provides approximately 3 pages of purported justification for additional
10 production. Quite simply, Veoh's motion is not brought in good faith. At various
11 points, Veoh freely acknowledges that it has not even tried to review UMG's
12 production. Given such facts, Veoh cannot in good faith argue that UMG's production
13 is insufficient.

14 UMG respectfully submits that the Court should not fall for Veoh's attempts to
15 make the parties appear to be in the same position by bringing a motion of its own in
16 response to UMG's motion to compel. Each must be evaluated separately on its own
17 merit. UMG is seeking necessary discovery because Veoh has provided virtually
18 nothing. Veoh is seeking irrelevant, unnecessary discovery after UMG has made a
19 massive, good-faith production. UMG should not be penalized for moving forward
20 with substantive discovery on its own even while Veoh tries to avoid producing what
21 UMG is confident will be damning evidence of Veoh's liability.

22 As shown in detail in this Joint Stipulation, UMG has complied with its
23 discovery obligations and more. Veoh fails to show any basis to compel further
24 discovery and its motion should be denied in its entirety.

1 **II. ISSUE NO. 1 – SEARCH TERMS OR CUSTODIANS OF RESPONSIVE**
2 **DOCUMENTS**

3 **A. Statement of Disputed Requests For Production and Plaintiffs'**
4 **Responses**

5 VEOH REQUESTS FOR PRODUCTION NOS. 7, 8, 9, 10, 11, 12, 14 – 27, 31,
6 39, 40-42, 45, 46, 54, 57-64, 71-82, 84-86, 88-95, 97, 148-152, 154, 156, 157,
7 159, 160, 163, 169-172, 174, 181, 188, 189, 204, 205, 208-211, 217, 220, 221,
8 224, 225, 233.

9 **REQUEST FOR PRODUCTION NO.7:**

10 All documents that mention, refer to, or relate to Veoh or this action.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request seeks information that is not relevant to the claims or defenses
14 of any party and is not reasonably calculated to lead to the discovery of admissible
15 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
16 further objects to this request as vague and ambiguous. UMG further objects to the
17 extent that this request seeks documents that are not in UMG's possession, custody or
18 control. UMG further objects that the request seeks information that is already in
19 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
20 objects to this request as duplicative of Request for Production No. 148.

21 Subject to and without waiving the foregoing objections, UMG will produce non-
22 privileged responsive documents, if any, to the extent identified by a search of the
23 files of specific employees and executives that UMG will identify utilizing specific
24 search terms that UMG will identify.

25 **REQUEST FOR PRODUCTION NO. 8:**

26 All documents concerning any communications by any person regarding Veoh
27 or this action.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request seeks information that is not relevant to the claims or defenses
4 of any party and is not reasonably calculated to lead to the discovery of admissible
5 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
6 further objects to this request as vague and ambiguous and/or unintelligible as to what
7 constitutes "documents concerning" any "communications." UMG further objects to
8 the extent that this request seeks documents that are not in UMG's possession, custody
9 or control. UMG further objects that the request seeks information that is already in
10 Veoh's possession, custody or control, or reasonably available to Veoh.

11 Subject to and without waiving the foregoing objections, UMG will produce non-
12 privileged responsive documents, if any, to the extent identified by a search of the
13 files of specific employees and executives that UMG will identify utilizing specific
14 search terms that UMG will identify.

15 **REQUEST FOR PRODUCTION NO. 9:**

16 All documents concerning communications between you and Veoh.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that this request seeks information that is not relevant to the claims or defenses
20 of any party and is not reasonably calculated to lead to the discovery of admissible
21 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
22 further objects to this request as vague and ambiguous as to what constitutes
23 "documents concerning communications." UMG further objects to the extent that this
24 request seeks documents that are not in UMG's possession, custody or control. UMG
25 further objects that the request seeks information that is already in Veoh's possession,
26 custody or control, or reasonably available to Veoh.

1 Subject to and without waiving the foregoing objections, UMG will produce non-
2 privileged responsive documents, if any, to the extent identified by a search of the
3 files of specific employees and executives that UMG will identify utilizing specific
4 search terms that UMG will identify.

5 **REQUEST FOR PRODUCTION NO. 10:**

6 All documents concerning your discovery of and your efforts to halt or reduce
7 infringements of the copyrights for which you seek to hold Veoh liable.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects to this request as vague and ambiguous and argumentative to the extent it asks
11 for information on UMG's efforts to "halt or reduce infringements." UMG objects to
12 the terms "discovery" and "efforts" as vague and ambiguous. UMG further objects that
13 this request seeks information that is not relevant to the claims or defenses of any
14 party and is not reasonably calculated to lead to the discovery of admissible evidence.
15 The request is therefore overbroad and unduly burdensome as well. UMG further
16 objects to this request as vague and ambiguous as to what constitutes documents
17 "concerning" UMG's discovery of and efforts to halt or reduce infringements. UMG
18 further objects to the extent that this request seeks documents that are not in UMG's
19 possession, custody or control. UMG further objects that the request seeks information
20 that is already in Veoh's possession, custody or control, or reasonably available to
21 Veoh.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify. .

26 **REQUEST FOR PRODUCTION NO. 11:**

27 All DMCA Notifications or notices of infringement that you have sent to Veoh.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that determining if a notification is a "DMCA Notification" calls for a legal
4 conclusion. UMG further objects to this request to the extent it assumes or implies that
5 UMG is in any sense obligated to send notices of copyright infringement to Veoh.
6 UMG further objects that the request seeks information that is already in Veoh's
7 possession, custody or control, or reasonably available to Veoh.

8 Subject to and without waiving the foregoing objections, UMG will produce non-
9 privileged responsive documents, if any, to the extent identified by a search of the
10 files of specific employees and executives that UMG will identify utilizing specific
11 search terms that UMG will identify.

12 **REQUEST FOR PRODUCTION NO. 12:**

13 All documents evidencing the address or delivery of DMCA Notifications that
14 you have sent to Veoh.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

16 UMG incorporates by reference each of its General Objections. UMG further
17 objects that determining if a notification is a "DMCA Notification" calls for a legal
18 conclusion. UMG further objects to this request to the extent it assumes or implies that
19 UMG is in any sense obligated to send notices of copyright infringement to Veoh.
20 UMG further objects to this request as vague and ambiguous. UMG further objects to
21 the extent that this request seeks documents that are not in UMG's possession, custody
22 or control. UMG further objects that this request seeks information that is already in
23 Veoh's possession, custody or control, or reasonably available to Veoh.

24 Subject to and without waiving the foregoing objections, UMG will produce non-
25 privileged responsive documents, if any, to the extent identified by a search of the
26 files of specific employees and executives that UMG will identify utilizing specific
27 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 14:**

2 All documents concerning violations of 17 U.S.C. § 106(1) that you claim or
3 believe Veoh has committed directly.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects to this request to the extent it calls for the production of privileged attorney
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects that the request seeks information that is already in
9 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
10 objects to this request as vague and ambiguous as to what constitutes documents
11 "concerning" these violations. UMG further objects to the extent that this request
12 seeks documents that are not in UMG's possession, custody or control.
13 UMG further objects to this request on the grounds that it is premature insofar as
14 UMG has not yet been able to identify all of the specific works for which UMG
15 alleges infringement in this action as the information to do so is possessed by Veoh
16 and not UMG. As a result, the nonprivileged documents UMG produces in response to
17 this request, if any, should not be construed as a representation by UMG that the
18 works referred to in such documents constitutes a complete list of UMG's copyrighted
19 works that have appeared on Veoh or as a representation that further factual
20 investigation and discovery will not reveal more of UMG's copyrighted works that
21 have appeared on Veoh. UMG further objects that this request calls for a legal
22 conclusion.

23 Subject to and without waiving the foregoing objections, UMG will produce non-
24 privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 15:**

2 All documents concerning violations of 17 U.S.C. § 106(2) that you claim or
3 believe Veoh has committed directly.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects to this request to the extent it calls for the production of privileged attorney
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects that the request seeks information that is already in
9 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
10 objects to this request as vague and ambiguous as to what constitutes documents
11 "concerning" these violations. UMG further objects to the extent that this request
12 seeks documents that are not in UMG's possession, custody or control.
13 UMG further objects to this request on the grounds that it is premature insofar as
14 UMG has not yet been able to identify all of the specific works for which UMG
15 alleges infringement in this action as the information to do so is possessed by Veoh
16 and not UMG. As a result, the nonprivileged documents UMG produces in response to
17 this request, if any, should not be construed as a representation by UMG that the
18 works referred to in such documents constitutes a complete list of UMG's copyrighted
19 works that have appeared on Veoh or as a representation that further factual
20 investigation and discovery will not reveal more of UMG's copyrighted works that
21 have appeared on Veoh. UMG further objects that this request calls for a legal
22 conclusion.

23 Subject to and without waiving the foregoing objections, UMG will produce non-
24 privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 16:**

2 All documents concerning violations of 17 U.S.C. § 106(3) that you claim or
3 believe Veoh has committed directly.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects to this request to the extent it calls for the production of privileged attorney-
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects that the request seeks information that is already in
9 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
10 objects to this request as vague and ambiguous as to what constitutes documents
11 "concerning" these violations. UMG further objects to the extent that this request
12 seeks documents that are not in UMG's possession, custody or control, UMG further
13 objects to this request on the grounds that it is premature insofar as UMG has not yet
14 been able to identify all of the specific works for which UMG alleges infringement in
15 this action as the information to do so is possessed by Veoh and not UMG. As a result,
16 the nonprivileged documents UMG produces in response to this request, if any, should
17 not be construed as a representation by UMG that the works referred to in such
18 documents constitutes a complete list of UMG's copyrighted works that have appeared
19 on Veoh or as a representation that further factual investigation and discovery will not
20 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
21 objects that this request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 17:**

2 All documents concerning violations of 17 U.S.C. § 106(4) that you claim or
3 believe Veoh has committed directly.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects to this request to the extent it calls for the production of privileged attorney-
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects that the request seeks information that is already in
9 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
10 objects to this request as vague and ambiguous as to what constitutes documents
11 "concerning" these violations. UMG further objects to the extent that this request
12 seeks documents that are not in UMG's possession, custody or control. UMG further
13 objects to this request on the grounds that it is premature insofar as UMG has not yet
14 been able to identify all of the specific works for which UMG alleges infringement in
15 this action as the information to do so is possessed by Veoh and not UMG. As a result,
16 the nonprivileged documents UMG produces in response to this request, if any, should
17 not be construed as a representation by UMG that the works referred to in such
18 documents constitutes a complete list of UMG's copyrighted works that have appeared
19 on Veoh or as a representation that further factual investigation and discovery will not
20 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
21 objects that this request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 18:**

2 All documents concerning violations of 17 U.S.C. § 106(5) that you claim or
3 believe Veoh has committed directly.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects to this request to the extent it calls for the production of privileged attorney
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects that the request seeks information that is already in
9 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
10 objects to this request as vague and ambiguous as to what constitutes documents
11 "concerning" these violations. UMG further objects to the extent that this request
12 seeks documents that are not in UMG's possession, custody or control.
13 UMG further objects to this request on the grounds that it is premature insofar as
14 UMG has not yet been able to identify all of the specific works for which UMG
15 alleges infringement in this action as the information to do so is possessed by Veoh
16 and not UMG. As a result, the nonprivileged documents UMG produces in response to
17 this request, if any, should not be construed as a representation by UMG that the
18 works referred to in such documents constitutes a complete list of UMG's copyrighted
19 works that have appeared on Veoh or as a representation that further factual
20 investigation and discovery will not reveal more of UMG's copyrighted works that
21 have appeared on Veoh. UMG further objects that this request calls for a legal
22 conclusion.

23 Subject to and without waiving the foregoing objections, UMG will produce non-
24 privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 19:**

2 All documents concerning violations of 17 U.S.C. § 106(6) that you claim or
3 believe Veoh has committed directly.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects to this request to the extent it calls for the production of privileged attorney-
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects that the request seeks information that is already in
9 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
10 objects to this request as vague and ambiguous as to what constitutes documents
11 "concerning" these violations. UMG further objects to the extent that this request
12 seeks documents that are not in UMG's possession, custody or control. UMG further
13 objects to this request on the grounds that it is premature insofar as UMG has not yet
14 been able to identify all of the specific works for which UMG alleges infringement in
15 this action as the information to do so is possessed by Veoh and not UMG. As a result,
16 the nonprivileged documents UMG produces in response to this request, if any, should
17 not be construed as a representation by UMG that the works referred to in such
18 documents constitutes a complete list of UMG's copyrighted works that have appeared
19 on Veoh or as a representation that further factual investigation and discovery will not
20 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
21 objects that this request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 20:**

2 All documents constituting or identifying violations of 17 U.S.C. § 106(1) that
3 you claim or believe Veoh is vicariously liable for or constitute contributory
4 infringement by Veoh.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects to this request to the extent it calls for the production of privileged attorney-
8 client communications, attorney work product, or otherwise privileged or protected
9 material. UMG further objects that the request seeks information that is already in
10 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
11 objects to this request to the extent it requests documents that are not in UMG's
12 possession, custody or control. UMG further objects to this request on the grounds
13 that it is premature insofar as UMG has not yet been able to identify all of the specific
14 works for which UMG alleges infringement in this action as the information to do so
15 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
16 produces in response to this request, if any, should not be construed as a
17 representation by UMG that the works referred to in such documents constitutes a
18 complete list of UMG's copyrighted works that have appeared on Veoh or as a
19 representation that further factual investigation and discovery will not reveal more of
20 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
21 request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 21:**

2 All documents constituting or identifying violations of 17 U.S.C. § 106(2) that
3 you claim or believe Veoh is vicariously liable for or constitute contributory
4 infringement by Veoh.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects to this request to the extent it calls for the production of privileged attorney-
8 client communications, attorney work product, or otherwise privileged or protected
9 material. UMG further objects that the request seeks information that is already in
10 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
11 objects to this request to the extent it requests documents that are not in UMG's
12 possession, custody or control. UMG further objects to this request on the grounds
13 that it is premature insofar as UMG has not yet been able to identify all of the specific
14 works for which UMG alleges infringement in this action as the information to do so
15 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
16 produces in response to this request, if any, should not be construed as a
17 representation by UMG that the works referred to in such documents constitutes a
18 complete list of UMG's copyrighted works that have appeared on Veoh or as a
19 representation that further factual investigation and discovery will not reveal more of
20 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
21 request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 22:**

2 All documents constituting or identifying violations of 17 U.S.C. § 106(3) that
3 you claim or believe Veoh is vicariously liable for or constitute contributory
4 infringement by Veoh.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects to this request to the extent it calls for the production of privileged attorney-
8 client communications, attorney work product, or otherwise privileged or protected
9 material. UMG further objects that the request seeks information that is already in
10 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
11 objects to this request to the extent it requests documents that are not in UMG's
12 possession, custody or control. UMG further objects to this request on the grounds
13 that it is premature insofar as UMG has not yet been able to identify all of the specific
14 works for which UMG alleges infringement in this action as the information to do so
15 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
16 produces in response to this request, if any, should not be construed as a
17 representation by UMG that the works referred to in such documents constitutes a
18 complete list of UMG's copyrighted works that have appeared on Veoh or as a
19 representation that further factual investigation and discovery will not reveal more of
20 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
21 request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 23:**

2 All documents constituting or identifying violations of 17 U.S.C. § 106(4) that
3 you claim or believe Veoh is vicariously liable for or constitute contributory
4 infringement by Veoh.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO.23:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects to this request to the extent it calls for the production of privileged attorney-
8 client communications, attorney work product, or otherwise privileged or protected
9 material. ' UMG further objects that the request seeks information that is already in
10 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
11 objects to this request to the extent it requests documents that are not in UMG's
12 possession, custody or control. UMG further objects to this request on the grounds
13 that it is premature insofar as UMG has not yet been able to identify all of the specific
14 works for which UMG alleges infringement in this action as the information to do so
15 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
16 produces in response to this request, if any, should not be construed as a
17 representation by UMG that the works referred to in such documents constitutes a
18 complete list of UMG's copyrighted works that have appeared on Veoh or as a
19 representation that further factual investigation and discovery will not reveal more of
20 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
21 request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 24:**

2 All documents constituting or identifying violations of 17 U.S.C. § 106(5) that
3 you claim or believe Veoh is vicariously liable for or constitute contributory
4 infringement by Veoh.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects to this request to the extent it calls for the production of privileged attorney
8 client communications, attorney work product, or otherwise privileged or protected
9 material. UMG further objects that the request seeks information that is already in
10 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
11 objects to this request to the extent it requests documents that are not in UMG's
12 possession, custody or control. UMG farther objects to this request on the grounds that
13 it is premature insofar as UMG has not yet been able to identify all of the specific
14 works for which UMG alleges infringement in this action as the information to do so
15 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
16 produces in response to this request, if any, should not be construed as a
17 representation by UMG that the works referred to in such documents constitutes a
18 complete list of UMG's copyrighted works that have appeared on Veoh or as a
19 representation that further factual investigation and discovery will not reveal more of
20 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
21 request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 25:**

2 All documents constituting or identifying violations of 17 U.S.C. § 106(6) that
3 you claim or believe Veoh is vicariously liable for or constitute contributory
4 infringement by Veoh.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects to this request to the extent it calls for the production of privileged attorney
8 client communications, attorney work product, or otherwise privileged or protected
9 material. UMG further objects that the request seeks information that is already in
10 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
11 objects to this request to the extent it requests documents that are not in UMG's
12 possession, custody or control. UMG further objects to this request on the grounds
13 that it is premature insofar as UMG has not yet been able to identify all of the specific
14 works for which UMG alleges infringement in this action as the information to do so
15 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
16 produces in response to this request, if any, should not be construed as a
17 representation by UMG that the works referred to in such documents constitutes a
18 complete list of UMG's copyrighted works that have appeared on Veoh or as a
19 representation that further factual investigation and discovery will not reveal more of
20 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
21 request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 26:**

2 All documents concerning direct infringements of your copyrights claimed in
3 this action, for which you allege Veoh is indirectly liable.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

5 UMG incorporates by reference each of its General Objections, UMG' further
6 objects to this request to the extent it calls for the production of privileged attorney-
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects that the request seeks information that is already in
9 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
10 objects to this request as vague and ambiguous as to what constitutes documents
11 "concerning" these violations. UMG further objects to the extent that this request
12 seeks documents that are not in UMG's possession, custody or control. UMG further
13 objects to this request on the grounds that it is premature insofar as UMG has not yet
14 been able to identify all of the specific works for which UMG alleges infringement in
15 this action as the information to do so is possessed by Veoh and not UMG. As a result,
16 the nonprivileged documents UMG produces in response to this request, if any, should
17 not be construed as a representation by UMG that the works referred to in such
18 documents constitutes a complete list of UMG's copyrighted works that have appeared
19 on Veoh or as a representation that further factual investigation and discovery will not
20 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
21 objects that this request calls for a legal conclusion.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

26 **REQUEST FOR PRODUCTION NO. 27:**

27 All documents concerning your use of Veoh for any purpose.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request seeks information that is not relevant to the claims or defenses
4 of any party and is not reasonably calculated to lead to the discovery of admissible
5 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
6 further objects that the request seeks information that is already in Veoh's possession,
7 custody or control, or reasonably available to Veoh. UMG further objects to this
8 request as vague and ambiguous as to what constitutes documents "concerning your
9 use of Veoh for any purpose." UMG further objects to the extent that this request
10 seeks documents that are not in UMG's possession, custody or control. UMG further
11 objects to this request to the extent it calls for the production of privileged attorney-
12 client communications, attorney work product, or otherwise privileged or protected
13 material.

14 Subject to and without waiving the foregoing objections, UMG will produce non-
15 privileged responsive documents, if any, to the extent identified by a search of the
16 files of specific employees and executives that UMG will identify utilizing specific
17 search terms that UMG will identify.

18 **REQUEST FOR PRODUCTION NO. 31:**

19 All documents that evidence, refer to, or discuss any damages or harm,
20 including, without limitation, monetary damage, you claim to have suffered, or to be
21 likely to suffer, as a result of Veoh's alleged infringements and violations as set forth
22 in your complaint.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects that this request is overbroad. UMG further objects to this request as vague
26 and ambiguous. UMG further objects to the extent that this request seeks documents
27 that are not in UMG's possession, custody or control. UMG further objects to this
28

1 request to the extent it prematurely seeks expert discovery. UMG further objects to
2 this request to the extent it calls for the production of privileged attorney-client
3 communications, attorney work product, or otherwise privileged or protected material.
4 Subject to and without waiving the foregoing objections, UMG will produce non-
5 privileged responsive documents, if any, to the extent identified by a search of the
6 files of specific employees and executives that UMG will identify utilizing specific
7 search terms that UMG will identify.

8 **REQUEST FOR PRODUCTION NO. 39:**

9 All documents concerning your distribution of the copyrighted sound
10 recordings, or any portion of the copyrighted sound recordings, on the internet.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request seeks information that is not relevant to the claims or defenses
14 of any party and is not reasonably calculated to lead to the discovery of admissible
15 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
16 further objects to this request on the grounds that it is vague and ambiguous as to the
17 term "the copyrighted sound recordings." UMG further objects to the extent that this
18 request seeks documents that are not in UMG's possession, custody or control.

19 Subject to and without waiving the foregoing objections, UMG will produce non-
20 privileged responsive documents, if any, to the extent identified by a search of the
21 files of specific employees and executives that UMG will identify utilizing specific
22 search terms that UMG will identify.

23 **REQUEST FOR PRODUCTION NO. 40:**

24 All documents concerning your distribution of material containing the
25 copyrighted musical compositions, or any portion of the copyrighted musical
26 compositions, on the internet.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request seeks information that is not relevant to the claims or defenses
4 of any party and is not reasonably calculated to lead to the discovery of admissible
5 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
6 further objects to this request on the grounds that it is vague and ambiguous as to the
7 terms "distribution ... on the internet" and "the copyrighted musical compositions."
8 UMG further objects to the extent that this request seeks documents that are not in
9 UMG's possession, custody or control.

10 Subject to and without waiving the foregoing objections, UMG will produce non-
11 privileged responsive documents, if any, to the extent identified by a search of the
12 files of specific employees and executives that UMG will identify utilizing specific
13 search terms that UMG will identify.

14 **REQUEST FOR PRODUCTION NO. 41:**

15 All documents concerning your use of the internet to promote and/or exploit the
16 copyrighted sound recordings and the copyrighted musical compositions.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that this request seeks information that is not relevant to the claims or defenses
20 of any party and is not reasonably calculated to lead to the discovery of admissible
21 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
22 further objects to this request as vague and ambiguous as to the terms "copyrighted
23 musical compositions," "use of the internet," "copyrighted sound recordings,"
24 "promote," and "exploit." UMG further objects to the extent that this request seeks
25 documents that are not in UMG's possession, custody or control.

26 Subject to and without waiving the foregoing objections, UMG will produce non-
27 privileged responsive documents, if any, to the extent identified by a search of the
28

1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **REQUEST FOR PRODUCTION NO. 42:**

4 All documents concerning your use of video hosting or sharing services to
5 promote the copyrighted sound recordings and the copyrighted musical compositions.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request seeks information that is not relevant to the claims or defenses
9 of any party and is not reasonably calculated to lead to the discovery of admissible
10 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
11 further objects to this request as vague and ambiguous as to the terms "promote,"
12 "copyrighted musical compositions," "copyrighted sound recordings," and "use of
13 video hosting or sharing services." UMG further objects to the extent that this request
14 seeks documents that are not in UMG's possession, custody or control.

15 Subject to and without waiving the foregoing objections, UMG will produce non-
16 privileged responsive documents, if any, to the extent identified by a search of the
17 files of specific employees and executives that UMG will identify utilizing specific
18 search terms that UMG will identify.

19 **REQUEST FOR PRODUCTION NO. 45:**

20 All documents concerning the uploading of content to Veoh by you or on your
21 behalf.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects that this request seeks information that is not relevant to the claims or defenses
25 of any party and is not reasonably calculated to lead to the discovery of admissible
26 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
27 further objects to this request as vague and ambiguous as to what constitutes
28

1 documents "concerning" the uploading of content to Veoh. UMG further objects to the
2 extent that this request seeks documents that are not in UMG's possession, custody or
3 control. UMG further objects that the request seeks information that is already in
4 Veoh's possession, custody or control, or reasonably available to Veoh.

5 Subject to and without waiving the foregoing objections, UMG will produce non-
6 privileged responsive documents, if any, to the extent identified by a search of the
7 files of specific employees and executives that UMG will identify utilizing specific
8 search terms that UMG will identify.

9 **REQUEST FOR PRODUCTION NO. 46:**

10 All documents concerning Veoh accounts registered to you.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 46:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request is overbroad, unduly burdensome, and seeks documents that
14 are neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence. UMG objects to the terms "Veoh
16 accounts" and "registered to you" as vague and ambiguous.

17 Subject to and without waiving the foregoing objections, UMG will produce non-
18 privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 54:**

22 All documents relating to each and every file you have ever uploaded to Veoh
23 containing a copy of any work, or any portion thereof, alleged by you in this action,
24 including documents evidencing (i) the date the file was uploaded to Veoh; (ii) the file
25 that was uploaded (including the file name and title, and any other identifying
26 information, including Veoh permalink if available); and (iii) the title of the work.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 54:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request seeks information that is not relevant to the claims or defenses
4 of any party and is not reasonably calculated to lead to the discovery of admissible
5 evidence. UMG further objects that this request appears to request documents that are
6 not in UMG's possession, custody or control. UMG further objects to this request on
7 the grounds that it is, premature insofar as UMG has not yet been able to identify all
8 of the specific works for which UMG alleges infringement in this action as the
9 information to do so is possessed by Veoh and not UMG. As a result, the
10 nonprivileged documents UMG produces in response to this request, if any, should
11 not be construed as a representation by UMG that the works referred to in such
12 documents constitutes a complete list of UMG's copyrighted works that have appeared
13 on Veoh or as a representation that further factual investigation and discovery will not
14 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG objects
15 to this request on the grounds that "documents relating to each and every file" is vague
16 and ambiguous.

17 Subject to and without waiving the foregoing objections, UMG will produce non-
18 privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 57:**

22 All documents evidencing, referring or relating to your allegation in paragraph
23 3 of the Complaint that "Veoh has directly and indirectly infringed thousands of
24 Plaintiffs' copyrighted sound recordings and musical compositions, which Veoh has
25 reproduced, adapted, displayed and distributed - and it has done so with the help of,
26 among others, Michael Eisner (former Chairman and CEO of The Walt Disney
27 Company), Goldman Sachs, and Time Warner Investments."

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 57:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects on the grounds that the documents requested are already within Veoh's
4 possession, custody, and control, and therefore equally or more readily available to
5 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
6 burdensome, and seeks documents that are neither relevant to the claims or defenses
7 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
8 in that it seeks documents "referring or relating to" this allegation. UMG further
9 objects to this request on the grounds that it is premature insofar as UMG has not yet
10 been able to identify all of the specific copyrighted sound recordings and musical
11 compositions for which UMG alleges infringement in this action as the information to
12 do so is possessed by Veoh and not UMG. As a result, the nonprivileged documents
13 UMG produces in response to this request, if any, should not be construed as a
14 representation by UMG that the works referred to in such documents constitutes a
15 complete list of UMG's copyrighted works that have appeared on Veoh or as a
16 representation that further factual investigation and discovery will not reveal more of
17 UMG's copyrighted works that have appeared on Veoh. UMG further objects to this
18 request to the extent it calls for the production of privileged attorney-client
19 communications, attorney work product, or otherwise privileged or protected material.
20 UMG further objects to this request on the grounds that the phrase "evidencing,
21 referring or relating to" is vague and ambiguous.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 58:**

2 All documents evidencing, referring or relating to your allegation in paragraph
3 3 of the Complaint that Veoh makes "permanent copies on servers that it owns or
4 controls of audiovisual works containing Plaintiffs' copyrighted music."

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 58:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects on the grounds that the documents requested are already within Veoh's
8 possession, custody, and control, and therefore equally or more readily available to
9 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
10 burdensome, and seeks documents that are neither relevant to the claims or defenses
11 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
12 in that it seeks documents "referring or relating to" this allegation, UMG further
13 objects to this request on the grounds that it is premature insofar as UMG has not yet
14 been able to identify all of the specific musical works for which UMG alleges
15 infringement in this action as the information to do so is possessed by Veoh and not
16 UMG. As a result, the nonprivileged documents UMG produces in response to this
17 request, if any, should not be construed as a representation by UMG that the works
18 referred to in such documents constitutes a complete list of UMG's copyrighted works
19 that have appeared on Veoh or as a representation that further factual investigation
20 and discovery will not reveal more of UMG's copyrighted works that have appeared
21 on Veoh. UMG further objects to this request to the extent it calls for the production
22 of privileged attorney-client communications, attorney work product, or otherwise
23 privileged or protected material. UMG further objects to this request on the grounds
24 that the phrase "evidencing, referring or relating to" is vague and ambiguous.
25 Subject to and without waiving the foregoing objections, UMG will produce non-
26 privileged responsive documents, if any, to the extent identified by a search of the
27

1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **REQUEST FOR PRODUCTION NO. 59:**

4 All documents evidencing, referring or relating to your allegation in paragraph
5 3 of the Complaint that Veoh "[converts] Plaintiffs [sic] audiovisual works into
6 commonly used video formats to facilitate infringement by Veoh's users."

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 59:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects on the grounds that the documents requested are already within Veoh's
10 possession, custody, and control, and therefore equally or more readily available to
11 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
12 burdensome, and seeks documents that are neither relevant to the claims or defenses
13 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
14 in that it seeks documents "referring or relating to" this allegation. UMG further
15 objects to this request on the grounds that it is premature insofar as UMG has not yet
16 been able to identify all of the specific audiovisual works for which UMG alleges
17 infringement in this action as the information to do so is possessed by Veoh and not
18 UMG. As a result, the nonprivileged documents UMG produces in response to this
19 request, if any, should not be construed as a representation by UMG that the works
20 referred to in such documents constitutes a complete list of UMG's copyrighted works
21 that have appeared on Veoh or as a representation that further factual investigation
22 and discovery will not reveal more of UMG's copyrighted works that have appeared
23 on Veoh. UMG further objects to this request to the extent it calls for the production
24 of privileged attorney-client communications, attorney work product, or otherwise
25 privileged or protected material. UMG further objects to this request on the grounds
26 that the phrase "evidencing, referring or relating to" is vague and ambiguous.

1 Subject to and without waiving the foregoing objections, UMG will produce non-
2 privileged responsive documents, if any, to the extent identified by a search of the
3 files of specific employees and executives that UMG will identify utilizing specific
4 search terms that UMG will identify.

5 **REQUEST FOR PRODUCTION NO. 60:**

6 All documents evidencing, referring or relating to your allegation in paragraph
7 3 of the Complaint that Veoh "virally [exploits] Plaintiffs' music and audiovisual
8 works without permission or a license."

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 60:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects on the grounds that the documents requested are already within Veoh's
12 possession, custody, and control, and therefore equally or more readily available to
13 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
14 burdensome, and seeks documents that are neither relevant to the claims or defenses
15 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
16 in that it seeks documents "referring or relating to" this allegation. UMG further
17 objects to this request on the grounds that it is premature insofar as UMG has not yet
18 been able to identify all of the specific musical and audiovisual works for which UMG
19 alleges infringement in this action as the information to do so is possessed by Veoh
20 and not UMG. As a result, the nonprivileged documents UMG produces in response to
21 this request, if any, should not be construed as a representation by UMG that the
22 works referred to in such documents constitutes a complete list of UMG's copyrighted
23 works that have appeared on Veoh or as a representation that further factual
24 investigation and discovery will not reveal more of UMG's copyrighted works that
25 have appeared on Veoh. UMG further objects to this request to the extent it calls for
26 the production of privileged attorney-client communications, attorney work product,
27 or otherwise privileged or protected material. UMG further objects to this request on

1 the grounds that the phrase "evidencing, referring or relating to" is vague and
2 ambiguous.

3 Subject to and without waiving the foregoing objections, UMG will produce non-
4 privileged responsive documents, if any, to the extent identified by a search of the
5 files of specific employees and executives that UMG will identify utilizing specific
6 search terms that UMG will identify.

7 **REQUEST FOR PRODUCTION NO. 61:**

8 All documents evidencing, referring or relating to your allegation in paragraph
9 3 of the Complaint that Veoh "[provides] free permanent downloads of Plaintiffs'
10 music and audiovisual works."

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 61:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects on the grounds that the documents requested are already within Veoh's
14 possession, custody, and control, and therefore equally or more readily available to
15 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
16 burdensome, and seeks documents that are neither relevant to the claims or defenses
17 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
18 in that it seeks documents "referring or relating to" this allegation. UMG further
19 objects to this request on the grounds that it is premature insofar as UMG has not yet
20 been able to identify all of the specific musical and audiovisual works for which UMG
21 alleges infringement in this action as the information to do so is possessed by Veoh
22 and not UMG. As a result, the nonprivileged documents UMG produces in response to
23 this request, if any, should not be construed as a representation by UMG that the
24 works referred to in such documents constitutes a complete list of UMG's copyrighted
25 works that have appeared on Veoh or as a representation that further factual
26 investigation and discovery will not reveal more of UMG's copyrighted works that
27 have appeared on Veoh. UMG further objects to this request to the extent it calls for
28

1 the production of privileged attorney-client communications, attorney work product,
2 or otherwise privileged or protected material. UMG further objects to this request on
3 the grounds that the phrase "evidencing, referring or relating to" is vague and
4 ambiguous.

5 Subject to and without waiving the foregoing objections, UMG will produce non-
6 privileged responsive documents, if any, to the extent identified by a search of the
7 files of specific employees and executives that UMG will identify utilizing specific
8 search terms that UMG will identify.

9 **REQUEST FOR PRODUCTION NO. 62.:**

10 All documents evidencing, referring or relating to your allegation in paragraph
11 4 of the Complaint that "Veoh has engaged in rampant infringement of Plaintiffs'
12 copyrighted music as part of Veoh's strategy to become one of the internet's most
13 popular and valuable 'video sharing' websites, and to thereby attract advertising
14 dollars and tens of millions of dollars of venture capital investment."

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 62:**

16 UMG incorporates by reference each of its General Objections. UMG further
17 objects on the grounds that the documents requested are already within Veoh's
18 possession, custody, and control, and therefore equally or more readily available to
19 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
20 burdensome, and seeks documents that are neither relevant to the claims or defenses
21 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
22 in that it seeks documents "referring or relating to" this allegation. UMG further
23 objects to this request on the grounds that it is premature insofar as UMG has not yet
24 been able to identify all of the specific works for which UMG alleges infringement in
25 this action as the information to do so is possessed by Veoh and not UMG. As a result,
26 the nonprivileged documents UMG produces in response to this request, if any, should
27 not be construed as a representation by UMG that the works referred to in such
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1 documents constitutes a complete list of UMG's copyrighted works that have appeared
2 on Veoh or as a representation that further factual investigation and discovery will not
3 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
4 objects to this request to the extent it calls for the production of privileged attorney-
5 client communications, attorney work product, or otherwise privileged or protected
6 material. UMG further objects to this request on the grounds that the phrase
7 "evidencing, referring or relating to" is vague and ambiguous.

8 Subject to and without waiving the foregoing objections, UMG will produce non-
9 privileged responsive documents, if any, to the extent identified by a search of the
10 files of specific employees and executives that UMG will identify utilizing6 specific
11 search terms that UMG will identify.

12 **REQUEST FOR PRODUCTION NO. 63:**

13 All documents evidencing, referring or relating to your allegation in paragraph
14 4 of the Complaint that "Veoh's business plan is based on theft."

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 63:**

16 UMG incorporates by reference each of its General Objections. UMG further
17 objects on the grounds that the documents requested are already within Veoh's
18 possession, custody, and control, and therefore equally or more readily available to
19 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
20 burdensome, and seeks documents that are neither relevant to the claims or defenses
21 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
22 in that it seeks documents "referring or relating to" this allegation. UMG further
23 objects to this request on the grounds that it is premature insofar as UMG has not yet
24 been able to identify all of the specific works for which UMG alleges infringement in
25 this action as the information to do so is possessed by Veoh and not UMG. As a result,
26 the nonprivileged documents UMG produces in response to this request, if any, should
27 not be construed as a representation by UMG that the works referred to in such
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1 documents constitutes a complete list of UMG's copyrighted works that have appeared
2 on Veoh or as a representation that further factual investigation and discovery will not
3 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
4 objects to this request to the extent it calls for the production of privileged attorney-
5 client communications, attorney work product, or otherwise privileged or protected
6 material. UMG further objects to this request on the grounds that the phrase
7 "evidencing, referring or relating to" is vague and ambiguous.

8 Subject to and without waiving the foregoing objections, UMG will produce non-
9 privileged responsive documents, if any, to the extent identified by a search of the
10 files of specific employees and executives that UMG will identify utilizing specific
11 search terms that UMG will identify.

12 **REQUEST FOR PRODUCTION NO. 64:**

13 All documents evidencing, referring or relating to your allegation in paragraph
14 8 of the Complaint that "UMGR owns copyrights in ... the 'copyrighted sound
15 recordings' for which UMGR has obtained or has applied for Certificates of Copyright
16 Registration issued by the Register of Copyrights," for each of the copyrighted sound
17 recordings for which you claim infringement in this action.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 64:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects that this request is overbroad, unduly burdensome, and seeks documents that
21 are neither relevant to the claims or defenses of any party nor reasonably calculated to
22 lead to the discovery of admissible evidence, in that it seeks documents "referring or
23 relating to" this allegation. UMG further objects that this request is overbroad, unduly
24 burdensome, and seeks documents that are neither relevant to the claims or defenses
25 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
26 in that it seeks documents "referring or relating to" this allegation. UMG further
27 objects to this request on the grounds that it is premature insofar as UMG has not yet
28

1 been able to identify all of the specific copyrighted sound recordings for which UMG
2 alleges infringement in this action as the information to do so is possessed by Veoh
3 and not UMG. As a result, the nonprivileged documents UMG produces in response to
4 this request, if any, should not be construed as a representation by UMG that the
5 works referred to in such documents constitutes a complete list of UMG's copyrighted
6 works that have appeared on Veoh or as a representation that further factual
7 investigation and discovery will not reveal more of UMG's copyrighted works that
8 have appeared on Veoh. UMG further objects to this request to the extent it calls for
9 the production of privileged attorney-client communications, attorney work product,
10 or otherwise privileged or protected material. UMG further objects to this request on
11 the grounds that the phrase "evidencing, referring or relating to" is vague and
12 ambiguous. UMG further objects to this request as duplicative of Request for
13 Production No. 56.

14 Subject to and without waiving the foregoing objections, UMG will produce non-
15 privileged responsive documents, if any, to the extent identified by a search of the
16 files of specific employees and executives that UMG will identify utilizing specific
17 search terms that UMG will identify.

18 **REQUEST FOR PRODUCTION NO. 71:**

19 All documents evidencing, referring or relating to your allegation in paragraph
20 13 of the Complaint that "Veoh is well aware of the mass infringement it has
21 facilitated."

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 71:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects on the grounds that the documents requested are already within Veoh's
25 possession, custody, and control, and therefore equally or more readily available to
26 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
27 burdensome, and seeks documents that are neither relevant to the claims or defenses

1 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
2 in that it seeks documents "referring or relating to" this allegation. UMG further
3 objects to this request to the extent it calls for the production of privileged attorney-
4 client communications, attorney work product, or otherwise privileged or protected
5 material. UMG further objects to this request on the grounds that the phrase
6 "evidencing, referring or relating to" is vague and ambiguous.

7 Subject to and without waiving the foregoing objections, UMG will produce non-
8 privileged responsive documents, if any, to the extent identified by a search of the
9 files of specific employees and executives that UMG will identify utilizing specific
10 search terms that UMG will identify.

11 **REQUEST FOR PRODUCTION NO. 72:**

12 All documents that evidence facts alleged in paragraph 13 of the Complaint that
13 "Veoh consciously is seeking to enjoy the benefits of exploiting copyrighted content,
14 such as increased traffic on its website, without having to pay copyright owners for
15 using their content."

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 72:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects on the grounds that the documents requested are already within Veoh's
19 possession, custody, and control, and therefore equally or more readily available to
20 Veoh than to UMG. UMG further objects to this request to the extent it calls for the
21 production of privileged attorney-client communications, attorney work product, or
22 otherwise privileged or protected material.

23 Subject to and without waiving the foregoing objections, UMG will produce non-
24 privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 73:**

2 All documents evidencing, referring or relating to the allegations in paragraph
3 14 of the Complaint that Veoh's investors "benefit from Veoh's infringing acts."

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 73:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects on the grounds that the documents requested are already within Veoh's
7 possession, custody, and control, and therefore equally or more readily available to
8 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
9 burdensome, and seeks documents that are neither relevant to the claims or defenses
10 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
11 in that it seeks documents "referring or relating to" this allegation. UMG further
12 objects to this request to the extent it calls for the production of privileged attorney-
13 client communications, attorney work product, or otherwise privileged or protected
14 material. UMG further objects to this request on the grounds that the phrase
15 "evidencing, referring or relating to" is vague and ambiguous.

16 Subject to and without waiving the foregoing objections, UMG will produce non-
17 privileged responsive documents, if any, to the extent identified by a search of the
18 files of specific employees and executives that UMG will identify utilizing specific
19 search terms that UMG will identify.

20 **REQUEST FOR PRODUCTION NO. 74.:**

21 All documents evidencing, referring or relating to the allegations in paragraph
22 16 of the Complaint that "each of the Defendants was the agent of each of the other
23 defendants and, in doing the things alleged in this complaint, were acting within the
24 course and scope of such agency."

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 74:**

26 UMG incorporates by reference each of its General Objections. UMG further
27 objects on the grounds that the documents requested are already within Veoh's
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1 possession, custody, and control, and therefore equally or more readily available to
2 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
3 burdensome, and seeks documents that are neither relevant to the claims or defenses
4 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
5 in that it seeks documents "referring or relating to" this allegation. UMG further
6 objects to this request to the extent it calls for the production of privileged attorney-
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects to this request on the grounds that the phrase
9 "evidencing, referring or relating to" is vague and ambiguous.

10 Subject to and without waiving the foregoing objections, UMG will produce non-
11 privileged responsive documents, if any, to the extent identified by a search of the
12 files of specific employees and executives that UMG will identify utilizing specific
13 search terms that UMG will identify.

14 **REQUEST FOR PRODUCTION NO. 75:**

15 All documents evidencing, referring or relating to the allegations in paragraph
16 17 of your complaint that Veoh has created software and services "designed to
17 encourage, induce, and enable members of the public to make, upload, download,
18 'share,' sell, rent, and distribute permanent copies of videos without regard to the
19 rights of copyright owners."

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 75:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects on the grounds that the documents requested are already within Veoh's
23 possession, custody, and control, and therefore equally or more readily available to
24 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
25 burdensome, and seeks documents that are neither relevant to the claims or defenses
26 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
27 in that it seeks documents "referring or relating to" this allegation. UMG further

1 objects to this request to the extent it calls for the production of privileged attorney-
2 client communications, attorney work product, or otherwise privileged or protected
3 material. UMG further objects to this request on the grounds that the phrase
4 "evidencing, referring or relating to" is vague and ambiguous.

5 Subject to and without waiving the foregoing objections, UMG will produce non-
6 privileged responsive documents, if any, to the extent identified by a search of the
7 files of specific employees and executives that UMG will identify utilizing specific
8 search terms that UMG will identify.

9 **REQUEST FOR PRODUCTION NO. 76:**

10 All documents evidencing, referring or relating to the allegations in paragraph
11 17 of your complaint that "Veoh uses the Veohnet p2p service to facilitate the
12 distribution of high quality copies of infringing content over the internet and to enable
13 Veoh to exploit its members' computers to engage in acts of copyright infringement."

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 76:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects on the grounds that the documents requested are already within Veoh's
17 possession, custody, and control, and therefore equally or more readily available to
18 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
19 burdensome, and seeks documents that are neither relevant to the claims or defenses
20 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
21 in that it seeks documents "referring or relating to" this allegation. UMG further
22 objects to this request to the extent it calls for the production of privileged attorney-
23 client communications, attorney work product, or otherwise privileged or protected
24 material. UMG further objects to this request on the grounds that the phrase
25 "evidencing, referring or relating to" is vague and ambiguous.

26 Subject to and without waiving the foregoing objections, UMG will produce non-
27 privileged responsive documents, if any, to the extent identified by a search of the
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1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **REQUEST FOR PRODUCTION NO. 77:**

4 All documents evidencing, referring or relating to the allegations in paragraph
5 20 of your complaint that "by offering thousands of infringing works for free viewing
6 and downloading, and by providing sophisticated tools that enable the reproduction
7 and dissemination of video over the internet, the Veoh.com website has been able to
8 attract millions of unique visitors each month."

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 77:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects on the grounds that the documents requested are already within Veoh's
12 possession, custody, and control, and therefore equally or more readily available to
13 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
14 burdensome, and seeks documents that are neither relevant to the claims or defenses
15 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
16 in that it seeks documents "referring or relating to" this allegation. UMG further
17 objects to this request to the extent it calls for the production of privileged attorney-
18 client communications, attorney work product, or otherwise privileged or protected
19 material. UMG further objects to this request on the grounds that the phrase
20 "evidencing, referring or relating to" is vague and ambiguous.

21 Subject to and without waiving the foregoing objections, UMG will produce non-
22 privileged responsive documents, if any, to the extent identified by a search of the
23 files of specific employees and executives that UMG will identify utilizing specific
24 search terms that UMG will identify.

25 **REQUEST FOR PRODUCTION NO.78:**

26 All documents evidencing, referring or relating to the allegations in paragraph
27 20 of your complaint that "Veoh directly profits from its mass infringement by, among
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1 other things, selling targeted advertisements that reflect what content (including
2 infringing content) Veoh's members are viewing, and by sharing in revenues when
3 members use Veoh's services to rent or sell videos."

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 78:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects on the grounds that the documents requested are already within Veoh's
7 possession, custody, and control, and therefore equally or more readily available to
8 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
9 burdensome, and seeks documents that are neither relevant to the claims or defenses
10 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
11 in that it seeks documents "referring or relating to" this allegation. UMG further
12 objects to this request to the extent it calls for the production of privileged attorney-
13 client communications, attorney work product, or otherwise privileged or protected
14 material. UMG further objects to this request on the grounds that the phrase
15 "evidencing, referring or relating to" is vague and ambiguous.

16 Subject to and without waiving the foregoing objections, UMG will produce non-
17 privileged responsive documents, if any, to the extent identified by a search of the
18 files of specific employees and executives that UMG will identify utilizing specific
19 search terms that UMG will identify.

20 **REQUEST FOR PRODUCTION NO. 79:**

21 All documents evidencing, referring or relating to the allegations in paragraph
22 21 of the Complaint, that "Veoh engages in direct infringement and indirect
23 infringement of Plaintiffs' copyrights".

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 79:**

25 UMG incorporates by reference each of its General Objections. UMG further
26 objects on the grounds that the documents requested are already within Veoh's
27 possession, custody, and control, and therefore equally or more readily available to
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1 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
2 burdensome, and seeks documents that are neither relevant to the claims or defenses
3 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
4 in that it seeks documents "referring or relating to" this allegation. UMG further
5 objects to this request on the grounds that it is premature insofar as UMG has not yet
6 been able to identify all of the specific copyrights for which UMG alleges
7 infringement in this action as the information to do so is possessed by Veoh and not
8 UMG. As a result, the nonprivileged documents UMG produces in response to this
9 request, if any, should not be construed as a representation by UMG that the works
10 referred to in such documents constitutes a complete list of UMG's copyrighted works
11 that have appeared on Veoh or as a representation that further factual investigation
12 and discovery will not reveal more of UMG's copyrighted works that have appeared
13 on Veoh. UMG further objects to this request to the extent it calls for the production
14 of privileged attorney-client communications, attorney work product, or otherwise
15 privileged or protected material. UMG further objects to this request on the grounds
16 that the phrase "evidencing, referring or relating to" is vague and ambiguous.
17 Subject to and without waiving the foregoing objections, UMG will produce non-
18 privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 80:**

22 All documents evidencing, referring or relating to the allegations in paragraph
23 21(a) of the Complaint that "in furtherance of its direct and indirect infringement"
24 Veoh "reproduced (i.e. made permanent copies of audiovisual works containing
25 thousands of Plaintiffs' copyrighted works on servers that Veoh owns or controls."
26
27
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1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 80:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects on the grounds that the documents requested are already within Veoh's
4 possession, custody, and control, and therefore equally or more readily available to
5 Veoh than to UMG, UMG further objects that this request is overbroad, unduly
6 burdensome, and seeks documents that are neither relevant to the claims or defenses
7 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
8 in that it seeks documents "referring or relating to" this allegation. UMG further
9 objects to this request on the grounds that it is premature insofar as UMG has not yet
10 been able to identify all of the specific copyrighted works for which UMG alleges
11 infringement in this action as the information to do so is possessed by Veoh b and not
12 UMG. As a result, the nonprivileged documents UMG produces in response to this
13 request, if any, should not be construed as a representation by UMG that the works
14 referred to in such documents constitutes a complete list of UMG's copyrighted works
15 that have appeared on Veoh or as a representation that further factual investigation
16 and discovery will not reveal more of UMG's copyrighted works that have appeared
17 on Veoh. UMG further objects to this request to the extent it calls for the production
18 of privileged attorney-client communications, attorney work product, or otherwise
19 privileged or protected material. UMG further objects to this request on the grounds
20 that the phrase "evidencing, referring or relating to" is vague and ambiguous.
21 Subject to and without waiving the foregoing objections, UMG will produce non-
22 privileged responsive documents, if any, to the extent identified by a search of the
23 files of specific employees and executives that UMG will identify utilizing specific
24 search terms that UMG will identify.

25 **REQUEST FOR PRODUCTION NO. 81:**

26 All documents evidencing, referring or relating to the allegations in paragraph
27 21 (e) of the Complaint that "in furtherance of its direct and indirect infringement"

1 Veoh "induced and enabled Veoh members to upload copies of videos without the
2 authorization of the copyright owner, including videos copied from third party
3 websites without authorization of the website or the copyright owner (and often in
4 violation of the third party website's terms of use)."

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 81:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects on the grounds that the documents requested are already within Veoh's
8 possession, custody, and control, and therefore equally or more readily available to
9 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
10 burdensome, and seeks documents that are neither relevant to the claims or defenses
11 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
12 in that it seeks documents "referring or relating to" this allegation. UMG further
13 objects to this request to the extent it calls for the production of privileged attorney-
14 client communications, attorney work product, or otherwise privileged or protected
15 material. UMG further objects to this request on the grounds that the phrase
16 "evidencing, referring or relating to" is vague and ambiguous.

17 Subject to and without waiving the foregoing objections, UMG will produce non-
18 privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 82:**

22 All documents evidencing, referring or relating to the allegations in paragraph
23 21 (g) of your complaint that Veoh "created and distributed Veoh's client software,
24 which Veoh knows is being used to infringe copyrights."

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 82:**

26 UMG incorporates by reference each of its General Objections. UMG further
27 objects on the grounds that the documents requested are already within Veoh's
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1 possession, custody, and control, and therefore equally or more readily available to
2 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
3 burdensome, and seeks documents that are neither relevant to the claims or defenses
4 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
5 in that it seeks documents "referring or relating to" this allegation. UMG further
6 objects to this request to the extent it calls for the production of privileged attorney-
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects to this request on the grounds that the phrase
9 "evidencing, referring or relating to" is vague and ambiguous.

10 Subject to and without waiving the foregoing objections, UMG will produce non-
11 privileged responsive documents, if any, to the extent identified by a search of the
12 files of specific employees and executives that UMG will identify utilizing specific
13 search terms that UMG will identify.

14 **REQUEST FOR PRODUCTION NO. 84:**

15 All documents evidencing, referring or relating to the allegations in paragraph
16 21 (1) of your complaint that Veoh "provided users with anonymity to upload, view,
17 download, copy and/or further distribute audiovisual works."

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 84:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects on the grounds that the documents requested are already within Veoh's
21 possession, custody, and control, and therefore equally or more readily available to
22 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
23 burdensome, and seeks documents that are neither relevant to the claims or defenses
24 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
25 in that it seeks documents "referring or relating to" this allegation. UMG further
26 objects to this request to the extent it calls for the production of privileged attorney-
27 client communications, attorney work product, or otherwise privileged or protected
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1 material. UMG further objects to this request on the grounds that the phrase
2 "evidencing, referring or relating to" is vague and ambiguous.

3 Subject to and without waiving the foregoing objections, UMG will produce non-
4 privileged responsive documents, if any, to the extent identified by a search of the
5 files of specific employees and executives that UMG will identify utilizing specific
6 search terms that UMG will identify.

7 **REQUEST FOR PRODUCTION NO. 85:**

8 All documents evidencing, referring or relating to the allegations in paragraph
9 21 (m) of your complaint that "for each video that a viewer watches, [Veoh] generated
10 a selection of 'related' videos - which regularly includes copyrighted works - for users
11 to consider while watching the video."

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 85:**

13 UMG incorporates by reference each of its General Objections. UMG further
14 objects on the grounds that the documents requested are already within Veoh's
15 possession, custody, and control, and therefore equally or more readily available to
16 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
17 burdensome, and seeks documents that are neither relevant to the claims or defenses
18 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
19 in that it seeks documents "referring or relating to" this allegation. UMG further
20 objects to this request to the extent it calls for the production of privileged attorney-
21 client communications, attorney work product, or otherwise privileged or I I protected
22 material. UMG further objects to this request on the grounds that the phrase
23 "evidencing, referring or relating to" is vague and ambiguous.

24 Subject to and without waiving the foregoing objections, UMG will produce non-
25 privileged responsive documents, if any, to the extent identified by a search of the
26 files of specific employees and executives that UMG will identify utilizing specific
27 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 86:**

2 All documents evidencing, referring or relating to the allegations in paragraph
3 22 of your complaint that "the foregoing acts indicate Veoh's ability and intent to
4 facilitate, encourage, and profit from the mass unauthorized exploitation of
5 copyrighted content, including Plaintiffs' copyrighted sound recordings and
6 copyrighted musical compositions."

7 **RESPONSE TO REQUEST FOR PRODUCTION NO 86:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects on the grounds that the documents requested are already within Veoh's
10 possession, custody, and control, and therefore equally or more readily available to
11 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
12 burdensome, and seeks documents that are neither relevant to the claims or defenses
13 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
14 in that it seeks documents "referring or relating to" this allegation. UMG further
15 objects to this request on the grounds that it is premature insofar as UMG has not yet
16 been able to identify all of the specific copyrighted sound recordings and copyrighted
17 musical compositions for which UMG alleges infringement in this action as the
18 information to do so is possessed by Veoh and not UMG. As a result, the
19 nonprivileged documents UMG produces in response to this request, if any, should
20 not be construed as a representation by UMG that the works referred to in such
21 documents constitutes a complete list of UMG's copyrighted works that have appeared
22 on Veoh or as a representation that further factual investigation and discovery will not
23 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
24 objects to this request to the extent it calls for the production of privileged attorney-
25 client communications, attorney work product, or otherwise privileged or protected
26 material. UMG further objects to this request on the grounds that the phrase
27 "evidencing, referring or relating to" is vague and ambiguous.

1 Subject to and without waiving the foregoing objections, UMG will produce non-
2 privileged responsive documents, if any, to the extent identified by a search of the
3 files of specific employees and executives that UMG will identify utilizing specific
4 search terms that UMG will identify.

5 **REQUEST FOR PRODUCTION NO. 88:**

6 All documents evidencing, referring or relating to the allegations in paragraph
7 23 of the Complaint that "any member of the public can, for example, visit Veoh.com
8 where thousands of infringing works are available for immediate viewing,
9 downloading and other forms of "sharing."

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 88:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects on the grounds that the documents requested are already within Veoh's
13 possession, custody, and control, and therefore equally or more readily available to
14 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
15 burdensome, and seeks documents that are neither relevant to the claims or defenses
16 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
17 in that it seeks documents "referring or relating to" this allegation. UMG further
18 objects to this request to the extent it calls for the production of privileged attorney-
19 client communications, attorney work product, or otherwise privileged or protected
20 material. UMG further objects to this request on the grounds that the phrase
21 "evidencing, referring or relating to" is vague and ambiguous.

22 Subject to and without waiving the foregoing objections, UMG will produce non-
23 privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 89:**

2 All documents evidencing, referring or relating to the allegations in paragraph
3 23 of the Complaint that "Veoh supplies statistics about how often each work has been
4 used without the permission of the copyright owner."

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 89:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects on the grounds that the documents requested are already within Veoh's
8 possession, custody, and control, and therefore equally or more readily available to .18
9 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
10 burdensome, and seeks documents that are neither relevant to the claims or defenses
11 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
12 in that it seeks documents "referring or relating to" this allegation. UMG further
13 objects to this request to the extent it calls for the production of privileged attorney-
14 client communications, attorney work product, or otherwise privileged or protected
15 material. UMG further objects to this request on the grounds that the phrase
16 "evidencing, referring or relating to" is vague and ambiguous.
17 Subject to and without waiving the foregoing objections, UMG will produce non-
18 privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 90:**

22 All documents evidencing, referring or relating to the allegations in paragraph
23 24 of the Complaint that "Veoh also allows its users to view, copy, and share
24 copyrighted works through Veoh's software, VeohTV and Veoh Player."

25 **RESPONSE TO REQUEST FOR PRODUCTION NO 90:**

26 UMG incorporates by reference each of its General Objections. UMG further
27 objects on the grounds that the documents requested are already within Veoh's
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1 possession, custody, and control, and therefore equally or more readily available to
2 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
3 burdensome, and seeks documents that are neither relevant to the claims or defenses
4 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
5 in that it seeks documents "referring or relating to" this allegation. UMG further
6 objects to this request to the extent it calls for the production of privileged attorney-
7 client communications, attorney work product, or otherwise privileged or protected
8 material. UMG further objects to this request on the grounds that the phrase
9 "evidencing, referring or relating to" is vague and ambiguous.

10 Subject to and without waiving the foregoing objections, UMG will produce non-
11 privileged responsive documents, if any, to the extent identified by a search of the
12 files of specific employees and executives that UMG will identify utilizing specific
13 search terms that UMG will identify.

14 **REQUEST FOR PRODUCTION NO. 91.:**

15 All documents evidencing, referring or relating to the allegations in paragraph
16 25 of the Complaint that "to encourage and enable even further dissemination of
17 infringing copies across the internet, Veoh supplies its members with a number of
18 other tools, including a button to 'Share Video,' that is, email a link to the infringing
19 video or 'embed' a link to the video in another webpage."

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 91:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects on the grounds that the documents requested are already within Veoh's
23 possession, custody, and control, and therefore equally or more readily available to
24 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
25 burdensome, and seeks documents that are neither relevant to the claims or defenses
26 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
27 in that it seeks documents "referring or relating to" this allegation. UMG further

1 objects to this request to the extent it calls for the production of privileged attorney-
2 client communications, attorney work product, or otherwise privileged or protected
3 material. UMG further objects to this request on the grounds that the phrase
4 "evidencing, referring or relating to" is vague and ambiguous.

5 Subject to and without waiving the foregoing objections, UMG will produce non-
6 privileged responsive documents, if any, to the extent identified by a search of the
7 files of specific employees and executives that UMG will identify utilizing specific
8 search terms that UMG will identify.

9 **REQUEST FOR PRODUCTION NO.92:**

10 All documents evidencing, referring or relating to the allegations in paragraph
11 26 of the Complaint that "as Defendants know, should know, and/or with reasonable
12 diligence could ascertain, many of the audiovisual works on Veoh's website contain
13 copyrighted material, including the copyrighted sound recordings and the copyrighted
14 musical compositions."

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 92:**

16 UMG incorporates by reference each of its General Objections. UMG further
17 objects on the grounds that the documents requested are already within Veoh's
18 possession, custody, and control, and therefore equally or more readily available to
19 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
20 burdensome, and seeks documents that are neither relevant to the claims or defenses
21 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
22 in that it seeks documents "referring or relating to" this allegation. UMG further
23 objects to this request on the grounds that it is premature insofar as UMG has not yet
24 been able to identify all of the specific copyrighted sound recordings and copyrighted
25 musical compositions for which UMG alleges infringement in this action as the
26 information to do so is possessed by Veoh and not UMG. As a result, the
27 nonprivileged documents UMG produces in response to this request, if any, should
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1 not be construed as a representation by UMG that the works referred to in such
2 documents constitutes a complete list of UMG's copyrighted works that have appeared
3 on Veoh or as a representation that further factual investigation and discovery will not
4 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
5 objects to this request to the extent it calls for the production of privileged attorney-
6 client communications, attorney work product, or otherwise privileged or protected
7 material. UMG further objects to this request on the grounds that the phrase
8 "evidencing, referring or relating to" is vague and ambiguous.

9 Subject to and without waiving the foregoing objections, UMG will produce non-
10 privileged responsive documents, if any, to the extent identified by a search of the
11 files of specific employees and executives that UMG will identify utilizing specific
12 search terms that UMG will identify.

13 **REQUEST FOR PRODUCTION NO. 93:**

14 All documents evidencing, referring or relating to the allegations in paragraph
15 27 of the Complaint that "Defendants have willfully, intentionally, and purposefully
16 reproduced, adapted, distributed, and publicly performed the copyrighted sound
17 recordings and the copyrighted musical compositions."

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 93:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects on the grounds that the documents requested are already within Veoh's
21 possession, custody, and control, and therefore equally or more readily available to
22 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
23 burdensome, and seeks documents that are neither relevant to the claims or defenses
24 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
25 in that it seeks documents "referring or relating to" this allegation. UMG further
26 objects to this request on the grounds that it is premature insofar as UMG has not yet
27 been able to identify all of the specific copyrighted sound recordings and copyrighted
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1 musical compositions for which UMG alleges infringement in this action as the
2 information to do so is possessed by Veoh and not UMG. As a result, the
3 nonprivileged documents UMG produces in response to this request, if any, should
4 not be construed as a representation by UMG that the works referred to in such
5 documents constitutes a complete list of UMG's copyrighted works that have appeared
6 on Veoh or as a representation that further factual investigation and discovery will not
7 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
8 objects to this request to the extent it calls for the production of privileged attorney-
9 client communications, attorney work product, or otherwise privileged or protected
10 material. UMG further objects to this request on the grounds that the phrase
11 "evidencing, referring or relating to" is vague and ambiguous.

12 Subject to and without waiving the foregoing objections, UMG will produce non-
13 privileged responsive documents, if any, to the extent identified by a search of the
14 files of specific employees and executives that UMG will identify utilizing specific
15 search terms that UMG will identify.

16 **REQUEST FOR PRODUCTION NO. 94:**

17 All documents evidencing, referring or relating to the allegations in paragraph
18 27 of the Complaint that Defendants "knowingly facilitated, enabled, induced, and
19 materially contributed to infringing uses thereof."

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 94:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects on the grounds that the documents requested are already within Veoh's
23 possession, custody, and control, and therefore equally or more readily available to
24 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
25 burdensome, and seeks documents that are neither relevant to the claims or defenses
26 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
27 in that it seeks documents "referring or relating to" this allegation. UMG further
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1 objects to this request on the grounds that it is premature insofar as UMG has not yet
2 been able to identify all of the specific copyrighted sound recordings and copyrighted
3 musical compositions for which UMG alleges infringement in this action as the
4 information to do so is possessed by Veoh and not UMG. As a result, the
5 nonprivileged documents UMG produces in response to this request, if any, should
6 not be construed as a representation by UMG that the works referred to in such
7 documents constitutes a complete list of UMG's copyrighted works that have appeared
8 on Veoh or as a representation that further factual investigation and discovery will not
9 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
10 objects to this request to the extent it calls for the production of privileged attorney-
11 client communications, attorney work product, or otherwise privileged or protected
12 material. UMG further objects to this request on the grounds that the phrase
13 "evidencing, referring or relating to" is vague and ambiguous.

14 Subject to and without waiving the foregoing objections, UMG will produce non-
15 privileged responsive documents, if any, to the extent identified by a search of the
16 files of specific employees and executives that UMG will identify utilizing specific
17 search terms that UMG will identify.

18 **REQUEST FOR PRODUCTION NO. 95:**

19 All documents evidencing, referring or relating to the allegations in paragraph
20 27 of the Complaint that Defendants "refused to exercise their ability to control or
21 supervise infringing uses thereof from which Defendants financially benefit, including
22 by earning revenue from selling advertising keyed to the content of the work selected
23 for viewing, and from the overall increase in user traffic and commercial value of its
24 business and property arising from the 'draw' of infringing copyrighted sound
25 recordings and copyrighted musical compositions.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 95:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects on the grounds that the documents requested are already within Veoh's
4 possession, custody, and control, and therefore equally or more readily available to
5 Veoh than to UMG. UMG objects to this request as vague, ambiguous, and/or
6 argumentative in that Veoh fails to include the term "and/or" which precedes the
7 quotation. UMG further objects to this request on the grounds that the phrase
8 "evidencing, referring or relating to" is vague and ambiguous. UMG further objects
9 that this request is overbroad, unduly burdensome, and seeks documents that are
10 neither relevant to the claims or defenses of any party nor reasonably calculated to
11 lead to the discovery of admissible evidence, in that it seeks documents "referring or
12 relating to" this allegation. UMG further objects to this request on the grounds that it
13 is premature insofar as UMG has not yet been able to identify all of the specific
14 copyrighted sound recordings and copyrighted musical compositions for which UMG
15 alleges infringement in this action as the information to do so is possessed by Veoh
16 and not UMG. As a result, the nonprivileged documents UMG produces in response to
17 this request, if any, should not be construed as a representation by UMG that the
18 works referred to in such documents constitutes a complete list of UMG's copyrighted
19 works that have appeared on Veoh or as a representation that further factual
20 investigation and discovery will not reveal more of UMG's copyrighted works that
21 have appeared on Veoh. UMG further objects to this request to the extent it calls for
22 the production of privileged attorney-client communications, attorney work product,
23 or otherwise privileged or protected material.

24 Subject to and without waiving the foregoing objections, UMG will produce non-
25 privileged responsive documents, if any, to the extent identified by a search of the
26 files of specific employees and executives that UMG will identify utilizing specific
27 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 97:**

2 All documents evidencing, referring or relating to the allegations in paragraph
3 27 of the Complaint that "Defendants have continued to willfully infringe Plaintiffs'
4 rights even after Plaintiffs have notified them that their use of Plaintiffs copyrighted
5 materials violates Plaintiffs' rights under copyright."

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 97:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects on the grounds that the documents requested are already within Veoh's
9 possession, custody, and control, and therefore equally or more readily available to
10 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
11 burdensome, and seeks documents that are neither relevant to the claims or defenses
12 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
13 in that it seeks documents "referring or relating to" this allegation. UMG further
14 objects to this request on the grounds that it is premature insofar as UMG has not yet
15 been able to identify all of the specific works for which UMG alleges infringement in
16 this action as the information to do so is possessed by Veoh and not UMG. As a result,
17 the nonprivileged documents UMG produces in response to this request, if any, should
18 not be construed as a representation by UMG that the works referred to in such
19 documents constitutes a complete list of UMG's copyrighted works that have appeared
20 on Veoh or as a representation that further factual investigation and discovery will not
21 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
22 objects to this request to the extent it calls for the production of privileged attorney-
23 client communications, attorney work product, or otherwise privileged or protected
24 material. UMG further objects to this request on the grounds that the phrase
25 "evidencing, referring or relating to" is vague and ambiguous.

26 Subject to and without waiving the foregoing objections, UMG will produce non-
27 privileged responsive documents, if any, to the extent identified by a search of the
28

1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **REQUEST FOR PRODUCTION NO. 148:**

4 All documents concerning Veoh, including but not limited to, documents
5 indicating your initial awareness of the existence of veoh.com.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO 148:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request is overbroad, unduly burdensome, and seeks documents that
9 are neither relevant to the claims or defenses of any party nor reasonably calculated to
10 lead to the discovery of admissible evidence. UMG further objects to this request as
11 vague and ambiguous as to what constitutes documents "concerning" Veoh. UMG
12 further objects to the extent that this request seeks documents that are not in UMG's
13 possession, custody or control. UMG further objects that the request seeks information
14 that is already in Veoh's possession, custody or control, or reasonably available to
15 Veoh. UMG further objects to this request to the extent it calls for the production of
16 privileged attorney-client communications, attorney work product, or otherwise
17 privileged or protected material. UMG further objects to this request as duplicative of
18 Request for Production No. 7.

19 Subject to and without waiving the foregoing objections, UMG will produce non-
20 privileged responsive documents, if any, to the extent identified by a search of the
21 files of specific employees and executives that UMG will identify utilizing specific
22 search terms that UMG will identify.

23 **REQUEST FOR PRODUCTION NO. 149.**

24 All communications, whether direct or indirect, between you and Veoh.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 149;**

26 UMG incorporates by reference each of its General Objections. UMG objects to
27 this request on the grounds that the documents sought are already in Veoh's

1 possession, custody or control and therefore equally or more readily available to Veoh
2 than to UMG. Moreover, UMG objects to this request on the grounds that the term
3 "indirect" communications is vague and ambiguous. UMG objects that to the extent
4 this request seeks "All Communications" between UMG and Veoh, without limitation
5 as to subject-matter or time, this request is overbroad and unduly burdensome. UMG
6 also objects that this request seeks documents that are neither relevant to the claims or
7 defenses of any party nor reasonably calculated to lead to the discovery of admissible
8 evidence.

9 Subject to and without waiving the foregoing objections, UMG will produce non-
10 privileged responsive documents, if any, to the extent identified by a search of the
11 files of specific employees and executives that UMG will identify utilizing specific
12 search terms that UMG will identify.

13 **REQUEST FOR PRODUCTION NO. 150:**

14 All documents concerning your review of veoh.com.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 150:**

16 UMG incorporates by reference each of its General Objections. UMG objects to
17 this request in that the phrase "your review of veoh.com" is vague, ambiguous, and/or
18 unintelligible. UMG objects that this request is overbroad, unduly burdensome, and
19 seeks documents that are neither relevant to the claims or defenses of any party nor
20 reasonably calculated to lead to the discovery of admissible evidence, in that it seeks
21 all documents "concerning" UMG's "review" of Veoh, without limitation. UMG
22 further objects to this request to the extent it calls for the production of privileged
23 attorney-client communications, attorney work product, or otherwise privileged or
24 protected material.

25 Subject to and without waiving the foregoing objections, UMG will produce non-
26 privileged responsive documents, if any, to the extent identified by a search of the
27

1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **REQUEST FOR PRODUCTION NO. 151:**

4 All documents, including written or recorded speeches, press releases, press
5 statements, and transcriptions and videos concerning any public statements you have
6 made about Veoh, veoh.com, infringement, piracy, anti-piracy, content protection,
7 and/or this action or any related action.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 151:**

9 UMG incorporates by reference each of its General Objections. UMG objects
10 that this request is overbroad, unduly burdensome, and seeks documents that are
11 neither relevant to the claims or defenses of any party nor reasonably calculated to
12 lead to the discovery of admissible evidence. In particular, UMG objects to the extent
13 this request seeks "All documents ... concerning ... veoh.com, infringement, piracy,
14 anti-piracy, content protection, and/or this action or any related action." UMG further
15 objects that the request seeks information that is already in Veoh's possession, custody
16 or control, or reasonably available to Veoh. UMG further objects that this request is
17 vague and ambiguous as to "related action." UMG objects that this request seeks
18 documents that are not in UMG's possession, custody, or control.

19 Subject to and without waiving the foregoing objections, UMG will produce non-
20 privileged responsive documents, if any, to the extent identified by a search of the
21 files of specific employees and executives that UMG will identify utilizing specific
22 search terms that UMG will identify.

23 **REQUEST FOR PRODUCTION NO. 152:**

24 All documents concerning any public statements you have made about any
25 video streaming website or about video streaming websites generally.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 152:**

2 UMG incorporates by reference each of its General Objections. UMG objects
3 that this request is vague and ambiguous, overbroad, unduly burdensome, and that it
4 seeks documents that are neither relevant to the claims or defenses of any party nor
5 reasonably calculated to lead to the discovery of admissible evidence. UMG further
6 objects that this request asks for documents that are not in UMG's possession, custody
7 or control, and requests documents that are already in Veoh's possession, custody or
8 control, or reasonably available to Veoh. UMG objects to this request as vague and
9 ambiguous and/or overbroad and unduly burdensome with respect to its use of the
10 term "video streaming website."

11 Subject to and without waiving the foregoing objections, UMG will produce non-
12 privileged responsive documents, if any, to the extent identified by a search of the
13 files of specific employees and executives that UMG will identify utilizing specific
14 search terms that UMG will identify.

15 **REQUEST FOR PRODUCTION NO. 154:**

16 All documents concerning any and all works owned or controlled by you,
17 uploaded by, or with the authorization of, Plaintiffs to veoh.com.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO 154:**

19 UMG incorporates by reference each of its General Objections. UMG objects
20 that this request is overbroad, unduly burdensome, and that it seeks documents that are
21 neither relevant to the claims or defenses of any party nor reasonably calculated to
22 lead to the discovery of admissible evidence. UMG objects to the request to the extent
23 it calls for a legal conclusion.

24 Subject to and without waiving the foregoing objections, UMG will produce non-
25 privileged responsive documents, if any, to the extent identified by a search of the
26 files of specific employees and executives that UMG will identify utilizing specific
27 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 156:**

2 All documents concerning your knowledge of the availability, exploitation, or
3 inclusion of any works owned or controlled by you, on veoh.com.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO 156:**

5 UMG incorporates by reference each of its General Objections. UMG objects
6 that this request overbroad, unduly burdensome, and that it seeks documents that are
7 neither relevant to the claims or defenses of any party nor reasonably calculated to
8 lead to the discovery of admissible evidence. Additionally, documents relating to
9 UMG's knowledge (as opposed to Veoh's knowledge) are neither relevant to the
10 claims or defenses of any party nor reasonably calculated to lead to the discovery of
11 admissible evidence. Further, Veoh is in a superior position to monitor the posting of
12 copyrighted works on veoh.com. Therefore, UMG objects to this request to the extent
13 that it seeks documents that are in Veoh's possession, custody, or control and which
14 are therefore equally or more readily accessible to Veoh than to UMG. UMG further
15 objects to this request on the grounds that the phrase "availability, exploitation, or
16 inclusion" is vague and ambiguous.

17 Subject to and without waiving the foregoing objections, UMG will produce non-
18 privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 157:**

22 All documents between you and Veoh prior to the commencement of this
23 litigation in which you stated or otherwise gave notice to Veoh that you objected to
24 the availability, exploitation or inclusion of any work owned or controlled by you on
25 veoh.com.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 157:**

2 UMG incorporates by reference each of its General Objections. UMG objects
3 that this request is overbroad, unduly burdensome, and that it seeks documents that are
4 neither relevant to the claims or defenses of any party nor reasonably calculated to
5 lead to the discovery of admissible evidence. UMG further objects on the grounds that
6 the documents requested are already within Veoh's possession, custody, and control,
7 and are therefore equally or more readily available to Veoh than to UMG. UMG
8 objects to this request on the grounds that it is vague and ambiguous as to the term
9 "documents between you and Veoh."

10 Subject to and without waiving the foregoing objections, UMG will produce non-
11 privileged responsive documents, if any, to the extent identified by a search of the
12 files of specific employees and executives that UMG will identify utilizing specific
13 search terms that UMG will identify.

14 **REQUEST FOR PRODUCTION NO. 159:**

15 All documents concerning your decision not to submit a DMCA Notice to Veoh
16 regarding works owned or controlled by you that were available on Veoh.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 159:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that the request is overbroad, unduly burdensome, and that it seeks documents
20 that are neither relevant to the claims or defenses of any party nor reasonably
21 calculated to lead to the discovery of admissible evidence. UMG further objects to this
22 request to the extent it assumes or implies that UMG is in any sense obligated to send
23 notices of copyright infringement to Veoh. UMG further objects to this request as
24 vague and ambiguous as to what constitutes documents "concerning" UMG's decision.
25 UMG further objects to the extent that this request seeks documents that are not in
26 UMG's possession, custody; or control. UMG further objects that the term "DMCA
27 Notices" is vague and ambiguous, and that it calls for a legal conclusion. UMG further
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1 objects to this request to the extent it calls for the production of privileged attorney-
2 client communications, attorney work product, or otherwise privileged or protected
3 material.

4 Subject to and without waiving the foregoing objections, UMG will produce non-
5 privileged responsive documents, if any, to the extent identified by a search of the
6 files of specific employees and executives that UMG will identify utilizing specific
7 search terms that UMG will identify.

8 **REQUEST FOR PRODUCTION NO. 160:**

9 All documents concerning any policy, practice or procedure Plaintiffs have (or
10 have had in the past) that relates in any way to the DMCA, including, but not limited
11 to, the submission of DMCA Notices and any "notice and take down" policies
12 applicable to any internet service offered (either currently or in the past) by Plaintiffs.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 160:**

14 UMG incorporates by reference each of its General Objections. UMG further
15 objects to the request on the ground that "All documents concerning any policy,
16 practice, or procedure Plaintiffs have (or have had in the past) that relates in any way
17 to the DMCA," is vague and ambiguous. UMG further objects that the term "any
18 internet service offered (either currently or in the past) by Plaintiffs" is vague and
19 ambiguous. UMG further objects that the request is overbroad, unduly burdensome,
20 and that it seeks documents that are neither relevant to the claims or defenses of any
21 party nor reasonably calculated to lead to the discovery of admissible evidence. UMG
22 further objects that the term "DMCA Notices" is vague and ambiguous, and that it
23 calls for a legal conclusion. UMG further objects to this request to the extent it calls
24 for the production of privileged attorney-client communications, attorney work
25 product, or otherwise privileged or protected material.

26 Subject to and without waiving the foregoing objections, UMG will produce non-
27 privileged responsive documents, if any, to the extent identified by a search of the
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1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **REQUEST FOR PRODUCTION NO. 163:**

4 All documents concerning market research about veoh.com.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 163:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
8 that it seeks documents that are neither relevant to the claims or defenses of any party
9 nor reasonably calculated to lead to the discovery of admissible evidence. UMG
10 objects to this request on the grounds that the term "market research" is vague,
11 ambiguous, and/or overbroad and unduly burdensome.

12 Subject to and without waiving the foregoing objections, UMG will produce non-
13 privileged responsive documents, if any, to the extent identified by a search of the
14 files of specific employees and executives that UMG will identify utilizing specific
15 search terms that UMG will identify.

16 **REQUEST FOR PRODUCTION NO. 169:**

17 All documents concerning all meetings and communications between you and
18 Veoh in 2007.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 169:**

20 UMG incorporates by reference each of its General Objections. UMG further
21 objects to this request as vague and ambiguous as to what constitutes "documents
22 "concerning" all meetings and communications." UMG further objects to the extent
23 that this request seeks documents that are not in UMG's possession, custody or
24 control. UMG further objects that the request seeks information that is already in
25 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
26 objects to this request to the extent it calls for the production of privileged attorney-

1 client communications, attorney work product, or otherwise privileged or protected
2 material.

3 Subject to and without waiving the foregoing objections, UMG will produce non-
4 privileged responsive documents, if any, to the extent identified by a search of the
5 files of specific employees and executives that UMG will identify utilizing specific
6 search terms that UMG will identify.

7 **REQUEST FOR PRODUCTION NO. 170:**

8 All documents concerning public statements by you concerning this lawsuit,
9 including without limitation the factual basis for the allegations in the complaint and
10 your reasons for filing the lawsuit.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 170:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
14 that it seeks documents that are neither relevant to the claims or defenses of any party
15 nor reasonably calculated to lead to the discovery of admissible evidence. UMG
16 further objects to this request as vague and ambiguous as to what constitutes
17 documents "concerning" public statements. UMG further objects to the extent that this
18 request seeks documents that are not in UMG's possession, custody or control.
19 UMG further objects that the request seeks information that is already in Veoh's
20 possession, custody or control, or reasonably available to Veoh. UMG further objects
21 to this request to the extent it calls for the production of privileged attorney client
22 communications, attorney work product, or otherwise privileged or protected material.
23 Subject to and without waiving the foregoing objections, UMG will produce non-
24 privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 171:**

2 All documents concerning communications between you and any person
3 (including, but not limited to, music publishers, record labels, artists, internet sites),
4 concerning this lawsuit, including without limitation the factual basis for the
5 allegations in the complaint and your reasons for filing the lawsuit.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 171:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
9 that it seeks documents that are neither relevant to the claims or defenses of any party
10 nor reasonably calculated to lead to the discovery of admissible evidence. UMG
11 further objects to this request as vague and ambiguous as to what constitutes
12 "documents "concerning" communications." UMG further objects to the extent that
13 this request seeks documents that are not in UMG's possession, custody or control.
14 UMG objects to this request on the grounds that the term "person" is overbroad,
15 unduly burdensome, and vague and ambiguous. UMG further objects to this request to
16 the extent it calls for the production of privileged attorney-client communications,
17 attorney work product, or otherwise privileged or protected material.
18 Subject to and without waiving the foregoing objections, UMG will produce non-
19 privileged responsive documents, if any, to the extent identified by a search of the
20 files of specific employees and executives that UMG will identify utilizing specific
21 search terms that UMG will identify.

22 **REQUEST FOR PRODUCTION NO. 172:**

23 All documents concerning any agreements, formal or informal, that you have
24 entered into, proposed, considered or negotiated concerning any website, including
25 but not limited to YouTube.com and Bolt.com.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 172:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
4 that it seeks documents that are neither relevant to the claims or defenses of any party
5 nor reasonably calculated to lead to the discovery of admissible evidence. UMG
6 further objects to this request as vague and ambiguous as to what constitutes
7 documents "concerning" any agreements. UMG further objects to the extent that this
8 request seeks documents that are not in UMG's possession, custody or control.

9 UMG further objects to the extent that this request calls for information that is subject
10 to confidentiality agreements between UMG and third parties.

11 Subject to and without waiving the foregoing objections, UMG will produce executed
12 license agreements for music streaming and downloading services after entry by the
13 Court of an appropriate protective order and subject to UMG's obligations under the
14 confidentiality restrictions in those agreements.

15 **REQUEST FOR PRODUCTION NO. 174:**

16 For any response to Veoh's Requests for Admissions to you that is not an
17 unqualified admission, all documents that support your response to such Request.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 174:**

19 UMG incorporates by reference each of its General Objections. UMG also
20 hereby incorporates by reference each of its general and specific objections to Veoh's
21 First Set of Requests for Admissions. UMG further objects that this request is vague
22 and ambiguous, overbroad, unduly burdensome, and that it seeks documents that are
23 neither relevant to the claims or defenses of any party nor reasonably calculated to
24 lead to the discovery of admissible evidence

25 Subject to and without waiving the foregoing objections, UMG will produce non-
26 privileged responsive documents, if any, to the extent identified by a search of the
27

1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **REQUEST FOR PRODUCTION NO. 181:**

4 All documents, including but not limited to contracts, emails, letters,
5 memoranda, and records of telephone or live conversations, that constitute, grant, or
6 memorialize permission by any person, to include Plaintiffs' works in user-generated
7 videos posted online or over the internet.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO 181:**

9 UMG incorporates by reference each of its General Objections. UMG objects
10 that this request is overbroad, unduly burdensome, and seeks documents that are
11 neither relevant to the claims or defenses of any party nor reasonably calculated to
12 lead to the discovery of admissible evidence. UMG further objects to the extent that
13 this request calls for information that is subject to confidentiality agreements between
14 UMG and third parties.

15 Subject to and without waiving the foregoing objections, UMG will produce non-
16 privileged responsive documents, if any, to the extent identified by a search of the
17 files of specific employees and executives that UMG will identify utilizing² II specific
18 search terms that UMG will identify.

19 **REQUEST FOR PRODUCTION NO. 188:**

20 All public statements made by you pertaining to the impact on you, including
21 but not limited to sales and financial impact, of online piracy and/or copyright
22 infringement.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 188:**

24 UMG incorporates by reference each of its General Objections. UMG objects
25 that this request is overbroad, unduly burdensome, and seeks documents that are
26 neither relevant to the claims or defenses of any party nor reasonably calculated to
27 lead to the discovery of admissible evidence. UMG further objects that the request

1 seeks information that is already in Veoh's possession, custody or control, or
2 reasonably available to Veoh.

3 Subject to and without waiving the foregoing objections, UMG will produce non-
4 privileged responsive documents, if any, to the extent identified by a search of the
5 files of specific employees and executives that UMG will identify utilizing specific
6 search terms that UMG will identify.

7 **REQUEST FOR PRODUCTION NO. 189:**

8 All documents pertaining to any public statements made by you pertaining to
9 the impact on you, including but not limited to sales and financial impact, of online
10 piracy and/or copyright infringement.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 189:**

12 UMG incorporates by reference each of its General Objections. UMG objects
13 that this request is overbroad, unduly burdensome, and seeks documents that are
14 neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence. UMG further objects to this request as
16 vague and ambiguous as to what constitutes documents "pertaining to" public
17 statements. UMG further objects to the extent that this request seeks documents that
18 are not in UMG's possession, custody or control.

19 Subject to and without waiving the foregoing objections, UMG will produce non-
20 privileged responsive documents, if any, to the extent identified by a search of the
21 files of specific employees and executives that UMG will identify utilizing specific
22 search terms that UMG will identify.

23 **REQUEST FOR PRODUCTION NO. 204:**

24 Documents sufficient to identify the manner and strategy by which any person
25 or entity, including but not limited to NetReach, conducts viral marketing activities of
26 your copyrighted works.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 204:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request is overbroad, unduly burdensome, and seeks documents that
4 are neither relevant to the claims or defenses of any party nor reasonably calculated to
5 lead to the discovery of admissible evidence. UMG further objects to this request on
6 the grounds that the term "viral marketing" is vague and ambiguous and renders the
7 request overbroad and unduly burdensome, UMG further objects to this request
8 appears to request documents that are not in UMG's possession, custody or control.
9 Subject to and without waiving the foregoing objections, UMG will produce non-
10 privileged responsive documents, if any, to the extent identified by a search of the
11 files of specific employees and executives that UMG will identify utilizing specific
12 search terms that UMG will identify.

13 **REQUEST FOR PRODUCTION NO. 205:**

14 All documents between you and NetReach.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 205:**

16 UMG incorporates by reference each of its General Objections. UMG further
17 objects that this request is overbroad, unduly burdensome, and seeks documents that
18 are neither relevant to the claims or defenses of any party nor reasonably calculated to
19 lead to the discovery of admissible evidence. UMG further objects to this request on
20 the grounds that the term "viral marketing" is vague and ambiguous and renders the
21 request overbroad and unduly burdensome. UMG objects to the term "documents
22 between you and NetReach" as vague, ambiguous, and/or unintelligible.
23 Subject to and without waiving the foregoing objections, UMG will produce non-
24 privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 208:**

2 Documents sufficient to identify any and all reports prepared regarding said
3 viral marketing activities.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 208:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects that this request is overbroad, unduly burdensome, and seeks documents that
7 are neither relevant to the claims or defenses of any party nor reasonably calculated to
8 lead to the discovery of admissible evidence. UMG further objects to this request on
9 the grounds that the term "said viral marketing activities" is vague and ambiguous and
10 renders the request overbroad and unduly burdensome. UMG further objects to this
11 request appears to request documents that are not in UMG's possession, custody or
12 control.

13 Subject to and without waiving the foregoing objections, UMG will produce non-
14 privileged responsive documents, if any, to the extent identified by a search of the
15 files of specific employees and executives that UMG will identify utilizing specific
16 search terms that UMG will identify.

17 **REQUEST FOR PRODUCTION NO. 209:**

18 All documents evidencing, referring or relating to any and all reports and/or
19 memoranda reporting on viral marketing activities relating to your copyrighted works
20 or any artists under contract with you.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 209:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects that this request is overbroad, unduly burdensome, and seeks documents that
24 are neither relevant to the claims or defenses of any party nor reasonably calculated to
25 lead to the discovery of admissible evidence. UMG further objects to this request on
26 the grounds that the terms "viral marketing activities" and "evidencing, referring or
27 relating to" are vague and ambiguous and render the request overbroad and unduly
28

1 burdensome. UMG further objects that this request appears to request documents that
2 are not in UMG's possession, custody or control.

3 Subject to and without waiving the foregoing objections, UMG will produce non-
4 privileged responsive documents, if any, to the extent identified by a search of the
5 files of specific employees and executives that UMG will identify utilizing specific
6 search terms that UMG will identify.

7 **REQUEST FOR PRODUCTION NO. 210:**

8 All documents evidencing, referring or relating to video streaming licenses and
9 agreements for any and all of your copyrighted works.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 210:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects that this request is overbroad, unduly burdensome, and seeks documents that
13 are neither relevant to the claims or defenses of any party nor reasonably calculated to
14 lead to the discovery of admissible evidence. UMG further objects to this request to
15 the extent it requests documents that are not in UMG's possession, custody, or control.
16 UMG further objects to the extent that this request calls for information that is subject
17 to confidentiality agreements between UMG and third parties. UMG further objects to
18 this request on the grounds that the phrase "evidencing, referring or relating to" is
19 vague and ambiguous.

20 Subject to and without waiving the foregoing objections, UMG will produce executed
21 license agreements for music streaming and downloading services after entry by the
22 Court of an appropriate protective order and subject to UMG's obligations under the
23 confidentiality restrictions in those agreements.

24 **REQUEST FOR PRODUCTION NO. 211:**

25 All documents evidencing, referring or relating to digital download licenses and
26 agreements for any and all of your copyrighted works.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 211:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request is overbroad, unduly burdensome, and seeks documents that
4 are neither relevant to the claims or defenses of any party nor reasonably calculated to
5 lead to the discovery of admissible evidence. UMG further objects to this request to
6 the extent it requests documents that are not in UMG's possession, custody, or control.
7 UMG further objects to the extent that this request calls for information that is subject
8 to confidentiality agreements between UMG and third parties. UMG further objects to
9 this request on the grounds that the phrase "evidencing, referring or relating to" is
10 vague and ambiguous.

11 Subject to and without waiving the foregoing objections, UMG will produce executed
12 license agreements for music streaming and downloading services after entry by the
13 Court of an appropriate protective order and subject to UMG's obligations under the
14 confidentiality restrictions in those agreements.

15 **REQUEST FOR PRODUCTION NO. 217:**

16 All documents evidencing, referring or relating to your policies regarding your
17 artists' uploading or posting of your copyrighted works on the internet.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 217:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects that this request is vague and ambiguous, overbroad, unduly burdensome, and
21 that it seeks documents that are neither relevant to the claims or defenses of any party
22 nor reasonably calculated to lead to the discovery of admissible evidence, in that it
23 seeks "All documents evidencing, referring or relating to your policies" regarding
24 postings of UMG's copyrighted works by artists.

25 Subject to and without waiving the foregoing objections, UMG will produce non-
26 privileged responsive documents, if any, to the extent identified by a search of the
27

1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **REQUEST FOR PRODUCTION NO. 220:**

4 All documents produced in UMG Recordings, Inc., et al. v. MySpace, Inc.
5 d/b/a MySpace.com, et al., Case No. CV 06-07361.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 220:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request seeks information that is not relevant to the claims or defenses
9 of any party and is not reasonably calculated to lead to the discovery of admissible
10 evidence. The request is therefore overbroad and unduly burdensome as well.

11 Subject to and without waiving the foregoing objections, UMG will produce non-
12 privileged responsive documents, if any, to the extent identified by a search of the
13 files of specific employees and executives that UMG will identify utilizing specific
14 search terms that UMG will identify.

15 **REQUEST FOR PRODUCTION NO. 221:**

16 All documents produced in UMG Recordings, Inc., et al. v. Grouper Networks,
17 Inc., d/b/a Grouper.com et al., Case No. CV 06-06561.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 221:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects that this request seeks information that is not relevant to the claims or defenses
21 of any party and is not reasonably calculated to lead to the discovery of admissible
22 evidence. The request is therefore overbroad and unduly burdensome as well.

23 Subject to and without waiving the foregoing objections, UMG will produce non-
24 privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 224:**

2 All documents evidencing, referring or relating to any and all of your board
3 minutes referring to this action and/or any other action relating to allegations of
4 copyright infringement on the internet.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 224:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects that this request is overbroad, unduly burdensome, and seeks documents that
8 are neither relevant to the claims or defenses of any party nor reasonably calculated to
9 lead to the discovery of admissible evidence. UMG further objects to this request to
10 the extent it calls for the production of privileged attorney-client communications,
11 attorney work product, or otherwise privileged or protected material. UMG further
12 objects to this request on the grounds that the phrase "evidencing, referring or relating
13 to" is vague and ambiguous.

14 Subject to and without waiving the foregoing objections, UMG will produce non-
15 privileged responsive documents, if any, to the extent identified by a search of the
16 files of specific employees and executives that UMG will identify utilizing specific
17 search terms that UMG will identify.

18 **REQUEST FOR PRODUCTION NO. 225:**

19 All documents evidencing, referring or relating to any and all investigation by
20 you, of Veoh or veoh.com.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 225:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects that this request is overbroad, unduly burdensome, and seeks documents that
24 are neither relevant to the claims or defenses of any party nor reasonably calculated to
25 lead to the discovery of admissible evidence. UMG further objects to this request to
26 the extent it calls for the production of privileged attorney-client communications,
27 attorney work product, or otherwise privileged or protected material. UMG further
28

1 objects to this request on the grounds that the phrase "evidencing, referring or relating
2 to" is vague and ambiguous.

3 Subject to and without waiving the foregoing objections, UMG will produce non-
4 privileged responsive documents, if any, to the extent identified by a search of the
5 files of specific employees and executives that UMG will identify utilizing specific
6 search terms that UMG will identify.

7 **REQUEST FOR PRODUCTION NO. 233:**

8 All documents evidencing, referring or relating to any analysis, investigation,
9 study and/or report relating to music videos posted on veoh.com by members of the
10 public.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 233:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request is overbroad, unduly burdensome, and seeks documents that
14 are neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence. UMG further objects to this request as
16 premature in that it calls for UMG to produce information regarding the factual basis
17 of its claims before UMG has had the opportunity to complete its investigation of the
18 facts or to conduct appropriate discovery into the factual basis of its claims. Moreover,
19 giving an accurate and full response to this request would be impossible at this time
20 given that much of the information about which music videos works have been posted
21 on veoh.com is largely within Veoh's own possession, custody or control. UMG
22 further objects to this request to the extent it requests documents that are not in UMG's
23 possession, custody or control. UMG further objects to this request on the grounds
24 that the phrase "evidencing, referring or relating to" is vague and ambiguous.

25 Subject to and without waiving the foregoing objections, UMG will produce non-
26 privileged responsive documents, if any, to the extent identified by a search of the
27

1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **B. Veoh's Contentions and Points and Authorities**

4 Ninety-one times throughout their written responses to Veoh's Requests for
5 Production of Documents, Plaintiffs qualified their "agreement" to produce documents
6 in such a way as to render the "agreement," and related responses, meaningless.
7 Rather than comply with their discovery obligations under the Federal Rules,
8 Plaintiffs instead attempt to unilaterally limit their obligation to one that is impossible
9 to define and impossible to enforce. Plaintiffs should be compelled to comply with
10 their obligations under the Federal Rules and produce all responsive, non-privileged
11 documents. Alternatively, for each response where such search methodology might
12 be warranted, Plaintiffs should be compelled to identify the custodians whose files
13 Plaintiffs intend to search, and search terms Plaintiffs intend to use. Indeed, this Court
14 has ordered Plaintiffs to provide additional custodians in *UMG Recordings v.*
15 *MySpace, et al.* (Calkins Decl. ¶ 19).

16 **1. Plaintiffs Should Be Compelled to Identify The Custodians and**
17 **Search Terms for Each Request Where Plaintiffs' Proposed**
18 **Search Methodology Might Be Warranted**

19 Peppered throughout Plaintiffs' written responses to Veoh's Requests for
20 Production is the same response designed to create the illusion of cooperation,
21 specifically: "UMG will produce non-privileged responsive documents, if any, to the
22 extent identified by a search of the files of specific employees and executives that
23 UMG will identify utilizing specific search terms that UMG will identify."

24 While Veoh objected to Plaintiffs' blatant attempt to avoid the obligation to
25 produce *all* responsive documents, not just those uncovered through select searches of
26 certain custodians' files using terms chosen by Plaintiffs, Veoh nonetheless, in an
27 effort to resolve the dispute without judicial intervention, agreed to at least review
28

1 Plaintiffs' proposed lists of search terms and custodians to understand the scope and
2 attempt to narrow the dispute. (Calkins Decl., ¶¶ 10-11). While Plaintiffs' counsel
3 reiterated during the meet and confer process the promise to "identify" first set forth in
4 Plaintiffs' written responses, Plaintiffs did not follow through with any "identification"
5 and turned a deaf ear to Veoh's multiple attempts to obtain the information.¹ (Calkins
6 Decl., ¶ 12). Now, two and a half months after Plaintiffs served their written
7 responses, Plaintiffs have still failed to identify a single custodian, identify a single
8 search term, or produce a single document in any reasonable manner.

9 Plaintiffs' responses are at best meaningless, and at worst evasive. Setting aside
10 for the moment that Plaintiffs have yet to produce their first document, Veoh has no
11 way of testing the quality of any production based on the responses given, particularly
12 without the promised identification of custodians and search terms. While Veoh
13 objects to Plaintiffs' proposed approach, Plaintiffs should, as a preliminary matter, be
14 compelled to provide further responses including search terms and custodians to at
15 least permit Veoh to determine the extent further motion practice will be necessary.

16 **2. Plaintiffs Should Produce All Responsive Non-Privileged**
17 **Documents To Requests Where Plaintiffs' Proposed Search**
18 **Methodology is Not Warranted**

19 Interestingly, Plaintiffs give the qualified response of "UMG will produce non-
20 privileged responsive documents, if any, to the extent identified by a search of the
21 files of specific employees and executives that UMG will identify utilizing specific
22 search terms that UMG will identify" even to Requests seeking an undeniably small
23 universe of documents for which "search terms" would not be necessary. (*See e.g.*
24 Request No. 11 requesting "All DMCA Notifications or notices of infringement that

25 ¹ Plaintiffs later demanded that Veoh provide search terms Veoh intended to use and
26 attempted to retroactively condition Plaintiffs' own identification on Veoh's meeting
27 Plaintiffs' demand. Of course there is nothing in Veoh's written responses or the
28 Federal Rules that would obligate Veoh in such a way. Veoh's written responses did
not resemble Plaintiffs', as Veoh committed to produce documents discovered through
a diligent search.

1 you have sent to Veoh," and Request No. 157 requesting "All documents between you
2 and Veoh prior to the commencement of this litigation in which you stated or
3 otherwise gave notice to Veoh that you objected to the availability, exploitation or
4 inclusion of any work owned or controlled by you on veoh.com."). Certainly,
5 devising a list of search terms and potential custodians for such requests is entirely
6 unnecessary and appears to be nothing more than Plaintiffs' attempt to frustrate Veoh's
7 discovery efforts. For all such Requests, Plaintiffs should be compelled to produce all
8 non-privileged, responsive documents instead of hiding behind an unnecessary, delay-
9 inducing, and in all likelihood limiting, search methodology.

10 **C. UMG's Contentions And Points Of Authorities**

11 Veoh's first argument is a red herring that falsely accuses UMG of discovery
12 failures while Veoh tries to ignore its own discovery obligations. Veoh contends that
13 UMG refuses to disclose its methodology for identifying potentially responsive,
14 relevant documents that will be produced (specifically, the identity of employees
15 whose files will be searched and the search methodology used in searching their files).
16 Veoh's contention is false; UMG never refused to provide this information. UMG
17 merely indicated that it would provide that information if Veoh also provided
18 information about its own methodology for identifying potentially responsive,
19 relevant documents that will be produced. Veoh's motion is more than ironic because
20 the information it requests is the precise information it refused to exchange with
21 UMG. Instead, Veoh argues that UMG should disclose how it will collect and
22 produce documents, while Veoh refuses to provide such information.² Veoh's
23 position becomes even more ironic when the Court considers the fact that, unlike
24 Veoh, UMG moved its production forward rapidly notwithstanding the fact that the
25 parties could not agree on disclosure of search methodology. UMG did not wait to

26 _____
27 ² UMG has sought to compel this precise information in UMG's own motion to
28 compel. As UMG has indicated throughout, it will provide information about its own
search methodology, but not in a one-way exchange, as Veoh seems to contemplate.

1 produce the results of its searching. On June 26, 2008, UMG produced more than 1.4
2 million pages of documents to Veoh. Veoh obviously did not even bother to look at
3 UMG’s production. Instead, only one week after receiving this very large production
4 (which Veoh does not even suggest it has reviewed), Veoh sent UMG this motion,
5 contending that UMG’s unreviewed production was insufficient. Unlike UMG, Veoh
6 has not moved forward with meaningful document production. It continues to
7 withhold numerous categories of relevant materials – indeed it has yet to even produce
8 any of its internal email communications, or basic documents about the functions of
9 its website and client software – core materials relevant to UMG’s infringement
10 claims and Veoh’s affirmative defenses.

11 **1. UMG Offered To Exchange Search Methodology, But Veoh**
12 **Refused**

13 Veoh’s motion seeks an order compelling UMG to provide information about
14 how it searched for responsive documents. UMG offered to exchange such
15 information, but it is Veoh, not UMG, that refuses to disclose its search methodology.
16 UMG indicated throughout the meet-and-confer process that it would be willing to
17 mutually discuss the search strategies used to identify potentially relevant, responsive
18 documents. Declaration Of Brian Ledahl In Support Of UMG's Opposition To Veoh's
19 Motion To Compel ("Ledahl Decl."), ¶ 2. UMG continues to believe that this is an
20 appropriate strategy for both parties to provide clarity about what documents will be
21 produced and avoid unnecessary ambiguity about the scope of particular document
22 requests. UMG made clear, however, that such an exchange of information must be
23 mutual. Veoh asks the Court to order that only UMG be required to provide such
24 information. As UMG explained in its own motion, numerous of Veoh’s responses to
25 UMG’s discovery requests provide only a vague assertion that Veoh will provide
26 some unspecified category of materials that Veoh identifies through some unspecified,
27 purportedly “diligent” search. Veoh refuses, however, to provide any information
28

1 about how Veoh purportedly will conduct such a “diligent” search. Ledahl Decl., ¶ 3;
2 *Id.*, Exhibit ("Ex.") 1 (Veoh's Responses to UMG's First Set of RFPs).

3 During the meet and confer process, UMG suggested repeatedly to counsel for
4 Veoh that the parties should exchange information about the specific employees of the
5 respective parties whose files would be searched and the terms used to conduct such
6 searches. *Id.* at ¶ 2. UMG explained that through this process, each party would be
7 able to know what documents would be produced and would not be subject to the
8 other party’s subjective view of relevance. Moreover, such disclosure would allow
9 each party to meaningfully evaluate whether the opposing party had conducted an
10 appropriate search for relevant information. Indeed, Veoh now claims that such
11 information is essential to evaluate UMG’s production. UMG noted during the meet
12 and confer process that MySpace and Grouper both willingly agreed to exchange this
13 information. *Id.* Nonetheless, Veoh persists in its refusal to provide such information
14 about its own production. UMG respectfully submits that Veoh’s request for
15 information about UMG’s search methodology should be denied unless and until
16 Veoh makes a similar disclosure of its own methodology.

17 **2. Veoh’s Demand For Further Production Is Unsupported And**
18 **Unwarranted**

19 Though the focus of its motion in this section is Veoh’s demand that UMG be
20 ordered to disclose its search methodology (addressed above), Veoh also devotes a
21 single paragraph to arguing that UMG should make some further, exhaustive
22 production in response to more than 80 of Veoh’s document requests. Veoh mentions
23 only one of these requests in passing, never offering any meaningful support for its
24 arguments. More importantly, Veoh never explains why UMG’s already extensive
25 production is insufficient. The reason is simple: Veoh made no effort to meaningfully
26 review UMG’s production. Nevertheless, Veoh is apparently satisfied to assert that
27 UMG’s production (again, of more than 1.4 million pages of documents) is
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1 insufficient without bothering even to look at the documents produced.³ As detailed
2 further in the remaining sections of this motion, were Veoh to actually review UMG’s
3 production, it would find that UMG has made an extensive production of relevant
4 materials, including email communications, licensing agreements, copyright
5 registration information, financial records, internal presentations, memoranda, and
6 other documents. Indeed, since Veoh’s discovery requests are largely identical to the
7 document requests propounded by Grouper and MySpace, UMG produced the
8 documents it produced to Grouper and MySpace. However, in order to ensure a good
9 faith search for documents requested by Veoh, UMG voluntarily undertook—at
10 tremendous expense—additional searching for literally hundreds of thousands of
11 pages of documents. Thus, UMG has now produced even more material to Veoh than
12 was produced in the MySpace and Grouper actions.

13 Veoh provides no explanation of what discovery it believes is called for by its
14 requests that has not been provided. It provides no explanation of why discovery it
15 purportedly has not received is relevant, and it provides no explanation of why the
16 need for additional discovery would outweigh the burden on UMG of producing such
17 materials. The reason for Veoh’s failures is simple – it cannot provide any such
18 evidence or argument because it does not even know what it has received.

19 As the Court is well aware, UMG need not either search for or produce
20 absolutely every document that might arguably be responsive to a document request
21 propounded by Veoh. Instead, the Federal Rules contemplate that parties make a
22 “reasonable, diligent, good faith search” for materials. *See Paramount Pictures Corp.*
23 *v. Replay TV, Inc.*, 2002 WL 1315811, *1 (C.D. Cal., Apr. 29, 2002); *see also Treppel*
24 *v. Biovail Corp.*, 233 F.R.D. 363, 374 (S.D.N.Y. 2006) (“[T]here is no obligation on
25 the part of the responding party to examine every scrap of paper in its potentially

26
27 ³ Veoh’s failure to review UMG’s production is confirmed by its inclusion of the false
28 statement in its portion of the Joint Stipulation that “Plaintiffs have yet to produce
their first document.”

1 voluminous files in order to comply with its discovery obligations. Rather, it must
2 conduct a diligent search, which involves developing a reasonably comprehensive
3 search strategy.”). UMG has made such a search. The sufficiency and diligence of
4 UMG’s search for materials is apparent from the extensive production UMG has
5 already made. Nonetheless, Veoh demands that UMG produce every responsive
6 document to its requests.

7 Where a party, such as Veoh here, seeks production of additional discovery
8 (here some unspecified additional discovery) beyond that already produced, it has the
9 burden of showing the need for the additional discovery. This is true even where the
10 materials sought are potentially relevant within the meaning of Federal Rule 26(b).
11 *See Convolv, Inc. v. Compaq Computer Corp.*, 223 F.R.D. 162, 167-68 (S.D.N.Y.
12 2004). In *Convolv*, the court denied a request to compel production of “bills of
13 materials” requested from Compaq even though the Court found that the materials
14 were relevant for purposes of discovery. The Court denied the request for production
15 because there was no showing that these additional materials were needed in light of
16 information already provided in discovery. *Id.* at 168.

17 Here, Veoh has not shown why it needs additional discovery – beyond the
18 production UMG has already provided – in response to the more than 80 requests
19 listed in this section. The mere recitation of document requests is not sufficient to
20 support a motion to compel. Veoh has already received an extensive production of
21 documents in response to its requests. It is not the Court’s responsibility to sift
22 through that production and try to decide if anything further is required. If Veoh has a
23 good faith basis to contend that it has not received necessary, relevant information, it
24 must provide that information to the Court. Veoh has not provided any such
25 information. Thus, its request for further production in this section should be denied.
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1 **III. ISSUE NO. 2 - DOCUMENTS AND INFORMATION REGARDING**
2 **IDENTIFICATION AND OWNERSHIP OF COPYRIGHTS AT ISSUE**

3 **A. Statement of Disputed Interrogatories and Requests For Production**
4 **and Plaintiffs' Responses**

5 **VEOH INTERROGATORY NOS: 1, 2, 3, 7, 23**

6 **INTERROGATORY NO. 1:**

7 Identify all copyrights owned by, or exclusively licensed to, you that you claim
8 Veoh has infringed, and for each, specify whether Veoh's alleged infringement was
9 direct, contributory, or vicarious.

10 **RESPONSE TO INTERROGATORY NO. 1:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects to this interrogatory, which requires UMG to identify which works have been
13 infringed, on the grounds that such request is unduly burdensome and that this
14 information is within the possession, custody, and control of Veoh, and has not yet
15 been produced. In particular, UMG objects that the discovery necessary to determine
16 whether the infringement was direct, contributory, or vicarious, may be within Veoh's
17 possession, custody, or control. In addition, this interrogatory incorrectly assumes
18 that Veoh provides UMG with the ability to comprehensively identify all instances of
19 copyright infringement by and through Veoh. In fact, while Veoh has that ability,
20 UMG does not. Indeed, it is Veoh and not UMG, that possesses the most complete
21 and accurate listing of copyrighted works that have 'been infringed by Veoh. UMG
22 expects that Veoh will take appropriate efforts to identify and retain this information.
23 Since UMG is unable to determine comprehensively which of its copyrights have been
24 infringed by Veoh, information provided by UMG in response to this interrogatory is
25 without waiver of any of UMG's rights and without prejudice to UMG's right to
26 identify additional copyrighted works that have been infringed by Veoh when that
27 information becomes available to UMG.

1 Subject to and without waiving the foregoing objections, UMG responds as
2 follows: With the caveat that UMG's response to this interrogatory is not necessarily
3 exhaustive, UMG will produce, pursuant to Rule 33(d) of the Federal Rules of Civil
4 Procedure, relevant, non-privileged documents showing certain of its copyrighted
5 works that UMG has been able to identify as having been infringed by Veoh for the
6 limited period of time during which UMG performed a limited review of Veoh.
7 Though discovery is ongoing, and reserving its right to supplement its response,
8 pursuant to paragraphs 28-52 of the Complaint, UMG alleges direct, vicarious, and
9 contributory liability as to each of the works identified in response to this
10 Interrogatory.

11 **INTERROGATORY NO. 2:**

12 For each infringement for which you claim Veoh bears contributory or
13 vicarious liability, identify the direct infringement from which the contributory or
14 vicarious liability arises.

15 **RESPONSE TO INTERROGATORY NO. 2:**

16 UMG incorporates by reference each of its General Objections. UMG further
17 objects to this interrogatory, which requires UMG to identify which works have been
18 infringed, on the grounds that such request is unduly burdensome and that this
19 information is within the possession, custody, and control of Veoh, and has not yet
20 been produced. In addition, this interrogatory incorrectly assumes that Veoh provides
21 UMG with the ability to comprehensively identify all instances of copyright
22 infringement by and through Veoh. In fact, while Veoh has that ability, UMG does
23 not. UMG expects that Veoh will take appropriate efforts to identify and retain this
24 information. Since UMG is unable to determine comprehensively which of its
25 copyrights have been infringed by Veoh, information provided by UMG in response
26 to this interrogatory is without waiver of any of UMG's rights and without prejudice to
27 UMG's right to identify additional copyrighted works that have been infringed by
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1 Veoh when that information becomes available to UMG.

2 Subject to and without waiving the foregoing objections, UMG responds as
3 follows: Discovery has just begun, and much of the information needed to respond is
4 within Veoh's possession, custody or control. However, as a preliminary matter,
5 UMG refers Veoh to the facts listed in paragraph 21 of the Complaint filed in this
6 action.

7 **INTERROGATORY NO. 3:**

8 For each direct infringement requested to be identified in Interrogatory No. 2,
9 state all facts on which you base your claim that Veoh bears contributory or vicarious
10 copyright infringement liability for such infringement.

11 **RESPONSE TO INTERROGATORY NO. 3:**

12 UMG incorporates by reference each of its General Objections, as well as its
13 objections to Veoh's Interrogatory No. 2. UMG objects to this interrogatory on the
14 grounds that it is premature in that it calls for UMG to produce information regarding
15 the factual basis of its claims before UMG has had the opportunity to complete its
16 investigation of the facts or to conduct appropriate discovery into the factual basis of
17 its claims. Giving an accurate and full response to this interrogatory would be
18 impossible at this time given that much of the information about which specific works
19 have been infringed by Veoh is largely within Veoh's own possession, custody and
20 control, and has not yet been produced. Finally, the instruction to "state all facts" is
21 overbroad and unduly burdensome.

22 Subject to and without waiving the foregoing objections, UMG responds as
23 follows: Discovery has just begun, and much of the information needed to respond is
24 within Veoh's possession, custody or control. However, as a preliminary matter,
25 UMG refers Veoh to the facts listed in paragraph 21 of the Complaint filed in this
26 action.

1 **INTERROGATORY NO. 7:**

2 Identify all litigation involving copyright rights to which you have been a party.

3 **RESPONSE TO INTERROGATORY NO. 7:**

4 UMG incorporates by reference each of its General Objections. UMG further
5 objects that the interrogatory is vague and ambiguous as to the phrase "all litigation
6 involving copyright rights." UMG objects that the discovery sought is overly broad
7 and unduly burdensome. UMG further objects that this interrogatory seeks
8 information that is neither relevant to the parties' claims or defenses nor reasonably
9 calculated to lead to the discovery of admissible evidence. UMG further objects that
10 the definition of "identify" is unduly burdensome and UMG specifically objects to this
11 definition to the extent it seeks information protected by the attorney-client privilege.
12 Such information will not be produced.

13 Subject to and without waiving the foregoing objections, UMG identifies the
14 following cases as involving the unauthorized use of UMG's copyrighted works by so-
15 called "video sharing sites":

- 16 • *UMG Recordings, Inc. et al. v. Bolt, Inc. et al.*, C.D. Cal. Case No. CV
17 06-0657 AHM (AJWx);
- 18 • *UMG Recordings, Inc., et al. v. MySpace, .Inc. d/b/a MySpace.com, et*
19 *al.*, C.D. Cal. Case No. CV 06-07361 AHM (AJWx);
- 20 • *UMG Recordings, Inc., et al. v. Grouper Networks, Inc., d/b/a*
21 *Grouper.com et al.*, C.D. Cal. Case No. CV 06-06561 AHM (AJWx); and
- 22 • *UMG Recordings, Inc., et al v. DivX Networks, Inc.*, C.D. Cal. Case No.
23 CV 07-06835 AHM (AJWx).

24 **INTERROGATORY NO. 23:**

25 Describe in detail each instance in which any person has questioned or disputed
26 your rights, ownership, co-ownership, administration or control of any of the allegedly
27 infringed works for which you seek relief in this action.

1 **RESPONSE TO INTERROGATORY NO. 23:**

2 UMG incorporates by reference each of its General Objections. UMG objects to
3 this interrogatory which requires UMG to identify which of these works has been
4 infringed, and for which UMG seeks relief in this action, on the grounds that such
5 request is unduly burdensome and that this information is within the possession,
6 custody, and control of Veoh. UMG has not yet identified every copyrighted work for
7 which it will seek relief in this lawsuit. Indeed, it is Veoh and not UMG, that
8 possesses the most complete and accurate listing of copyrighted works that have been
9 infringed by Veoh. UMG expects that Veoh will take appropriate efforts to identify
10 and retain this information. UMG further objects to this interrogatory on the grounds
11 that it is unduly burdensome, overbroad, and seeks information neither relevant to the
12 subject matter of this action nor reasonably calculated to lead to the discovery of
13 admissible evidence insofar as whether or not any "person" {a term which is also so
14 broad that it renders this interrogatory independently unreasonable) has in the past
15 disputed UMG's ownership, co-ownership, administration or control of, or other rights
16 to, any copyrighted work for which UMG seeks relief in this lawsuit is irrelevant to
17 the claims or defenses of the parties in this action. UMG further objects to the
18 definition of "persons" as overly broad and unduly burdensome.

19 **VEOH REQUEST NOS.: 1-6, 26, 43-44, 47-51, 64-66, 67, 69, 179-180, 234**

20 **REQUEST FOR PRODUCTION NO. 1:**

21 Samples of all copyrighted works for which you claim infringement in this
22 action.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects that this request is overbroad and unduly burdensome. UMG further objects to
26 this request on the grounds that it is premature insofar as UMG has not yet been able
27 to identify all of the specific works for which UMG alleges infringement in this action

1 as the information to do so is possessed by Veoh and not UMG. UMG further objects
2 to the term "samples" as vague and ambiguous. UMG further objects that the
3 documents sought are equally available to Veoh as they are to UMG. UMG further
4 objects to a request by a copyright infringer for additional copies of the works it has
5 already infringed. UMG further objects to this request as duplicative of Request for
6 Production No. 179.

7 **REQUEST FOR PRODUCTION NO. 2:**

8 All documents concerning the allegedly infringed works for which you seek
9 relief in this action.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects that this request seeks information that is not relevant to the claims or defenses
13 of any party and is not reasonably calculated to lead to the discovery of admissible
14 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
15 further objects to this request on the grounds that it is premature insofar as UMG has
16 not yet been able to identify all of the specific works for which UMG alleges
17 infringement in this action as the information to do so is possessed by Veoh and not
18 UMG. As a result, the nonprivileged documents UMG produces in response to this
19 request, if any, should not be construed as a representation by UMG that the works
20 referred to in such documents constitutes a complete list of UMG's copyrighted works
21 that have appeared on Veoh or as a representation that further factual investigation
22 and discovery will not reveal more of UMG's copyrighted works that have appeared
23 on Veoh. UMG further objects that the request is vague and ambiguous as to what
24 constitutes documents "concerning" the allegedly infringing works. UMG further
25 objects to the extent that this request seeks documents that are not in UMG's
26 possession, custody or control, Subject to and without waiving the foregoing
27 objections, UMG will produce imaged files of its copyright registrations and/or a list

1 of such copyrights.

2 **REQUEST FOR PRODUCTION NO. 3:**

3 All certificates of copyright registrations for the allegedly infringed works for
4 which you seek relief in this action.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects to this request on the grounds that it is premature insofar as UMG has not yet
8 been able to identify all of the specific works for which UMG alleges infringement in
9 this action as the information to do so is possessed by Veoh and not UMG. As a result,
10 the nonprivileged documents UMG produces in response to this request, if any, should
11 not be construed as a representation by UMG that the works referred to in such
12 documents constitutes a complete list of UMG's copyrighted works that have appeared
13 on Veoh or as a representation that further factual investigation and discovery will not
14 reveal more of UMG's copyrighted works that have appeared on Veoh.

15 Subject to and without waiving the foregoing objections, UMG will produce
16 imaged files of its copyright registrations and/or a list of such copyrights.

17 **REQUEST FOR PRODUCTION NO. 4:**

18 All documents concerning any communications between you and the United
19 States Copyright Office concerning the allegedly infringed works for which you seek
20 relief in this action, including, but not limited to, all applications to register such
21 works.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects to this request on the grounds that it is premature insofar as UMG has not yet
25 been able to identify all of the specific works for which UMG alleges infringement in
26 this action as the information to do so is possessed by Veoh and not UMG. As a result,
27 the nonprivileged documents UMG produces in response to this request, if any, should
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1 not be construed as a representation by UMG that the works referred to in such
2 documents constitutes a complete list of UMG's copyrighted works that have appeared
3 on Veoh or as a representation that further factual investigation and discovery will not
4 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
5 objects that the request is vague and ambiguous as to what constitutes documents
6 "concerning" these communications. UMG further objects to the extent that this
7 request seeks documents that are not in UMG's possession, custody or control. UMG
8 further objects that this request is overbroad, unduly burdensome, and seeks
9 documents that are neither relevant to the claims or defenses of any party nor
10 reasonably calculated to lead to the discovery of admissible evidence.

11 Subject to and without waiving the foregoing objections, UMG will produce
12 imaged files of its copyright registrations and/or a list of such copyrights.

13 **REQUEST FOR PRODUCTION NO. 5:**

14 All documents concerning any communications between you and any
15 government agency concerning the allegedly infringed works for which you seek
16 relief in this action, including, but not limited to, all applications to register such
17 works.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects to this request on the grounds that it is premature insofar as UMG has not yet
21 been able to identify all of the specific works for which UMG alleges infringement in
22 this action as the information to do so is possessed by Veoh and not UMG. As a result,
23 the nonprivileged documents UMG produces in response to this request, if any, should
24 not be construed as a representation by UMG that the works referred to in such
25 documents constitutes a complete list of UMG's copyrighted works that have appeared
26 on Veoh or as a representation that further factual investigation and discovery will not
27 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
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1 objects to this request as vague and ambiguous as to what constitutes documents
2 "concerning" these communications. UMG further objects to the extent that this
3 request seeks documents that are not in UMG's possession, custody or control. UMG
4 further objects to this request seeks information that is not relevant to the claims or
5 defenses of any party and is not reasonably calculated to lead to the discovery of
6 admissible evidence.

7 Subject to and without waiving the foregoing objections, UMG will produce
8 imaged files of its copyright registrations and/or a list of such copyrights.

9 **REQUEST FOR PRODUCTION NO. 6:**

10 All documents concerning assignments or licenses of copyrights claimed by
11 you in this action.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

13 UMG incorporates by reference each of its General Objections. UMG objects to
14 this request as overbroad and unduly burdensome in seeking documents that are not
15 relevant to the claims and defenses in this action, nor reasonably calculated to lead to
16 the discovery of admissible evidence. UMG further objects to this request on the
17 grounds that it is premature insofar as UMG has not yet been able to identify all of the
18 specific copyrights for which UMG alleges infringement in this action as the
19 information to do so is possessed by Veoh and not UMG. As a result, the
20 nonprivileged documents UMG produces in response to this request, if any, should
21 not be construed as a representation by UMG that the works referred to in such
22 documents constitutes a complete list of UMG's copyrighted works that have appeared
23 on Veoh or as a representation that further factual investigation and discovery will not
24 reveal more of UMG's copyrighted works that have appeared on Veoh. Moreover,
25 giving an accurate and full response to this request would be impossible at this time
26 given that much of the information about which specific works have been infringed by
27 Veoh is largely within Veoh's own possession, custody or control. UMG further

1 objects to this request as vague and ambiguous as to what constitutes documents
2 "concerning" assignments or licenses of these copyrights. UMG further objects to the
3 extent that this request seeks documents that are not in UMG's possession, custody or
4 control.

5 **REQUEST FOR PRODUCTION NO. 26:**

6 All documents concerning direct infringements of your copyrights claimed in
7 this action, for which you allege Veoh is indirectly liable.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

9 UMG incorporates by reference each of its General Objections, UMG' further
10 objects to this request to the extent it calls for the production of privileged attorney-
11 client communications, attorney work product, or otherwise privileged or protected
12 material. UMG further objects that the request seeks information that is already in
13 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
14 objects to this request as vague and ambiguous as to what constitutes documents
15 "concerning" these violations. UMG further objects to the extent that this request
16 seeks documents that are not in UMG's possession, custody or control. UMG further
17 objects to this request on the grounds that it is premature insofar as UMG has not yet
18 been able to identify all of the specific works for which UMG alleges infringement in
19 this action as the information to do so is possessed by Veoh and not UMG. As a result,
20 the nonprivileged documents UMG produces in response to this request, if any, should
21 not be construed as a representation by UMG that the works referred to in such
22 documents constitutes a complete list of UMG's copyrighted works that have appeared
23 on Veoh or as a representation that further factual investigation and discovery will not
24 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
25 objects that this request calls for a legal conclusion.

26 Subject to and without waiving the foregoing objections, UMG will produce
27 non-privileged responsive documents, if any, to the extent identified by a search of the
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1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

4 UMG incorporates by reference each of its General Objections. UMG further
5 objects that this request is overbroad, unduly burdensome, and seeks documents that
6 are neither relevant to the claims or defenses of any party nor reasonably calculated to
7 lead to the discovery of admissible evidence. The burden of production in response to
8 these requests greatly outweighs the potential relevance, if any, of the requested
9 material. UMG further objects to this request on the grounds that it is premature
10 insofar as UMG has not yet been able to identify all of the specific works for which
11 UMG alleges infringement in this action as the information to do so is possessed by
12 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
13 response to this request, if any, should not be construed as a representation by UMG
14 that the works referred to in such documents constitutes a complete list of UMG's
15 copyrighted works that have appeared on Veoh or as a representation that further
16 factual investigation and discovery will not reveal more of UMG's copyrighted works
17 that have appeared on Veoh. UMG further objects to this request on the grounds that
18 the phrase "evidencing, referring or relating to" is vague and ambiguous and that this
19 request as a whole is vague, ambiguous, and/or unintelligible. UMG further objects to
20 the extent that this request seeks documents that are not in UMG's possession, custody
21 or control.

22 **REQUEST FOR PRODUCTION NO. 44:**

23 All documents concerning ownership of, or claims of rights in, all of the
24 allegedly infringed works in this action.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

26 UMG incorporates by reference each of its General Objections. UMG further
27 objects that this request is overbroad, unduly burdensome, and seeks documents that
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1 are neither relevant to the claims or defenses of any party nor reasonably calculated to
2 lead to the discovery of admissible evidence. The burden of production in response to
3 these requests greatly outweighs the potential relevance, if any, of the requested
4 material. UMG further objects to this request on the grounds that it is premature
5 insofar as UMG has not yet been able to identify all of the specific works for which
6 UMG alleges infringement in this action as the information to do so is possessed by
7 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
8 response to this request, if any, should not be construed as a representation by UMG
9 that the works referred to in such documents constitutes a complete list of UMG's
10 copyrighted works that have appeared on Veoh or as a representation that further
11 factual investigation and discovery will not reveal more of UMG's copyrighted works
12 that have appeared on Veoh. UMG further objects that the request is vague and
13 ambiguous. UMG further objects to the extent that this request seeks documents that
14 are not in UMG's possession, custody or control.

15 **REQUEST FOR PRODUCTION NO. 47:**

16 All documents concerning content available on Veoh that you claim infringes
17 your copyrights, including, but not limited to, all screenshots reflecting the availability
18 of such content on Veoh.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

20 UMG incorporates by reference each of its General Objections. UMG further
21 objects to this request on the grounds that it is premature insofar as UMG has not yet
22 been able to identify all of the specific works for which UMG alleges infringement in
23 this action as the information to do so is possessed by Veoh and not UMG. As a result,
24 the nonprivileged documents UMG produces in response to this request, if any, should
25 not be construed as a representation by UMG that the works referred to in such
26 documents constitutes a complete list of UMG's copyrighted works that have appeared
27 on Veoh or as a representation that further factual investigation and discovery will not
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1 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
2 objects that the request is vague and ambiguous as to what constitutes documents
3 "concerning" content available on Veoh. UMG further objects to the extent that this
4 request seeks documents that are not in UMG's possession, custody or control. UMG
5 further objects to this request to the extent it calls for the production of privileged
6 attorney-client communications, attorney work product, or otherwise privileged or
7 protected material.

8 Subject to and without waiving the foregoing objections, UMG will produce
9 relevant, non-privileged evidence collected regarding Veoh for the limited period of
10 time during which UMG performed a limited review of Veoh.

11 **REQUEST FOR PRODUCTION NO. 48:**

12 All deposit copies provided to the Copyright Office of the Library of Congress
13 of the copyrighted works for which you claim infringement in this action.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects that this request seeks information that is not relevant to the claims or defenses
17 of any party and is not reasonably calculated to lead to the discovery of admissible
18 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
19 further objects to this request on the grounds that it is premature insofar as UMG has
20 not yet been able to identify all of the specific works for which UMG alleges
21 infringement in this action as the information to do so is possessed by Veoh and not
22 UMG. As a result, the nonprivileged documents UMG produces in response to this
23 request, if any, should not be construed as a representation by UMG that the works
24 referred to in such documents constitutes a complete list of UMG's copyrighted works
25 that have appeared on Veoh or as a representation that further factual investigation
26 and discovery will not reveal more of UMG's copyrighted works that have appeared
27 on Veoh. UMG objects that the documents sought are equally available to Veoh as to
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1 UMG.

2 **REQUEST FOR PRODUCTION NO. 49:**

3 All documents concerning ownership at any time of the copyrighted works for
4 which you claim infringement in this action, including documents between you and
5 any person concerning any questions, uncertainty or disputes over your ownership, co-
6 ownership, administration, control of, or other rights to, any of the allegedly
7 infringing works.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects that this request is overbroad, unduly burdensome, and seeks documents that
11 are neither relevant to the claims or defenses of any party nor reasonably calculated to
12 lead to the discovery of admissible evidence. UMG further objects to this request 2\$
13 as vague and ambiguous as to what constitutes documents "concerning" ownership.

14 UMG further objects to the extent that this request seeks documents that are not
15 in UMG's possession, custody or control. UMG further objects to this request on the
16 grounds that it is premature insofar as UMG has not yet been able to identify all of the
17 specific works for which UMG alleges infringement in this action as the information
18 to do so is possessed by Veoh and not UMG. As a result, the nonprivileged documents
19 UMG produces in response to this request, if any, should not be construed as a
20 representation by UMG that the works referred to in such documents constitutes a
21 complete list of UMG's copyrighted works that have appeared on Veoh or as a
22 representation that further factual investigation and discovery will not reveal more of
23 UMG's copyrighted works that have appeared on Veoh. UMG further objects to this
24 request to the extent it calls for the production of privileged attorney-client
25 communications, attorney work product, or otherwise privileged or protected material.

26 **REQUEST FOR PRODUCTION NO. 50:**

27 All documents concerning methods by which you obtained copies of allegedly
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1 infringing works that you claim were available through the Veoh.com website.

2 **RESPONSE TO REQUEST FOR PRODUCTION NO. 50.**

3 UMG incorporates by reference each of its General Objections. UMG further
4 objects that this request is overbroad, unduly burdensome, and seeks documents that
5 are neither relevant to the claims or defenses of any party nor reasonably calculated to
6 lead to the discovery of admissible evidence. UMG further objects to this request as
7 vague and ambiguous in its use of the term "copies," "methods," and as to what
8 constitutes documents "concerning" such "methods." UMG further objects to this
9 request on the grounds that it is premature insofar as UMG has not yet been able to
10 identify all of the specific works for which UMG alleges infringement in this action as
11 the information to do so is possessed by Veoh and not UMG. As a result, the
12 nonprivileged documents UMG produces in response to this request, if any, should
13 not be construed as a representation by UMG that the works referred to in such
14 documents constitutes a complete list of UMG's copyrighted works that have appeared
15 on Veoh or as a representation that further factual investigation and discovery will not
16 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
17 objects to this request to the extent it calls for the production of privileged attorney-
18 client communications, attorney work product, or otherwise privileged or protected
19 material.

20 **REQUEST FOR PRODUCTION NO. 51:**

21 All documents concerning claims of copyright infringement asserted against
22 you.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 51:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects that this request is overbroad, unduly burdensome, and seeks documents that
26 are neither relevant to the claims or defenses of any party nor reasonably calculated to
27 lead to the discovery of admissible evidence. Any purported infringement by UMG or
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1 UMG artists is not the subject of this litigation. UMG further objects to this request as
2 vague and ambiguous as to what constitutes documents "concerning" claims of
3 copyright infringement. UMG further objects to the extent that this request seeks
4 documents that are not in UMG's possession, custody or control. UMG further objects
5 to this request to the extent it calls for the production of privileged attorney-client
6 communications, attorney work product, or otherwise privileged or protected material.

7 **REQUEST FOR PRODUCTION NO. 64:**

8 All documents evidencing, referring or relating to your allegation in paragraph
9 8 of the Complaint that "UMGR owns copyrights in ... the 'copyrighted sound
10 recordings' for which UMGR has obtained or has applied for Certificates of Copyright
11 Registration issued by the Register of Copyrights," for each of the copyrighted sound
12 recordings for which you claim infringement in this action.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 64:**

14 UMG incorporates by reference each of its General Objections. UMG further
15 objects that this request is overbroad, unduly burdensome, and seeks documents that
16 are neither relevant to the claims or defenses of any party nor reasonably calculated to
17 lead to the discovery of admissible evidence, in that it seeks documents "referring or
18 relating to" this allegation. UMG further objects that this request is overbroad, unduly
19 burdensome, and seeks documents that are neither relevant to the claims or defenses
20 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
21 in that it seeks documents "referring or relating to" this allegation. UMG further
22 objects to this request on the grounds that it is premature insofar as UMG has not yet
23 been able to identify all of the specific copyrighted sound recordings for which UMG
24 alleges infringement in this action as the information to do so is possessed by Veoh
25 and not UMG. As a result, the nonprivileged documents UMG produces in response to
26 this request, if any, should not be construed as a representation by UMG that the
27 works referred to in such documents constitutes a complete list of UMG's copyrighted
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1 works that have appeared on Veoh or as a representation that further factual
2 investigation and discovery will not reveal more of UMG's copyrighted works that
3 have appeared on Veoh. UMG further objects to this request to the extent it calls for
4 the production of privileged attorney-client communications, attorney work product,
5 or otherwise privileged or protected material. UMG further objects to this request on
6 the grounds that the phrase "evidencing, referring or relating to" is vague and
7 ambiguous. UMG further objects to this request as duplicative of Request for
8 Production No. 56.

9 Subject to and without waiving the foregoing objections, UMG will produce
10 non-privileged responsive documents, if any, to the extent identified by a search of the
11 files of specific employees and executives that UMG will identify utilizing specific
12 search terms that UMG will identify.

13 **REQUEST FOR PRODUCTION NO. 65:**

14 All documents identifying all persons who have any ownership interest in the
15 copyrighted sound recordings for which you claim infringement in this action.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 65:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects that this request is overbroad, unduly burdensome, and seeks documents that
19 are neither relevant to the claims or defenses of any party nor reasonably calculated to
20 lead to the discovery of admissible evidence. UMG objects to this request on the
21 grounds that "any ownership interest" is vague, ambiguous, overbroad, and unduly
22 burdensome. UMG further objects to this request on the grounds that it is premature
23 insofar as UMG has not yet been able to identify all of the specific works for which
24 UMG alleges infringement in this action as the information to do so is possessed by
25 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
26 response to this request, if any, should not be construed as a representation by UMG
27 that the works referred to in such documents constitutes a complete list of UMG's
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1 copyrighted works that have appeared on Veoh or as a representation that further
2 factual investigation and discovery will not reveal more of UMG's copyrighted works
3 that have appeared on Veoh.

4 **REQUEST FOR PRODUCTION NO. 66:**

5 All documents evidencing, referring or relating to your allegation in paragraph
6 9 of the Complaint that "UMGR has the exclusive rights ... to reproduce the
7 copyrighted sound recordings in copies or phonorecords; to prepare derivative
8 audiovisual works based upon the copyrighted sound recordings; to distribute copies
9 or phonorecords of the copyrighted sound recordings to the public; and to perform the
10 copyrighted sound recordings publicly by means of a digital audio transmission," for
11 each of the copyrighted sound recordings for which you claim infringement in this
12 action.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 66:**

14 UMG incorporates by reference each of its General Objections. UMG further
15 objects that this request is overbroad, unduly burdensome, and seeks documents that
16 are neither relevant to the claims or defenses of any party nor reasonably calculated to
17 lead to the discovery of admissible evidence, in that it seeks documents "referring or
18 relating to" this allegation. UMG further objects to this request on the grounds that it
19 is premature insofar as UMG has not yet been able to identify all of the specific
20 copyrighted sound recordings for which UMG alleges infringement in this action as
21 the information to do so is possessed by Veoh and not UMG. As a result, the
22 nonprivileged documents UMG produces in response to this request, if any, should
23 not be construed as a representation by UMG that the works referred to in such
24 documents constitutes a complete list of UMG's copyrighted works that have appeared
25 on Veoh or as a representation that further factual investigation and discovery will not
26 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
27 objects to this request to the extent that it seeks documents already within Veoh's
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1 possession, custody, or control, and therefore equally or more readily available to
2 Veoh than to UMG. UMG further objects to this request to the extent it calls for the
3 production of privileged attorney-client communications, attorney work product, or
4 otherwise privileged or protected material. UMG further objects to this request on the
5 grounds that the phrase "evidencing, referring or relating to" is vague and ambiguous.
6 UMG further objects to this request on the grounds that it seeks the production legal
7 authorities, for example, treatises, case law, and the like which are equally available to
8 Veoh as to UMG.

9 Subject to and without waiving the foregoing objections, UMG refers Veoh to
10 17 U.S.C. § 106.

11 **REQUEST FOR PRODUCTION NO. 67:**

12 All documents evidencing, referring or relating to your allegation in paragraph
13 10 of the Complaint that "UMC, SOU, UPIP, RMI, and MGB, Z-Tunes, and MGB
14 UK own (in whole or in part) copyrights in" the "copyrighted musical compositions,"
15 for each of the copyrighted musical compositions for which you claim infringement in
16 this action.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 67:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that this request is overbroad, unduly burdensome, and seeks documents that
20 are neither relevant to the claims or defenses of any party nor reasonably calculated to
21 lead to the discovery of admissible evidence, in that it seeks documents "referring or
22 relating to" this allegation. UMG further objects to this request on the grounds that it
23 is premature insofar as UMG has not yet been able to identify all of the specific
24 copyrighted musical compositions for which UMG alleges infringement in this action
25 as the information to do so is possessed by Veoh and not UMG. As a result, the
26 nonprivileged documents UMG produces in response to this request, if any, should
27 not be construed as a representation by UMG that the works referred to in such
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1 documents constitutes a complete list of UMG's copyrighted works that have appeared
2 on Veoh or as a representation that further factual investigation and discovery will not
3 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
4 objects to this request to the extent it calls for the production of privileged attorney-
5 client communications, attorney work product, or otherwise privileged or protected
6 material. UMG further objects to this request on the grounds that the phrase
7 "evidencing, referring or relating to" is vague and ambiguous.

8 Subject to and without waiving the foregoing objections, UMG will produce
9 imaged files of its copyright registrations and/or a list of such copyrights.

10 **REQUEST FOR PRODUCTION NO. 69:**

11 All documents identifying all persons who have any ownership interest in the
12 copyrighted musical compositions for which you claim infringement in this action.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 69:**

14 UMG incorporates by reference each of its General Objections. UMG further
15 objects that this request is overbroad, unduly burdensome, and seeks documents that
16 are neither relevant to the claims or defenses of any party nor reasonably calculated to
17 lead to the discovery of admissible evidence. UMG further objects to this request on
18 the grounds that it is premature insofar as UMG has not yet been able to identify all of
19 the specific copyrighted musical compositions for which UMG alleges infringement in
20 this action as the information to do so is possessed by Veoh and not UMG. As a result,
21 the nonprivileged documents UMG produces in response to this request, if any, should
22 not be construed as a representation by UMG that the works referred to in such
23 documents constitutes a complete list of UMG's copyrighted works that have appeared
24 on Veoh or as a representation that further factual investigation and discovery will not
25 reveal more of UMG's copyrighted works that have appeared on Veoh.

26 Subject to and without waiving the foregoing objections, UMG will produce
27 imaged files of its copyright registrations and/or a list of such copyrights.

1 **REQUEST FOR PRODUCTION NO. 179:**

2 A digital copy of all versions of copyrighted works claimed by you in this
3 action.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 179:**

5 UMG incorporates by reference each of its General Objections. UMG objects
6 that this request is overbroad, unduly burdensome, and seeks documents that are
7 neither relevant to the claims or defenses of any party nor reasonably calculated to
8 lead to the discovery of admissible evidence. UMG further objects that the request is
9 vague and ambiguous in that it purports to seek digital copies of compositions.

10 UMG further objects to this request on the grounds that it is premature insofar
11 as UMG has not yet been able to identify all of the specific works for which UMG
12 alleges infringement in this action as the information to do so is possessed by Veoh
13 and not UMG. As a result, the nonprivileged documents UMG produces in response to
14 this request, if any, should not be construed as a representation by UMG that the
15 works referred to in such documents constitutes a complete list of UMG's copyrighted
16 works that have appeared on Veoh or as a representation that further factual
17 investigation and discovery will not reveal more of UMG's copyrighted works that
18 have appeared on Veoh. UMG further objects to this request as duplicative of Request
19 for Production No. 1. Finally, UMG objects that this request seeks evidence which is
20 equally available to Veoh as to UMG.

21 **REQUEST FOR PRODUCTION NO. 180:**

22 All documents constituting a contract, agreement, or deal of any kind, with the
23 artists who perform any work for which you allege infringement and seek relief in this
24 action.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 180:**

26 UMG incorporates by reference each of its General Objections. UMG objects
27 that this request is overbroad, unduly burdensome, and seeks documents that are
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1 neither relevant to the claims or defenses of any party nor reasonably calculated to
2 lead to the discovery of admissible evidence. UMG further objects to this request to
3 the extent it seeks a legal conclusion. UMG further objects to the extent that this
4 request calls for information that is subject to confidentiality agreements between
5 UMG and third parties.

6 **REQUEST FOR PRODUCTION NO. 234:**

7 All documents evidencing, referring or relating to actual or threatened litigation
8 concerning alleged copyright infringement by you, including without limitation any
9 cease and desist letters, take down notices or other correspondence relating to such
10 threatened or actual litigation, and all pleadings, briefs, discovery responses,
11 declarations and affidavits filed or served by you in any such legal proceeding.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 234:**

13 UMG incorporates by reference each of its General Objections. UMG further
14 objects that this request is overbroad, unduly burdensome, and seeks documents that
15 are neither relevant to the claims or defenses of any party nor reasonably calculated to
16 lead to the discovery of admissible evidence. Any purported infringement by UMG,
17 UMG Artists, and/or UMG's actions to prevent such infringement, are not the subject
18 of this litigation. UMG further objects to this request to the extent it requests
19 documents that are not in UMG's possession, custody or control. UMG further objects
20 to this request to the extent it calls for the production of privileged attorney-client
21 communications, attorney work product, or otherwise privileged or protected material.
22 UMG further objects to this request on the grounds that the phrase "evidencing,
23 referring or relating to" is vague and ambiguous.

24 **B. Veoh's Contentions and Points and Authorities**

25 Plaintiffs refuse to provide information and documents relating to discovery as
26 basic as the identification and ownership of the copyrights at issue. The law is clear
27

1 that Plaintiffs must identify and produce, all documents and information identifying,
2 and establishing Plaintiffs' ownership of the works claimed by Plaintiffs in this action.

3 **1. Plaintiffs Must Respond Fully to All Interrogatories and**
4 **Provide All Documents Relating to Identification of the Works**
5 **At Issue.**

6 Plaintiffs refuse to respond to interrogatories and provide all documents and
7 things going to such fundamental issues as the identification and chain of title, of the
8 actual works and copyrights purportedly at issue. Plaintiffs object that the
9 interrogatories are "unduly burdensome" (*see e.g.* Plaintiffs' Response to Interrogatory
10 Nos. 1 – 3) and that the Requests are "premature insofar as UMG has not yet been
11 able to identify all of the specific works for which UMG alleges infringement in this
12 action." Plaintiffs then attempt to excuse their failure asserting, incorrectly, that the
13 "information to do so is possessed by Veoh and not UMG." (*See e.g.* Plaintiffs'
14 Response to Requests Nos. 1-5). Surely Plaintiffs are best equipped to identify their
15 own alleged works, but Plaintiffs argue that Veoh should somehow know which
16 works Plaintiffs believe infringe one of Plaintiffs' "thousands" of copyrights. This is
17 an improper attempt by Plaintiffs to shift their burden to Veoh.

18 The DMCA "places the burden of policing copyright infringement - identifying
19 the potentially infringing material and adequately documenting infringement -
20 squarely on the owners of the copyright." *Perfect 10, Inc. v. CC Bill, LLC*, 488 F.3d
21 1102, 1113 (*9th Cir.* 2007); *see also Hendrickson v. Amazon.com, Inc.*, 298 F. Supp.2d
22 914, 916. Here, Plaintiffs filed this action alleging infringement of "thousands" of
23 copyrights yet ask this court to condone their refusal to identify the very works over
24 which they now sue for millions in damages because to do so would be "burdensome."
25 But any burden on UMG is far outweighed by the necessity of the discovery. The
26 identification of the works at issue is absolutely fundamental to any action alleging

1 copyright infringement, particularly the type of large scale "winner take all" litigation
2 Plaintiffs have now launched against Veoh.

3 **2. Plaintiffs Must Respond Fully to All Interrogatories and**
4 **Provide All Chain of Title Documents Establishing Plaintiffs'**
5 **Ownership of the Works.**

6 It is also fundamental that in order to establish copyright infringement, a
7 plaintiff must first establish ownership of a valid copyright. *See Feist Publ'ns, Inc. v.*
8 *Rural Tel. Serv. Co.*, 499 U.S. 340, 361 (1991); *Lamps Plus, Inc. v. Seattle Lighting*
9 *Fixture Co.*, 345 F.3d 1140, 1144 (9th Cir. 2003) ("Ownership of the copyright is ...
10 always a threshold question."). Here, as Plaintiffs are not the actual authors of the
11 works, it is Plaintiffs' burden to establish chain of title. And even though a copyright
12 registration obtained within five years of a work's first publication carries a
13 presumption of validity (as Plaintiffs will likely argue), the presumption is rebuttable,
14 and no presumption exists if more than five years elapse between publication and
15 registration. Plaintiffs' excuse for avoiding proof that it actually owns the copyrights
16 at issue boils down to arguing that it is too much trouble for Plaintiffs, and Veoh
17 should simply be content taking Plaintiffs' word for it. Of course, this is not the law.

18 Plaintiffs' evasiveness as to this critical discovery cannot be condoned. Given
19 the incredibly high stakes of Plaintiffs' lawsuit, Plaintiffs should be compelled to
20 identify the copyrights at issue, identify the allegedly infringing works, and provide
21 facts and documents establishing Plaintiffs' chain of title to each, immediately.
22 Plaintiffs are seeking up to \$150,000 per work infringed and should be required to
23 prove up ownership of each such work. Veoh is entitled to investigate the
24 foundational underpinnings of Plaintiffs' claims now in order to adequately prepare
25 Veoh's defense.

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C. UMG’s Contentions And Points Of Authorities

Veoh starts this section with another false assertion. UMG has not refused to provide discovery relating to the identification and ownership of the copyrights at issue. Veoh might know this if it bothered to review UMG’s extensive production. For example, UMG has already produced registration information for thousands of its copyrights. Veoh’s remaining demands break down into essentially two flawed arguments: (1) that UMG should identify all of the copyrights that Veoh has infringed before Veoh even provides such basic discovery as its media files and (2) that UMG should produce all of its incredibly voluminous records that relate in any way to its ownership of any of its copyrights. Such demands are overbroad and unnecessary. This Court rejected precisely such overbroad demands in the *MySpace* action. The same principle is appropriate here.

1. UMG Has Already Produced Information About Its Copyrights

Veoh’s argument on this issue begins from the false premise that UMG refuses to produce any information about its copyrighted works. Had Veoh reviewed UMG’s production, it would have discovered extensive records relating to UMG’s copyrighted works. UMG has already produced the registration records for thousands of copyrighted works. Ledahl Decl., ¶ 4. Indeed, the very first document in UMG’s production (bates number 1) is a certificate of copyright registration (followed by thousands more). Veoh’s false assertions to the contrary are representative of the arguments Veoh makes throughout this motion.

2. Veoh’s Demands For Identification Of All Infringed Works Are Premature

In addition to its false assertions about UMG’s production, Veoh also argues that UMG must immediately identify all of the copyrighted works that Veoh has

1 infringed.⁴ Veoh fails to acknowledge, however, that it continues to withhold
2 production of its media files – the very evidence of its infringement. UMG
3 consistently objected to Veoh’s requests as premature because Veoh has not yet
4 provided the discovery necessary for UMG to be able to identify all works infringed
5 by Veoh. Veoh lamely attempts to rewrite this objection to suggest that UMG
6 contends that Veoh should identify the works that it infringes. However, UMG has
7 made clear throughout the parties' discussions that it will identify infringed works
8 once Veoh provides the discovery necessary for UMG to make such an identification.
9 Veoh has not provided that discovery and continues to refuse to provide a timetable
10 for when it will produce its media files and other necessary information.

11 This Court previously recognized in the *MySpace* and *Grouper* actions that
12 UMG could not reasonably be expected to identify infringed works when the accused
13 infringer withholds the evidence of infringement. Indeed, the Court specifically
14 ordered *Grouper* to produce its media files – because they were necessary for UMG to
15 identify the scope of infringement. *See* Ledahl Decl., Ex. 2 (February 25, 2008, Order
16 in the *Grouper* matter). Here, Veoh has not provided its own core discovery. As
17 such, its requests for identification of infringed works by UMG remain premature.
18 Other than its mischaracterization of UMG’s objections, Veoh offers no explanation
19 of why any further response to its discovery should be ordered. Thus, Veoh’s requests
20 for additional discovery remain premature. UMG will provide an identification of
21 works it contends are infringed after a reasonable opportunity to examine discovery
22 that is already long overdue from Veoh. This is more than sufficient to address
23 Veoh’s requests regarding identification of works.

24 **3. Veoh’s Requests For “Chain of Title” Information Are**
25 **Overbroad and Unnecessary**
26

27 ⁴ Specifically, Veoh seeks to compel further response to Interrogatories 1-3 and
28 Requests for Production 1, 3, 26, 47-48, 50 and 179.

1 Veoh concedes that UMG’s copyright registrations constitute prima facie
2 evidence of copyright ownership. Indeed, Veoh must make this concession. *See*
3 *Perfect 10, Inc. v. Cybernet Ventures, Inc.*, 213 F. Supp. 2d 1146, 1166-67 (C.D. Cal.
4 2002); *Playboy Enterprises, Inc. v. Webbworld, Inc.*, 968 F. Supp. 1171, 1174 (N.D.
5 Tex. 1997); *Manufacturers Techs., Inc. v. Cams, Inc.*, 706 F. Supp. 984, 991 (D.
6 Conn. 1989). *See also* 17 U.S.C. § 410(c) ("the certificate of a registration made
7 before or within five years after first publication of the work *shall constitute prima*
8 *facie evidence of the validity of the copyright and of the facts stated in the*
9 *certificate.*") (emphasis added). As discussed above, UMG has already made an
10 extensive production of copyright registration information. Nonetheless, Veoh seeks
11 even more material about the “chain of title” of UMG’s copyrighted works.⁵

12 **a. Veoh’s Requests Are Even Broader Than The Requests**
13 **The Court Rejected In The *MySpace* Action**

14 This Court previously considered and rejected requests for much of the same
15 information when it was sought by MySpace. Here, Veoh seeks even broader
16 discovery than that encompassed by the MySpace requests rejected by the Court. For
17 example, Veoh asks UMG for “All documents concerning claims of copyright
18 infringement asserted against You” (Veoh’s Request 51). Even MySpace did not
19 suggest that claims of infringement against UMG could somehow be relevant to
20 UMG’s claims of infringement against a website like MySpace or Veoh. Of course,
21 Veoh offers no argument or explanation to justify such discovery – it merely recites its
22 requests.

23 The Court rejected MySpace’s broad requests, requiring only that UMG provide
24 “documents relating to any disagreements or disputes regarding UMG’s ownership of,
25 control over, right to administer, or other interest in any of the Copyrighted Sound
26 Recordings . . . [or] Copyrighted Musical Compositions . . . which rose to a

27 ⁵ Specifically, Veoh seeks to compel further response to Interrogatory Nos. 7 And 23,
28 and Requests For Production Nos. 2, 4, 5, 6, 43-44, 49, 51, 64-67, 69, 180, And 234.

1 sufficiently serious level that inside or outside counsel for plaintiffs became
2 involved.” March 27, 2008, Order (MySpace Dkt. #273) in *UMG Recordings, Inc., et*
3 *al. v. MySpace, Inc., et al.*, Case No. CV 06-7361 AHM (AJWx). UMG remains
4 willing to produce a similar scope of materials here after it has had a fair opportunity
5 to identify the works infringed by Veoh. This should be more than sufficient.

6 The Court’s ruling on this issue is consistent with the manner in which other
7 Courts have handled the same issue raised by infringers in other mass-infringement
8 cases. *See, e.g., In re Napster*, 191 F. Supp.2d 1087, 1100 (N.D. Cal. 2002) (“[T]his
9 court will not permit Napster to engage in a ‘fishing expedition.’ The advantage of
10 the current statutory scheme is that plaintiffs need not produce mounds of documents
11 in order to maintain an infringement action.”). As Judge Matz indicated at the March
12 17, 2008, Scheduling Conference in this case (when the parties discussed this issue),
13 “it would make sense to apply the same analysis and same conclusion [regarding
14 chain-of-title document production in the *MySpace* action] to this case, unless there
15 are factors here that require something materially different, and I doubt that.” Ledahl
16 Decl., Ex. 3 (March 17, 2008, Hearing Transcript) (8:22-25). Veoh has not, and
17 cannot, come forward with any showing that a different ruling regarding chain-of-title
18 documentation should apply here.

19 **b. Veoh’s Requests Would Impose Undue Burden on UMG**

20 In the *MySpace* and *Grouper* actions, UMG explained to the Court that
21 production of the incredibly broad scope of chain-of-title discovery sought by the
22 Defendants would impose an undue burden on UMG. The same facts are present
23 here. To justify imposing such a burden on UMG, Veoh must show that the
24 importance of the discovery sought outweighs the significant burden on UMG. It is
25 well-settled that the Court can and should limit discovery where “the burden or
26 expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P.
27 26(b)(2)(C); *see also Nicolas J. Murlas Living Trust v. Mobil Oil Corp.*, 1995 WL

1 124186, *5 (N.D. Ill. March 20, 1995) (denying discovery because the burden of
2 production outweighed the limited relevance of the requested material); *Wright v.*
3 *AmSouth Bancorporation*, 320 F.3d 1198 (11th Cir. 2003); *Oxford House, Inc. v. City*
4 *of Topeka, KS*, 2007 WL 1246200 (D. Kan. April 27, 2007). Here, Veoh has not and
5 cannot make any such showing

6 As detailed in the declaration of Michael Ostroff, UMG owns rights under
7 copyright to more than 100,000 copyrights in sound recordings and musical
8 compositions and several thousand of these copyrights will likely be at issue in this
9 case. *See* Declaration Of Michael Ostroff In Support Of UMG's Opposition To
10 Veoh's Motion To Compel ("Ostroff Decl."), ¶¶ 3, 6, 10. As demonstrated by the
11 Ostroff Declaration, producing the records sought by Veoh would be a massive
12 undertaking requiring the location and review of hundreds of thousands of documents,
13 thousands of hours of UMG employee time, and likely millions of dollars in costs.
14 This process would require locating and reviewing records in many disparate locations
15 across many different business units of UMG. *Id.* at ¶¶ 5-9 (sound recordings), 10-12
16 (musical compositions). For example, to provide the breadth of documents Veoh
17 requests, UMG would have to locate, review and produce agreements and other
18 licenses with artists and producers, licenses from samples that may appear in a song,
19 and licenses for the underlying compositions. *Id.* at ¶ 7. The files containing such
20 materials are not centrally located within UMG. They are located in the files of
21 UMG's various labels and divisions, clearance companies, and others who may be
22 involved in any individual licensing situation. *Id.*

23 The massive burden Veoh's requested discovery would inflict on UMG cannot
24 meaningfully be disputed. UMG has already provided thousands of pages of
25 documents relating to its copyright ownership – to wit, actual copyright registrations
26 and documents providing information that Veoh can use to view the copyright
27 registrations on the Copyright Office website. As conceded by Veoh, these
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1 documents constitute *prima facie* evidence of copyright ownership. Veoh cannot
2 demonstrate the need for the additional extensive production of information it seeks.

3 As UMG pointed out in the MySpace case, and as was recognized by the Court
4 in the *Napster* matter, UMG is in the business of obtaining rights to copyrighted sound
5 recordings and musical compositions. It is simply not reasonable to suggest that
6 UMG actually does not own these rights on some massive scale. Instead, Veoh
7 suggests that it wants to spend vast resources sifting through the mountain of
8 information it is seeking to try to identify works, if any, for which UMG does not
9 actually own the rights. Even if such an effort were to yield a handful of works (UMG
10 does not believe it would yield any), the costs Veoh would expend searching would
11 outweigh any reduction in damages that they might obtain. Veoh surely knows this –
12 and presumably has no intention of actually reviewing the material it seeks should it
13 somehow prevail in this motion. Indeed, given Veoh’s repeated protestations about
14 the costs of this lawsuit (notably made only when UMG is the one seeking discovery)
15 it makes no sense for Veoh to pursue such unnecessary but voluminous information –
16 unless it merely seeks to inflict a burden on UMG. The Court struck the appropriate
17 balance regarding this issue in the MySpace action, and the same result should apply
18 here.

19 **IV. ISSUE NO. 3 - PLAINTIFFS' VIRAL MARKETING**

20 **A. Statement of Disputed Interrogatories and Requests For Production**
21 **and Plaintiffs' Responses**

22 **VEOH INTERROGATORIES: 9, 10, 11, 13, 15, 16, 19, 24**

23 **INTERROGATORY NO. 9:**

24 Identify all persons, including but not limited to persons who have been
25 employed by, retained by, or who have consulted with you, directly or through
26 representatives or agents, who have accessed the veoh.com website or used the Veoh
27 Player and/or Veoh TV, stating for each the nature and reason of such access or use.

1 **RESPONSE TO INTERROGATORY NO. 9:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this interrogatory is overly broad and unduly burdensome. UMG also
4 objects that this interrogatory seeks information not relevant to the parties' claims or
5 defenses and is not reasonably calculated to lead to the discovery of admissible
6 evidence. UMG further objects that this interrogatory seeks information protected by
7 the attorney-client and/or work-product privilege. Such information will not be
8 produced.

9 **INTERROGATORY NO. 10:**

10 Identify all persons with knowledge of the uploading, by you or by a person or
11 system acting on your behalf, of digital files of any type to Veoh.

12 **RESPONSE TO INTERROGATORY NO. 10:**

13 UMG incorporates by reference each of its General Objections. UMG further
14 objects that this interrogatory seeks information not relevant to the parties' claims or
15 defenses and is not reasonably calculated to lead to the discovery of admissible
16 evidence. UMG further objects that this interrogatory is overly broad and unduly
17 burdensome. UMG further objects to this interrogatory as unduly burdensome on the
18 grounds that the information sought is equally accessible to Veoh or more accessible
19 to Veoh than to UMG. UMG further objects to the definition of persons" as overly
20 broad and unduly burdensome. UMG further objects to this interrogatory as vague
21 and ambiguous in its reference to "digital files of any type." UMG further objects that
22 this interrogatory seeks information protected by the attorney-client and/or work-
23 product privilege. Such information will not be produced.

24 **INTERROGATORY NO. 11:**

25 For each person identified in response to Interrogatory No. 9, identify the IP
26 address for the computer or device used by that person to access veoh.com.
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1 **RESPONSE TO INTERROGATORY NO. 11:**

2 UMG incorporates by reference each of its General Objections, as we 11 as the
3 specific objections lodged in response to Veoh's Interrogatory No. 9. UMG further
4 objects that this interrogatory seeks information protected by the attorney-client and/or
5 work-product privilege. Such information will not be produced. UMG further objects
6 to the definition of "persons" as overly broad and unduly burdensome.

7 **INTERROGATORY NO. 13:**

8 Identify each veoh.com account that you or any artist have registered by
9 providing the user name associated with the account, the name of the individual who
10 registered the account, and the date of registration.

11 **RESPONSE TO INTERROGATORY NO. 13:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this discovery is premature, and that much of the discovery necessary to
14 respond to this interrogatory is within Veoh's possession, custody, or control. UMG
15 objects to the definition of the term "artist," which is overly broad, unduly
16 burdensome, and vague and ambiguous. Moreover, UMG objects that the
17 identification of "artists" who have registered an account with Veoh would not be
18 within UMG's possession, custody, or control. UMG further objects that this
19 interrogatory seeks information that is neither relevant to the claims or defenses of any
20 party nor reasonably calculated to lead to the discovery of admissible evidence since
21 "artists," as that term is defined by Veoh, may not be the owners of the copyrights at
22 issue in this case. UMG further objects that this interrogatory seeks information
23 protected by the attorney-client and/or work-product privilege. Such information will
24 not be produced.

25 **INTERROGATORY NO. 15:**

26 Identify each instance in which you and/or any artist, uploaded a file to any
27 internet site, including veoh.com, containing a copy of any work, or any portion of
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1 any work, for which you allege infringement in this action, and for each instance
2 provide: (i) the internet site to which the file was uploaded; (ii) the date the file was
3 uploaded; (iii) the file that was uploaded (including the file name and any other
4 identifying information, including Veoh permalink if available); and (iv) the title of
5 the work.

6 **RESPONSE TO INTERROGATORY NO. 15:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that the interrogatory is overly broad and unduly burdensome in that it seeks
9 the identification of videos "uploaded ... to any internet site." UMG objects that this
10 interrogatory seeks information not in UMG's possession, custody, or control, to the
11 extent it seeks the identification of "artists" who have registered an account with
12 Veoh. UMG further objects that this interrogatory seeks information that is neither
13 relevant to the parties' claims or defenses nor reasonably calculated to lead to the
14 discovery of admissible evidence, in that, among other things, "artists," as that term is
15 defined by Veoh, may not be the owners of the copyrights at issue in this case.
16 Finally, UMG objects that the definition of the term "artist" would require UMG to
17 canvass thousands of individuals or entities in order to respond to this interrogatory
18 and, as such, is grossly overbroad and unduly burdensome.

19 **INTERROGATORY NO. 16:**

20 Identify each instance in which you have given away at no charge any of the
21 works alleged by you in this action, including (i) the date the work was distributed;
22 (ii) the manner of distribution; (iii) the media on which the work was distributed; and
23 (iv) the title of the work distributed.

24 **RESPONSE TO INTERROGATORY NO. 16:**

25 UMG incorporates by reference each of its General Objections. UMG further
26 objects to the term "given away at no charge" as vague, ambiguous, and
27 argumentative. UMG further objects that this interrogatory seeks information not
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1 relevant to the parties' claims or defenses and is not reasonably calculated to lead to
2 the discovery of admissible evidence, in that, among other things, this interrogatory
3 seeks the identification of works which were allegedly exploited "at no charge."

4 UMG further objects that the interrogatory is overly broad and unduly burdensome in
5 that, for example, a frill response would require UMG to identify any individual CD
6 given away as promotional goods or contributed to charity.

7 **INTERROGATORY NO. 19:**

8 Identify all persons, including but not limited to, current and former employees,
9 and current and former consultants and independent contractors, who are or have been
10 employed by, retained by, or who have consulted with you, directly or through
11 representatives or agents, who are or have been involved in any efforts by you to
12 promote your copyrighted works or any artists under contract with you via any
13 internet site, including social networking sites.

14 **RESPONSE TO INTERROGATORY NO. 19:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects to this interrogatory on the grounds that it is overbroad, unduly burdensome,
17 and seeks information neither relevant to the subject matter of this action nor
18 reasonably calculated to lead to the discovery of admissible evidence. UMG further
19 objects to this interrogatory as vague and ambiguous in its use of the terms "promote
20 your copyrighted works or any artists under contract with you," "via any internet site,"
21 and "any social networking sites-" UMG further objects to the definition of "persons"
22 as overly broad and unduly burdensome.

23 **INTERROGATORY NO. 24:**

24 Identify all persons and entities that are responsible for and/or conduct viral
25 marketing of works owned or controlled by you, and for each provide: (i) a detailed
26 description of the manner and strategy by which each person and/or entity conducts
27 said viral marketing activities; (ii) the works each person or entity markets or has
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1 marketed, virally; (iii) the date(s) said viral marketing activities began for each work;
2 (iv) the dates(s) said viral marketing activities ceased, if they have ceased, for each
3 work; (v) a detailed description of any and all reports prepared regarding said viral
4 marketing activities.

5 **RESPONSE TO INTERROGATORY NO. 24:**

6 UMG incorporates by reference each of its General Objections. LMG further objects
7 to this interrogatory on the grounds that it is overbroad and unduly burdensome
8 insofar as it calls for UMG to identify all persons or entities who are "made
9 responsible for ... works owned or controlled" by UMG. Additionally, this
10 interrogatory purports to seek information relating to activities not involving Veoh.
11 UMG further objects to this interrogatory as vague and ambiguous in its use of the
12 terms "viral marketing," "viral marketing activities," "virally" marketing, and "reports
13 prepared regarding said viral marketing activities." UMG further objects that this
14 interrogatory seeks information that is neither relevant to the claims or defenses of any
15 party nor reasonably calculated to lead to the discovery of admissible evidence. UMG
16 further objects to the definition of "persons" as overly broad and unduly burdensome.

17 **VEOH'S REQUESTS FOR PRODUCTION NOS. 40, 42, 45, 46, 54-55,**
18 **150, 154-156, 181, 202-209, 217)**

19 **REQUEST FOR PRODUCTION NO. 40:**

20 All documents concerning your distribution of material containing the
21 copyrighted musical compositions, or any portion of the copyrighted musical
22 compositions, on the internet.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects that this request seeks information that is not relevant to the claims or defenses
26 of any party and is not reasonably calculated to lead to the discovery of admissible
27 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
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1 further objects to this request on the grounds that it is vague and ambiguous as to the
2 terms "distribution ... on the internet" and "the copyrighted musical compositions."
3 UMG further objects to the extent that this request seeks documents that are not in
4 UMG's possession, custody or control.

5 Subject to and without waiving the foregoing objections, UMG will produce
6 non-privileged responsive documents, if any, to the extent identified by a search of the
7 files of specific employees and executives that UMG will identify utilizing specific
8 search terms that UMG will identify.

9 **REQUEST FOR PRODUCTION NO. 42:**

10 All documents concerning your use of video hosting or sharing services to
11 promote the copyrighted sound recordings and the copyrighted musical compositions.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

13 UMG incorporates by reference each of its General Objections. UMG further
14 objects that this request seeks information that is not relevant to the claims or defenses
15 of any party and is not reasonably calculated to lead to the discovery of admissible
16 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
17 further objects to this request as vague and ambiguous as to the terms "promote,"
18 "copyrighted musical compositions," "copyrighted sound recordings," and "use of
19 video hosting or sharing services." UMG further objects to the extent that this request
20 seeks documents that are not in UMG's possession, custody or control.

21 Subject to and without waiving the foregoing objections, UMG will produce
22 non-privileged responsive documents, if any, to the extent identified by a search of the
23 files of specific employees and executives that UMG will identify utilizing specific
24 search terms that UMG will identify.

25 **REQUEST FOR PRODUCTION NO. 45:**

26 All documents concerning the uploading of content to Veoh by you or on your
27 behalf.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request seeks information that is not relevant to the claims or defenses
4 of any party and is not reasonably calculated to lead to the discovery of admissible
5 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
6 further objects to this request as vague and ambiguous as to what constitutes
7 documents "concerning" the uploading of content to Veoh. UMG further objects to the
8 extent that this request seeks documents that are not in UMG's possession, custody or
9 control. UMG further objects that the request seeks information that is already in
10 Veoh's possession, custody or control, or reasonably available to Veoh.

11 Subject to and without waiving the foregoing objections, UMG will produce
12 non-privileged responsive documents, if any, to the extent identified by a search of the
13 files of specific employees and executives that UMG will identify utilizing specific
14 search terms that UMG will identify.

15 **REQUEST FOR PRODUCTION NO. 46:**

16 All documents concerning Veoh accounts registered to you.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 46:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that this request is overbroad, unduly burdensome, and seeks documents that
20 are neither relevant to the claims or defenses of any party nor reasonably calculated to
21 lead to the discovery of admissible evidence. UMG objects to the terms "Veoh
22 accounts" and "registered to you" as vague and ambiguous.

23 Subject to and without waiving the foregoing objections, UMG will produce
24 non-privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 54:**

2 All documents relating to each and every file you have ever uploaded to Veoh
3 containing a copy of any work, or any portion thereof, alleged by you in this action,
4 including documents evidencing (i) the date the file was uploaded to Veoh; (ii) the file
5 that was uploaded (including the file name and title, and any other identifying
6 information, including Veoh permalink if available); and (iii) the title of the work.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 54:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects that this request seeks information that is not relevant to the claims or defenses
10 of any party and is not reasonably calculated to lead to the discovery of admissible
11 evidence. UMG further objects that this request appears to request documents that are
12 not in UMG's possession, custody or control. UMG further objects to this request on
13 the grounds that it is, premature insofar as UMG has not yet been able to identify all
14 of the specific works for which UMG alleges infringement in this action as the
15 information to do so is possessed by Veoh and not UMG. As a result, the
16 nonprivileged documents UMG produces in response to this request, if any, should
17 not be construed as a representation by UMG that the works referred to in such
18 documents constitutes a complete list of UMG's copyrighted works that have appeared
19 on Veoh or as a representation that further factual investigation and discovery will not
20 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG objects
21 to this request on the grounds that "documents relating to each and every file" is vague
22 and ambiguous.

23 Subject to and without waiving the foregoing objections, UMG will produce
24 non-privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 55:**

2 All documents relating to each and every file you have ever uploaded to the
3 internet (other than to Veoh) containing a copy of any work, or any portion thereof,
4 alleged by you in this action, including documents evidencing (i) the date the file was
5 uploaded; (ii) the file that was uploaded (including the file name and title, and any
6 other identifying information); and (iii) the title of the work.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 55:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects that this request is overbroad, unduly burdensome, and seeks documents that
10 are neither relevant to the claims or defenses of any party nor reasonably, calculated to
11 lead to the discovery of admissible evidence. UMG further objects that this request
12 appears to request documents that are not in UMG's possession, custody or control.
13 UMG further objects to this request on the grounds that it is premature insofar as
14 UMG has not yet been able to identify all of the specific works for which UMG
15 alleges infringement in this action as the information to do so is possessed by Veoh
16 and not UMG. As a result, the nonprivileged documents UMG produces in response to
17 this request, if any, should not be construed as a representation by UMG that the
18 works referred to in such documents constitutes a complete list of UMG's copyrighted
19 works that have appeared on Veoh or as a representation than further factual
20 investigation and discovery will not reveal more of UMG's copyrighted works that
21 have appeared on Veoh. UMG objects to this request on the grounds that "documents
22 relating to each and every file" is vague and ambiguous.

23 **REQUEST FOR PRODUCTION NO. 150:**

24 All documents concerning your review of veoh.com.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 150:**

26 UMG incorporates by reference each of its General Objections. UMG objects to
27 this request in that the phrase "your review of veoh.com" is vague, ambiguous, and/or
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1 unintelligible. UMG objects that this request is overbroad, unduly burdensome, and
2 seeks documents that are neither relevant to the claims or defenses of any party nor
3 reasonably calculated to lead to the discovery of admissible evidence, in that it seeks
4 all documents "concerning" UMG's "review" of Veoh, without limitation. UMG
5 further objects to this request to the extent it calls for the production of privileged
6 attorney-client communications, attorney work product, or otherwise privileged or
7 protected material.

8 Subject to and without waiving the foregoing objections, UMG will produce
9 non-privileged responsive documents, if any, to the extent identified by a search of the
10 files of specific employees and executives that UMG will identify utilizing specific
11 search terms that UMG will identify.

12 **REQUEST FOR PRODUCTION NO. 154:**

13 All documents concerning any and all works owned or controlled by you,
14 uploaded by, or with the authorization of, Plaintiffs to veoh.com.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO 154:**

16 UMG incorporates by reference each of its General Objections. UMG objects
17 that this request is overbroad, unduly burdensome, and that it seeks documents that are
18 neither relevant to the claims or defenses of any party nor reasonably calculated to
19 lead to the discovery of admissible evidence. UMG objects to the request to the extent
20 it calls for a legal conclusion.

21 Subject to and without waiving the foregoing objections, UMG will produce
22 non-privileged responsive documents, if any, to the extent identified by a search of the
23 files of specific employees and executives that UMG will identify utilizing specific
24 search terms that UMG will identify.

25 **REQUEST FOR PRODUCTION NO. 155:**

26 All documents concerning any and all works owned or controlled by you,
27 uploaded by, or with the authorization of, an artist to veoh.com.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO 155:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request is vague and ambiguous, overbroad, unduly burdensome, and
4 that it seeks documents that are neither relevant to the claims or defenses of any party
5 nor reasonably calculated to lead to the discovery of admissible evidence.

6 Additionally, in many cases Veoh may be in a superior position to determine whether
7 an artist or some other third-party has purportedly authorized the posting of
8 copyrighted works on veoh.com. Therefore, UMG objects to this request in that it
9 seeks documents that are in Veoh's possession, custody, or control, and which are
10 therefore equally or more readily accessible to Veoh than to UMG.

11 **REQUEST FOR PRODUCTION NO. 156:**

12 All documents concerning your knowledge of the availability, exploitation, or
13 inclusion of any works owned or controlled by you, on veoh.com.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO 156:**

15 UMG incorporates by reference each of its General Objections. UMG objects
16 that this request overbroad, unduly burdensome, and that it seeks documents that are
17 neither relevant to the claims or defenses of any party nor reasonably calculated to
18 lead to the discovery of admissible evidence. Additionally, documents relating to
19 UMG's knowledge (as opposed to Veoh's knowledge) are neither relevant to the
20 claims or defenses of any party nor reasonably calculated to lead to the discovery of
21 admissible evidence. Further, Veoh is in a superior position to monitor the posting of
22 copyrighted works on veoh.com. Therefore, UMG objects to this request to the extent
23 that it seeks documents that are in Veoh's possession, custody, or control and which
24 are therefore equally or more readily accessible to Veoh than to UMG. UMG further
25 objects to this request on the grounds that the phrase "availability, exploitation, or
26 inclusion" is vague and ambiguous.

27 Subject to and without waiving the foregoing objections, UMG will produce

1 non-privileged responsive documents, if any, to the extent identified by a search of the
2 files of specific employees and executives that UMG will identify utilizing specific
3 search terms that UMG will identify.

4 **REQUEST FOR PRODUCTION NO. 181:**

5 All documents, including but not limited to contracts, emails, letters,
6 memoranda, and records of telephone or live conversations, that constitute, grant, or
7 memorialize permission by any person, to include Plaintiffs' works in user-generated
8 videos posted online or over the internet.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO 181:**

10 UMG incorporates by reference each of its General Objections. UMG objects
11 that this request is overbroad, unduly burdensome, and seeks documents that are
12 neither relevant to the claims or defenses of any party nor reasonably calculated to
13 lead to the discovery of admissible evidence. UMG further objects to the extent that
14 this request calls for information that is subject to confidentiality agreements between
15 UMG and third parties.

16 Subject to and without waiving the foregoing objections, UMG will produce
17 non-privileged responsive documents, if any, to the extent identified by a search of the
18 files of specific employees and executives that UMG will identify utilizing2 II specific
19 search terms that UMG will identify.

20 **REQUEST FOR PRODUCTION NO. 202:**

21 All documents evidencing, referring or relating to any and all business plans or
22 marketing plans that reference or reflect efforts by you to promote any of your
23 copyrighted works or any artists under contract with you using viral marketing.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 202:**

25 UMG incorporates by reference each of its General Objections. UMG further
26 objects that this request is overbroad, unduly burdensome, and seeks documents that
27 are neither relevant to the claims or defenses of any party nor reasonably calculated to
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1 lead to the discovery of admissible evidence. UMG further objects to this request on
2 the grounds that the terms "reflect," "viral marketing," and "evidencing, referring or
3 relating to" are vague and ambiguous and render the request overbroad and unduly
4 burdensome.

5 **REQUEST FOR PRODUCTION NO. 203:**

6 Documents sufficient to identify all persons and entities (including but not
7 limited to your divisions, subsidiaries, affiliates and/or NetReach) responsible for viral
8 marketing of your copyrighted works.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 203:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects that this request is overbroad, unduly burdensome, and seeks documents that
12 are neither relevant to the claims or defenses of any party nor reasonably calculated to
13 lead to the discovery of admissible evidence. UMG further objects to this request on
14 the grounds that the term "viral marketing" is vague and ambiguous and renders the
15 request overbroad and unduly burdensome. UMG further objects to this request
16 appears to request documents that are not in UMG's possession, custody or control.

17 **REQUEST FOR PRODUCTION NO. 204:**

18 Documents sufficient to identify the manner and strategy by which any person
19 or entity, including but not limited to NetReach, conducts viral marketing activities of
20 your copyrighted works.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 204:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects that this request is overbroad, unduly burdensome, and seeks documents that
24 are neither relevant to the claims or defenses of any party nor reasonably calculated to
25 lead to the discovery of admissible evidence. UMG further objects to this request on
26 the grounds that the term "viral marketing" is vague and ambiguous and renders the
27 request overbroad and unduly burdensome, UMG further objects to this request
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1 appears to request documents that are not in UMG's possession, custody or control.

2 Subject to and without waiving the foregoing objections, UMG will produce
3 non-privileged responsive documents, if any, to the extent identified by a search of the
4 files of specific employees and executives that UMG will identify utilizing specific
5 search terms that UMG will identify.

6 **REQUEST FOR PRODUCTION NO. 205:**

7 All documents between you and NetReach.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 205:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects that this request is overbroad, unduly burdensome, and seeks documents that
11 are neither relevant to the claims or defenses of any party nor reasonably calculated to
12 lead to the discovery of admissible evidence. UMG further objects to this request on
13 the grounds that the term "viral marketing" is vague and ambiguous and renders the
14 request overbroad and unduly burdensome. UMG objects to the term "documents
15 between you and NetReach" as vague, ambiguous, and/or unintelligible.

16 Subject to and without waiving the foregoing objections, UMG will produce
17 non-privileged responsive documents, if any, to the extent identified by a search of the
18 files of specific employees and executives that UMG will identify utilizing specific
19 search terms that UMG will identify.

20 **REQUEST FOR PRODUCTION NO. 206:**

21 Documents sufficient to identify each and every one of your copyrighted works
22 that are, or have been, marketed virally.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 206:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects that this request is overbroad, unduly burdensome, and seeks documents that
26 are neither relevant to the claims or defenses of any party nor reasonably calculated to
27 lead to the discovery of admissible evidence. UMG further objects to this request on

1 the grounds that the term "marketed virally" is vague and ambiguous and renders the
2 request overbroad and unduly burdensome.

3 **REQUEST FOR PRODUCTION NO. 207:**

4 Documents sufficient to identify the beginning and ending dates (if applicable)
5 for all viral marketing activities for each and every one of your copyrighted works.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 207:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request is overbroad, unduly burdensome, and seeks documents that
9 are neither relevant to the claims or defenses of any party nor reasonably calculated to
10 lead to the discovery of admissible evidence. UMG further objects to this request on
11 the grounds that the term "viral marketing activities" is vague and ambiguous and
12 renders the request overbroad and unduly burdensome.

13 **REQUEST FOR PRODUCTION NO. 208:**

14 Documents sufficient to identify any and all reports prepared regarding said
15 viral marketing activities.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 208:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects that this request is overbroad, unduly burdensome, and seeks documents that
19 are neither relevant to the claims or defenses of any party nor reasonably calculated to
20 lead to the discovery of admissible evidence. UMG further objects to this request on
21 the grounds that the term "said viral marketing activities" is vague and ambiguous and
22 renders the request overbroad and unduly burdensome. UMG further objects to this
23 request appears to request documents that are not in UMG's possession, custody or
24 control.

25 Subject to and without waiving the foregoing objections, UMG will produce
26 non-privileged responsive documents, if any, to the extent identified by a search of the
27 files of specific employees and executives that UMG will identify utilizing specific
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1 search terms that UMG will identify.

2 **REQUEST FOR PRODUCTION NO. 209:**

3 All documents evidencing, referring or relating to any and all reports and/or
4 memoranda reporting on viral marketing activities relating to your copyrighted works
5 or any artists under contract with you.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 209:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request is overbroad, unduly burdensome, and seeks documents that
9 are neither relevant to the claims or defenses of any party nor reasonably calculated to
10 lead to the discovery of admissible evidence. UMG further objects to this request on
11 the grounds that the terms "viral marketing activities" and "evidencing, referring or
12 relating to" are vague and ambiguous and render the request overbroad and unduly
13 burdensome. UMG further objects that this request appears to request documents that
14 are not in UMG's possession, custody or control.

15 Subject to and without waiving the foregoing objections, UMG will produce
16 non-privileged responsive documents, if any, to the extent identified by a search of the
17 files of specific employees and executives that UMG will identify utilizing specific
18 search terms that UMG will identify.

19 **REQUEST FOR PRODUCTION NO. 217:**

20 All documents evidencing, referring or relating to your policies regarding your
21 artists' uploading or posting of your copyrighted works on the internet.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 217:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects that this request is vague and ambiguous, overbroad, unduly burdensome, and
25 that it seeks documents that are neither relevant to the claims or defenses of any party
26 nor reasonably calculated to lead to the discovery of admissible evidence, in that it
27 seeks "All documents evidencing, referring or relating to your policies" regarding
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1 postings of UMG's copyrighted works by artists.

2 Subject to and without waiving the foregoing objections, UMG will produce non-
3 privileged responsive documents, if any, to the extent identified by a search of the
4 files of specific employees and executives that UMG will identify utilizing specific
5 search terms that UMG will identify.

6 **B. Veoh's Contentions and Points and Authorities**

7 Veoh propounded discovery in an effort to investigate and determine the extent
8 of Plaintiffs' viral marketing activities. Rather than comply with their discovery
9 obligations and act in a manner consistent with this Court's prior orders in *MySpace*
10 and *Grouper* on the subject of viral marketing discovery (*see* Calkins Decl. ¶ 17),
11 Plaintiffs have refused to provide the requested documents and information, relying on
12 a host of meritless objections. For example, Plaintiffs allege that the term "viral
13 marketing" is too vague and ambiguous to permit a response. (*See e.g.* UMG's
14 Response to Veoh's Interrogatory No. 24, Plaintiffs' Responses to Veoh's Request
15 Nos. 202-203, 206-207). Of course, this is nonsense. Plaintiffs undeniably know
16 what "viral marketing" means, not only through Plaintiffs' and/or their corporate
17 relations' significant direct viral marketing activities, but also through the activities of
18 third parties such as Fanscape, hired by Plaintiffs and/or their corporate affiliates to
19 build promotional campaigns around virally marketing Plaintiffs' music on the
20 internet.

21 Indeed, now that Plaintiffs (and third parties retained by Plaintiffs) have
22 successfully virally disseminated these videos over the internet, they seek to hold
23 Veoh, and other sites, liable. Plaintiffs' viral marketing is directly relevant to this
24 action, as it impacts Plaintiffs' damages claims as well as Veoh's affirmative defenses.
25 Veoh's viral marketing requests are also relevant as to whether Plaintiffs or their
26 agents in fact posted the works that ended up on Veoh. Plaintiffs' objections and
27

1 refusals are meritless and Plaintiffs should be compelled to provide further responses
2 and documents immediately.

3 **1. Plaintiffs' Viral Marketing Is Highly Relevant to Plaintiffs'**
4 **Damages Claims**

5 Discovery relating to Plaintiffs' viral marketing activities is highly relevant to
6 the issue of damages. In this action, Plaintiffs seek statutory, as well as actual,
7 damages. (*See Complaint*, ¶¶ 32-33, 40-41, 49-50, 57-58). Statutory damages
8 generally range from \$750 to \$30,000 per work but may be increased to \$150,000 in
9 cases where a plaintiff proves willfulness. 17 U.S.C. § 504(c)(1). Absent willfulness,
10 "statutory damages should bear some relationship to the actual damages suffered."
11 *Peer International Corp. v. Luna Records, Inc.* 887 F.Supp. 560, 568.

12 Plaintiffs' practice of virally marketing their own videos by posting them on
13 various internet sites will directly impact any attempted claim of willfulness on the
14 part of the site. Indeed, Plaintiffs' statutory damages claims will be severely
15 undermined at evidence that Plaintiffs themselves freely distributed their own videos
16 for promotional purposes. Plaintiffs should not be allowed to conceal such evidence.

17 **2. Plaintiffs' Viral Marketing Is Highly Relevant to Veoh's**
18 **Affirmative Defenses**

19 Plaintiffs' viral marketing activities are also highly relevant to Veoh's
20 affirmative defenses, including estoppel, unclean hands, and implied license. "A
21 plaintiff is estopped from asserting a copyright claim if he has aided the defendant in
22 infringing or otherwise induced it to infringe or has committed covert acts such as
23 holding out ... by silence or inaction." *Field v. Google*, 412 F. Supp.2d 1106, 1116
24 (D. Nev. 2006). Documents and information evidencing Plaintiffs' own marketing of
25 works with the intent that they be virally distributed to other sites is clearly relevant as
26 evidence that Plaintiffs should be estopped from asserting the claims herein.

1 The discovery sought is also relevant to Veoh's unclean hands defense.
2 Uploading music videos to internet sites for marketing and promotion, then suing
3 those same sites for copyright infringement is plainly inequitable. Veoh is entitled to
4 viral marketing discovery to develop this affirmative defense.

5 The discovery at issue is additionally relevant to Veoh's implied license
6 defense. A copyright owner may grant a nonexclusive license impliedly through
7 conduct. *See Effects Assoc., Inc. v. Cohen*, 908 F. 2d 555, 558-59 (9th Cir. 1990).
8 Consent to use the copyrighted work need not be manifested verbally and may be
9 inferred based on silence where the copyright holder knows of the use and encourages
10 it. *Field v. Google, Inc.*, 412 F.Supp. 2d 1106, 1116 (D. Nev. 2006). Clearly
11 Plaintiffs' knowing, viral marketing of the works at issue by posting them on sites
12 including Veoh is highly relevant here. Veoh is entitled to discovery on this issue.

13 **3. Plaintiffs Should Be Compelled to Provide Further Responses**
14 **and Documents Relating to Viral Marketing Immediately**

15 Clearly, the question of how any purportedly infringing content may have
16 originated on Veoh is critical. If such content was placed there by Plaintiffs
17 themselves, or at their direction, in an effort to promote Plaintiffs' own artists, Veoh is
18 entitled to know about it. It is likely Plaintiffs' recognition of the devastating
19 consequences of having their viral marketing activities exposed, not "vagueness" or
20 "ambiguity," that lies at the heart of Plaintiffs' efforts to block Veoh's efforts to obtain
21 this discovery. Plaintiffs should be compelled to provide further responses and all
22 responsive documents immediately.

23 **C. UMG's Contentions And Points Of Authorities**

24 Like MySpace and Grouper, Veoh tries to cobble together a defense theory in
25 this case based upon UMG's purported "viral marketing" activities. In reality, just as
26 was the case in the *MySpace* and *Grouper* actions, this "theory" is far more a vehicle
27 to demand massive amounts of costly discovery than a legitimate defense in this case.

1 First, like MySpace and Grouper, Veoh groups together a broad array of activity and
2 calls it “viral marketing.” It appears that what Veoh really seeks is all documents
3 about any online marketing of any kind. For example, Veoh’s request number 40
4 seeks “All documents concerning your distribution of material containing the
5 copyrighted musical compositions, or any portion of the copyrighted musical
6 compositions, on the internet.” In support of its broad discovery demands, Veoh puts
7 forth the same tired theories of relevance that MySpace and Grouper relied upon,
8 trying to suggest that evidence relating to UMG’s so-called “viral marketing”
9 activities could somehow support defenses of estoppel, unclean hands or implied
10 license, or could somehow be relevant to the damages inquiry. As explained in detail
11 below, UMG’s purported viral marketing activities – even if Veoh’s theories about
12 UMG’s activities were proven – could not support Veoh’s defenses and thus are not
13 relevant for purposes of discovery here. This is particularly true in light of UMG’s
14 already extensive production regarding its on-line marketing activities, summarized in
15 part below, but which included a search for documents containing the word “Veoh.”
16 (UMG undertook a similar search in the *MySpace* and *Grouper* actions for documents
17 containing the names of those websites, among others, all of which has also been
18 produced to Veoh, but which Veoh has apparently not yet reviewed.) Veoh cannot
19 demonstrate any need for further production.

20 **1. Veoh Fails To Explain What Materials It Seeks**

21 Throughout its cursory argument⁶ Veoh simply refers generally to “viral
22 marketing” as though that term had some precise meaning that could properly define
23 the scope of its requests consistent with Veoh’s obligations under Federal Rule 34. In
24 fact, Veoh seems to lump together a wide variety of concepts. The Court has
25 previously encountered similar issues in the *MySpace* and *Grouper* matters, but UMG

26 _____
27 ⁶ Like all of its arguments, in this section, Veoh devotes less than 3 pages to its
28 explanation for the purported basis to compel responses to eight interrogatories and
twenty document requests.

1 offers this brief discussion for purposes of clarifying the nature of the issues. UMG
2 respectfully submits that, although it has already produced extensive materials
3 regarding its online marketing activities (as discussed further below), none of the
4 categories of material categorized by Veoh as “viral marketing” are relevant for
5 purposes of discovery.

6 **a. Posting Of Content Vs. Posting Of Comments**

7 As the Court recognized in connection with the *MySpace* and *Grouper* actions,
8 the term “viral marketing” is often loosely used by defendants to refer to any number
9 of different possible activities. One key distinction that the Court recognized
10 previously is the difference between posting a copy of a particular video on a web site
11 and merely posting some text or a link to another web site. For example, as the Court
12 recognized, “viral marketing” might include individuals going onto a particular web
13 site and posting laudatory comments about a newly released album, such as “You
14 should check out this great new album from [performer]. I think it’s fantastic.”
15 Similarly, a marketer could post a link on a website suggesting that users click the link
16 to, for example, obtain more information and possibly listen to a sample of music at
17 UMG’s own website. As the Court recognized in the *MySpace* and *Grouper* actions,
18 such postings are far from any relevant issues in this case. Nonetheless, Veoh pursues
19 all such information here.

20 As the Court knows, UMG has an express written policy against the posting of
21 actual content onto websites except under certain circumstances (which will be
22 discussed in greater detail below). *See* Ledahl Decl., Ex. 4 (UMG's Video policy).
23 This policy has been in effect since before Veoh even operated a web site. *Id.* The
24 Court recognized in the *Grouper* matter that only the actual posting of content itself
25 (not comments or links) could possibly be relevant to the issues in a case such as this
26 involving UMG’s claims against an infringing site. We discuss the specific legal
27 arguments Veoh cursorily presents below. However, as the Court has previously
28

1 recognized, UMG’s activities to market its content through posting of comments or
2 other information other than the content itself cannot support any of Veoh’s theories.

3 **b. Postings On Veoh Vs. Other Sites**

4 An additional issue that the Court previously recognized is the important
5 distinction between possible interactions between UMG and Veoh and possible
6 interactions between UMG and other internet sites. As the Court recognized, to the
7 extent that any of UMG’s online marketing activities might be relevant, only those
8 directly involving Veoh are likely to have any meaningful impact on this case.
9 Indeed, as discussed in greater detail below, the theories that Veoh relies upon to
10 support this discovery turn on direct interactions between UMG and Veoh, not on
11 interactions between UMG and some third party. Thus, while Veoh might be able to
12 construct arguments about a particular work if UMG had actually posted that work
13 onto Veoh’s site, the same cannot be said about potential postings of UMG content
14 onto other, third-party sites.

15 **c. Postings On Licensed Sites Vs. Unlicensed Sites**

16 Even with respect to alleged postings of UMG content onto other, third-party
17 websites, Veoh fails to address the important distinction between licensed and
18 unlicensed sites. As the Court will recall, UMG has license agreements with many
19 web sites that permit display of UMG content under certain circumstances. UMG has
20 already produced numerous license agreements detailing such arrangements. Ledahl
21 Decl., ¶ 4. As the Court is aware, UMG is compensated for the display of its content
22 on these licensed sites, typically at a set rate for each viewing. The Court previously
23 acknowledged that UMG’s posting of content onto such sites would not be relevant to
24 defenses like those asserted by Veoh here. As the Court knows, copyright law
25 imposes no “fairness doctrine” requiring that if UMG licenses content to one site, it
26 must do so for all others. Moreover, Veoh does not even suggest that it ever sought
27 such a license. Indeed, Veoh contends it has no need for any such license. As

1 discussed in greater detail below, Veoh offers no authority for the proposition that
2 UMG's provision of content pursuant to a license agreement could somehow
3 immunize Veoh's unauthorized use of the same content. Similarly, Veoh cannot
4 explain how such activity pursuant to license agreements could be relevant to damages
5 issues here.

6 2. **UMG Has Already Made An Extensive Production Of Online** 7 **Marketing Information**

8 Veoh falsely asserts that UMG categorically refuses to produce any information
9 regarding its online marketing activities. As with most of the issues presented in this
10 motion, had Veoh reviewed UMG's extensive production, it would have discovered
11 that UMG has in fact produced thousands of documents relating to its online
12 marketing efforts. Indeed, as a result of its diligent search for relevant information,
13 UMG has already produced documents relating to its online distribution efforts, *see*,
14 *e.g.*, Ledahl Decl., Ex. 5 (document reflecting UMG's online distribution of videos);
15 online marketing summaries, *see, e.g., id.*, Ex. 6 (example online marketing
16 summary); documents from the NetReach division of UMGD (which handles online
17 marketing activities for many of UMG's record labels), *see, e.g., id.*, Ex. 7 (document
18 relating to NetReach); and documents regarding UMG's policies for online
19 distribution of its content, *see, e.g., id.*, Ex. 4 (UMG's Video Policy). Veoh never
20 explains why this extensive production is incomplete or what relevant materials Veoh
21 believes have been excluded from UMG's production. As with its other arguments,
22 Veoh simply repeats its requests.

23 UMG has also already searched for documents relating to Veoh, for example,
24 across a broad range of appropriate employees and executives. *Id.* at ¶ 5. These
25 would include (if they existed) documents about uploading videos onto Veoh.
26 Moreover, as was the case with Grouper, Veoh already has the email address of every
27 user who has ever posted a video onto Veoh – that information is a required part of
28

1 Veoh’s sign-up process before a user can upload any videos. *Id.* at ¶ 11. Thus, Veoh
2 can already search its own files for any postings by users with UMG email addresses
3 to look for postings on Veoh’s site by UMG employees.⁷ Veoh does not suggest that
4 it lacks such information. Veoh apparently seeks extensive additional documentation
5 about any of UMG’s interactions with web sites other than Veoh. UMG has already
6 produced extensive records reflecting its interactions with a number of websites,
7 including MySpace and Grouper. *Id.* at ¶ 5. As set forth in greater detail below,
8 further discovery into UMG’s interactions with websites other than Veoh is irrelevant
9 and unnecessary.

10 **3. Veoh's Interrogatories and Document Requests Seek**
11 **Irrelevant Discovery**

12 Veoh purports to seek a broad range of discovery regarding UMG’s alleged
13 “viral marketing” activities. Veoh makes no effort to discuss the specific merits of
14 any of the actual requests, nor of UMG’s objections thereto. Instead, Veoh simply
15 claims broadly that “viral marketing” is relevant to various defenses. Though its
16 moving papers are sorely lacking in clarity, UMG expects that, like MySpace and
17 Grouper, Veoh hopes to find some evidence that UMG posted copies of its videos on
18 internet sites where others might be able to obtain copies of them. As discussed
19 above, UMG has already searched for information regarding its interactions with
20 Veoh. Thus, Veoh’s requests are either moot, or Veoh is seeking information about
21 UMG’s interactions with other sites. Veoh apparently believes that such interactions
22 by UMG would somehow immunize Veoh’s infringing conduct. Veoh asserts (in only
23 the most cursory fashion) four separate theories in support of the relevance of online
24 marketing discovery: implied license, estoppel, unclean hands, and damages. In fact,
25 any meaningful analysis of these issues reveals that so-called “viral marketing”
26

27 _____
28 ⁷ Notably, Veoh still has not produced such information to UMG.

1 activities in dealing with other websites could not be relevant to any of these four
2 theories.

3 a. **Online Marketing Discovery Is Irrelevant To An Implied**
4 **License Defense**

5 Implied licenses arise only when (1) a copyright holder creates a copyrighted
6 work at the request of another and (2) provides that work with the intention that the
7 requestor will copy and distribute the work. *Atkins v. Fischer*, 331 F.3d 988, 992
8 (D.C. Cir. 2003) (noting that an implied license will arise where: ““(1) a person (the
9 licensee) requests the creation of a work, (2) the creator (the licensor) makes the
10 particular work and delivers it to the licensee who requested it, and (3) the licensor
11 intends that the licensee-requestor copy and distribute his work””) (quoting *Lulirama*
12 *Ltd, Inc. v. Axcass Broad Sews.*, 128 F.3d 872, 879 (5th Cir. 1997)). Veoh does not
13 suggest that this circumstance applies here or that the online marketing discovery it
14 seeks can support such a claim. Obviously, Veoh does not suggest UMG creates its
15 works at Veoh's request. Moreover, as discussed above, UMG has already searched
16 for evidence of its interactions with Veoh. Veoh fails to explain how UMG’s
17 interactions with sites other than Veoh could possibly give rise to any defense of
18 implied license.

19 Even if Veoh’s “best case” hypothesis were true – a UMG employee posted a
20 video on some unlicensed internet site – Veoh never explains how such a posting
21 could create an implied license upon which Veoh may rely. Unsurprisingly, Veoh
22 cites no case that finds an implied license under such circumstances. Where Veoh has
23 no involvement with UMG, it has no legal ground to suggest that an implied license
24 arises. Thus, this defense provides no basis for Veoh to seek discovery of UMG’s
25 interactions with other web sites.⁸

26 ⁸ Even if Veoh could show the necessary interactions with a UMG employee, Veoh
27 would also have to show that any UMG employee posting a video was actually acting
28 as an agent for UMG and that, through their agency, could somehow provide Veoh
with an implied license. Veoh could not make such a showing. UMG’s employees

1 material by Google was infringement. *Id.* These unique facts have no application
2 here. Veoh cannot claim that it somehow relied on some as-yet undiscovered instance
3 in which UMG allegedly posted a video on some web site other than Veoh. Indeed,
4 Veoh cannot credibly claim that it was even aware of such an interaction with another
5 web site (and if it was it has no need for discovery about the interactions). In *Field*,
6 the Court found that Google relied directly on the conduct by Field which was
7 communicated by Field to Google through the settings on his web site. *Id.* at 1117.
8 Here, Veoh can make no similar arguments.

9 **c. Online Marketing Discovery Is Irrelevant To Unclean**
10 **Hands**

11 Veoh states that evidence of online marketing also bolsters Veoh's affirmative
12 defense of unclean hands. Beyond this *ipse dixit*, Veoh never explains this argument.
13 To establish unclean hands, “a defendant must demonstrate (1) inequitable conduct by
14 the plaintiff; (2) that the plaintiff’s conduct directly relates to the claim which it has
15 asserted against the defendant; and (3) plaintiffs’ conduct injured the defendant.”
16 *Grokster*, 518 F. Supp. 2d at 1223 (citing *Survivor Productions LLC v. Fox*
17 *Broadcasting Co.*, 2001 WL 35829270, at *3 (C.D. Cal. June 12, 2001)). Veoh never
18 bothers to explain how online marketing supports any of these. Veoh never explains
19 or suggests how UMG’s online marketing constitutes “inequitable conduct” by UMG,
20 how such marketing relates to claims against Veoh, or how such conduct injured
21 Veoh. Simply put, Veoh's theory lacks any support. Veoh must proffer more than the
22 name of a defense to support its discovery requests.

23 **d. Online Marketing Is Irrelevant To Damages**

24 Finally, Veoh asserts that UMG’s online marketing activities are relevant to
25 damages. Though Veoh does not acknowledge this fact in its portion of the joint
26 stipulation, UMG has elected to pursue statutory damages for Veoh's infringement.
27 Veoh cites no authority suggesting that UMG’s online marketing pertains to damages.
28

1 Veoh never explains how UMG’s alleged posting of videos could bear on actual
2 damages, much less statutory damages. Indeed, the one sentence Veoh devotes to
3 “explaining” its argument asserts that evidence of UMG’s posting of videos on
4 internet sites (other than Veoh) will somehow affect UMG’s claim that Veoh’s
5 infringement was willful. This assertion makes no sense. The willfulness inquiry
6 focuses on Veoh’s conduct, not UMG’s. Veoh is accused of willfully infringing
7 UMG’s copyrights. Willfulness may be found where, for example, an infringer like
8 Veoh “recklessly disregarded” the possibility that “its conduct represented
9 infringement.” *Hamil America, Inc. v. GFI*, 193 F.3d 92, 97 (2d Cir. 1999). That
10 inquiry focuses on Veoh’s knowledge and conduct. UMG’s dealings with third
11 parties have nothing to do with Veoh’s knowledge that its conduct was infringing, or
12 that Veoh recklessly disregarded the possibility that its conduct was infringing.

13 Veoh further suggests that UMG’s online marketing activities could somehow
14 affect UMG’s actual damages in this action. First, UMG’s actual damages are not a
15 necessary element of statutory damages. Indeed, as a case relied upon by Veoh (Veoh
16 misrepresents the case’s holding) states, “statutory damages are not meant to be
17 merely compensatory or restitutionary.” *Yurman Design, Inc. v. PAJ, Inc.*, 262 F.3d
18 101, 112 (2d Cir. 2001). Even if actual damages were a proper consideration for
19 assessing statutory damages, however, here, UMG’s online marketing activities with
20 respect to other websites have no bearing on UMG’s actual damages. UMG’s actual
21 damages (were it actually seeking them) would be primarily measured based upon the
22 licensing revenue that Veoh did not pay for its unauthorized exploitation of UMG’s
23 copyrighted works. For example, a web site licensed by UMG pays licensing fees to
24 UMG in connection with its use of UMG’s content. These licensed web sites pay
25 such licensing fees whether or not UMG also posts copies of the content on other web
26 sites. Veoh can evaluate this issue for itself – it already has the license agreements.
27 Given these basic and indisputable facts, UMG’s actual damages from Veoh’s
28

1 infringement do not change regardless of whether UMG posted a particular work on
2 some other third-party internet site. Given this, Veoh’s claim that so-called “viral
3 marketing” discovery is relevant to damages is false.⁹

4 **4. Veoh Fails To Show The Need For More Discovery**

5 As discussed above, Veoh’s requests for online marketing discovery seek
6 irrelevant information. Notwithstanding this fact, UMG has already produced
7 thousands and thousands of pages of discovery regarding its online marketing efforts.
8 Indeed, UMG has already produced the more than 1,000,000 pages of documents it
9 produced in the *Grouper* and *MySpace* actions in response to document requests
10 largely identical to those propounded by Veoh. And UMG did not stop there: In order
11 to ensure that it had undertaken a good faith search compliant with its obligations
12 under the Federal Rules, UMG undertook additional searches—including searches of
13 additional custodians within UMG’s marketing department whose documents
14 presumably respond to Veoh’s vague requests—and produced hundreds of thousands
15 of additional pages of documents responsive to Veoh’s requests. Having apparently
16 not reviewed a single page of this discovery, Veoh demands that UMG produce still
17 more. Veoh must do more than simply request more documents. Veoh must show
18 that additional discovery beyond that already produced is needed. *See Convolv, Inc.*
19 *v. Compaq Computer Corp.*, 223 F.R.D. 162, 167-68 (S.D.N.Y. 2004) (denying
20 request for additional discovery even though it was relevant because requesting party
21 had not shown that the additional discovery was needed in light of the discovery
22 already provided). Here, Veoh asks for some unspecified category of materials that
23 could potentially require UMG to search the files of all of its thousands of employees
24 to try to find needles in the haystack. Veoh has already received a massive
25 production. It fails to show the need even for the discovery UMG has already
26 provided, much less for UMG to pursue even more discovery at significant expense.

27 ⁹ UMG also refers the Court to a further discussion of discovery with respect to
28 damages issues in Section V, *infra*.

1 Veoh should first review the discovery it has already received. Then, if it believes it
2 can make a good faith showing of the need for even more, it can present actual
3 evidence and argument to the Court instead of merely repeating its document requests.
4 Veoh's present motion makes no such showing and should be denied.

5 **V. ISSUE NO. 4 – DOCUMENTS AND INFORMATION RELATING TO**
6 **PLAINTIFFS' ALLEGED DAMAGES, PROMOTION, PROTECTION,**
7 **AND VALUE OF THE ALLEGEDLY INFRINGED WORKS**

8 **A. Statement of Disputed Interrogatories and Requests For Production**
9 **and Plaintiffs' Responses**

10 VEOH INTERROGATORIES: 4, 5, 12, 14, 22

11 **INTERROGATORY NO. 4:**

12 For each work identified in response to Interrogatory No. 1, state on an annual
13 basis for the past ten (10) years (1) your gross revenues generated from sales of the
14 work; and (2) your gross and net profit generated from sales of the work and how such
15 profit was calculated.

16 **RESPONSE TO INTERROGATORY NO. 4:**

17 UMG incorporates by reference each of its General Objections, as well as its
18 objections to Veoh's Interrogatory No. 1. UMG objects that the discovery sought is
19 overly broad and unduly burdensome in that, among other things, it seeks financial
20 information for the past 10 years. UMG further objects that the discovery sought is
21 overly broad, unduly burdensome, and vague and ambiguous. UMG objects that this
22 interrogatory is vague and ambiguous with respect to the phrases "each work," "the
23 work," "gross revenues generated from sales of the work," and "gross and net profits
24 generated from sales of the work." UMG further objects that this interrogatory seeks
25 information not relevant to the parties' claims or defenses and is not reasonably
26 calculated to lead to the discovery of admissible evidence. UMG further objects to the
27 extent that this interrogatory calls for information subject to confidentiality

1 agreements between UMG and third parties. Nothing contained herein shall be
2 considered a waiver of such confidentiality obligations.

3 **INTERROGATORY NO. 5:**

4 Identify all distributors and all channels of distribution used for each work
5 identified in response to Interrogatory No. 1, including the quantity of works sold
6 through each distributor, and for the channels of distribution that include direct sales
7 to the public, state the quantity of each work sold directly to the public.

8 **RESPONSE TO INTERROGATORY NO. 5:**

9 UMG incorporates by reference each of its General Objections, as well as its
10 objections to Veoh's Interrogatory No. 1. UMG objects that this interrogatory is vague
11 and ambiguous, as well as overly broad and unduly burdensome, as to the meaning of
12 "distributors" and "channels of distribution." UMG further objects that the discovery
13 sought is overly broad and unduly burdensome in that, among other things, it seeks
14 the identification of all distributors and all channels of distribution used for each work
15 infringed by Veoh. UMG further objects that UMG's distributors and channels of
16 distribution are not relevant to the parties' claims or defenses and such discovery is not
17 reasonably calculated to lead to the discovery of admissible evidence. UMG further
18 objects that this interrogatory is overly broad, unduly burdensome, and seeks
19 information not relevant to the parties' claims or defenses in that it seeks the quantity
20 of works sold through each distributor, the channels of distribution that include direct
21 sales to the public, and the quantity of works sold directly to the public. UMG objects
22 to the extent that this interrogatory calls for information subject to confidentiality
23 agreements between UMG and third parties. Nothing contained herein or produced in
24 response hereto shall be considered a waiver of such confidentiality obligations.

25 **INTERROGATORY NO. 12:**

26 Describe in detail, including a quantification, all actual damages you claim to
27 have suffered as a result of the infringement you allege in this case.

1 **RESPONSE TO INTERROGATORY NO. 12:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that much of the discovery necessary to respond to this interrogatory is within
4 Veoh's possession, custody, or control, and has not yet been produced. UMG objects
5 to this interrogatory on the grounds that it is premature in that it calls for UMG to
6 produce information regarding the factual basis of its claims before UMG has had the
7 opportunity to complete its investigation of the facts. Giving an accurate and full
8 response to this interrogatory would be impossible at this time given that much of the
9 information called for by the interrogatory is within Veoh's own possession, custody,
10 or control. UMG further objects to this interrogatory as premature to the extent it
11 seeks expert testimony. UMG further objects to the extent that this interrogatory calls
12 for information subject to confidentiality agreements between UMG and third parties.
13 Nothing contained herein shall be considered a waiver of such confidentiality
14 obligations. UMG will produce neither confidential documents nor confidential
15 financial information until a protective order is in place, and even then will only
16 produce such discovery in a manner consistent with its confidentiality obligations.
17 UMG further objects that this interrogatory seeks information that is not relevant to
18 the claims and defenses of any party, nor reasonably calculated to lead to the
19 discovery of admissible evidence inasmuch as UMG elects to pursue statutory
20 damages in this action.

21 **INTERROGATORY NO. 14:**

22 Identify all licensees of your copyrighted works, including but not limited to the
23 copyrighted works you allege were infringed in this action, and for each provide: (i)
24 the person(s) responsible for negotiating the license on your behalf; (ii) the person(s)
25 responsible for negotiating the license on behalf of the licensee; (iii) the date on which
26 you entered into each license agreement; (iv) the expiration date of each of the license
27 agreements.

1 **RESPONSE TO INTERROGATORY NO. 14:**

2 UMG incorporates by reference each of its General Objections. UMG objects
3 that this interrogatory is overly broad and unduly burdensome in that it seeks the
4 identification of "all licensees" of UMG's works. UMG further objects that this
5 interrogatory seeks information not relevant to the parties' claims or defenses and is
6 not reasonably calculated to lead to the discovery of admissible evidence, in that,
7 among other things, this interrogatory seeks the identification of "all licensees" and
8 the person(s) responsible for negotiating each license. UMG objects to the
9 interrogatory for the identification of "person(s) responsible for negotiating the license
10 on behalf of the licensee," to the extent this calls for information not with UMG's
11 possession, custody, or control. UMG further objects to the extent that this
12 interrogatory calls for information that is subject to confidentiality agreements
13 between UMG and third parties. Nothing contained herein shall be considered a
14 waiver of such confidentiality obligations. Moreover, without waiving the foregoing
15 objections, UMG will not produce confidential documents until a protective order is in
16 place. UMG further objects to the definition of "persons" as overly broad and unduly
17 burdensome.

18 Subject to and without waiving the foregoing objections, UMG responds as
19 follows: Pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, UMG will
20 produce executed licenses for online video streaming and online video downloads to
21 Veoh, subject to the entry of a protective order and consistent with the confidentiality
22 obligations UMG has to third parties.

23 **INTERROGATORY NO. 22:**

24 Describe in detail each instance in which an artist informed you that he/she/it
25 objected to or did not approve of the inclusion, exploitation or availability of a
26 copyrighted sound recording or copyrighted musical composition on veoh.com.
27

1 **RESPONSE TO INTERROGATORY NO. 22:**

2 UMG incorporates by reference each of its General Objections. UMG further objects
3 that this interrogatory seeks information that is neither relevant to the claims or
4 defenses of any party nor reasonably calculated to lead to the discovery of admissible
5 evidence since "artists," as that term is defined by Veoh, may not be the owners of the
6 copyrights at issue in this case. Therefore, whether or not an artist objected, wanted to
7 object, or never had an opportunity to object, is irrelevant. Furthermore, the definition
8 of "artists" would require UMG to canvass thousands of individuals or entities in
9 order to respond to this interrogatory and, as such, is grossly overbroad and unduly
10 burdensome.

11 VEOH REQUEST NOS.: 34-42, 52-53, 96, 98-147, 151-153, 157-159, 161-
12 168, 172, 175-178, 182, 183, 184-202, 210-214, 216, 218, 220-221, 224-225,
13 227-229, 232-233, 235-241

14 **REQUEST FOR PRODUCTION NO. 34:**

15 Documents sufficient to identify your total annual profits, related to each
16 copyrighted work claimed by you in this action for each of the past ten (10) years.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects to this request as being overbroad and unduly burdensome, in that, among
20 other things, it seeks financial information for the past 10 years, and that it seeks
21 documents that are neither relevant to the claims or defenses of any party nor
22 reasonably calculated to lead to the discovery of admissible evidence. UMG further
23 objects to this request on the grounds that it is premature insofar as UMG has not yet
24 been able to identify all of the specific works for which UMG alleges infringement in
25 this action as the information to do so is possessed by Veoh and not UMG. As a result,
26 the nonprivileged documents UMG produces in response to this request, if any, should
27 not be construed as a representation by UMG that the works referred to in such
28

1 documents constitutes a complete list of UMG's copyrighted works that have appeared
2 on Veoh or as a representation that further factual investigation and discovery will not
3 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
4 objects to this request as vague and ambiguous as to what constitutes profits "related
5 to" a copyrighted work. UMG further objects to the extent that this request seeks
6 documents that are not in UMG's possession, custody or control. Additionally, the
7 burden of production in response to these requests greatly outweighs the potential
8 relevance, if any, of the requested material. Given that UMG has not definitively
9 elected to pursue its actual damages, Veoh's requests for documents relating to UMG's
10 profits are premature.

11 **REQUEST FOR PRODUCTION NO. 35:**

12 Documents sufficient to identify your total annual revenues related to each
13 copyrighted work claimed by you in this action for each of the past ten (10) years.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects to this request as being overbroad and unduly burdensome, and that it seeks
17 documents that are neither relevant to the claims or defenses of any party nor
18 reasonably calculated to lead to the discovery of admissible evidence. UMG further
19 objects to this request on the grounds that it is premature insofar as UMG has not yet
20 been able to identify all of the specific works for which UMG alleges infringement in
21 this action as the information to do so is possessed by Veoh and not UMG. As a result,
22 the nonprivileged documents UMG produces in response to this request, if any, should
23 not be construed as a representation by UMG that the works referred to in such
24 documents constitutes a complete list of UMG's copyrighted works that have appeared
25 on Veoh or as a representation that further factual investigation and discovery will not
26 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
27 objects to this request as vague and ambiguous as to what constitutes revenues

1 "related to" a copyrighted work. UMG further objects to the extent that this request
2 seeks documents that are not in UMG's possession, custody or control. Additionally,
3 the burden of production in response to these requests greatly outweighs the potential
4 relevance, if any, of the requested material. Given that UMG has not definitively
5 elected to pursue its actual damages, Veoh's requests for documents relating to UMG's
6 revenues are premature.

7 **REQUEST FOR PRODUCTION NO. 36:**

8 Documents sufficient to identify your total annual expenses related to each
9 copyrighted work claimed by you in this action for each of the past ten (10) years.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects to this request as being overbroad and unduly burdensome, and that it seeks
13 documents that are neither relevant to the claims or defenses of any party nor
14 reasonably calculated to lead to the discovery of admissible evidence. UMG further
15 objects to this request on the grounds that it is premature insofar as UMG has not yet
16 been able to identify all of the specific works for which UMG alleges infringement in
17 this action as the information to do so is possessed by Veoh and not UMG. As a result,
18 the nonprivileged documents UMG produces in response to this request, if any, should
19 not be construed as a representation by UMG that the works referred to in such
20 documents constitutes a complete list of UMG's copyrighted works that have appeared
21 on Veoh or as a representation that further factual investigation and discovery will not
22 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
23 objects to this request as vague and ambiguous as to what constitutes expenses
24 "related to" a copyrighted work. UMG further objects to the extent that this request
25 seeks documents that are not in UMG's possession, custody or control. Additionally,
26 the burden of production in response to these requests greatly outweighs the potential
27 relevance, if any, of the requested material. Given that UMG has not definitively
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1 elected to pursue its actual damages, Veoh's requests for documents relating to UMG's
2 expenses are premature.

3 **REQUEST FOR PRODUCTION NO. 37:**

4 Documents sufficient to show the number of visits by any person to any website
5 where any of the allegedly infringed works appear with your knowledge and consent,
6 on a monthly basis for the past five (5) years.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects that this request seeks information that is not relevant to the claims or defenses
10 of any party and is not reasonably calculated to lead to the discovery of admissible
11 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
12 further objects to this request on the grounds that it is premature insofar as UMG has
13 not yet been able to identify all of the specific works for which UMG alleges
14 infringement in this action as the information to do so is possessed by Veoh and not
15 UMG. As a result, the nonprivileged documents UMG produces in response to this
16 request, if any, should not be construed as a representation by UMG that the works
17 referred to in such documents constitutes a complete list of UMG's copyrighted works
18 that have appeared on Veoh or as a representation that further factual investigation
19 and discovery will not reveal more of UMG's copyrighted works that have appeared
20 on Veoh. UMG further objects to this request in that it requests documents that are not
21 in UMG's possession, custody or control. UMG further objects to this request as vague
22 and ambiguous in that it refers to "number of visits" and "by any person." UMG
23 objects to this request to the extent it calls for a legal conclusion.

24 **REQUEST FOR PRODUCTION NO, 38:**

25 All documents concerning indexes, lists or inventories of documents and things
26 maintained by or for you relating to all copyrighted works for which you allege
27 infringement in this action.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 38:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request is overbroad, unduly burdensome, and seeks documents that
4 are neither relevant to the claims or defenses of any party nor reasonably calculated to
5 lead to the discovery of admissible evidence. UMG further objects to this request as
6 vague, ambiguous, and unintelligible as to what constitutes an "index[]" or "list[]" of
7 documents relating to copyrighted works. UMG further objects to this request on the
8 grounds that it is premature insofar as UMG has not yet been able to identify all of the
9 specific "copyrighted works for which" UMG "allege[s] infringement in this action,"
10 as the information to do so is possessed by Veoh and not UMG. As a result, the
11 nonprivileged documents UMG produces in response to this request, if any, should
12 not be construed as a representation by UMG that the works referred to in such
13 documents constitutes a complete list of UMG's copyrighted works that have appeared
14 on Veoh or as a representation that further factual investigation and discovery will not
15 reveal more of UMG's copyrighted works that have appeared on Veoh.

16 **REQUEST FOR PRODUCTION NO. 39:**

17 All documents concerning your distribution of the copyrighted sound
18 recordings, or any portion of the copyrighted sound recordings, on the internet.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

20 UMG incorporates by reference each of its General Objections. UMG further
21 objects that this request seeks information that is not relevant to the claims or defenses
22 of any party and is not reasonably calculated to lead to the discovery of admissible
23 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
24 further objects to this request on the grounds that it is vague and ambiguous as to the
25 term "the copyrighted sound recordings." UMG further objects to the extent that this
26 request seeks documents that are not in UMG's possession, custody or control.

27 Subject to and without waiving the foregoing objections, UMG will produce

1 non-privileged responsive documents, if any, to the extent identified by a search of the
2 files of specific employees and executives that UMG will identify utilizing specific
3 search terms that UMG will identify.

4 **REQUEST FOR PRODUCTION NO. 40:**

5 All documents concerning your distribution of material containing the
6 copyrighted musical compositions, or any portion of the copyrighted musical
7 compositions, on the internet.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects that this request seeks information that is not relevant to the claims or defenses
11 of any party and is not reasonably calculated to lead to the discovery of admissible
12 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
13 further objects to this request on the grounds that it is vague and ambiguous as to the
14 terms "distribution ... on the internet" and "the copyrighted musical compositions."
15 UMG further objects to the extent that this request seeks documents that are not in
16 UMG's possession, custody or control.

17 Subject to and without waiving the foregoing objections, UMG will produce
18 non-privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 41:**

22 All documents concerning your use of the internet to promote and/or exploit the
23 copyrighted sound recordings and the copyrighted musical compositions.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

25 UMG incorporates by reference each of its General Objections. UMG further
26 objects that this request seeks information that is not relevant to the claims or defenses
27 of any party and is not reasonably calculated to lead to the discovery of admissible
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1 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
2 further objects to this request as vague and ambiguous as to the terms "copyrighted
3 musical compositions," "use of the internet," "copyrighted sound recordings,"
4 "promote," and "exploit." UMG further objects to the extent that this request seeks
5 documents that are not in UMG's possession, custody or control.

6 Subject to and without waiving the foregoing objections, UMG will produce
7 non-privileged responsive documents, if any, to the extent identified by a search of the
8 files of specific employees and executives that UMG will identify utilizing specific
9 search terms that UMG will identify.

10 **REQUEST FOR PRODUCTION NO. 42:**

11 All documents concerning your use of video hosting or sharing services to
12 promote the copyrighted sound recordings and the copyrighted musical compositions.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

14 UMG incorporates by reference each of its General Objections. UMG further
15 objects that this request seeks information that is not relevant to the claims or defenses
16 of any party and is not reasonably calculated to lead to the discovery of admissible
17 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
18 further objects to this request as vague and ambiguous as to the terms "promote,"
19 "copyrighted musical compositions," "copyrighted sound recordings," and "use of
20 video hosting or sharing services." UMG further objects to the extent that this request
21 seeks documents that are not in UMG's possession, custody or control.

22 Subject to and without waiving the foregoing objections, UMG will produce
23 non-privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

26 **REQUEST FOR PRODUCTION NO. 52:**

27 All documents between you and the performing artists and songwriters of the
28

1 works for which you claim infringement in this action, referring or relating to the
2 promotion of any and all of the copyrighted works claimed you in this action.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 52:**

4 UMG incorporates by reference each of its General Objections. UMG further
5 objects that this request is overbroad, unduly burdensome, and seeks documents that
6 are neither relevant to the claims or defenses of any party nor reasonably calculated to
7 lead to the discovery of admissible evidence. UMG further objects to this request on
8 the grounds that it is premature insofar as UMG has not yet been able to identify all of
9 the specific works for which UMG alleges infringement in this action as the
10 information to do so is possessed by Veoh and not UMG. As a result, the
11 nonprivileged documents UMG produces in response to this request, if any, should
12 not be construed as a representation by UMG that the works referred to in such
13 documents constitutes a complete list of UMG's copyrighted works that have appeared
14 on Veoh or as a representation that further factual investigation and discovery will not
15 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG objects
16 to this request on the grounds that "documents between you and the performing artists
17 and songwriters" is vague, ambiguous, and/or unintelligible. UMG objects to this
18 request on the grounds that the term "referring or relating to the promotion" is vague,
19 ambiguous, and overbroad and unduly burdensome.

20 **REQUEST FOR PRODUCTION NO. 53:**

21 All documents concerning any failure of digital rights management systems you
22 have utilized to protect the copyrighted works claimed by you in this action.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 53:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects that this request is overbroad, unduly burdensome, and seeks documents that
26 are neither relevant to the claims or defenses of any party nor reasonably calculated to
27 lead to the discovery of admissible evidence. UMG further objects to this request as
28

1 vague and ambiguous as to what constitutes documents "concerning" the failure of
2 digital rights management. UMG further objects to the extent that this request seeks
3 documents that are not in UMG's possession, custody or control. UMG objects to the
4 term "failure" as vague, ambiguous, and/or argumentative. UMG further objects to
5 this request on the grounds that it is premature insofar as UMG has not yet been able
6 to identify all of the specific "copyrighted works claimed by" UMG "in this action" as
7 the information to do so is possessed by Veoh and not UMG. As a result, the
8 nonprivileged documents UMG produces in response to this request, if any, should
9 not be construed as a representation by UMG that the works referred to in such
10 documents constitutes a complete list of UMG's copyrighted works that have appeared
11 on Veoh or as a representation that further factual investigation and discovery will
12 not reveal more of UMG's copyrighted works that have appeared on Veoh.

13 **REQUEST FOR PRODUCTION NO. 96:**

14 All documents concerning market research regarding whether or not infringing
15 copyrighted material operates to attract viewers and/or users to Veoh.com or any other
16 website.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 96:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that this request seeks information that is not relevant to the claims or defenses
20 of any party and is not reasonably calculated to lead to the discovery of admissible
21 evidence. UMG further objects to this request as vague and ambiguous as to the terms
22 "market research," documents "concerning" "market research," and "material [which]
23 "operates to attract viewers." UMG further objects to the extent that this request seeks
24 documents that are not in UMG's possession, custody or control. UMG further objects
25 that the request seeks information that is already in Veoh's possession, custody or
26 control, or reasonably available to Veoh.

1 **REQUEST FOR PRODUCTION NO. 98:**

2 All documents, including all documents constituting, referring, or relating to all
3 proposals, negotiations and agreements, between you and SendMe, Inc.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 98:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects that this request is overbroad, unduly burdensome, and seeks documents that
7 are neither relevant to the claims or defenses of any party nor reasonably calculated to
8 lead to the discovery of admissible evidence. UMG further objects to this request to
9 the extent it requests documents that are not in UMG's possession, custody, or control.
10 UMG further objects to the extent that this request calls for information that is subject
11 to confidentiality agreements between UMG and third parties.

12 **REQUEST FOR PRODUCTION NO. 99:**

13 All documents constituting, referring, or relating to any business analyses,
14 including analyses regarding sales and profitability, conducted by or for you in
15 connection with all agreements between you and SendMe, Inc.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 99:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects to this request on the grounds that it is overbroad and unduly burdensome.
19 UMG further objects to the extent that this request seeks information that is not
20 relevant to the claims or defenses of any party and is not reasonably calculated to lead
21 to the discovery of admissible evidence. UMG further objects to this request as vague
22 and ambiguous as to the term "business analyses." UMG further objects to the extent
23 that this request seeks documents that are not in UMG's possession, custody or
24 control. UMG further objects to the extent that this request calls for information that is
25 subject to confidentiality agreements between UMG and third parties.

26 **REQUEST FOR PRODUCTION NO. 100:**

27 All documents, including all documents constituting, referring, or relating to all
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1 proposals, negotiations and agreements, between you and Amazon.com.

2 **RESPONSE TO REQUEST FOR PRODUCTION NO. 100:**

3 UMG incorporates by reference each of its General Objections. UMG further
4 objects that this request is overbroad, unduly burdensome, and seeks documents that
5 are neither relevant to the claims or defenses of any party nor reasonably calculated to
6 lead to the discovery of admissible evidence. UMG further objects to this request to
7 the extent it requests documents that are not in UMG's possession, custody, or
8 control. UMG further objects to the extent that this request calls for information that is
9 subject to confidentiality agreements between UMG and third parties.

10 Subject to and without waiving the foregoing objections, UMG will produce
11 executed license agreements for music streaming and downloading services after entry
12 by the Court of an appropriate protective order and subject to UMG's obligations
13 under the confidentiality restrictions in those agreements.

14 **REQUEST FOR PRODUCTION NO. 101:**

15 All documents constituting, referring, or relating to any business analyses,
16 including analyses regarding sales and profitability, conducted by or for you in
17 connection with all agreements between you and Amazon.com.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 101:**

19 UMG incorporates by reference each of its General Objections. UMG
20 incorporates by reference each of its General Objections. UMG further objects to this
21 request on the grounds that it is overbroad and unduly burdensome. UMG further
22 objects to the extent that this request seeks information that is not relevant to the
23 claims or defenses of any party and is not reasonably calculated to lead to the
24 discovery of admissible evidence. UMG further objects to this request as vague and
25 ambiguous as to the term "business analyses." UMG further objects to the extent that
26 this request seeks documents that are not in UMG's possession, custody or control.
27 UMG further objects to the extent that this request calls for information that is subject

1 to confidentiality agreements between UMG and third parties.

2 **REQUEST FOR PRODUCTION NO. 102:**

3 All documents, including all documents constituting, referring, or relating to all
4 proposals, negotiations and agreements, between you and RealNetworks, Inc.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 102:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects that this request is overbroad, unduly burdensome, and seeks documents that
8 are neither relevant to the claims or defenses of any party nor reasonably calculated to
9 lead to the discovery of admissible evidence. UMG further objects to this request to
10 the extent it requests documents that are not in UMG's possession, custody, or control.
11 UMG further objects to the extent that this request calls for information that is subject
12 to confidentiality agreements between UMG and third parties.

13 Subject to and without waiving the foregoing objections, UMG will produce
14 executed license agreements for music streaming and downloading services after entry
15 by the Court of an appropriate protective order and subject to UMG's obligations
16 under the confidentiality restrictions in those agreements.

17 **REQUEST FOR PRODUCTION NO. 103:**

18 All documents constituting, referring, or relating to any business analyses,
19 including analyses regarding sales and profitability, conducted by or for you in
20 connection with all agreements between you and RealNetworks, Inc.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 103:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects to this request on the grounds that it is overbroad and unduly burdensome.
24 UMG further objects to the extent that this request seeks information that is not
25 relevant to the. claims or defenses of any party and is not reasonably calculated to lead
26 to the discovery of admissible evidence. UMG further objects to this request as vague
27 and ambiguous as to the term "business analyses." UMG further objects to the extent
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1 that this request seeks documents that are not in UMG's possession, custody or
2 control. UMG further objects to the extent that this request calls for information that is
3 subject to confidentiality agreements between UMG and third parties.

4 **REQUEST FOR PRODUCTION NO. 104:**

5 All documents, including all documents constituting, referring, or relating to all
6 proposals, negotiations and agreements, between you and WalMart. **RESPONSE TO**

7 **REQUEST FOR PRODUCTION NO. 104:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects that this request is overbroad, unduly burdensome, and seeks documents that
10 are neither relevant to the claims or defenses of any party nor reasonably calculated to
11 lead to the discovery of admissible evidence. UMG further objects to this request to
12 the extent it requests documents that are not in UMG's possession, custody, or control.
13 UMG further objects to the extent that this request calls for information that is subject
14 to confidentiality agreements between UMG and third parties.

15 Subject to and without waiving the foregoing objections, UMG will produce
16 executed license agreements for music streaming and downloading services after entry
17 by the Court of an appropriate protective order and subject to UMG's obligations
18 under the confidentiality restrictions in those agreements.

19 **REQUEST FOR PRODUCTION NO. 105:**

20 All documents constituting, referring, or relating to any business analyses,
21 including analyses regarding sales and profitability, conducted by or for you in
22 connection with all agreements between you and WalMart.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 105:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects to this request on the grounds that it is overbroad and unduly burdensome.
26 UMG further objects to the extent that this request seeks information that is not
27 relevant to the claims or defenses of any party and is not reasonably calculated to lead
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1 to the discovery of admissible evidence. UMG further objects to this request as vague
2 and ambiguous as to the term "business analyses." UMG further objects to the extent
3 that this request seeks documents that are not in UMG's possession, custody or
4 control. UMG further objects to the extent that this request calls for information that is
5 subject to confidentiality agreements between UMG and third parties.

6 **REQUEST FOR PRODUCTION NO. 106:**

7 All documents, including all documents constituting, referring, or relating to all
8 proposals, negotiations and agreements, between you and gBox.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 106:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects that this request is overbroad, unduly burdensome, and seeks documents that
12 are neither relevant to the claims or defenses of any party nor reasonably calculated to
13 lead to the discovery of admissible evidence. UMG further objects to this request to
14 the extent it requests documents that are not in UMG's possession, custody, or control.
15 UMG further objects to the extent that this request calls for information that is subject
16 to confidentiality agreements between UMG and third parties.

17 Subject to and without waiving the foregoing objections, UMG will produce
18 executed license agreements for music streaming and downloading services after entry
19 by the Court of an appropriate protective order and subject to UMG's obligations
20 under the confidentiality restrictions in those agreements.

21 **REQUEST FOR PRODUCTION NO. 107:**

22 All documents constituting, referring, or relating to any business analyses,
23 including analyses regarding sales and profitability, conducted by or for you in
24 connection with all agreements between you and gBox.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 107:**

26 UMG incorporates by reference each of its General Objections. UMG further
27 objects to this request on the grounds that it is overbroad and unduly burdensome.

1 UMG further objects to the extent that this request seeks information that is not
2 relevant to the claims or defenses of any party and is not reasonably calculated to lead
3 to the discovery of admissible evidence. UMG further objects to this request as vague
4 and ambiguous as to the term "business analyses." UMG further objects to the extent
5 that this request seeks documents that are not in UMG's possession, custody or
6 control. UMG further objects to the extent that this request calls for information that is
7 subject to confidentiality agreements between UMG and third parties.

8 **REQUEST FOR PRODUCTION NO. 108:**

9 All documents, including all documents constituting, referring, or relating to all
10 proposals, negotiations and agreements, between you and Google.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 108:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request is overbroad, unduly burdensome, and seeks documents that
14 are neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence. UMG further objects to this request to
16 the extent it requests documents that are not in UMG's possession, custody, or control.
17 UMG further objects to the extent that this request calls for information that is subject
18 to confidentiality agreements between UMG and third parties.

19 Subject to and without waiving the foregoing objections, UMG will produce
20 executed license agreements for music streaming and downloading services after entry
21 by the Court of an appropriate protective order and subject to UMG's obligations
22 under the confidentiality restrictions in those agreements.

23 **REQUEST FOR PRODUCTION NO. 109:**

24 All documents constituting, referring, or relating to any business analyses,
25 including analyses regarding sales and profitability, conducted by or for you in
26 connection with all agreements between you and Google.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 109:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects to this request on the grounds that it is overbroad and unduly burdensome.
4 UMG further objects to the extent that this request seeks information that is not
5 relevant to the claims or defenses of any party and is not reasonably calculated to lead
6 to the discovery of admissible evidence. UMG further objects to this request as vague
7 and ambiguous as to the term "business analyses." UMG further objects to the extent
8 that this request seeks documents that are not in UMG's possession, custody or
9 control. UMG further objects to the extent that this request calls for information that is
10 subject to confidentiality agreements between UMG and third parties.

11 **REQUEST FOR PRODUCTION NO. 110:**

12 All documents, including all documents constituting, referring, or relating to all
13 proposals, negotiations and agreements, between you and Best Buy.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 110:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects that this request is overbroad, unduly burdensome, and seeks documents that
17 are neither relevant to the claims or defenses of any party nor reasonably calculated to
18 lead to the discovery of admissible evidence. UMG further objects to this request to
19 the extent it requests documents that are not in UMG's possession, custody, or control.
20 UMG further objects to the extent that this request calls for information that is subject
21 to confidentiality agreements between UMG and third parties.

22 Subject to and without waiving the foregoing objections, UMG will produce
23 executed license agreements for music streaming and downloading services after entry
24 by the Court of an appropriate protective order and subject to UMG's obligations
25 under the confidentiality restrictions in those agreements.

26 **REQUEST FOR PRODUCTION NO.111:**

27 All documents constituting, referring, or relating to any business analyses,
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1 including analyses regarding sales and profitability, conducted by or for you in
2 connection with all agreements between you and Best Buy.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 111:**

4 UMG incorporates by reference each of its General Objections. UMG further
5 objects to this request on the grounds that it is overbroad and unduly burdensome.
6 UMG further objects to the extent that this request seeks information that is not
7 relevant to the claims or defenses of any party and is not reasonably calculated to lead
8 to the discovery of admissible evidence. UMG further objects to this request as vague
9 and ambiguous as to the term "business analyses." UMG further objects to the extent
10 that this request seeks documents that are not in UMG's possession, custody or
11 control. UMG further objects to the extent that this request calls for information that is
12 subject to confidentiality agreements between UMG and third parties.

13 **REQUEST FOR PRODUCTION NO. 112:**

14 All documents, including all documents constituting, referring, or relating to all
15 proposals, negotiations and agreements, between you and Nokia Corp. **RESPONSE**

16 **TO REQUEST FOR PRODUCTION NO. 112:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects that this request is overbroad, unduly burdensome, and seeks documents that
19 are neither relevant to the claims or defenses of any party nor reasonably calculated to
20 lead to the discovery of admissible evidence. UMG further objects to this request to
21 the extent it requests documents that are not in UMG's possession, custody, or control.
22 UMG further objects to the extent that this request calls for information that is subject
23 to confidentiality agreements between UMG and third parties.

24 Subject to and without waiving the foregoing objections, UMG will produce
25 executed license agreements for music streaming and downloading services after entry
26 by the Court of an appropriate protective order and subject to UMG's obligations
27 under the confidentiality restrictions in those agreements

1 **REQUEST FOR PRODUCTION NO. 113:**

2 All documents constituting, referring, or relating to any business analyses,
3 including analyses regarding sales and profitability, conducted by or for you in
4 connection with all agreements between you and Nokia Corp.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 113:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects to this request on the grounds that it is overbroad and unduly burdensome.
8 UMG further objects to the extent that this request seeks information that is not
9 relevant to the claims or defenses of any party and is not reasonably calculated to lead
10 to the discovery of admissible evidence. UMG further objects to this request as vague
11 and ambiguous as to the term "business analyses." UMG further objects to the extent
12 that this request seeks documents that are not in UMG's possession, custody or
13 control. UMG further objects to the extent that this request calls for information that is
14 subject to confidentiality agreements between UMG and third parties.

15 **REQUEST FOR PRODUCTION NO. 114:**

16 All documents, including all documents constituting, referring, or relating to all
17 proposals, negotiations and agreements, between you and AT&T.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 114:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects that this request is overbroad, unduly burdensome, and seeks documents that
21 are neither relevant to the claims or defenses of any party nor reasonably calculated to
22 lead to the discovery of admissible evidence. UMG further objects to this request to
23 the extent it requests documents that are not in UMG's possession, custody, or control.
24 UMG further objects to the extent that this request calls for information that is subject
25 to confidentiality agreements between UMG and third parties.

26 Subject to and without waiving the foregoing objections, UMG will produce
27 executed license agreements for music streaming and downloading services after entry
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1 by the Court of an appropriate protective order and subject to UMG's obligations
2 under the confidentiality restrictions in those agreements.

3 **REQUEST FOR PRODUCTION NO. 115:**

4 All documents constituting, referring, or relating to any business analyses,
5 including analyses regarding sales and profitability, conducted by or for you in
6 connection with all agreements between you and AT&T.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 115:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects to this request on the grounds that it is overbroad and unduly burdensome.
10 UMG further objects to the extent that this request seeks information that is not
11 relevant to the claims or defenses of any party and is not reasonably calculated to lead
12 to the discovery of admissible evidence. UMG further objects to this request as vague
13 and ambiguous as to the term "business analyses." UMG further objects to the extent
14 that this request seeks documents that are not in UMG's possession, custody or
15 control. UMG further objects to the extent that this request calls for information that is
16 subject to confidentiality agreements between UMG and third parties.

17 **REQUEST FOR PRODUCTION NO. 116:**

18 All documents, including all documents constituting, referring, or relating to all
19 proposals, negotiations and agreements, between you and Microsoft.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 116:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects that this request is overbroad, unduly burdensome, and seeks documents that
23 are neither relevant to the claims or defenses of any party nor reasonably calculated to
24 lead to the discovery of admissible evidence. UMG further objects to this request to
25 the extent it requests documents that are not in UMG's possession, custody, or control.
26 UMG further objects to the extent that this request calls for information that is subject
27 to confidentiality agreements between UMG and third parties.

1 Subject to and without waiving the foregoing objections, UMG will produce
2 executed license agreements for music streaming and downloading services after entry
3 by the Court of an appropriate protective order and subject to UMG's obligations
4 under the confidentiality restrictions in those agreements.

5 **REQUEST FOR PRODUCTION NO. 117:**

6 All documents constituting, referring, or relating to any business analyses,
7 including analyses regarding sales and profitability, conducted by or for you in
8 connection with all agreements between you and Microsoft.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 117:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects to this request on the grounds that it is overbroad and unduly burdensome.
12 UMG further objects to the extent that this request seeks information that, is not
13 relevant to the claims or defenses of any party and is not reasonably calculated to lead
14 to the discovery of admissible evidence. UMG further objects to this request as vague
15 and ambiguous as to the term "business analyses." UMG further objects to the extent
16 that this request seeks documents that are not in UMG's possession, custody or
17 control. UMG further objects to the extent that this request calls for information that is
18 subject to confidentiality agreements between UMG and third parties.

19 **REQUEST FOR PRODUCTION NO. 118:**

20 All documents, including all documents constituting, referring, or relating to all
21 proposals, negotiations and agreements, between you and Apple, Inc. **RESPONSE**

22 **TO REQUEST FOR PRODUCTION NO. 118:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects that this request is overbroad, unduly burdensome, and seeks documents that
25 are neither relevant to the claims or defenses of any party nor reasonably calculated to
26 lead to the discovery of admissible evidence. UMG further objects to this request to
27 the extent it requests documents that are not in UMG's possession, custody, or control.

1 UMG further objects to the extent that this request calls for information that is subject
2 to confidentiality agreements between UMG and third parties.

3 Subject to and without waiving the foregoing objections, UMG will produce
4 executed license agreements for music streaming and downloading services after entry
5 by the Court of an appropriate protective order and subject to UMG's obligations
6 under the confidentiality restrictions in those agreements.

7 **REQUEST FOR PRODUCTION NO. 119:**

8 All documents constituting, referring, or relating to any business analyses,
9 including analyses regarding sales and profitability, conducted by or for you in
10 connection with all agreements between you and Apple, Inc.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 119:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects to this request on the grounds that it is overbroad and unduly burdensome.
14 UMG further objects to the extent that this request seeks information that is not
15 relevant to the claims or defenses of any party and is not reasonably calculated to lead
16 to the discovery of admissible evidence. UMG further objects to this request as vague
17 and ambiguous as to the term "business analyses." UMG further objects to the extent
18 that this request seeks documents that are not in UMG's possession, custody or
19 control. UMG further objects to the extent that this request calls for information that is
20 subject to confidentiality agreements between UMG and third parties.

21 **REQUEST FOR PRODUCTION NO. 120:**

22 All documents, including all documents constituting, referring, or relating to all
23 proposals, negotiations and agreements, between you and Imeem.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 120:**

25 UMG incorporates by reference each of its General Objections. UMG further
26 objects that this request is overbroad, unduly burdensome, and seeks documents that
27 are neither relevant to the claims or defenses of any party nor reasonably calculated to
28

1 lead to the discovery of admissible evidence. UMG further objects to this request to
2 the extent it requests documents that are not in UMG's possession, custody, or control.
3 UMG further objects to the extent that this request calls for information that is subject
4 to confidentiality agreements between UMG and third parties.

5 Subject to and without waiving the foregoing objections, UMG will produce
6 executed license agreements for music streaming and downloading services after entry
7 by the Court of an appropriate protective order and subject to UMG's obligations
8 under the confidentiality restrictions in those agreements.

9 **REQUEST FOR PRODUCTION NO. 121:**

10 All documents constituting, referring, or relating to any business analyses,
11 including analyses regarding sales and profitability, conducted by or for you in
12 connection with all agreements between you and Imeem.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO 121:**

14 UMG incorporates by reference each of its General Objections. UMG further
15 objects to this request on the grounds that it is overbroad and unduly burdensome.
16 UMG further objects to the extent that this request seeks information that is not
17 relevant to the claims or defenses of any party and is not reasonably calculated to lead
18 to the discovery of admissible evidence. UMG further objects to this request as vague
19 and ambiguous as to the term "business analyses." UMG further objects to the extent
20 that this request seeks documents that are not in UMG's possession, custody or
21 control. UMG further objects to the extent that this request calls for information that is
22 subject to confidentiality agreements between UMG and third parties.

23 **REQUEST FOR PRODUCTION NO. 122:**

24 All documents, including all documents constituting, referring, or relating to all
25 proposals, negotiations and agreements, between you and Launch.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO 122:**

27 UMG incorporates by reference each of its General Objections. UMG further
28

1 objects that this request is overbroad, unduly burdensome, and seeks documents that
2 are neither relevant to the claims or defenses of any party nor reasonably calculated to
3 lead to the discovery of admissible evidence. UMG further objects to this request to
4 the extent it requests documents that are not in UMG's possession, custody, or control.
5 UMG further objects to the extent that this request calls for information that is subject
6 to confidentiality agreements between UMG and third parties.

7 Subject to and without waiving the foregoing objections, UMG will produce
8 executed license agreements for music streaming and downloading services after entry
9 by the Court of an appropriate protective order and subject to UMG's obligations
10 under the confidentiality restrictions in those agreements.

11 **REQUEST FOR PRODUCTION NO. 123:**

12 All documents constituting, referring, or relating to any business analyses,
13 including analyses regarding sales and profitability, conducted by or for you in
14 connection with all agreements between you and Launch.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 123:**

16 UMG incorporates by reference each of its General Objections. UMG further
17 objects to this request on the grounds that it is overbroad and unduly burdensome.
18 UMG further objects to the extent that this request seeks information that is not
19 relevant to the claims or defenses of any party and is not reasonably calculated to lead
20 to the discovery of admissible evidence. UMG further objects to this request as vague
21 and ambiguous as to the term "business analyses." UMG further objects to the extent
22 that this request seeks documents that are not in UMG's possession, custody or
23 control. UMG further objects to the extent that this request calls for information that is
24 subject to confidentiality agreements between UMG and third parties.

25 **REQUEST FOR PRODUCTION NO. 124:**

26 All documents, including all documents constituting, referring, or relating to all
27 proposals, negotiations and agreements, between you and Yahoo.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 124:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request is overbroad, unduly burdensome, and seeks documents that
4 are neither relevant to the claims or defenses of any party nor reasonably calculated to
5 lead to the discovery of admissible evidence. UMG further objects to this request to
6 the extent it requests documents that are not in UMG's possession, custody, or control.
7 UMG further objects to the extent that this request calls for information that is subject
8 to confidentiality agreements between UMG and third parties.

9 Subject to and without waiving the foregoing objections, UMG will produce
10 executed license agreements for music streaming and downloading services after entry
11 by the Court of an appropriate protective order and subject to UMG's obligations
12 under the confidentiality restrictions in those agreements.

13 **REQUEST FOR PRODUCTION NO. 125:**

14 All documents constituting, referring, or relating to any business analyses,
15 including analyses regarding sales and profitability, conducted by or for you in,
16 connection with all agreements between you and Yahoo.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 125:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects to this request on the grounds that it is overbroad and unduly burdensome.
20 UMG further objects to the extent that this request seeks information that is not
21 relevant to the claims or defenses of any party and is not reasonably calculated to lead
22 to the discovery of admissible evidence. UMG further objects to this request as vague
23 and ambiguous as to the term "business analyses." UMG further objects to the extent
24 that this request seeks documents that are not in UMG's possession, custody or
25 control. UMG further objects to the extent that this request calls for information that is
26 subject to confidentiality agreements between UMG and third parties.

1 **REQUEST FOR PRODUCTION NO. 126:**

2 All documents, including all documents constituting, referring, or relating to all
3 proposals, negotiations and agreements, between you and any and all wireless service
4 providers, including but not limited to documents relating to the licensing, delivery
5 and/or distribution of works owned or controlled by you.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 126:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request is overbroad, unduly burdensome, and seeks documents that
9 are neither relevant to the claims or defenses of any party nor reasonably calculated to
10 lead to the discovery of admissible evidence. UMG further objects to this request as
11 vague and ambiguous as to the term "wireless service providers." UMG further
12 objects to the extent that this request seeks documents that are not in UMG's
13 possession, custody or control. UMG further objects to the extent that this request
14 calls for information that is subject to confidentiality agreements between UMG and
15 third parties.

16 **REQUEST FOR PRODUCTION NO. 127:**

17 All documents, including all documents evidencing, referring or relating to all
18 proposals, negotiations and agreements between you and any and all persons, relating
19 to the licensing, delivery and/or distribution of works owned or controlled by you.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 127:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects that this request is overbroad, unduly burdensome, and seeks documents that
23 are neither relevant to the claims or defenses of any party nor reasonably calculated to
24 lead to the discovery of admissible evidence. UMG further objects to this request to
25 the extent it requests documents that are not in UMG's possession, custody, or control.
26 UMG further objects to the extent that this request calls for information that is subject
27 to confidentiality agreements between UMG and third parties. UMG further objects to

1 this request on the grounds that the phrase "evidencing, referring or relating to" is
2 vague and ambiguous.

3 **REQUEST FOR PRODUCTION NO. 128:**

4 All documents, including all documents constituting, referring, or relating to all
5 proposals, negotiations and agreements, between you and any and all wireless device
6 manufacturers, including but not limited to documents relating to the licensing,
7 delivery and/or distribution of works owned or controlled by you.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 128:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects that this request is overbroad, unduly burdensome, and seeks documents that
11 are neither relevant to the claims or defenses of any party nor reasonably calculated to
12 lead to the discovery of admissible evidence in that, among other things, Veoh is not a
13 "wireless device manufacturer[]." UMG further objects to this request to the extent it
14 requests documents that are not in UMG's possession, custody, or control.

15 UMG further objects to the extent that this request calls for information that is
16 subject to confidentiality agreements between UMG and third parties.

17 **REQUEST FOR PRODUCTION NO. 129:**

18 All documents, including but not limited to all documents constituting,
19 referring, or relating to all proposals, including but not limited to licensing proposals,
20 negotiations and agreements, between you and any and all persons, including but not
21 limited to Sony BMG Music Entertainment, EMT Group, Ltd., Warner Music Group
22 Corp., and any wireless service providers, regarding Total Music.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO 129:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects that this request is overbroad, unduly burdensome, and seeks documents that
26 are neither relevant to the claims or defenses of any party nor reasonably calculated to
27 lead to the discovery of admissible evidence. UMG further objects to this request to
28

1 the extent it requests documents that are not in UMG's possession, custody, or control.
2 UMG further objects to the extent that this request calls for information that is subject
3 to confidentiality agreements between UMG and third parties.

4 **REQUEST FOR PRODUCTION NO. 130:**

5 All documents, including but not limited to letters of inquiry, between the DOJ
6 and you, referring or relating to Total Music.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO 130:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects that this request seeks information that is not relevant to the claims or defenses
10 of any party and is not reasonably calculated to lead to the discovery of admissible
11 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
12 further objects to this request to the extent it calls for the production of privileged
13 attorney-client communications, attorney work product, or otherwise privileged or
14 protected material.

15 **REQUEST FOR PRODUCTION NO. 131:**

16 All documents referring or relating to Total Music, including but not limited to
17 any and all business and strategic plans, analyses, and financial and performance
18 forecasts.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO 131:**

20 UMG incorporates by reference each of its General Objections. UMG further
21 objects that this request is overbroad, unduly burdensome, and seeks documents that
22 are neither relevant to the claims or defenses of any party nor reasonably calculated to
23 lead to the discovery of admissible evidence. UMG further objects to this request to
24 the extent it requests documents that are not in UMG's possession, custody, or control.
25 UMG further objects to the extent that this request calls for information that is subject
26 to confidentiality agreements between UMG and third parties. UMG further objects to
27 this request to the extent it calls for the production of privileged attorney-client

1 communications, attorney work product, or otherwise privileged or protected material

2 **REQUEST FOR PRODUCTION NO. 132:**

3 Documents sufficient to identify all forms of digital music distribution offered,
4 or to be offered, by Total Music.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 132:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects that this request is overbroad, unduly burdensome, and seeks documents that
8 are neither relevant to the claims or defenses of any party nor reasonably calculated to
9 lead to the discovery of admissible evidence. UMG further objects to this request as
10 vague and ambiguous as to the phrase "all forms of digital music distribution offered."
11 UMG further objects to the extent that this request seeks documents that are not in
12 UMG's possession, custody or control. UMG further objects to the extent that this
13 request calls for information that is subject to confidentiality agreements between
14 UMG and third parties.

15 **REQUEST FOR PRODUCTION NO. 133:**

16 All documents, including but not limited to all of your internal and external
17 communications, "communication guidelines," emails, and memoranda evidencing,
18 referring or relating to Total Music.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 133:**

20 UMG incorporates by reference each of its General Objections. UMG further
21 objects that this request is overbroad, unduly burdensome, and seeks documents that
22 are neither relevant to the claims or defenses of any party nor reasonably calculated to
23 lead to the discovery of admissible evidence. UMG further objects to this request to
24 the extent it requests documents that are not in UMG's possession, custody, or control.
25 UMG further objects to this request to the extent it calls for the production of
26 privileged attorney-client communications, attorney work product, or otherwise
27 privileged or protected material. UMG further objects to the extent that this request

1 calls for information that is subject to confidentiality agreements between UMG and
2 third parties. UMG further objects to this request on the grounds that the phrase
3 "evidencing, referring or relating to" is vague and ambiguous.

4 **REQUEST FOR PRODUCTION NO. 134:**

5 Documents sufficient to identify the organizational and/or management
6 structure of Total Music, including but not limited to documents identifying all
7 potential candidates for all management and operational functions of Total Music.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO 134:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects that this request is overbroad, unduly burdensome, and seeks documents that
11 are neither relevant to the claims or defenses of any party nor reasonably calculated to
12 lead to the discovery of admissible evidence. UMG further objects to this request to
13 the extent it requests documents that are not in UMG's possession, custody, or control.
14 UMG further objects to the extent that this request calls for information that is subject
15 to confidentiality agreements between UMG and third parties.

16 **REQUEST FOR PRODUCTION NO. 135:**

17 All documents, including but not limited to all documents constituting,
18 referring, or relating to all proposals, including but not limited to licensing proposals,
19 negotiations and agreements, between you and any person, regarding Pressplay.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 135:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects that this request is overbroad, unduly burdensome, and seeks documents that
23 are neither relevant to the claims or defenses of any party nor reasonably calculated to
24 lead to the discovery of admissible evidence. UMG further objects to this request to
25 the extent it requests documents that are not in UMG's possession, custody, or control.
26 UMG further objects to the extent that this request calls for information that is subject
27 to confidentiality agreements between UMG and third parties.

1 **REQUEST FOR PRODUCTION NO. 136:**

2 All documents, including but not limited to letters of inquiry, between the DOJ
3 and you, referring or relating to Pressplay.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 136:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects that this request seeks information that is not relevant to the claims or defenses
7 of any party and is not reasonably calculated to lead to the discovery of admissible
8 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
9 further objects to the extent that this request calls for information that is subject to
10 confidentiality agreements between UMG and third parties.

11 **REQUEST FOR PRODUCTION NO, 137:**

12 All documents referring or relating to Pressplay, including but not limited to
13 any and all business and strategic plans, and financial and performance forecasts.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 137:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects that this request is overbroad, unduly burdensome, and seeks documents that
17 are neither relevant to the claims or defenses of any party nor reasonably calculated to
18 lead to the discovery of admissible evidence. UMG further objects to this request to
19 the extent it requests documents that are not in UMG's possession, custody, or control.
20 UMG further objects to this request to the extent it calls for the production of
21 privileged attorney-client communications, attorney work product, or otherwise
22 privileged or protected material. UMG further objects to the extent that this request
23 calls for information that is subject to confidentiality agreements between UMG and
24 third parties.

25 **REQUEST FOR PRODUCTION NO. 138:**

26 All documents, including but not limited to all internal communications,
27 "communication guidelines," emails, and memoranda evidencing, referring or relating
28

1 to Pressplay.

2 **RESPONSE TO REQUEST FOR PRODUCTION NO 138:**

3 UMG incorporates by reference each of its General Objections. UMG further
4 objects that this request is overbroad, unduly burdensome, and seeks documents that
5 are neither relevant to the claims or defenses of any party nor reasonably calculated to
6 lead to the discovery of admissible evidence. UMG further objects to this request to
7 the extent it requests documents that are not in UMG's possession, custody, or control.
8 UMG further objects to this request to the extent it calls for the production of
9 privileged attorney-client communications, attorney work product, or otherwise
10 privileged or protected material. UMG further objects to the extent that this request
11 calls for information that is subject to confidentiality agreements between UMG and
12 third parties. UMG further objects to this request on the grounds that the phrase
13 "evidencing, referring or relating to" is vague and ambiguous.

14 **REQUEST FOR PRODUCTION NO. 139:**

15 All documents evidencing, referring or relating to license agreements between
16 you and any person, containing MFN clauses.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 139:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that this request is overbroad, unduly burdensome, and seeks documents that
20 are neither relevant to the claims or defenses of any party nor reasonably calculated to
21 lead to the discovery of admissible evidence. UMG further objects to this request to
22 the extent it requests documents that are not in UMG's possession, custody or control.
23 UMG further objects to the extent that this request calls for information that is subject
24 to confidentiality agreements between UMG and third parties. UMG further objects to
25 this request to the extent it calls for the production of privileged attorney-client
26 communications, attorney work product, or otherwise privileged or protected material.
27 UMG further objects to this request to the extent it seeks a legal conclusion. UMG

1 further objects to this request on the grounds that the phrase "evidencing, referring or
2 relating to" is vague and ambiguous.

3 **REQUEST FOR PRODUCTION NO. 140**

4 All documents evidencing, referring, or relating to any business and/or strategic
5 analyses performed in connection with your decision to include MFN clauses in your
6 license agreements.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 140:**

8 UMG incorporates by reference each of its General Objections. UMG
9 incorporates by reference each of its General Objections. UMG further objects that
10 this request is overbroad, unduly burdensome, and seeks documents that are neither
11 relevant to the claims or defenses of any party nor reasonably calculated to lead to the
12 discovery of admissible evidence. UMG further objects to this request to the extent it
13 requests documents that are not in UMG's possession, custody or control.

14 UMG further objects to the extent that this request calls for information that is
15 subject to confidentiality agreements between UMG and third parties.

16 **REQUEST FOR PRODUCTION NO. 141:**

17 All documents, including all documents evidencing, referring or relating to, all
18 proposals, negotiations and agreements (including but not limited to license
19 agreements), between you and any person, referring or relating to works owned or
20 controlled by you.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 141:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects that this request is overbroad, unduly burdensome, and seeks documents that
24 are neither relevant to the claims or defenses of any party nor reasonably calculated to
25 lead to the discovery of admissible evidence. UMG further objects to this request to
26 the extent it requests documents that are not in UMG's possession, custody, or
27 control, UMG further objects to the extent that this request calls for information that is

1 subject to confidentiality agreements between UMG and third parties. UMG further
2 objects to this request on the grounds that the phrase "evidencing, referring or relating
3 to" is vague and ambiguous.

4 Subject to and without waiving the foregoing objections, UMG will produce
5 executed license agreements for music streaming and downloading services after entry
6 by the Court of an appropriate protective order and subject to UMG's obligations
7 under the confidentiality restrictions in those agreements.

8 **REQUEST FOR PRODUCTION NO. 142:**

9 All documents constituting, referring, or relating to any business analyses,
10 including analyses regarding sales and profitability, conducted by or for you in
11 connection with all agreements between you and all licensees of works owned or
12 controlled by you.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 142:**

14 UMG incorporates by reference each of its General Objections. UMG
15 incorporates by reference each of its General Objections. UMG further objects to this
16 request on the grounds that it is overbroad and unduly burdensome. UMG further
17 objects to the extent that this request seeks information that is not relevant to the
18 claims or defenses of any party and is not reasonably calculated to lead to the
19 discovery of admissible evidence. UMG further objects to this request as vague and
20 ambiguous as to the terms "business analyses" and "documents constituting, referring
21 or relating to any business analyses." UMG further objects to the extent that this
22 request seeks documents that are not in UMG's possession, custody or control. UMG
23 further objects to the extent that this request calls for information 12 that is subject to
24 confidentiality agreements between UMG and third parties.

25 **REQUEST FOR PRODUCTION NO. 143:**

26 All documents referring or relating to your decision to make the copyrighted
27 sound recordings available to the public without digital rights management protection.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 143:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request seeks information that is not relevant to the claims or defenses
4 of any party and is not reasonably calculated to lead to the discovery of admissible
5 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
6 further objects to this request on the grounds that it is premature insofar as UMG has
7 not yet been able to identify all of "the copyrighted sound recordings" for which UMG
8 alleges infringement in this action as the information to do so is possessed by Veoh
9 and not UMG. As a result, the nonprivileged documents UMG produces in response to
10 this request, if any, should not be construed as a representation by UMG that the
11 works referred to in such documents constitutes a complete list of UMG's copyrighted
12 works that have appeared on Veoh or as a representation that further factual
13 investigation and discovery will not reveal more of UMG's copyrighted works that
14 have appeared on Veoh. UMG further objects to this request as vague and ambiguous
15 as to the terms "digital rights management protection" and "make the copyrighted
16 sound recordings available to the public."

17 **REQUEST FOR PRODUCTION NO. 144:**

18 All documents referring or relating to your decision to make works containing
19 the copyrighted musical compositions available to the public without digital rights
20 management protection.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 144:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects that this request seeks information that is not relevant to the claims or defenses
24 of any party and is not reasonably calculated to lead to the discovery of admissible
25 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
26 further objects to this request on the grounds that it is premature insofar as UMG has
27 not yet been able to identify all of "the copyrighted musical compositions" for which
28

1 UMG alleges infringement in this action as the information to do so is possessed by
2 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
3 response to this request, if any, should not be construed as a representation by UMG
4 that the works referred to in such documents constitutes a complete list of UMG's
5 copyrighted works that have appeared on Veoh or as a representation that further
6 factual investigation and discovery will not reveal more of UMG's copyrighted works
7 that have appeared on Veoh. UMG further objects to this request as vague and
8 ambiguous as to the terms "digital rights management protection" and "make works
9 containing the copyrighted musical compositions available to the public."

10 **REQUEST FOR PRODUCTION NO. 145:**

11 All documents, including all documents constituting, referring, or relating to all
12 proposals, negotiations and agreements, between you and Sony Music, of works
13 owned or controlled by you.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 145:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects that this request is vague, ambiguous and incomprehensible, and appears to
17 request documents that are not in UMG's possession, custody or control. UMG further
18 objects that this request seeks information that is not relevant to the claims or defenses
19 of any party and is not reasonably calculated to lead to the discovery of admissible
20 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
21 further objects to this request to the extent it calls for the production of privileged
22 attorney-client communications, attorney work product, or otherwise privileged or
23 protected material.

24 **REQUEST FOR PRODUCTION NO. 146:**

25 All documents concerning positions Plaintiffs have taken or have held with
26 respect to the liability of their parent corporations), if any, for the acts of Plaintiffs or
27 any other direct or indirect subsidiary.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO 146:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request seeks information that is not relevant to the claims or defenses
4 of any party and is not reasonably calculated to lead to the discovery of admissible
5 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
6 further objects to this request as vague and ambiguous as to what constitutes
7 documents "concerning" "positions Plaintiffs have taken or held." UMG further
8 objects to the extent that this request seeks documents that are not in UMG's
9 possession, custody or control. UMG further objects to this request to the extent it
10 calls for the production of privileged attorney-client communications, attorney work
11 product, or otherwise privileged or protected material. UMG further objects to the
12 extent that this request calls for a legal conclusion.

13 **REQUEST FOR PRODUCTION NO. 147:**

14 All documents concerning positions Plaintiffs have taken or have held with
15 respect to their own liability for the acts of Plaintiffs' direct or indirect subsidiaries.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO 147:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects that this request seeks information that is not relevant to the claims or defenses
19 of any party and is not reasonably calculated to lead to the discovery of admissible
20 evidence. The request is therefore overbroad and unduly burdensome as well. UMG
21 further objects to this request as vague and ambiguous as to what constitutes
22 documents "concerning" "positions Plaintiffs have taken or held." UMG further
23 objects to the extent that this request seeks documents that are not in UMG's
24 possession, custody or control. UMG further objects to this request to the extent it
25 calls for the production of privileged attorney-client communications, attorney work
26 product, or otherwise privileged or protected material. UMG further objects to the
27 extent that this request calls for a legal conclusion.

1 **REQUEST FOR PRODUCTION NO. 151:**

2 All documents, including written or recorded speeches, press releases, press
3 statements, and transcriptions and videos concerning any public statements you have
4 made about Veoh, veoh.com, infringement, piracy, anti-piracy, content protection,
5 and/or this action or any related action.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 151:**

7 UMG incorporates by reference each of its General Objections. UMG objects
8 that this request is overbroad, unduly burdensome, and seeks documents that are
9 neither relevant to the claims or defenses of any party nor reasonably calculated to
10 lead to the discovery of admissible evidence. In particular, UMG objects to the extent
11 this request seeks "All documents ... concerning ... veoh.com, infringement, piracy,
12 anti-piracy, content protection, and/or this action or any related action." UMG further
13 objects that the request seeks information that is already in Veoh's possession, custody
14 or control, or reasonably available to Veoh. UMG further objects that this request is
15 vague and ambiguous as to "related action." UMG objects that this request seeks
16 documents that are not in UMG's possession, custody, or control.

17 Subject to and without waiving the foregoing objections, UMG will produce
18 non-privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 152:**

22 All documents concerning any public statements you have made about any
23 video streaming website or about video streaming websites generally.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 152:**

25 UMG incorporates by reference each of its General Objections. UMG objects
26 that this request is vague and ambiguous, overbroad, unduly burdensome, and that it
27 seeks documents that are neither relevant to the claims or defenses of any party nor
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1 reasonably calculated to lead to the discovery of admissible evidence. UMG further
2 objects that this request asks for documents that are not in UMG's possession, custody
3 or control, and requests documents that are already in Veoh's possession, custody or
4 control, or reasonably available to Veoh. UMG objects to this request as vague and
5 ambiguous and/or overbroad and unduly burdensome with respect to its use of the
6 term "video streaming website."

7 Subject to and without waiving the foregoing objections, UMG will produce
8 non-privileged responsive documents, if any, to the extent identified by a search of the
9 files of specific employees and executives that UMG will identify utilizing specific
10 search terms that UMG will identify.

11 **REQUEST FOR PRODUCTION NO. 153:**

12 All documents between you and any person (including but not limited to, any
13 artist, music publisher, record label, social networking website, video streaming
14 website or member of the press) concerning any video streaming website or
15 concerning video streaming websites generally.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 153:**

17 UMG incorporates by reference each of its General Objections. UMG objects
18 that this request is overbroad, unduly burdensome, and that it seeks documents that are
19 neither relevant to the claims or defenses of any party nor reasonably calculated to
20 lead to the discovery of admissible evidence. UMG objects that this request is vague,
21 ambiguous and/or unintelligible as to the term "documents between you and any
22 person" and "video streaming website." UMG further objects to this request to the
23 extent it calls for the production of privileged attorney-client communications,
24 attorney work product, or otherwise privileged or protected material.

25 **REQUEST FOR PRODUCTION NO. 157:**

26 All documents between you and Veoh prior to the commencement of this
27 litigation in which you stated or otherwise gave notice to Veoh that you objected to
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1 the availability, exploitation or inclusion of any work owned or controlled by you on
2 veoh.com.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 157:**

4 UMG incorporates by reference each of its General Objections. UMG objects
5 that this request is overbroad, unduly burdensome, and that it seeks documents that are
6 neither relevant to the claims or defenses of any party nor reasonably calculated to
7 lead to the discovery of admissible evidence. UMG further objects on the grounds that
8 the documents requested are already within Veoh's possession, custody, and control,
9 and are therefore equally or more readily available to Veoh than to UMG. UMG
10 objects to this request on the grounds that it is vague and ambiguous as to the term
11 "documents between you and Veoh."

12 Subject to and without waiving the foregoing objections, UMG will produce
13 non-privileged responsive documents, if any, to the extent identified by a search of the
14 files of specific employees and executives that UMG will identify utilizing specific
15 search terms that UMG will identify.

16 **REQUEST FOR PRODUCTION NO. 158:**

17 All documents concerning DMCA Notices, including but not limited to all
18 drafts of the notices, to any person(s) (other than Veoh), including but not limited to
19 documents regarding the decision to submit said DMCA Notifications generally or in
20 a particular instance.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO 158:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects that the terms "DMCA Notices" and "DMCA Notifications" are vague and
24 ambiguous, and that they call for a legal conclusion. UMG further objects that the
25 request is overbroad, unduly burdensome, and that it seeks documents that are neither
26 relevant to the claims or defenses of any party nor reasonably calculated to lead to the
27 discovery of admissible evidence. UMG further objects to this request as vague and
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1 ambiguous as to what constitutes documents "concerning DMCA Notices." UMG
2 further objects to the extent that this request seeks documents that are not in UMG's
3 possession, custody or control. UMG further objects to this request to the extent it
4 calls for the production of privileged attorney-client communications, attorney work
5 product, or otherwise privileged or protected material.

6 **REQUEST FOR PRODUCTION NO. 159:**

7 All documents concerning your decision not to submit a DMCA Notice to Veoh
8 regarding works owned or controlled by you that were available on Veoh.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 159:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects that the request is overbroad, unduly burdensome, and that it seeks documents
12 that are neither relevant to the claims or defenses of any party nor reasonably
13 calculated to lead to the discovery of admissible evidence. UMG further objects to this
14 request to the extent it assumes or implies that UMG is in any sense obligated to send
15 notices of copyright infringement to Veoh. UMG further objects to this request as
16 vague and ambiguous as to what constitutes documents "concerning" UMG's decision.
17 UMG further objects to the extent that this request seeks documents that are not in
18 UMG's possession, custody; or control. UMG further objects that the term "DMCA
19 Notices" is vague and ambiguous, and that it calls for a legal conclusion. UMG further
20 objects to this request to the extent it calls for the production of privileged attorney-
21 client communications, attorney work product, or otherwise privileged or protected
22 material.

23 Subject to and without waiving the foregoing objections, UMG will produce
24 non-privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 161:**

2 All documents concerning the benefit or value to Plaintiffs of having works
3 owned or controlled by you available, exploited or included, on any website, including
4 any video streaming website.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 161:**

6 UMG incorporates by reference each of its General Objections. UMG also
7 objects that the request for "documents concerning the benefit or value" of posting
8 works controlled by UMG is vague and ambiguous. UMG further objects to the extent
9 that this request seeks documents that are not in UMG's possession, custody or
10 control. UMG further objects that the request is overbroad, unduly burdensome, and
11 that it seeks documents that are neither relevant to the claims or defenses of any party
12 nor reasonably calculated to lead to the discovery of admissible evidence.

13 **REQUEST FOR PRODUCTION NO. 162:**

14 All documents concerning the benefit or value to any artist of having the artist's
15 works exploited or included, on any video streaming website.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 162:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects that the request is overbroad, unduly burdensome, and that it seeks documents
19 that are neither relevant to the claims or defenses of any party nor reasonably
20 calculated to lead to the discovery of admissible evidence in that, among other things,
21 "artists," as that term is defined by Veoh, may not be the owners of the copyrights at
22 issue in this case. UMG also objects that the request for "documents concerning the
23 benefit or value" is vague and ambiguous. UMG further objects to the extent that this
24 request seeks documents that are not in UMG's possession, custody or control.

25 **REQUEST FOR PRODUCTION NO. 163:**

26 All documents concerning market research about veoh.com.
27
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1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 163:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
4 that it seeks documents that are neither relevant to the claims or defenses of any party
5 nor reasonably calculated to lead to the discovery of admissible evidence. UMG
6 objects to this request on the grounds that the term "market research" is vague,
7 ambiguous, and/or overbroad and unduly burdensome.

8 Subject to and without waiving the foregoing objections, UMG will produce
9 non-privileged responsive documents, if any, to the extent identified by a search of the
10 files of specific employees and executives that UMG will identify utilizing specific
11 search terms that UMG will identify.

12 **REQUEST FOR PRODUCTION NO. 164:**

13 All documents concerning your actual or proposed efforts to promote your
14 business, artists, and works, including the copyrighted sound recordings and
15 copyrighted musical compositions, on veoh.com or any other internet site including
16 video streaming websites or file sharing websites.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO 164:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that the request is overbroad, unduly burdensome, and that it seeks documents
20 that are neither relevant to the claims or defenses of any party nor reasonably
21 calculated to lead to the discovery of admissible evidence. UMG objects to this
22 request on the grounds that the terms "promote," "video streaming websites," and "file
23 sharing websites," are vague and ambiguous.

24 **REQUEST FOR PRODUCTION NO. 165:**

25 All documents concerning your revenues and/or profits derived by your
26 exploitation, sale, or licensing of music videos.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO 165:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that the request is overbroad, unduly burdensome, and that it seeks documents
4 that are neither relevant to the claims or defenses of any party nor reasonably
5 calculated to lead to the discovery of admissible evidence, in that, among other things,
6 it is not limited as to time or scope.

7 **REQUEST FOR PRODUCTION NO. 166:**

8 All documents concerning the fee you charge per digital download of licensed
9 copyrighted material on websites selling digital media downloads.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 166:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
13 that it seeks documents that are neither relevant to the claims or defenses of any party
14 nor reasonably calculated to lead to the discovery of admissible evidence.

15 Subject to and without waiving the foregoing objections, UMG will produce
16 executed license agreements for music streaming and downloading services after entry
17 by the Court of an appropriate protective order and subject to UMG`s obligations
18 under the confidentiality restrictions in those agreements.

19 **REQUEST FOR PRODUCTION NO. 167:**

20 Documents sufficient to show your revenues generated from copyrighted sound
21 recordings and copyrighted musical compositions that you uploaded to veoh.com.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 167:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
25 that it seeks documents that are neither relevant to the claims or defenses of any party
26 nor reasonably calculated to lead to the discovery of admissible evidence. UMG
27 further objects to this request as vague, ambiguous, unintelligible, and/or

1 argumentative to the extent it suggests that UMG posts its works to Veoh, authorizes
2 its works to be posted to Veoh, or receives revenue from the uploading of its
3 copyrighted works to Veoh.

4 **REQUEST FOR PRODUCTION NO. 168:**

5 Documents sufficient to show the revenues generated from copyrighted sound
6 recordings and copyrighted musical compositions that you did not upload to
7 veoh.com.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 168:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects that the request is overbroad, unduly burdensome, and that it seeks documents
11 that are neither relevant to the claims or defenses of any party nor reasonably
12 calculated to lead to the discovery of admissible evidence. UMG further objects to the
13 extent that this request calls for information that is subject to confidentiality
14 agreements between UMG and third parties.

15 **REQUEST FOR PRODUCTION NO. 172:**

16 All documents concerning any agreements, formal or informal, that you have
17 entered into, proposed, considered or negotiated concerning any website, including
18 but not limited to YouTube.com and Bolt.com.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 172:**

20 UMG incorporates by reference each of its General Objections. UMG further
21 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
22 that it seeks documents that are neither relevant to the claims or defenses of any party
23 nor reasonably calculated to lead to the discovery of admissible evidence. UMG
24 further objects to this request as vague and ambiguous as to what constitutes
25 documents "concerning" any agreements. UMG further objects to the extent that this
26 request seeks documents that are not in UMG's possession, custody or control.

27 UMG further objects to the extent that this request calls for information that is
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1 subject to confidentiality agreements between UMG and third parties.

2 Subject to and without waiving the foregoing objections, UMG will produce
3 executed license agreements for music streaming and downloading services after entry
4 by the Court of an appropriate protective order and subject to UMG's obligations
5 under the confidentiality restrictions in those agreements.

6 **REQUEST FOR PRODUCTION NO. 175:**

7 All documents concerning your efforts to identify, monitor, or block content on
8 any website, including but not limited to veoh.com, for the presence of copyrighted
9 works owned or controlled by you, including but not limited to your efforts through
10 the use of a third party vendor.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 175:**

12 UMG incorporates by reference each of its General Objections. UMG objects
13 that this request is overbroad, unduly burdensome, and seeks documents that are
14 neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence. Moreover, UMG objects to this request
16 on the grounds that the phrase "identify, monitor, or block content .. for the presence
17 of copyrighted works" is vague and ambiguous and/or is unintelligible. UMG further
18 objects to this request as vague and ambiguous as to what constitutes "documents
19 "concerning" UMG's efforts. UMG further objects to the extent that this request seeks
20 documents that are not in UMG's possession, custody or control. UMG further objects
21 to this request to the extent it calls for the production of privileged attorney-client
22 communications, attorney work product, or otherwise privileged or protected material.

23 **REQUEST FOR PRODUCTION NO. 176:**

24 All documents concerning your efforts to identify, monitor, or block content on
25 any peer-to-peer network for the presence of copyrighted works owned or controlled
26 by you, including but not limited to your efforts through the use of a third party
27 vendor.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 176:**

2 UMG incorporates by reference each of its General Objections. UMG objects
3 that this request is overbroad, unduly burdensome, and seeks documents that are
4 neither relevant to the claims or defenses of any party nor reasonably calculated to
5 lead to the discovery of admissible evidence. Moreover, UMG objects to this request
6 on the grounds that the terms "identify, monitor, or block content ... for the presence
7 of copyrighted works" and "peer-to-peer network" are vague and ambiguous and/or is
8 unintelligible. UMG further objects to this request as vague and ambiguous as to what
9 constitutes documents "concerning" UMG's efforts. UMG further objects to the extent
10 that this request seeks documents that are not in UMG's possession, custody or
11 control.

12 **REQUEST FOR PRODUCTION NO. 177:**

13 All documents with artists, including with artists' agents or representatives,
14 pertaining to attempts by Plaintiffs to block or remove works that were posted,
15 reproduced, distributed, performed, displayed or adapted online or in digital media
16 with the implicit or explicit authorization of artists or their representatives. For
17 purposes of this Request, "attempt by Plaintiffs to remove" includes the use of DMCA
18 Notices, cease and desist letters, communications with a hosting site, or otherwise, and
19 "attempts by Plaintiffs to block" includes the inclusion of data (including, but not
20 limited to digital fingerprint files) in a database that provides electronic media
21 identification, content recognition, and/or copyright management services, including
22 but not limited to, Audible Magic.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 177:**

24 UMG incorporates by reference each of its General Objections. UMG objects
25 that this request is overbroad, unduly burdensome, and seeks documents that are
26 neither relevant to the claims or defenses of any party nor reasonably calculated to
27 lead to the discovery of admissible evidence in that, among other things, "artists;" as

1 that term is defined by Veoh, may not be the owners of the copyrights at issue in this
2 case. UMG further objects that the term "DMCA Notices" is vague and ambiguous,
3 and that it calls for a legal conclusion. UMG objects that the term "documents with
4 artists" is vague, ambiguous, and/or unintelligible and that this request as a whole is
5 vague, ambiguous, and/or unintelligible.

6 **REQUEST FOR PRODUCTION NO. 178:**

7 All documents pertaining to the rights of artists, including but not limited to,
8 documents that grant, deny, reflect, or relate to permission to artists, to upload or IS
9 approve the uploading of, or otherwise not object to the uploading of, copyrighted
10 works owned or controlled by you online or to otherwise allow or authorize their
11 copyrighted works to be included in user-generated videos or to be reproduced,
12 distributed, performed, displayed, posted, or adapted online or in digital media.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 178:**

14 UMG incorporates by reference each of its General Objections. UMG objects
15 that this request is overbroad, unduly burdensome, and seeks documents that are
16 neither relevant to the claims or defenses of any party nor reasonably calculated to
17 lead to the discovery of admissible evidence, in that, among other things, this request
18 seeks "All documents pertaining to the rights of artists." UMG objects that this request
19 calls for a legal conclusion. UMG objects to the term "user-generated videos,"
20 "copyrighted works owned or controlled by you online," and "digital media" are
21 vague, ambiguous, unintelligible, and/or overbroad and unduly burdensome and that
22 this request as a whole is vague, ambiguous, and/or unintelligible.

23 **REQUEST FOR PRODUCTION NO. 182:**

24 All documents constituting or memorializing the terms of Plaintiffs' settlement
25 of the action in the Central District of California entitled UMG Recordings, Inc. et al,
26 v. Bolt, Inc. et al., Case No. CV 06-06577.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 182:**

2 UMG incorporates by reference each of its General Objections. UMG objects
3 that this request is overbroad, unduly burdensome, and seeks documents that are
4 neither relevant to the claims or defenses of any party nor reasonably calculated to
5 lead to the discovery of admissible evidence.

6 Subject to and without waiving the foregoing objections, UMG responds that
7 UMG Recordings, Inc., et al, v. Bolt, Inc. et al., Case No. CV 06-06577 is an active
8 case.

9 **REQUEST FOR PRODUCTION NO. 183:**

10 All documents between you and any administrative agency, including but not
11 limited to the Copyright Royalty Board, pertaining to license fees and copyright
12 royalties related to the online distribution or digital public performance of sound
13 recordings of any copyrighted work for which you claim or intend to claim copyright
14 infringement.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 183:**

16 UMG incorporates by reference each of its General Objections. UMG objects
17 that this request is overbroad, unduly burdensome, and seeks documents that are
18 neither relevant to the claims or defenses of any party nor reasonably calculated to
19 lead to the discovery of admissible evidence. UMG further objects to this request on
20 the grounds that it is premature insofar as UMG has not yet been able to identify all of
21 the specific works for which UMG alleges infringement in this action as the
22 information to do so is possessed by Veoh and not UMG. As a result, the
23 nonprivileged documents UMG produces in response to this request, if any, should
24 not be construed as a representation by UMG that the works referred to in such
25 documents constitutes a complete list of UMG's copyrighted works that have appeared
26 on Veoh or as a representation that further factual investigation and discovery will not
27 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further

1 objects to the terms "administrative agency" and "documents between you and any
2 administrative agency" as vague and ambiguous.

3 **REQUEST FOR PRODUCTION NO. 184:**

4 All documents between you and SoundExchange, Inc. pertaining to license fees
5 and copyright royalties related to the online distribution or digital public performance
6 of sound recordings, including but not limited to, communications and documents
7 provided to SoundExchange in connection with the case In the Matter of Digital
8 Performance Right in Sound Recordings and Ephemeral Recordings, Docket No. 205-
9 1 CRB DTRA.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 184:**

11 UMG incorporates by reference each of its General Objections. UMG objects
12 that this request is overbroad, unduly burdensome, and seeks documents that are
13 neither relevant to the claims or defenses of any party nor reasonably calculated to
14 lead to the discovery of admissible evidence. UMG further objects to the phrase
15 "documents between you and SoundExchange, Inc." as vague and ambiguous. UMG
16 further objects to the extent that this request calls for information that is subject to
17 confidentiality agreements between UMG and third parties.

18 **REQUEST FOR PRODUCTION NO. 185:**

19 All documents in your possession submitted by third parties to the Copyright
20 Royalty Board in the case In the Matter of Digital Performance Right in Sound
21 Recordings and Ephemeral Recordings, Docket No. 205-1 CRB DTRA.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 185:**

23 UMG incorporates by reference each of its General Objections. UMG objects
24 that this request is overbroad, unduly burdensome, and seeks documents that are
25 neither relevant to the claims or defenses of any party nor reasonably calculated to
26 lead to the discovery of admissible evidence. UMG further objects to the extent that
27 this request calls for information that is subject to confidentiality agreements between
28

1 UMG and third parties.

2 **REQUEST FOR PRODUCTION NO. 186:**

3 All documents pertaining to disbursements to artists of any proceeds you
4 received from copyright infringement litigation settlements or resulting from claims or
5 litigation of copyright infringement by you against others.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 186:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request is overbroad, unduly burdensome, and seeks documents that
9 are neither relevant to the claims or defenses of any party nor reasonably calculated to
10 lead to the discovery of admissible evidence. UMG further objects that this request
11 violates the privacy rights of third parties and/or any confidentiality obligations to
12 third parties.

13 **REQUEST FOR PRODUCTION NO. 187:**

14 All documents, including but not limited to, budgets, financial reports, financial
15 projections and analyses, pertaining to proceeds you received and/or anticipate,
16 expect, plan, or hope to receive from copyright infringement settlements or resulting
17 from claims or litigation of copyright infringement by you against others.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 187:**

19 UMG incorporates by reference each of its General Objections. UMG objects
20 that this request is overbroad, unduly burdensome, and seeks documents that are
21 neither relevant to the claims or defenses of any party nor reasonably calculated to
22 lead to the discovery of admissible evidence. UMG further objects to this request to
23 the extent it calls for the production of privileged attorney-client communications,
24 attorney work product, or otherwise privileged or protected material.

25 **REQUEST FOR PRODUCTION NO. 188:**

26 All public statements made by you pertaining to the impact on you, including
27 but not limited to sales and financial impact, of online piracy and/or copyright
28

1 infringement.

2 **RESPONSE TO REQUEST FOR PRODUCTION NO. 188:**

3 UMG incorporates by reference each of its General Objections. UMG objects
4 that this request is overbroad, unduly burdensome, and seeks documents that are
5 neither relevant to the claims or defenses of any party nor reasonably calculated to
6 lead to the discovery of admissible evidence. UMG further objects that the request
7 seeks information that is already in Veoh's possession, custody or control, or
8 reasonably available to Veoh.

9 Subject to and without waiving the foregoing objections, UMG will produce
10 non-privileged responsive documents, if any, to the extent identified by a search of the
11 files of specific employees and executives that UMG will identify utilizing specific
12 search terms that UMG will identify.

13 **REQUEST FOR PRODUCTION NO. 189:**

14 All documents pertaining to any public statements made by you pertaining to
15 the impact on you, including but not limited to sales and financial impact, of online
16 piracy and/or copyright infringement.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 189:**

18 UMG incorporates by reference each of its General Objections. UMG objects
19 that this request is overbroad, unduly burdensome, and seeks documents that are
20 neither relevant to the claims or defenses of any party nor reasonably calculated to
21 lead to the discovery of admissible evidence. UMG further objects to this request as
22 vague and ambiguous as to what constitutes documents "pertaining to" public
23 statements. UMG further objects to the extent that this request seeks documents that
24 are not in UMG's possession, custody or control.

25 Subject to and without waiving the foregoing objections, UMG will produce
26 non-privileged responsive documents, if any, to the extent identified by a search of the
27 files of specific employees and executives that UMG will identify utilizing specific

1 search terms that UMG will identify.

2 **REQUEST FOR PRODUCTION NO. 190:**

3 All documents evidencing, referring or relating to any and all financial analyses
4 you have performed or maintain relating to all artists who perform any allegedly
5 infringed work.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 190:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request is overbroad, unduly burdensome, and seeks documents that
9 are neither relevant to the claims or defenses of any party nor reasonably calculated to
10 lead to the discovery of admissible evidence. The burden of production in response to
11 these requests greatly outweighs the potential relevance, if any, of the requested
12 material. Additionally, given that UMG has not definitively elected to pursue its actual
13 damages, Veoh's requests for documents relating to UMG's finances are premature.
14 UMG further objects to this request on the grounds that it is premature insofar as
15 UMG has not yet been able to identify all of the specific works for which UMG
16 alleges infringement in this action as the information to do so is possessed by Veoh
17 and not UMG. As a result, the nonprivileged documents UMG produces in response to
18 this request, if any, should not be construed as a representation by UMG that the
19 works referred to in such documents constitutes a complete list of UMG's copyrighted
20 works that have appeared on Veoh or as a representation that further factual
21 investigation and discovery will not reveal more of UMG's copyrighted works that
22 have appeared on Veoh. UMG further objects to this request on the ground that the
23 term "financial analyses," as defined by Veoh, is overbroad and unduly burdensome.
24 UMG further objects to this request on the grounds that the phrase "evidencing,
25 referring or relating to" is vague and ambiguous.

26 **REQUEST FOR PRODUCTION NO. 191:**

27 All documents evidencing, referring or relating to any and all financial analyses
28

1 you have performed or maintain regarding distribution of compact discs containing
2 any allegedly infringed work.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 191:**

4 UMG incorporates by reference each of its General Objections. UMG further
5 objects that this request is overbroad, unduly burdensome, and seeks documents that
6 are neither relevant to the claims or defenses of any party nor reasonably calculated to
7 lead to the discovery of admissible evidence. The burden of production in response to
8 these requests greatly outweighs the potential relevance, if any, of the requested
9 material. Additionally, given that UMG has not definitively elected to pursue its actual
10 damages, Veoh's requests for documents relating to UMG's finances are premature.
11 UMG further objects to this request on the grounds that it is premature insofar as
12 UMG has not yet been able to identify all of the specific works for which UMG
13 alleges infringement in this action as the information to do so is possessed by Veoh
14 and not UMG. As a result, the nonprivileged documents UMG produces in response to
15 this request, if any, should not be construed as a representation by UMG that the
16 works referred to in such documents constitutes a complete list of UMG's copyrighted
17 works that have appeared on Veoh or as a representation that further factual
18 investigation and discovery will not reveal more of UMG's copyrighted works that
19 have appeared on Veoh. UMG further objects to this request on the ground that the
20 term "financial analyses," as the term is defined by Veoh, is overbroad and unduly
21 burdensome. UMG further objects to this request on the grounds that the phrase
22 "evidencing, referring or relating to" is vague and ambiguous.

23 **REQUEST FOR PRODUCTION NO. 192:**

24 All documents evidencing, referring or relating to any and all financial analyses
25 you have performed or maintain regarding digital downloads, distribution, or other
26 digital exploitation, either of any allegedly infringed work or of any compilation
27 containing any such allegedly infringed work.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 192:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request is overbroad, unduly burdensome, and seeks documents that
4 are neither relevant to the claims or defenses of any party nor reasonably calculated to
5 lead to the discovery of admissible evidence. The burden of production in response to
6 these requests greatly outweighs the potential relevance, if any, of the requested
7 material. Additionally, given that UMG has not definitively elected to pursue its actual
8 damages, Veoh's requests for documents relating to UMG's finances are premature.
9 UMG further objects to this request on the grounds that it is premature insofar as
10 UMG has not yet been able to identify all of the specific works for which UMG
11 alleges infringement in this action as the information to do so is possessed by Veoh
12 and not UMG. As a result, the nonprivileged documents UMG produces in response to
13 this request, if any, should not be construed as a representation by UMG that the
14 works referred to in such documents constitutes a complete list of UMG's copyrighted
15 works that have appeared on Veoh or as a representation that further factual
16 investigation and discovery will not reveal more of UMG's copyrighted works that
17 have appeared on Veoh. UMG further objects to this request on the ground that the
18 term "financial analyses," as the term is defined by Veoh, is overbroad and unduly
19 burdensome. UMG further objects to this request on the grounds that the phrase
20 "evidencing, referring or relating to" is vague and ambiguous.

21 **REQUEST FOR PRODUCTION NO. 193:**

22 All documents evidencing, referring or relating to any and all financial analyses
23 you have performed or maintain regarding advertising or other revenues paid by any
24 third party to you or to any artist in connection with the performance of any allegedly
25 infringed work.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 193:**

27 UMG incorporates by reference each of its General Objections. UMG further
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1 objects that this request is overbroad, unduly burdensome, and seeks documents that
2 are neither relevant to the claims or defenses of any party nor reasonably calculated to
3 lead to the discovery of admissible evidence. The burden of production in response to
4 these requests greatly outweighs the potential relevance, if any, of the requested
5 material. Additionally, given that UMG has not definitively elected to pursue its actual
6 damages, Veoh's requests for documents relating to UMG's finances are premature.
7 UMG further objects to this request on the grounds that it is premature insofar as
8 UMG has not yet been able to identify all of the specific works for which UMG
9 alleges infringement in this action as the information to do so is possessed by Veoh
10 and not UMG. As a result, the nonprivileged documents UMG produces in response to
11 this request, if any, should not be construed as a representation by UMG that the
12 works referred to in such documents constitutes a complete list of UMG's copyrighted
13 works that have appeared on Veoh or as a representation that further factual
14 investigation and discovery will not reveal more of UMG's copyrighted works that
15 have appeared on Veoh. UMG further objects to this request on the ground that the
16 term "financial analyses," as the term is defined by Veoh, is overbroad and unduly
17 burdensome. UMG further objects to this request on the grounds that the phrase
18 "evidencing, referring or relating to" is vague and ambiguous.

19 **REQUEST FOR PRODUCTION NO. 194:**

20 All documents evidencing, referring or relating to any and all financial analyses
21 you have performed or maintain regarding sales of merchandise associated with any
22 allegedly infringed work or with any artist who performs or has performed any such
23 allegedly infringed work.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 194:**

25 UMG incorporates by reference each of its General Objections. UMG further
26 objects that this request is overbroad, unduly burdensome, and seeks documents that
27 are neither relevant to the claims or defenses of any party nor reasonably calculated to
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1 lead to the discovery of admissible evidence. The burden of production in response to
2 these requests greatly outweighs the potential relevance, if any, of the requested
3 material. Additionally, given that UMG has not definitively elected to pursue its actual
4 damages, Veoh's requests for documents relating to UMG's finances are premature.
5 UMG further objects to this request on the grounds that it is premature insofar as
6 UMG has not yet been able to identify all of the specific works for which for which
7 UMG alleges infringement in this action as the information to do so is possessed by
8 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
9 response to this request, if any, should not be construed as a representation by UMG
10 that the works referred to in such documents constitutes a complete list of UMG's
11 copyrighted works that have appeared on Veoh or as a representation that further
12 factual investigation and discovery will not reveal more of UMG's copyrighted works
13 that have appeared on Veoh. UMG further objects to this request on the ground that
14 the terms "financial analyses," as the term is defined by Veoh, is overbroad and
15 unduly burdensome. UMG further objects to this request on the grounds that the
16 phrases "merchandise associated with any allegedly infringed work" and "evidencing,
17 referring or relating to" are vague and ambiguous.

18 **REQUEST FOR PRODUCTION NO. 195**

19 All documents evidencing, referring or relating to any and all financial analyses
20 you have performed or maintain regarding sales of sheet music to any allegedly
21 infringed work.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 195:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects that this request is overbroad, unduly burdensome, and seeks documents that
25 are neither relevant to the claims or defenses of any party no reasonably calculated to
26 lead to lead to the discovery of admissible evidence. The burden of production in
27 response to these requests greatly outweighs the potential relevance, if any, of the
28

1 requested material. Additionally, given that UMG has not definitively elected to
2 pursue its actual damages, Veoh's requests for documents relating to UMG's finances
3 are premature. UMG further objects to this request on the grounds that it is premature
4 insofar as UMG has not yet been able to identify all of the specific works for which
5 for which UMG alleges infringement in this action as the information to do so is
6 possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
7 produces in response to this request, if any, should not be construed as a
8 representation by UMG that the works referred to in such documents constitutes a
9 complete list of UMG's copyrighted works that have appeared on Veoh or as a
10 representation that further factual investigation and discovery will not reveal more of
11 UMG's copyrighted works that have appeared on Veoh. UMG further objects to this
12 request on the ground that the term "financial analyses," as the term is defined by
13 Veoh, is overbroad and unduly burdensome. UMG further objects to this request on
14 the grounds that the phrase "evidencing, referring or relating to" is vague and
15 ambiguous.

16 **REQUEST FOR PRODUCTION NO. 196:**

17 All documents evidencing, referring or relating to any and all financial analyses
18 you have performed or maintain regarding concert tours in which any allegedly
19 infringed work is or has been performed.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 196:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects that this request is overbroad, unduly burdensome, and seeks documents that
23 are neither relevant to the claims or defenses of any party nor reasonably calculated to
24 lead to the discovery of admissible evidence. The burden of production in response to
25 these requests greatly outweighs the potential relevance, if any, of the requested
26 material. Additionally, given that UMG has not definitively elected to pursue its actual
27 damages, Veoh's requests for documents relating to UMG's finances are premature.

1 UMG further objects to this request on the grounds that it is premature insofar as
2 UMG has not yet been able to identify all of the specific works for which for which
3 UMG alleges infringement in this action as the information to do so is possessed by
4 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
5 response to this request, if any, should not be construed as a representation by UMG
6 that the works referred to in such documents constitutes a complete list of UMG's
7 copyrighted works that have appeared on Veoh or as a representation that further
8 factual investigation and discovery will not reveal more of UMG's copyrighted works
9 that have appeared on Veoh. UMG further objects to this request on the ground that
10 the term "financial analyses," as the term is defined by Veoh, is overbroad and unduly
11 burdensome. UMG further objects to this request on the grounds that the phrase
12 "evidencing, referring or relating to" is vague and ambiguous.

13 **REQUEST FOR PRODUCTION NO. 197:**

14 All documents evidencing, referring or relating to any and all financial analyses
15 you have performed or maintain regarding royalties paid to you or to any artist for the
16 right to perform any allegedly infringed work on the radio.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 197:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that this request is overbroad, unduly burdensome, and seeks documents that
20 are neither relevant to the claims or defenses of any party nor reasonably calculated to
21 lead to the discovery of admissible evidence. The burden of production in response to
22 these requests greatly outweighs the potential relevance, if any, of the requested
23 material. Additionally, given that UMG has not definitively elected to pursue its actual
24 damages, Veoh's requests for documents relating to UMG's finances are premature.
25 UMG further objects to this request on the grounds that it is premature insofar as
26 UMG has not yet been able to identify all of the specific works for which for which
27 UMG alleges infringement in this action as the information to do so is possessed by
28

1 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
2 response to this request, if any, should not be construed as a representation by UMG
3 that the works referred to in such documents constitutes a complete list of UMG's
4 copyrighted works that have appeared on Veoh or as a representation that further
5 factual investigation and discovery will not reveal more of UMG's copyrighted works
6 that have appeared on Veoh. UMG further objects to this request on the ground that
7 the term "financial analyses," as the term is defined by Veoh, is overbroad and unduly
8 burdensome. UMG further objects to this request on the grounds that the phrase
9 "evidencing, referring or relating to" is vague and ambiguous.

10 **REQUEST FOR PRODUCTION NO. 198:**

11 All documents evidencing, referring or relating to any and all financial analyses
12 you have performed or maintain regarding royalties paid to you or to any artist for the
13 right to perform any allegedly infringed work on television.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 198:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects that this request is overbroad, unduly burdensome, and seeks documents that
17 are neither relevant to the claims or defenses of any party nor reasonably calculated to
18 lead to the discovery of admissible evidence. The burden of production in response to
19 these requests greatly outweighs the potential relevance, if any, of the requested
20 material. Additionally, given that UMG has not definitively elected to pursue its actual
21 damages, Veoh's requests for documents relating to UMG's finances are premature.
22 UMG further objects to this request on the grounds that it is premature insofar as
23 UMG has not yet been able to identify all of the specific works for which for which
24 UMG alleges infringement in this action as the information to do so is possessed by
25 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
26 response to this request, if any, should not be construed as a representation by UMG
27 that the works referred to in such documents constitutes a complete list of UMG's
28

1 copyrighted works that have appeared on Veoh or as a representation that further
2 factual investigation and discovery will not reveal more of UMG's copyrighted works
3 that have appeared on Veoh. UMG further objects to this request on the ground that
4 the term "financial analyses," as the term is defined by Veoh, is overbroad and unduly
5 burdensome. UMG further objects to this request on the grounds that the phrase
6 "evidencing, referring or relating to" is vague and ambiguous.

7 **REQUEST FOR PRODUCTION NO. 199:**

8 All documents evidencing, referring or relating to any and all financial analyses
9 you have performed or maintain regarding royalties paid to you or to any artist for the
10 right to perform any allegedly infringed work in video games.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 199:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request is overbroad, unduly burdensome, and seeks documents that
14 are neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence. The burden of production in response to
16 these requests greatly outweighs the potential relevance, if any, of the requested
17 material. Additionally, given that UMG has not definitively elected to pursue its actual
18 damages, Veoh's requests for documents relating to UMG's finances are premature.
19 UMG further objects to this request on the grounds that it is premature insofar as
20 UMG has not yet been able to identify all of the specific works for which for which
21 UMG alleges infringement in this action as the information to do so is possessed by
22 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
23 response to this request, if any, should not be construed as a representation by UMG
24 that the works referred to in such documents constitutes a complete list of UMG's
25 copyrighted works that have appeared on Veoh or as a representation that further
26 factual investigation and discovery will not reveal more of UMG's copyrighted works
27 that have appeared on Veoh. UMG further objects to this request on the ground that

1 the term "financial analyses," as the term is defined by Veoh, is overbroad and unduly
2 burdensome. UMG further objects to this request on the grounds that the phrase
3 "evidencing, referring or relating to" is vague and ambiguous.

4 **REQUEST FOR PRODUCTION NO. 200:**

5 All documents evidencing, referring or relating to any and all financial analyses
6 you have performed or maintain regarding royalties paid to you or to any artist for the
7 right to perform any allegedly infringed work in movies or films of any kind.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 200:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects that this request is overbroad, unduly burdensome, and seeks documents that
11 are neither relevant to the claims or defenses of any party nor reasonably calculated to
12 lead to the discovery of admissible evidence. The burden of production in response to
13 these requests greatly outweighs the potential relevance, if any, of the requested
14 material. Additionally, given that UMG has not definitively elected to pursue its actual
15 damages, Veoh's requests for documents relating to UMG's finances are premature.
16 UMG further objects to this request on the grounds that it is premature insofar as
17 UMG has not yet been able to identify all of the specific works for which UMG
18 alleges infringement in this action as the information to do so is possessed by Veoh
19 and not UMG. As a result, the nonprivileged documents UMG produces in response to
20 this request, if any, should not be construed as a representation by UMG that the
21 works referred to in such documents constitutes a complete list of UMG's copyrighted
22 works that have appeared on Veoh or as a representation that further factual
23 investigation and discovery will not reveal more of UMG's copyrighted works that
24 have appeared on Veoh. UMG further objects to this request on the ground that the
25 term "financial analyses," as the term is defined by Veoh, is overbroad and unduly
26 burdensome. UMG further objects to this request on the grounds that the phrase
27 "evidencing, referring or relating to" is vague and ambiguous.

1 **REQUEST FOR PRODUCTION NO. 201:**

2 All documents evidencing, referring or relating to any and all business plans or
3 marketing plans that reference or reflect efforts by you to promote any of your
4 copyrighted works or any artists under contract with you using the internet and/or any
5 internet site.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 201:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request is overbroad, unduly burdensome, and seeks documents that
9 are neither relevant to the claims or defenses of any party nor reasonably calculated to
10 lead to the discovery of admissible evidence. UMG further objects to this request on
11 the grounds that the terms "reflect" and "evidencing, referring or relating to" are vague
12 and ambiguous and render the request overbroad and unduly burdensome. UMG
13 further objects to the extent that this request calls for information that is subject to
14 confidentiality agreements between UMG and third parties.

15 **REQUEST FOR PRODUCTION NO. 202:**

16 All documents evidencing, referring or relating to any and all business plans or
17 marketing plans that reference or reflect efforts by you to promote any of your
18 copyrighted works or any artists under contract with you using viral marketing.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 202:**

20 UMG incorporates by reference each of its General Objections. UMG further
21 objects that this request is overbroad, unduly burdensome, and seeks documents that
22 are neither relevant to the claims or defenses of any party nor reasonably calculated to
23 lead to the discovery of admissible evidence. UMG further objects to this request on
24 the grounds that the terms "reflect," "viral marketing," and "evidencing, referring or
25 relating to" are vague and ambiguous and render the request overbroad and unduly
26 burdensome.

1 **REQUEST FOR PRODUCTION NO. 210:**

2 All documents evidencing, referring or relating to video streaming licenses and
3 agreements for any and all of your copyrighted works.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 210:**

5 UMG incorporates by reference each of its General Objections. UMG further
6 objects that this request is overbroad, unduly burdensome, and seeks documents that
7 are neither relevant to the claims or defenses of any party nor reasonably calculated to
8 lead to the discovery of admissible evidence. UMG further objects to this request to
9 the extent it requests documents that are not in UMG's possession, custody, or control.
10 UMG further objects to the extent that this request calls for information that is subject
11 to confidentiality agreements between UMG and third parties. UMG further objects to
12 this request on the grounds that the phrase "evidencing, referring or relating to" is
13 vague and ambiguous.

14 Subject to and without waiving the foregoing objections, UMG will produce
15 executed license agreements for music streaming and downloading services after entry
16 by the Court of an appropriate protective order and subject to UMG's obligations
17 under the confidentiality restrictions in those agreements.

18 **REQUEST FOR PRODUCTION NO. 211:**

19 All documents evidencing, referring or relating to digital download licenses and
20 agreements for any and all of your copyrighted works.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 211:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects that this request is overbroad, unduly burdensome, and seeks documents that
24 are neither relevant to the claims or defenses of any party nor reasonably calculated to
25 lead to the discovery of admissible evidence. UMG further objects to this request to
26 the extent it requests documents that are not in UMG's possession, custody, or control.
27 UMG further objects to the extent that this request calls for information that is subject
28

1 to confidentiality agreements between UMG and third parties. UMG further objects to
2 this request on the grounds that the phrase "evidencing, referring or relating to" is
3 vague and ambiguous.

4 Subject to and without waiving the foregoing objections, UMG will produce
5 executed license agreements for music streaming and downloading services after entry
6 by the Court of an appropriate protective order and subject to UMG's obligations
7 under the confidentiality restrictions in those agreements

8 **REQUEST FOR PRODUCTION NO. 212;**

9 All documents evidencing, referring or relating to all royalty statements of any
10 kind relating to the allegedly infringed works.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 212:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request is overbroad, unduly burdensome, and seeks documents that
14 are neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence. This request appears to call for an
16 unreasonably large scope of documents which would be highly burdensome to locate,
17 review, and produce, and which are of little, if any, relevance to the claims and
18 defenses in this action. UMG further objects to the extent that this request calls for
19 information that may be subject to confidentiality agreements between UMG and third
20 parties. UMG further objects to this request on the grounds that it is premature insofar
21 as UMG has not yet been able to identify all of the specific works for which for which
22 UMG alleges infringement in this action as the information to do so is possessed by
23 Veoh and not UMG. As a result, the nonprivileged documents UMG produces in
24 response to this request, if any, should not be construed as a representation by UMG
25 that the works referred to in such documents constitutes a complete list of UMG's
26 copyrighted works that have appeared on Veoh or as a representation that further
27 factual investigation and discovery will not reveal more of UMG's copyrighted works

1 that have appeared on Veoh. UMG further objects to this request on the grounds that
2 the phrase "evidencing, referring or relating to" is vague and ambiguous.

3 **REQUEST FOR PRODUCTION NO. 213:**

4 All documents evidencing, referring or relating to any analysis or study by you
5 or any third party acting at your direction and/or on your behalf, discussing the cause
6 or causes of any change to your profits in connection with copyrighted music and/or
7 music videos for any period within the past ten (10) years.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 213:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects that this request is overbroad, unduly burdensome, and seeks documents that
11 are neither relevant to the claims or defenses of any party nor reasonably calculated to
12 lead to the discovery of admissible evidence. Moreover, UMG objects that the phrases
13 "evidencing, referring or relating to" and "profits in connection with copyrighted
14 music and/or music videos" are vague and ambiguous and/or unintelligible.

15 Additionally, the burden of production in response to these requests greatly outweighs
16 the potential relevance, if any, of the requested material. UMG further objects to this
17 request as it appears to request documents that are not in UMG's possession, custody
18 or control. Given that UMG has not definitively elected to pursue its actual damages,
19 Veoh's requests for documents relating to UMG's profits are premature. UMG further
20 objects that this request seeks documents from a time period not relevant to this case.

21 **REQUEST FOR PRODUCTION NO. 214:**

22 All databases, maintained in Microsoft Access or otherwise, evidencing,
23 referring or relating to the monitoring or reviewing of content on veoh.com by you.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 214:**

25 UMG incorporates by reference each of its General Objections. UMG further
26 objects that this request is overbroad, unduly burdensome, and seeks documents that
27 are neither relevant to the claims or defenses of any party nor reasonably calculated to
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1 lead to the discovery of admissible evidence. UMG further objects to this request to
2 the extent it calls for the production of privileged attorney-client communications,
3 attorney work product, or otherwise privileged or protected material. UMG further
4 objects to this request as vague and ambiguous.

5 **REQUEST FOR PRODUCTION NO. 216:**

6 All documents evidencing, referring or relating to your policies and practices
7 for ensuring that music and music videos created by your artists do not infringe
8 the copyright of any other party.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 216:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects that this request is overbroad, unduly burdensome, and seeks documents that
12 are neither relevant to the claims or defenses of any party nor reasonably calculated to
13 lead to the discovery of admissible evidence. Any purported infringement by UMG,
14 UMG Artists, and/or UMG's actions to prevent such infringement are not the subject
15 of this litigation. UMG further objects to this request on the grounds that the phrases
16 "evidencing, referring or relating to" and "music and music videos created by your
17 artists" are vague and ambiguous.

18 **REQUEST FOR PRODUCTION NO. 218:**

19 All documents produced in *In Re Napster, Inc. Copyright Litigation*
20 *multidistrict litigation*, Case No. C MDL-00-1369 MHP (including *UMG Recordings,*
21 *Inc. et al. v. Hummer Windblad Venture Partners et al.*, Case No. C 04-1166 MHP;
22 *UMG Recordings, Inc. et al. v. Bertelsmann AG et al.*, Case No. C 04-1351 MHP;
23 *Jerry Lieber et al. v. Bertelsmann AG et al.*, Case No. C 04-1671 MHP; *Capitol*
24 *Records, Inc. et al. v. Bertelsmann AG et al.*, Case No. C 04-2121 MHP).

25 **RESPONSE TO REQUEST FOR PRODUCTION NO 218:**

26 UMG incorporates by reference each of its General Objections. UMG further
27 objects that this request is overbroad, unduly burdensome, and seeks documents that
28

1 are neither relevant to the claims or defenses of any party nor reasonably calculated to
2 lead to the discovery of admissible evidence.

3 **REQUEST FOR PRODUCTION NO. 220:**

4 All documents produced in *UMG Recordings, Inc., et al. v. MySpace, Inc.*
5 *d/b/a MySpace.com, et al.*, Case No. CV 06-07361.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 220:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request seeks information that is not relevant to the claims or defenses
9 of any party and is not reasonably calculated to lead to the discovery of admissible
10 evidence. The request is therefore overbroad and unduly burdensome as well.

11 Subject to and without waiving the foregoing objections, UMG will produce
12 non-privileged responsive documents, if any, to the extent identified by a search of the
13 files of specific employees and executives that UMG will identify utilizing specific
14 search terms that UMG will identify.

15 **REQUEST FOR PRODUCTION NO. 221:**

16 All documents produced in *UMG Recordings, Inc., et al. v. Grouper Networks,*
17 *Inc., d/b/a Grouper.com et al.*, Case No. CV 06-06561.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 221:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects that this request seeks information that is not relevant to the claims or defenses
21 of any party and is not reasonably calculated to lead to the discovery of admissible
22 evidence. The request is therefore overbroad and unduly burdensome as well.

23 Subject to and without waiving the foregoing objections, UMG will produce
24 non-privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO. 224:**

2 All documents evidencing, referring or relating to any and all of your board
3 minutes referring to this action and/or any other action relating to allegations of
4 copyright infringement on the internet.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 224:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects that this request is overbroad, unduly burdensome, and seeks documents that
8 are neither relevant to the claims or defenses of any party nor reasonably calculated to
9 lead to the discovery of admissible evidence. UMG further objects to this request to
10 the extent it calls for the production of privileged attorney-client communications,
11 attorney work product, or otherwise privileged or protected material. UMG further
12 objects to this request on the grounds that the phrase "evidencing, referring or relating
13 to" is vague and ambiguous.

14 Subject to and without waiving the foregoing objections, UMG will produce
15 non-privileged responsive documents, if any, to the extent identified by a search of the
16 files of specific employees and executives that UMG will identify utilizing specific
17 search terms that UMG will identify.

18 **REQUEST FOR PRODUCTION NO. 225:**

19 All documents evidencing, referring or relating to any and all investigation by
20 you, of Veoh or veoh.com.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 225:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects that this request is overbroad, unduly burdensome, and seeks documents that
24 are neither relevant to the claims or defenses of any party nor reasonably calculated to
25 lead to the discovery of admissible evidence. UMG further objects to this request to
26 the extent it calls for the production of privileged attorney-client communications,
27 attorney work product, or otherwise privileged or protected material. UMG further
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1 objects to this request on the grounds that the phrase "evidencing, referring or relating
2 to" is vague and ambiguous.

3 Subject to and without waiving the foregoing objections, UMG will produce
4 non-privileged responsive documents, if any, to the extent identified by a search of the
5 files of specific employees and executives that UMG will identify utilizing specific
6 search terms that UMG will identify.

7 **REQUEST FOR PRODUCTION NO. 227:**

8 All documents evidencing, referring or relating to any and all valuations of you.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 227:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects that this request is overbroad, unduly burdensome, and seeks documents that
12 are neither relevant to the claims or defenses of any party nor reasonably calculated to
13 lead to the discovery of admissible evidence. UMG further objects to this request to
14 the extent it requests documents that are not in UMG's possession, custody, or control.
15 UMG objects to this request on the grounds that the terms "valuations" and
16 "evidencing, referring or relating to" are vague and ambiguous.

17 **REQUEST FOR PRODUCTION NO. 228:**

18 All documents evidencing, referring or relating to any and all analyses of your
19 15, actual or projected revenues, costs and profits for the past ten (10) years.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 228:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects to this request as being overbroad and unduly burdensome, in that, among
23 other things, it seeks financial information for the past 10 years, and that it seeks
24 documents that are neither relevant to the claims or defenses of any party nor
25 reasonably calculated to lead to the discovery of admissible evidence. UMG further
26 objects to this request to the extent it requests documents that are not in UMG's
27 possession, custody or control. Additionally, the burden of production in response to
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1 these requests greatly outweighs the potential relevance, if any, of the requested
2 material. UMG further objects to this request on the grounds that the phrase
3 "evidencing, referring or relating to" is vague and ambiguous.

4 **REQUEST FOR PRODUCTION NO. 229:**

5 All documents evidencing, referring or relating to any and all revenues you
6 have earned from advertising and/or marketing (including viral marketing) on the
7 internet for the past ten (10) years.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 229:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects to this request as being overbroad and unduly burdensome, in that, among
11 other things, it seeks financial information for the past 10 years, and that it seeks
12 documents that are neither relevant to the claims or defenses of any party nor
13 reasonably calculated to lead to the discovery of admissible evidence. UMG further
14 objects to this request to the extent it requests documents that are not in UMG's
15 possession, custody or control. Additionally, the, burden of production in response to
16 these requests greatly outweighs the potential relevance, if any, of the requested
17 material UMG further objects to this request on the grounds that the terms "viral
18 marketing" and "evidencing, referring or relating to" are vague and ambiguous.

19 **REQUEST FOR PRODUCTION NO. 232:**

20 All documents evidencing, referring or relating to any analysis, investigation,
21 study and/or report relating to any and all allegedly infringing content posted on
22 veoh.com.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 232:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects that this request is overbroad, unduly burdensome, and seeks documents that
26 are neither relevant to the claims or defenses of any party nor reasonably calculated to
27 lead to the discovery of admissible evidence. UMG further objects to this request on
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1 the grounds that it is premature insofar as UMG has not yet been able to identify all of
2 the specific works for which for which UMG alleges infringement in this action as the
3 information to do so is possessed by Veoh and not UMG. As a result, the
4 nonprivileged documents UMG produces in response to this request, if any, should
5 not be construed as a representation by UMG that the works referred to in such
6 documents constitutes a complete list of UMG's copyrighted works that have appeared
7 on Veoh or as a representation that further factual investigation and discovery will not
8 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
9 objects to this request to the extent it calls for the production of privileged attorney-
10 client communications, attorney work product, or otherwise privileged or protected
11 material. UMG further objects to this request to the extent it requests documents that
12 are not in UMG's possession, custody or control. UMG further objects to this request
13 on the grounds that the phrase "evidencing, referring or relating to" is vague and
14 ambiguous.

15 **REQUEST FOR PRODUCTION NO. 233:**

16 All documents evidencing, referring or relating to any analysis, investigation,
17 study and/or report relating to music videos posted on veoh.com by members of the
18 public.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 233:**

20 UMG incorporates by reference each of its General Objections. UMG further
21 objects that this request is overbroad, unduly burdensome, and seeks documents that
22 are neither relevant to the claims or defenses of any party nor reasonably calculated to
23 lead to the discovery of admissible evidence. UMG further objects to this request as
24 premature in that it calls for UMG to produce information regarding the factual basis
25 of its claims before UMG has had the opportunity to complete its investigation of the
26 facts or to conduct appropriate discovery into the factual basis of its claims. Moreover,
27 giving an accurate and full response to this request would be impossible at this time

1 given that much of the information about which music videos works have been posted
2 on veoh.com is largely within Veoh's own possession, custody or control. UMG
3 further objects to this request to the extent it requests documents that are not in UMG's
4 possession, custody or control. UMG further objects to this request on the grounds
5 that the phrase "evidencing, referring or relating to" is vague and ambiguous.

6 Subject to and without waiving the foregoing objections, UMG will produce
7 non-privileged responsive documents, if any, to the extent identified by a search of the
8 files of specific employees and executives that UMG will identify utilizing specific
9 search terms that UMG will identify.

10 **REQUEST FOR PRODUCTION NO. 235:**

11 All documents evidencing, referring or relating to actual or threatened litigation
12 by you concerning alleged copyright infringement of another person, including
13 without limitation any cease and desist letters, take down notices or other
14 correspondence relating to such threatened or actual litigation, and all pleadings,
15 briefs, discovery responses, declarations and affidavits filed or served by you in any
16 such legal proceeding.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 235:**

18 UMG incorporates by reference each of its General Objections. UMG further
19 objects that this request is overbroad, unduly burdensome, and seeks documents that
20 are neither relevant to the claims or defenses of any party nor reasonably calculated to
21 lead to the discovery of admissible evidence. UMG further objects to this request to
22 the extent it requests documents that are not in UMG's possession, custody or control,
23 and/or are publicly available to Veoh. UMG further objects to this request to the
24 extent it calls for the production of privileged attorney-client communications,
25 attorney work product, or otherwise privileged or protected material. UMG further
26 objects to this request on the grounds that the phrase "evidencing, referring or relating
27 to" is vague and ambiguous.

1 **REQUEST FOR PRODUCTION NO. 236:**

2 All documents evidencing, referring or relating to any and all litigation
3 threatened by you concerning the alleged copyright infringement by another person,
4 where you reached an agreement or deal of any kind with the alleged infringer before
5 filing a lawsuit, and did not initiate a lawsuit.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 236:**

7 UMG incorporates by reference each of its General Objections. UMG further
8 objects that this request is overbroad, unduly burdensome, and seeks documents that
9 are neither relevant to the claims or defenses of any party nor reasonably calculated to
10 lead to the discovery of admissible evidence. UMG further objects to this request to
11 the extent it requests documents that are not in UMG's possession, custody or control.
12 UMG further objects to this request to the extent it calls for the production of
13 privileged attorney-client communications, attorney work product, or otherwise
14 privileged or protected material. UMG further objects to the extent that this request
15 calls for information that is subject to confidentiality agreements between UMG and
16 third parties. UMG further objects to this request on the grounds that the phrase
17 "evidencing, referring or relating to" is vague and ambiguous and that this request as a
18 whole is vague, ambiguous, and/or unintelligible.

19 **REQUEST FOR PRODUCTION NO. 237:**

20 All documents evidencing, referring or relating to any and all litigation
21 threatened by you concerning alleged copyright infringement by another person,
22 where you did not initiate a lawsuit.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 237:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects that this request is overbroad, unduly burdensome, and seeks documents that
26 are neither relevant to the claims or defenses of any party nor reasonably calculated to
27 lead to the discovery of admissible evidence. UMG further objects to this request to
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1 the extent it requests documents that are not in UMG's possession, custody or control.
2 UMG further objects to this request to the extent it calls for the production of
3 privileged attorney-client communications, attorney work product, or otherwise
4 privileged or protected material. UMG further objects to this request on the grounds
5 that the phrase "evidencing, referring or relating to" is vague and ambiguous and that
6 this request as a whole is vague, ambiguous, and/or unintelligible.

7 **REQUEST FOR PRODUCTION NO. 238:**

8 Documents evidencing, referring, or relating to any and all settlement
9 agreements and/or deal terms, including any and all proposed and/or final terms,
10 relating to any and all documents produced in response to Request for Production
11 Nos. 236 and 237.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 238:**

13 UMG incorporates by reference each of its General Objections. UMG further
14 objects that this request is overbroad, unduly burdensome, and seeks documents that
15 are neither relevant to the claims or defenses of any party nor reasonably calculated to
16 lead to the discovery of admissible evidence. UMG further objects to this request to
17 the extent it requests documents that are not in UMG's possession, custody or control.
18 UMG further objects to this request to the extent it calls for the production of
19 privileged attorney-client communications, attorney work product, or otherwise
20 privileged or protected material. UMG further objects to the extent that this request
21 calls for information that is subject to confidentiality agreements between UMG and
22 third parties. UMG further objects to this request on the grounds that the phrase
23 "evidencing, referring, or relating to" is vague and ambiguous.

24 **REQUEST FOR PRODUCTION NO. 239:**

25 All license agreements between you and any person.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 239:**

27 UMG incorporates by reference each of its General Objections. UMG further
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1 objects that this request is overbroad, unduly burdensome, and seeks documents that
2 are neither relevant to the claims or defenses of any party nor reasonably calculated to
3 lead to the discovery of admissible evidence. UMG further objects to the extent that
4 this request calls for information that is subject to confidentiality agreements between
5 UMG and third parties.

6 Subject to and without waiving the foregoing objections, UMG will produce
7 executed license agreements for music streaming and downloading services after entry
8 by the Court of an appropriate protective order and subject to UMG's obligations
9 under the confidentiality restrictions in those agreements.

10 **REQUEST FOR PRODUCTION NO. 240:**

11 All documents evidencing, referring or relating to any purported license
12 agreement between you and any person.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 240:**

14 UMG incorporates by reference each of its General Objections. UMG further
15 objects that this request is overbroad, unduly burdensome, and seeks documents that
16 are neither relevant to the claims or defenses of any party nor reasonably calculated to
17 lead to the discovery of admissible evidence. UMG further objects to this request to
18 the extent it requests documents that are not in UMG's possession, custody, or control.
19 UMG further objects to the extent that this request calls for information that is subject
20 to confidentiality agreements between UMG and third parties. UMG further objects to
21 this request on the grounds that the phrase "evidencing, referring or relating to" is
22 vague and ambiguous.

23 Subject to and without waiving the foregoing objections, UMG will produce
24 executed license agreements for music streaming and downloading services after entry
25 by the Court of an appropriate protective order and subject to UMG's obligations
26 under the confidentiality restrictions in those agreements.

1 **REQUEST FOR PRODUCTION NO. 241:**

2 All documents evidencing, referring or relating to any and all negotiations E
3 relating to any and all license agreements between you and any person.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 241:**

5 UMG incorporates by reference each of its General Objections. UMG further objects
6 that this request is overbroad, unduly burdensome, and seeks documents that are
7 neither relevant to the claims or defenses of any party nor reasonably calculated to
8 lead to the discovery of admissible evidence. UMG further objects to this request to
9 the extent it requests documents that are not in UMG's possession, custody, or control.
10 UMG further objects to the extent that this request calls for information that is subject
11 to confidentiality agreements between UMG and third parties. UMG further objects to
12 this request on the grounds that the phrase "evidencing, referring or relating to" is
13 vague and ambiguous.

14 **B. Veoh's Contentions and Points and Authorities**

15 Plaintiffs improperly refuse to produce all non-privileged documents on the
16 subject of damages, including financial documents and documents relating to
17 Plaintiffs' promotion and exploitation of the purportedly infringing works, the value of
18 Plaintiffs' copyrights, Plaintiffs' business plans and analyses, and other documents
19 relating to proposals and negotiations with third parties. Of significant note is
20 Plaintiffs' refusal to produce documents relating to proposals and negotiations with
21 third parties which would, among other things, demonstrate what Plaintiffs themselves
22 view as a reasonable royalty for Plaintiffs' allegedly infringed works.

23 **1. Plaintiffs' Financial Documents and Information are Highly**
24 **Relevant to Plaintiffs' Damages Claims**

25 Financial documents and information relating to Plaintiffs' revenues from the
26 works at issue, Plaintiffs' promotion and exploitation of the purportedly infringing
27 works, and the value of Plaintiffs' copyrights is directly relevant to Plaintiffs'

1 purported damages and mitigation of damages. During meet and confer conferences,
2 Plaintiffs' counsel conceded the relevance of this information to a claim for actual
3 damages, but justified Plaintiffs' refusal to produce such documents and information
4 arguing that Plaintiffs had not yet definitively elected to pursue actual damages and as
5 such, Veoh's requests were "premature." (Calkins Decl., ¶ 13.) Plaintiffs however
6 seek actual and statutory damages in the Complaint, and while Plaintiffs may
7 ultimately elect one theory, documents responsive to these requests are relevant
8 regardless of which theory Plaintiffs ultimately pursue. (Complaint, ¶¶ 32-33, 40-41,
9 49-50, 57-58).

10 The relevance of financial information to a claim for statutory or actual
11 damages has been repeatedly recognized by courts, including this Court. In its Order
12 Re MySpace, Inc.'s Fourth Motion to Compel Further Responses and Requests for
13 Production and Interrogatories (March 17, 2008 Order, *UMG Recordings, Inc., et al.*
14 *v. MySpace, Inc. et al*, Case No. 06-07361). The Court found that if Plaintiffs
15 ultimately decide to seek statutory damages instead of actual damages, "[a] district
16 court has wide discretion in awarding statutory damages for copyright infringement
17 and is constrained only by the specified maxima and minima." *Peer Int'l Corp. v.*
18 *Pausa Records, Inc.*, 909 F.2d 1332, 1336 (9th Cir. 1990), cert denied, 498 U.S. 1109
19 (1991). Further, statutory damages still must "bear some relationship to actual
20 damages suffered." *Yurman Design, Inc. v. PAJ, Inc.* 262 F.2d 101, 113-114 (2nd Cir.
21 2001); *Van Der Zee v. Greenidge*, 2006 WL 44020, *2(S.D.N.Y. 2006). Among the
22 factors a court may consider are the revenues lost by the plaintiffs [and] the value of
23 the copyright." *Van Der Zee, supra*, 2006 WL 44020, *2; see 4 Nimmer on Copyright
24 § 14.04 [B][1][a] (2005) ("the determination of statutory damages within the
25 applicable limits may turn upon such factors as ... the revenues lost by the plaintiffs
26 as a result of the defendant's conduct and the infringers' state of mind – whether
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1 willful, knowing or innocent."). The financial information sought is therefore
2 undeniably relevant.

3 Plaintiffs additionally argue that such discovery is burdensome. However
4 Plaintiffs filed this action seeking the statutory maximum of \$150,000 for each of
5 "thousands" of copyrighted works allegedly infringed. (Complaint, ¶¶ 33, 41, 50, 58).
6 Given the staggering amount of damages sought by Plaintiffs, there should be no
7 debate that Plaintiffs must produce the financial documents and evidence sought.
8 Documents and information evidencing of the value of the copyrighted works at issue
9 and Plaintiffs' lost revenues or lost profits is vital to Veoh's ability to properly defend
10 itself against Plaintiffs' claims. Veoh is entitled to this discovery immediately.

11 **2. The Discovery Is Relevant to Plaintiffs' Efforts, If Any, To**
12 **Mitigate**

13 Plaintiffs have a duty to mitigate. *See Goldenberg v. Doe*, 731 F.Supp.1115,
14 1159060 (E.D.N.Y. 1990). Plaintiffs, however, refuse to produce discovery
15 evidencing Plaintiffs' efforts, if any, to protect the works at issue even after Plaintiffs'
16 purported awareness of the works on Veoh. Indeed, what is likely Plaintiffs' complete
17 failure to mitigate goes hand in hand with Plaintiffs' viral marketing strategy, and
18 would also operate to provide leverage in a strategy by Plaintiffs to extract inflated
19 license fees from alleged infringers. Clearly, such discovery is relevant and
20 necessary.

21 **3. The Discovery Is Relevant to Veoh's Affirmative Defense of**
22 **Copyright Misuse**

23 As Plaintiffs are aware, misuse of copyright, if found, would preclude Plaintiffs'
24 enforcement of certain copyrights during the period of misuse. *Practice Management*
25 *Information Corporation v. American Medical Association*, 121 F.3d 516 (9th Cir.),
26 cert denied, 522 U.S. 933 (1997). Copyright misuse occurs when a copyright holder
27 employs copyrights to engage in anti-competitive activity, including price-fixing,
28

1 unduly restrictive licensing, and other behavior that violates public policy. *In re*
2 *Napster, Inc. Copyright Litig.*, 191 F. Supp.2d 1087, 1109-1110 (N.D. Cal. 2002).

3 The discovery sought includes documents and information relating to Plaintiffs'
4 proposals and negotiations with third parties and is therefore directly relevant to
5 Veoh's copyright misuse defense. As Plaintiffs repeatedly remind this Court and
6 Veoh, Plaintiffs are a dominant worldwide force in the music industry, which also
7 makes Plaintiffs uniquely situated to engage in copyright misuse. Veoh is entitled to
8 discovery relating to its affirmative defenses and Plaintiffs should be compelled to
9 respond to this discovery.

10 **C. UMG's Contentions And Points Of Authorities**

11 Once again, Veoh's motion is long on requests but short on justification. In this
12 section, Veoh's approach is particularly unreasonable. Though Veoh demands
13 complete production in response to 5 interrogatories, and more than 100 document
14 requests, it deigns to provide only 3 pages of argument purportedly justifying all of
15 these requests. Collectively, Veoh asserts that all of these requests seek "damages"
16 information and thus full production should be ordered. Veoh's purported description
17 falsely assumes the conclusion – Veoh characterizes its requests as seeking damages
18 information, though it never bothers to show that any of the requests are actually
19 seeking material relevant to issues of damages.

20 As with much of the rest of this motion, UMG has already produced many
21 documents responsive to these interrogatories and requests. Veoh falsely asserts that
22 UMG has refused to produce any responsive materials. Rather than offering any
23 explanation of why UMG's already-extensive production is inadequate, Veoh merely
24 demands more. Of course, Veoh cannot represent that it has actually reviewed
25 UMG's production, yet it is more than willing to tell the Court that UMG's production
26 is inadequate.

1 UMG has already produced documents more than sufficient for Veoh to analyze
2 issues of damages in this case. These documents include, among others, summaries of
3 UMG's revenues from the download and streaming of music videos, and licenses that
4 evidence UMG's licensing and royalty terms. Ledahl Decl., ¶ 6. Nonetheless, along
5 with a host of other sweeping discovery requests, Veoh insists that UMG produce
6 every document tangentially related to UMG's finances. Veoh never even mentions
7 its actual discovery requests, much less explain the relevance of the materials sought.
8 This enormous, unsupported demand for discovery cannot be countenanced when
9 UMG has already produced voluminous documents responsive to the very issues with
10 respect to which Veoh seeks discovery, and when Veoh itself has not produced any of
11 its own financial documents.

12 **1. Veoh Relies On Unsupported And False Claims Of Relevance**

13 Veoh posits that any documents even tangentially related to UMG's finances are
14 "undeniably relevant." Not surprisingly, Veoh cites no authority for its "give us every
15 document in your company" discovery strategy. This requested discovery includes
16 annual accountings of revenues, profits and expenses for each of UMG's copyrighted
17 works,¹⁰ a "quantification," "in detail," of all UMG's actual damages,¹¹ *all documents*
18 concerning UMG's distribution of material containing its copyrighted sound
19 recordings and musical compositions on the internet,¹² *all documents* concerning
20 UMG's revenues and profits derived by UMG's exploitation, sale or licensing of music
21 videos,¹³ and *all documents relating to* any and all "financial analyses" of revenue
22 sources from copyrighted works at issue, including such irrelevant revenue sources as
23 sheet music or concert tours.¹⁴ Veoh even requests the dubious, and nearly unlimited,
24 category of documents sufficient to show the revenues generated from any

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26 ¹⁰ Veoh's Interrogatory No. 4; Requests for Production Nos. 34-36.

¹¹ Veoh's Interrogatory No. 12.

¹² Veoh's Requests for Production Nos. 39-40.

¹³ Veoh's Request for Production No. 165.

¹⁴ See Veoh's Requests for Production Nos. 190-200, 228-29.

1 copyrighted sound recordings and musical compositions UMG did *not* upload to
2 veoh.com.¹⁵ All told, Veoh's requested discovery would encompass the entire
3 universe of UMG's financial documents. No court in a copyright case has compelled
4 such broad discovery from a copyright holder.

5 First, Veoh's motion makes the false assumption that all such documents would
6 even be relevant to a determination of actual damages. Veoh offers nothing to support
7 such a sweeping assertion.¹⁶ Certainly, Veoh cites no authority for the proposition
8 that every document relating to the finances of a copyright plaintiff is necessarily
9 relevant to a determination of actual damages.

10 Second, Veoh extends its misguided arguments by ignoring the fact that UMG
11 is not pursuing its actual damages. Under the Copyright Act, UMG has the right to
12 elect either actual or statutory damages. *See* 17 U.S.C. § 504(b-c) (2000). UMG has
13 elected to pursue statutory damages in this case. Even if the broad discovery Veoh
14 seeks were relevant to actual damages (it is not), compelling such discovery where
15 UMG has elected statutory damages would even further inflict unnecessary burdens.
16 Indeed, ordering discovery related to actual damages would obviate one of the
17 primary purposes of electing statutory damages: avoiding the discovery burdens
18 related to producing evidence of actual damages.¹⁷

19 Maximum statutory damages may be granted without any evidence of actual
20 damages. *See Peer Int'l Corp. v. Pausa Records, Inc.*, 909 F.2d 1332, 1337 (9th Cir.
21 1990), *cert. denied*, 498 U.S. 1109 (1991) ("It is clear ... that a plaintiff may recover
22 statutory damages 'whether or not there is adequate evidence of the actual damages

23 ¹⁵ *See* Veoh's Request for Production No. 168. Read on its face, this Request includes
24 revenue information regarding any copyright, regardless of who owns it, so long as it
was not uploaded to veoh.com by UMG.

25 ¹⁶ Veoh falsely asserts that UMG somehow conceded that all of the discovery sought
by Veoh's numerous listed requests would be relevant even to actual damages. UMG
26 made no such concession. Ledahl Decl., ¶ 7.

27 ¹⁷ For purposes of discussing the lack of legal merit of Veoh's argument, UMG
assumes for purposes of argument that some of the discovery Veoh seeks might be
28 relevant to actual damages. UMG does not, however, concede that such an
assumption is correct.

1 suffered by the plaintiffs or of the profits reaped by the defendant.'" (*quoting Harris*
2 *v. Emus Records Corp.*, 734 F.2d 1329, 1335 (9th Cir. 1984)); *Microsoft Corp. v. PC*
3 *Express*, 183 F. Supp. 2d 448 (D.P.R. 2001) (upholding award of maximum statutory
4 damages with no mention of lost profits or revenues). Veoh suggests that the Second
5 Circuit has held that statutory damages must "bear some relationship to actual
6 damages suffered." Veoh quotes the Second Circuit's decision in *Yurman Design,*
7 *Inc. v. PAJ, Inc.* for this proposition. Though Veoh provides a pin cite to this
8 supposed quote, the language Veoh purports to quote never appears in the *Yurman*
9 *Design* decision. See *Yurman Design v. PAJ, Inc.*, 262 F.3d 101, 113-114 (2d Cir.
10 2001). In fact, the *Yurman Design* decision holds 180 degrees the opposite.
11 Specifically, in that case, the defendant challenged an award of statutory damages of
12 \$68,750 per work because defendant claimed that the damage amount "bears little
13 relationship to the \$19,000 in profits PAJ claimed to have earned on the jewelry at
14 issue in [the] case." *Id.* at 113. Far from supporting Veoh's arguments here, the
15 Second Circuit rejected the very argument Veoh tries to advance in citing the case.
16 Specifically, the Court held that the statutory damage award need not be "merely
17 compensatory or restitutionary." Thus, far from supporting Veoh, the *Yurman Design*
18 case confirms that Veoh is overreaching and seeks unnecessary and wasteful
19 discovery.

20 At most, actual damages are a factor a court *may* consider in setting statutory
21 damages. In such an analysis, actual damages are only one, optional factor in
22 determining statutory damages. See 4 Nelville B. Nimmer & David Nimmer, Nimmer
23 on Copyright § 14:04[A] (LexisNexis 2007) (noting that statutory damages are
24 available "even under circumstances in which plaintiff's damages or defendant's
25 profits are susceptible to precise evaluation"). As a result, a court should strike a
26 different balance when considering the relevance and burden of discovery related to
27 actual damages where a plaintiff has elected statutory damages, and those actual
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1 damages are a single, optional factor in damages. These principles do not contemplate
2 allowing the tail to wag the dog as Veoh seeks here. Veoh would transform this single
3 optional factor (among other much more important factors focused on Veoh's
4 conduct) into the basis for massive and sweeping discovery of potentially millions of
5 additional documents. The Court should not permit such an approach here.

6 **2. Veoh Ignores UMG's Already Extensive Production**

7 Regardless of the relevance of UMG's financial records or of evidence of actual
8 damages, UMG has already produced a very large number of financial documents,
9 including documents more than sufficient to establish UMG's *actual* damages, let
10 alone evidence sufficient to contest an actual damages factor in setting statutory
11 damages. For example, UMG has already produced detailed accountings of its digital
12 revenues and overall corporate finances. Included in UMG's production to Veoh are
13 monthly reports listing UMG's digital revenues by revenue source (e.g., music video
14 downloads), and within each revenue source, by licensing partner (e.g., Yahoo!). *See*
15 Ledahl Decl., Ex. 8. UMG has also produced lists of revenues from the licensing of
16 music videos for online streaming, subdivided *by the individual music video*. *See id.*,
17 Ex. 9 (2006 list of video streaming revenues by video). Finally, UMG has produced
18 myriad information about its overall corporate finances, including quarterly profits
19 and losses. *See, e.g., id.*, Ex. 10 (UMG Operating Results, First Quarter 2006).

20 Crucially, UMG has also produced over 50 license agreements, which are the
21 best evidence of its actual damages. *Id.* at ¶ 6. These licenses contain UMG's terms
22 for the online streaming of its videos or for the sale by download of its videos. Thus,
23 from these licenses, Veoh could readily calculate UMG's lost license fees by
24 multiplying these licensing rates by the number of times UMG's works have been
25 displayed and distributed by Veoh. These lost license fees are the most readily
26 calculable component of actual damages.

1 Producing further, more detailed financial accountings – as Veoh's extremely
2 broad requests contemplate – would be incredibly burdensome and would not afford a
3 better estimation of UMG's actual damages. In such circumstances, the Federal Rules
4 instruct that "the court must limit the frequency or extent of discovery ... if it
5 determines that: the burden or expense of the proposed discovery outweighs its likely
6 benefit..." Fed. R. Civ. P. 26(b)(2)(C)(iii). As noted above, Veoh's discovery
7 requests seek picayune financial records, such as revenues, profits and expenses by
8 *individual* copyrighted work and all documents *related to* financial analyses of
9 revenues from particular income sources of individual copyrighted works.

10 Producing such individualized accountings would be an enormous undertaking.
11 There will likely be hundreds, if not thousands, of copyrighted works at issue in this
12 litigation. Ledahl Decl., ¶ 8. For each of these copyrighted works, UMG employees
13 would need to collect tens of thousands of pages of financial documents reporting
14 expenses and revenues. Declaration Of Charles Ciongoli In Support Of UMG's
15 Opposition To Veoh's Motion To Compel ("Ciongoli Decl."), ¶ 8. Moreover, as most
16 revenues and expenses are not allocated to individual copyrighted works, but are
17 allocated by artist or album, accountings of revenues and expenses would need to be
18 analyzed by employees for such allocation. *Id.* at ¶ 12. The thousands of hours of
19 work by UMG employees and outside counsel that would be required to produce such
20 documents, in addition to the great financial cost this would impose, would severely
21 disrupt UMG's ongoing business. *Id.* at ¶ 6.¹⁸

22 ¹⁸ Reading Veoh's requests literally, collecting all documents relating to revenues and
23 expenses for even one copyrighted work is a monumental task. *See* Ciongoli Decl., ¶
24 8. There are numerous categories of cost information maintained at many locations,
25 and these documents are, in most cases, not organized or maintained based on the
26 particular copyrighted work to which they pertain. *Id.* at ¶ 9. Likewise, there are
27 many different categories of revenue information, stored in different ways at different
28 locations. *Id.* Collecting all of this information for one copyrighted work would
require weeks of time from UMG employees in addition to the substantial effort
required for counsel to review the material. *Id.* at ¶ 6. For the hundreds or thousands
of works that will likely be at issue in this case, the task of collecting and reviewing
the information Veoh seeks would require thousands of hours of UMG employee time
and impose dramatic costs, likely in the millions of dollars. *Id.*

1 Yet this extensive discovery would provide no better information as to UMG's
2 actual damages than the documents UMG has *already produced*. Evidence of the
3 revenues or profits UMG received from selling a particular compact disc, or UMG's
4 costs pursuant to a record contract have little, if any, relation to the damages from an
5 infringing performance of UMG music videos by Veoh. General revenues and costs
6 from UMG's copyrighted works do not reflect the lost video license fees due to Veoh's
7 infringement, and any effort to intuit the indirect harm to UMG's business from
8 individualized accountings of revenues and profits would be incredibly difficult.
9 Veoh already has the best evidence of UMG's actual damages in UMG's license
10 agreements, along with a host of other financial documents. The Court should reject
11 Veoh's efforts – unsupported by any showing of the insufficiency of UMG's existing
12 production – to compel further discovery of financial records that are marginally
13 relevant at best.

14 **3. Veoh's Incorrect Arguments About A Duty To Mitigate**
15 **Cannot Support Its Discovery Demands**

16 Veoh also tries to justify its discovery requests by asserting (again without
17 support) that the discovery is relevant to a purported duty to mitigate damages. First,
18 Veoh falsely equates a supposed duty to mitigate damages with a duty to prevent the
19 infringement of copyrights. No case creates such a requirement. Veoh's suggestion to
20 the contrary attempts to turn copyright law on its head; rather, Veoh itself has a duty
21 not to infringe others' copyrights. Veoh attempts to muddle this basic principle by
22 conflating a plaintiff's duty to mitigate *damages* with a supposed duty to prevent the
23 infringement of its copyrights – a duty which does not exist.

24 Veoh contends that, because a general duty to mitigate damages exists, UMG
25 should have prevented Veoh's infringement of its copyrights, by somehow
26 "protecting" its content. And consequently, per Veoh's confused logic, evidence of
27 UMG's efforts to protect its content is an appropriate subject for discovery. But Veoh
28

1 can cite no authority for the proposition that it is a copyright holder's obligation to
2 prevent the infringement of its copyright or that such information is relevant discovery
3 that would support any defense asserted by Veoh in this action or otherwise limit
4 UMG's recovery.

5 The duty to mitigate refers to a plaintiff's obligation to avoid needless damages
6 from a harm imposed by the defendant, not a duty to avoid the harm in the first place.
7 Indeed, as a leading text on remedies notes, "[t]he rule that defendant is not liable for
8 avoidable consequences of his wrongdoing ... is often discussed in terms of plaintiff's
9 duty to mitigate *damages*." Douglas Laycock, *Modern American Remedies* 96 (Aspen
10 2002) (emphasis added). That is, while a defendant may not be liable for *damages* a
11 plaintiff could have avoided, there is no obligation for a plaintiff to have worked to
12 prevent defendant's wrongdoing in the first place. This principle is especially clear,
13 where, as in this case, the "protection" of UMG's content that Veoh suggests UMG
14 had an obligation to implement would have likely been burdensome and costly.

15 Further, Veoh makes no meaningful allegation that UMG failed to mitigate its
16 *damages* from Veoh's infringement. There is no explanation offered – nor could there
17 be – for how "efforts ... to protect content" or a "viral marketing strategy" could have
18 mitigated even UMG's *actual* damages, such as by allowing UMG to recoup its lost
19 licensing fees from Veoh's performance of UMG videos. The possible relevance of
20 such information is even more remote in this case because UMG has elected to pursue
21 statutory damages. Veoh's attempt to invoke this legal theory provides no support for
22 its vast, overreaching discovery demands.

23 **4. Veoh's Unsubstantiated Allegations of Copyright Misuse Do**
24 **Not Justify Veoh's Overreaching Discovery**

25 Veoh offers no support for its allegation of copyright misuse other than the
26 unevicenced suggestion that, because UMG is a "dominant" force in the music
27

1 industry, it has the power to potentially misuse its copyrights.¹⁹ Veoh then tries to
2 transform this empty assertion into a demand for massive discovery regarding all of
3 UMG’s business activities. Once again, Veoh’s arguments fall flat.

4 The mere capacity to misuse copyrights – which Veoh has not even established
5 – is insufficient to establish any suggestion of a viable affirmative defense.²⁰ Nor are
6 the documents sought by Veoh relevant to establishing copyright misuse. As the
7 Ninth Circuit has held, copyright misuse arises from unduly restrictive licensing
8 provisions. *See Practice Mgmt. Info. Corp. v. Am. Med. Ass’n.*, 121 F.3d 516, 520-21
9 (9th Cir. 1997). More recently, another court in this district examined the issue of
10 copyright misuse and concluded that “restrictive licensing provision[s]” are the basis
11 for a misuse defense, in the Ninth Circuit and elsewhere. *Metro-Goldwyn-Mayer*
12 *Studios, Inc. v. Grokster, Ltd.*, 454 F. Supp. 2d 966, 996 (C.D. Cal. 2006). Thus, the
13 only documents even potentially relevant to Veoh’s purported misuse defense are
14 license agreements, such as those UMG has already produced.²¹ Once again, Veoh’s
15 mere invocation of an irrelevant defense cannot support its broad and overreaching
16 discovery efforts.

17 **5. Veoh's Miscellaneous, Unsupported Discovery Requests**
18 **Should Be Denied**

19
20 ¹⁹ It is unclear what Veoh hopes to accomplish by its unsupported allegation of
21 “dominan[ce].” As Veoh knows, UMG is one of several large players in the music
22 industry, and dominance alone is not enough to establish market power. *Forro*
23 *Precision, Inc. v. Int’l Business Mach. Corp.*, 673 F.2d 1045, 1058-59 (9th Cir. 1982)
(holding that a 35% market share “provides little or no support to a claim of market
power.”); *Morgenstern v. Wilson*, 29 F.3d 1291, 1296 n.3 (8th Cir. 1994) (“[A]s a
matter of law, absent other relevant factors, a 30% market share will not prove the
existence of monopoly power.”).

24 ²⁰ Per the very case Veoh cites, anti-competitive activity alone is insufficient to
25 establish copyright misuse. “[G]eneralized antitrust violations will not suffice. ... [A
26 defendant] must establish a 'nexus between ... alleged anti-competitive actions and
[plaintiffs'] power over copyrighted material." *In re Napster, Inc. Copyright Litig.*,
191 F. Supp. 2d 1087, 1108 (N.D. Cal. 2002) (*quoting Orth-O-Vision, Inc. v. Home*
Box Office, 474 F. Supp. 672, 686 (S.D.N.Y. 1979)).

27 ²¹ Veoh also cannot meaningfully invoke this defense because it never had nor sought
28 any license from UMG. Veoh cannot complain of restrictive licensing when it never
ever tried to license, but resorted directly to infringement.

1 Under the general rubric of this Issue, Veoh lumps a large number of discovery
2 requests (including multiple interrogatories and over 100 requests for production) for
3 which it offers no justification to compel discovery. The interrogatories include, *inter*
4 *alia*, such disparate topics as communications with artists,²² public statements and
5 other documents regarding copyright infringement and vicarious liability,²³
6 communications and other documents regarding DMCA notices,²⁴ and documents
7 related to other legal actions involving UMG.²⁵ As Veoh has not offered any
8 justification for this discovery, it has not carried its burden of supporting a request to
9 compel further discovery. Moreover, UMG cannot meaningfully respond to
10 justifications that Veoh has not even provided. For this additional reason, the Court
11 should reject Veoh's motion regarding the requests addressed in this section.

12 **VI. ISSUE NO. 5 – DISCOVERY SEEKING FACTUAL SUPPORT FOR**
13 **PLAINTIFFS' CLAIMS**

14 **A. Statement of Disputed Interrogatories and Requests For Production**
15 **and Plaintiffs' Responses**

16 VEOH INTERROGATORIES NOS.: 6

17 **INTERROGATORY NO. 6:**

18 Identify all persons with knowledge of the facts, allegations, and claims set
19 forth in the complaint, stating the facts for which each has knowledge.

20 **RESPONSE TO INTERROGATORY NO. 6:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects that this interrogatory is overly broad and unduly burdensome insofar as it
23 calls for UMG to identify by name, address, and telephone number, all persons having
24 knowledge of various facts, which would include, among many others, virtually any
25 UMG employee that has visited Veoh and seen the rampant infringement of UMG

26 ²² Veoh's Interrogatory No. 22; Requests for Production Nos. 52, 153.

27 ²³ Veoh's Requests for Production Nos. 146-47, 151-52, 188-89.

28 ²⁴ Veoh's Requests for Production Nos. 157-59.

²⁵ Veoh's Requests for Production Nos. 182-87, 218, 220-21, 235-38.

1 works there. UMG further objects that the instructions to "identify all persons" and
2 "stat[e] the facts for which each has knowledge" are unduly burdensome and,
3 additionally, render the interrogatory compound. UMG further objects to the
4 definition of "persons" as overly broad and unduly burdensome.

5 Subject to and without waiving the foregoing objections, UMG identifies the
6 following individuals who are most knowledgeable about Veoh's infringement of
7 plaintiffs' copyrights.

- 8 • David Ring, Senior Vice President, Business & Legal Affairs, Universal
9 Music Group, eLabs;
- 10 • David Weinberg, Vice President, Business & Legal Affairs, Universal
11 Music Group, eLabs;
- 12 • Larry Kenswil, Executive Vice President, Business. Strategy, Universal
13 Music Group;
- 14 • Tegan Kossowicz, Senior Director, Business & Legal Affairs, Royalties
15 & Copyright, Universal Music Group;
- 16 • Ed Arrow, Vice President, Copyright, Universal Music Publishing
17 Group;
- 18 • Harvey Geller, Senior Vice President, Business & Legal Affairs,
19 Universal Music Group;
- 20 • Jennifer Roberts, Legal Assistant, Irell & Manella.

21 Each of the foregoing individuals can be contacted through UMG's counsel, Irell &
22 Manella, 1800 Avenue of the Stars, Suite 900, Los Angeles, CA 90067.

23 VEOH REQUEST NOS. 14-25, 56-64, 66-68, 70-95, 97, 149, 170, 171

24 **REQUEST FOR PRODUCTION NO. 14:**

25 All documents concerning violations of 17 U.S.C. § 106(1) that you claim or
26 believe Veoh has committed directly.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects to this request to the extent it calls for the production of privileged attorney
4 client communications, attorney work product, or otherwise privileged or protected
5 material. UMG further objects that the request seeks information that is already in
6 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
7 objects to this request as vague and ambiguous as to what constitutes documents
8 "concerning" these violations. UMG further objects to the extent that this request
9 seeks documents that are not in UMG's possession, custody or control.

10 UMG further objects to this request on the grounds that it is premature insofar
11 as UMG has not yet been able to identify all of the specific works for which UMG
12 alleges infringement in this action as the information to do so is possessed by Veoh
13 and not UMG. As a result, the nonprivileged documents UMG produces in response to
14 this request, if any, should not be construed as a representation by UMG that the
15 works referred to in such documents constitutes a complete list of UMG's copyrighted
16 works that have appeared on Veoh or as a representation that further factual
17 investigation and discovery will not reveal more of UMG's copyrighted works that
18 have appeared on Veoh. UMG further objects that this request calls for a legal
19 conclusion.

20 Subject to and without waiving the foregoing objections, UMG will produce
21 non-privileged responsive documents, if any, to the extent identified by a search of the
22 files of specific employees and executives that UMG will identify utilizing specific
23 search terms that UMG will identify.

24 **REQUEST FOR PRODUCTION NO. 15:**

25 All documents concerning violations of 17 U.S.C. § 106(2) that you claim or
26 believe Veoh has committed directly.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects to this request to the extent it calls for the production of privileged attorney
4 client communications, attorney work product, or otherwise privileged or protected
5 material. UMG further objects that the request seeks information that is already in
6 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
7 objects to this request as vague and ambiguous as to what constitutes documents
8 "concerning" these violations. UMG further objects to the extent that this request
9 seeks documents that are not in UMG's possession, custody or control.

10 UMG further objects to this request on the grounds that it is premature insofar
11 as UMG has not yet been able to identify all of the specific works for which UMG
12 alleges infringement in this action as the information to do so is possessed by Veoh
13 and not UMG. As a result, the nonprivileged documents UMG produces in response to
14 this request, if any, should not be construed as a representation by UMG that the
15 works referred to in such documents constitutes a complete list of UMG's copyrighted
16 works that have appeared on Veoh or as a representation that further factual
17 investigation and discovery will not reveal more of UMG's copyrighted works that
18 have appeared on Veoh. UMG further objects that this request calls for a legal
19 conclusion.

20 Subject to and without waiving the foregoing objections, UMG will produce
21 non-privileged responsive documents, if any, to the extent identified by a search of the
22 files of specific employees and executives that UMG will identify utilizing specific
23 search terms that UMG will identify.

24 **REQUEST FOR PRODUCTION NO. 16:**

25 All documents concerning violations of 17 U.S.C. § 106(3) that you claim or
26 believe Veoh has committed directly.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects to this request to the extent it calls for the production of privileged attorney-
4 client communications, attorney work product, or otherwise privileged or protected
5 material. UMG further objects that the request seeks information that is already in
6 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
7 objects to this request as vague and ambiguous as to what constitutes documents
8 "concerning" these violations. UMG further objects to the extent that this request
9 seeks documents that are not in UMG's possession, custody or control, UMG further
10 objects to this request on the grounds that it is premature insofar as UMG has not yet
11 been able to identify all of the specific works for which UMG alleges infringement in
12 this action as the information to do so is possessed by Veoh and not UMG. As a result,
13 the nonprivileged documents UMG produces in response to this request, if any, should
14 not be construed as a representation by UMG that the works referred to in such
15 documents constitutes a complete list of UMG's copyrighted works that have appeared
16 on Veoh or as a representation that further factual investigation and discovery will not
17 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
18 objects that this request calls for a legal conclusion.

19 Subject to and without waiving the foregoing objections, UMG will produce
20 non-privileged responsive documents, if any, to the extent identified by a search of the
21 files of specific employees and executives that UMG will identify utilizing specific
22 search terms that UMG will identify.

23 **REQUEST FOR PRODUCTION NO. 17:**

24 All documents concerning violations of 17 U.S.C. § 106(4) that you claim or
25 believe Veoh has committed directly.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

27 UMG incorporates by reference each of its General Objections. UMG further
28

1 objects to this request to the extent it calls for the production of privileged attorney-
2 client communications, attorney work product, or otherwise privileged or protected
3 material. UMG further objects that the request seeks information that is already in
4 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
5 objects to this request as vague and ambiguous as to what constitutes documents
6 "concerning" these violations. UMG further objects to the extent that this request
7 seeks documents that are not in UMG's possession, custody or control. UMG further
8 objects to this request on the grounds that it is premature insofar as UMG has not yet
9 been able to identify all of the specific works for which UMG alleges infringement in
10 this action as the information to do so is possessed by Veoh and not UMG. As a result,
11 the nonprivileged documents UMG produces in response to this request, if any, should
12 not be construed as a representation by UMG that the works referred to in such
13 documents constitutes a complete list of UMG's copyrighted works that have appeared
14 on Veoh or as a representation that further factual investigation and discovery will not
15 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
16 objects that this request calls for a legal conclusion.

17 Subject to and without waiving the foregoing objections, UMG will produce
18 non-privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 18:**

22 All documents concerning violations of 17 U.S.C. § 106(5) that you claim or
23 believe Veoh has committed directly.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

25 UMG incorporates by reference each of its General Objections. UMG further
26 objects to this request to the extent it calls for the production of privileged attorney
27 client communications, attorney work product, or otherwise privileged or protected
28

1 material. UMG further objects that the request seeks information that is already in
2 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
3 objects to this request as vague and ambiguous as to what constitutes documents
4 "concerning" these violations. UMG further objects to the extent that this request
5 seeks documents that are not in UMG's possession, custody or control.

6 UMG further objects to this request on the grounds that it is premature insofar
7 as UMG has not yet been able to identify all of the specific works for which UMG
8 alleges infringement in this action as the information to do so is possessed by Veoh
9 and not UMG. As a result, the nonprivileged documents UMG produces in response to
10 this request, if any, should not be construed as a representation by UMG that the
11 works referred to in such documents constitutes a complete list of UMG's copyrighted
12 works that have appeared on Veoh or as a representation that further factual
13 investigation and discovery will not reveal more of UMG's copyrighted works that
14 have appeared on Veoh. UMG further objects that this request calls for a legal
15 conclusion.

16 Subject to and without waiving the foregoing objections, UMG will produce
17 non-privileged responsive documents, if any, to the extent identified by a search of the
18 files of specific employees and executives that UMG will identify utilizing specific
19 search terms that UMG will identify.

20 **REQUEST FOR PRODUCTION NO. 19:**

21 All documents concerning violations of 17 U.S.C. § 106(6) that you claim or
22 believe Veoh has committed directly.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects to this request to the extent it calls for the production of privileged attorney-
26 client communications, attorney work product, or otherwise privileged or protected
27 material. UMG further objects that the request seeks information that is already in
28

1 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
2 objects to this request as vague and ambiguous as to what constitutes documents
3 "concerning" these violations. UMG further objects to the extent that this request
4 seeks documents that are not in UMG's possession, custody or control. UMG further
5 objects to this request on the grounds that it is premature insofar as UMG has not yet
6 been able to identify all of the specific works for which UMG alleges infringement in
7 this action as the information to do so is possessed by Veoh and not UMG. As a result,
8 the nonprivileged documents UMG produces in response to this request, if any, should
9 not be construed as a representation by UMG that the works referred to in such
10 documents constitutes a complete list of UMG's copyrighted works that have appeared
11 on Veoh or as a representation that further factual investigation and discovery will not
12 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
13 objects that this request calls for a legal conclusion.

14 Subject to and without waiving the foregoing objections, UMG will produce
15 non-privileged responsive documents, if any, to the extent identified by a search of the
16 files of specific employees and executives that UMG will identify utilizing specific
17 search terms that UMG will identify.

18 **REQUEST FOR PRODUCTION NO. 20:**

19 All documents constituting or identifying violations of 17 U.S.C. § 106(1) that
20 you claim or believe Veoh is vicariously liable for or constitute contributory
21 infringement by Veoh.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects to this request to the extent it calls for the production of privileged attorney-
25 client communications, attorney work product, or otherwise privileged or protected
26 material. UMG further objects that the request seeks information that is already in
27 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
28

1 objects to this request to the extent it requests documents that are not in UMG's
2 possession, custody or control. UMG further objects to this request on the grounds
3 that it is premature insofar as UMG has not yet been able to identify all of the specific
4 works for which UMG alleges infringement in this action as the information to do so
5 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
6 produces in response to this request, if any, should not be construed as a
7 representation by UMG that the works referred to in such documents constitutes a
8 complete list of UMG's copyrighted works that have appeared on Veoh or as a
9 representation that further factual investigation and discovery will not reveal more of
10 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
11 request calls for a legal conclusion.

12 Subject to and without waiving the foregoing objections, UMG will produce
13 non-privileged responsive documents, if any, to the extent identified by a search of the
14 files of specific employees and executives that UMG will identify utilizing specific
15 search terms that UMG will identify.

16 **REQUEST FOR PRODUCTION NO. 21:**

17 All documents constituting or identifying violations of 17 U.S.C. § 106(2) that
18 you claim or believe Veoh is vicariously liable for or constitute contributory
19 infringement by Veoh.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

21 UMG incorporates by reference each of its General Objections. UMG further
22 objects to this request to the extent it calls for the production of privileged attorney-
23 client communications, attorney work product, or otherwise privileged or protected
24 material. UMG further objects that the request seeks information that is already in
25 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
26 objects to this request to the extent it requests documents that are not in UMG's
27 possession, custody or control. UMG further objects to this request on the grounds
28

1 that it is premature insofar as UMG has not yet been able to identify all of the specific
2 works for which UMG alleges infringement in this action as the information to do so
3 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
4 produces in response to this request, if any, should not be construed as a
5 representation by UMG that the works referred to in such documents constitutes a
6 complete list of UMG's copyrighted works that have appeared on Veoh or as a
7 representation that further factual investigation and discovery will not reveal more of
8 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
9 request calls for a legal conclusion.

10 Subject to and without waiving the foregoing objections, UMG will produce
11 non-privileged responsive documents, if any, to the extent identified by a search of the
12 files of specific employees and executives that UMG will identify utilizing specific
13 search terms that UMG will identify.

14 **REQUEST FOR PRODUCTION NO. 22:**

15 All documents constituting or identifying violations of 17 U.S.C. § 106(3) that
16 you claim or believe Veoh is vicariously liable for or constitute contributory
17 infringement by Veoh.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects to this request to the extent it calls for the production of privileged attorney-
21 client communications, attorney work product, or otherwise privileged or protected
22 material. UMG further objects that the request seeks information that is already in
23 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
24 objects to this request to the extent it requests documents that are not in UMG's
25 possession, custody or control. UMG further objects to this request on the grounds
26 that it is premature insofar as UMG has not yet been able to identify all of the specific
27 works for which UMG alleges infringement in this action as the information to do so
28

1 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
2 produces in response to this request, if any, should not be construed as a
3 representation by UMG that the works referred to in such documents constitutes a
4 complete list of UMG's copyrighted works that have appeared on Veoh or as a
5 representation that further factual investigation and discovery will not reveal more of
6 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
7 request calls for a legal conclusion.

8 Subject to and without waiving the foregoing objections, UMG will produce
9 non-privileged responsive documents, if any, to the extent identified by a search of the
10 files of specific employees and executives that UMG will identify utilizing specific
11 search terms that UMG will identify.

12 **REQUEST FOR PRODUCTION NO. 23:**

13 All documents constituting or identifying violations of 17 U.S.C. § 106(4) that
14 you claim or believe Veoh is vicariously liable for or constitute contributory
15 infringement by Veoh.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO.23:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects to this request to the extent it calls for the production of privileged attorney-
19 client communications, attorney work product, or otherwise privileged or protected
20 material. ' UMG further objects that the request seeks information that is already in
21 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
22 objects to this request to the extent it requests documents that are not in UMG's
23 possession, custody or control. UMG further objects to this request on the grounds
24 that it is premature insofar as UMG has not yet been able to identify all of the specific
25 works for which UMG alleges infringement in this action as the information to do so
26 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
27 produces in response to this request, if any, should not be construed as a
28

1 representation by UMG that the works referred to in such documents constitutes a
2 complete list of UMG's copyrighted works that have appeared on Veoh or as a
3 representation that further factual investigation and discovery will not reveal more of
4 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
5 request calls for a legal conclusion.

6 Subject to and without waiving the foregoing objections, UMG will produce
7 non-privileged responsive documents, if any, to the extent identified by a search of the
8 files of specific employees and executives that UMG will identify utilizing specific
9 search terms that UMG will identify.

10 **REQUEST FOR PRODUCTION NO. 24:**

11 All documents constituting or identifying violations of 17 U.S.C. § 106(5) that
12 you claim or believe Veoh is vicariously liable for or constitute contributory
13 infringement by Veoh.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects to this request to the extent it calls for the production of privileged attorney
17 client communications, attorney work product, or otherwise privileged or protected
18 material. UMG further objects that the request seeks information that is already in
19 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
20 objects to this request to the extent it requests documents that are not in UMG's
21 possession, custody or control. UMG farther objects to this request on the grounds that
22 it is premature insofar as UMG has not yet been able to identify all of the specific
23 works for which UMG alleges infringement in this action as the information to do so
24 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
25 produces in response to this request, if any, should not be construed as a
26 representation by UMG that the works referred to in such documents constitutes a
27 complete list of UMG's copyrighted works that have appeared on Veoh or as a
28

1 representation that further factual investigation and discovery will not reveal more of
2 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
3 request calls for a legal conclusion.

4 Subject to and without waiving the foregoing objections, UMG will produce
5 non-privileged responsive documents, if any, to the extent identified by a search of the
6 files of specific employees and executives that UMG will identify utilizing specific
7 search terms that UMG will identify.

8 **REQUEST FOR PRODUCTION NO. 25:**

9 All documents constituting or identifying violations of 17 U.S.C. § 106(6) that
10 you claim or believe Veoh is vicariously liable for or constitute contributory
11 infringement by Veoh.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

13 UMG incorporates by reference each of its General Objections. UMG further
14 objects to this request to the extent it calls for the production of privileged attorney
15 client communications, attorney work product, or otherwise privileged or protected
16 material. UMG further objects that the request seeks information that is already in
17 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
18 objects to this request to the extent it requests documents that are not in UMG's
19 possession, custody or control. UMG further objects to this request on the grounds
20 that it is premature insofar as UMG has not yet been able to identify all of the specific
21 works for which UMG alleges infringement in this action as the information to do so
22 is possessed by Veoh and not UMG. As a result, the nonprivileged documents UMG
23 produces in response to this request, if any, should not be construed as a
24 representation by UMG that the works referred to in such documents constitutes a
25 complete list of UMG's copyrighted works that have appeared on Veoh or as a
26 representation that further factual investigation and discovery will not reveal more of
27 UMG's copyrighted works that have appeared on Veoh. UMG further objects that this
28

1 request calls for a legal conclusion.

2 Subject to and without waiving the foregoing objections, UMG will produce
3 non-privileged responsive documents, if any, to the extent identified by a search of the
4 files of specific employees and executives that UMG will identify utilizing specific
5 search terms that UMG will identify.

6 **REQUEST FOR PRODUCTION NO. 56:**

7 All documents that support, relate or refer to your allegation in paragraph 8 of
8 the Complaint that "UMGR owns copyrights in" the "copyrighted sound recordings",
9 for each of the copyrighted sound recordings for which you claim infringement in this
10 action.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 56:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request is overbroad, unduly burdensome, and seeks documents that
14 are neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence, in that it seeks "All documents that
16 support, relate or refer to" UMG's ownership of the exclusive rights under copyright
17 law to its copyrighted sound recordings. UMG further objects to this request on the
18 grounds that it is premature insofar as UMG has not yet been able to identify all of the
19 specific "copyrighted sound recordings" for which UMG seeks relief in this lawsuit,
20 as the information needed to do so is possessed by Veoh and not UMG. As a result,
21 the nonprivileged documents UMG produces in response to this request, if any, should
22 not be construed as a representation by UMG that the works referred to in such
23 documents constitutes a complete list of UMG's copyrighted works that have appeared
24 on Veoh or as a representation that further factual investigation and discovery will not
25 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
26 objects to this request to the extent it calls for the production of privileged attorney-
27 client communications, attorney work product, or otherwise privileged or protected

1 material. UMG further objects to this request as duplicative of Request for Production
2 No. 64.

3 Subject to and without waiving the foregoing objections, UMG will produce
4 imaged files of its copyright registrations and/or a list of such copyrights.

5 **REQUEST FOR PRODUCTION NO. 57:**

6 All documents evidencing, referring or relating to your allegation in paragraph
7 3 of the Complaint that "Veoh has directly and indirectly infringed thousands of
8 Plaintiffs' copyrighted sound recordings and musical compositions, which Veoh has
9 reproduced, adapted, displayed and distributed - and it has done so with the help of,
10 among others, Michael Eisner (former Chairman and CEO of The Walt Disney
11 Company), Goldman Sachs, and Time Warner Investments."

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 57:**

13 UMG incorporates by reference each of its General Objections. UMG further
14 objects on the grounds that the documents requested are already within Veoh's
15 possession, custody, and control, and therefore equally or more readily available to
16 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
17 burdensome, and seeks documents that are neither relevant to the claims or defenses
18 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
19 in that it seeks documents "referring or relating to" this allegation. UMG further
20 objects to this request on the grounds that it is premature insofar as UMG has not yet
21 been able to identify all of the specific copyrighted sound recordings and musical
22 compositions for which UMG alleges infringement in this action as the information to
23 do so is possessed by Veoh and not UMG. As a result, the nonprivileged documents
24 UMG produces in response to this request, if any, should not be construed as a
25 representation by UMG that the works referred to in such documents constitutes a
26 complete list of UMG's copyrighted works that have appeared on Veoh or as a
27 representation that further factual investigation and discovery will not reveal more of
28

1 UMG's copyrighted works that have appeared on Veoh. UMG further objects to this
2 request to the extent it calls for the production of privileged attorney-client
3 communications, attorney work product, or otherwise privileged or protected material.
4 UMG further objects to this request on the grounds that the phrase "evidencing,
5 referring or relating to" is vague and ambiguous.

6 Subject to and without waiving the foregoing objections, UMG will produce
7 non-privileged responsive documents, if any, to the extent identified by a search of the
8 files of specific employees and executives that UMG will identify utilizing specific
9 search terms that UMG will identify.

10 **REQUEST FOR PRODUCTION NO. 58:**

11 All documents evidencing, referring or relating to your allegation in paragraph
12 3 of the Complaint that Veoh makes "permanent copies on servers that it owns or
13 controls of audiovisual works containing Plaintiffs' copyrighted music."

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 58:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects on the grounds that the documents requested are already within Veoh's
17 possession, custody, and control, and therefore equally or more readily available to
18 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
19 burdensome, and seeks documents that are neither relevant to the claims or defenses
20 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
21 in that it seeks documents "referring or relating to" this allegation, UMG further
22 objects to this request on the grounds that it is premature insofar as UMG has not yet
23 been able to identify all of the specific musical works for which UMG alleges
24 infringement in this action as the information to do so is possessed by Veoh and not
25 UMG. As a result, the nonprivileged documents UMG produces in response to this
26 request, if any, should not be construed as a representation by UMG that the works
27 referred to in such documents constitutes a complete list of UMG's copyrighted works

1 that have appeared on Veoh or as a representation that further factual investigation
2 and discovery will not reveal more of UMG's copyrighted works that have appeared
3 on Veoh. UMG further objects to this request to the extent it calls for the production
4 of privileged attorney-client communications, attorney work product, or otherwise
5 privileged or protected material. UMG further objects to this request on the grounds
6 that the phrase "evidencing, referring or relating to" is vague and ambiguous.

7 Subject to and without waiving the foregoing objections, UMG will produce
8 non-privileged responsive documents, if any, to the extent identified by a search of the
9 files of specific employees and executives that UMG will identify utilizing specific
10 search terms that UMG will identify.

11 **REQUEST FOR PRODUCTION NO. 59:**

12 All documents evidencing, referring or relating to your allegation in paragraph
13 3 of the Complaint that Veoh "[converts] Plaintiffs [sic] audiovisual works into
14 commonly used video formats to facilitate infringement by Veoh's users."

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 59:**

16 UMG incorporates by reference each of its General Objections. UMG further
17 objects on the grounds that the documents requested are already within Veoh's
18 possession, custody, and control, and therefore equally or more readily available to
19 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
20 burdensome, and seeks documents that are neither relevant to the claims or defenses
21 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
22 in that it seeks documents "referring or relating to" this allegation. UMG further
23 objects to this request on the grounds that it is premature insofar as UMG has not yet
24 been able to identify all of the specific audiovisual works for which UMG alleges
25 infringement in this action as the information to do so is possessed by Veoh and not
26 UMG. As a result, the nonprivileged documents UMG produces in response to this
27 request, if any, should not be construed as a representation by UMG that the works

1 referred to in such documents constitutes a complete list of UMG's copyrighted works
2 that have appeared on Veoh or as a representation that further factual investigation
3 and discovery will not reveal more of UMG's copyrighted works that have appeared
4 on Veoh. UMG further objects to this request to the extent it calls for the production
5 of privileged attorney-client communications, attorney work product, or otherwise
6 privileged or protected material. UMG further objects to this request on the grounds
7 that the phrase "evidencing, referring or relating to" is vague and ambiguous.

8 Subject to and without waiving the foregoing objections, UMG will produce
9 non-privileged responsive documents, if any, to the extent identified by a search of the
10 files of specific employees and executives that UMG will identify utilizing specific
11 search terms that UMG will identify.

12 **REQUEST FOR PRODUCTION NO. 60:**

13 All documents evidencing, referring or relating to your allegation in paragraph
14 3 of the Complaint that Veoh "virally [exploits] Plaintiffs' music and audiovisual
15 works without permission or a license."

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 60:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects on the grounds that the documents requested are already within Veoh's
19 possession, custody, and control, and therefore equally or more readily available to
20 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
21 burdensome, and seeks documents that are neither relevant to the claims or defenses
22 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
23 in that it seeks documents "referring or relating to" this allegation. UMG further
24 objects to this request on the grounds that it is premature insofar as UMG has not yet
25 been able to identify all of the specific musical and audiovisual works for which UMG
26 alleges infringement in this action as the information to do so is possessed by Veoh
27 and not UMG. As a result, the nonprivileged documents UMG produces in response to
28

1 this request, if any, should not be construed as a representation by UMG that the
2 works referred to in such documents constitutes a complete list of UMG's copyrighted
3 works that have appeared on Veoh or as a representation that further factual
4 investigation and discovery will not reveal more of UMG's copyrighted works that
5 have appeared on Veoh. UMG further objects to this request to the extent it calls for
6 the production of privileged attorney-client communications, attorney work product,
7 or otherwise privileged or protected material. UMG further objects to this request on
8 the grounds that the phrase "evidencing, referring or relating to" is vague and
9 ambiguous.

10 Subject to and without waiving the foregoing objections, UMG will produce
11 non-privileged responsive documents, if any, to the extent identified by a search of the
12 files of specific employees and executives that UMG will identify utilizing specific
13 search terms that UMG will identify.

14 **REQUEST FOR PRODUCTION NO. 61:**

15 All documents evidencing, referring or relating to your allegation in paragraph
16 3 of the Complaint that Veoh "[provides] free permanent downloads of Plaintiffs'
17 music and audiovisual works."

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 61:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects on the grounds that the documents requested are already within Veoh's
21 possession, custody, and control, and therefore equally or more readily available to
22 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
23 burdensome, and seeks documents that are neither relevant to the claims or defenses
24 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
25 in that it seeks documents "referring or relating to" this allegation. UMG further
26 objects to this request on the grounds that it is premature insofar as UMG has not yet
27 been able to identify all of the specific musical and audiovisual works for which UMG
28

1 alleges infringement in this action as the information to do so is possessed by Veoh
2 and not UMG. As a result, the nonprivileged documents UMG produces in response to
3 this request, if any, should not be construed as a representation by UMG that the
4 works referred to in such documents constitutes a complete list of UMG's copyrighted
5 works that have appeared on Veoh or as a representation that further factual
6 investigation and discovery will not reveal more of UMG's copyrighted works that
7 have appeared on Veoh. UMG further objects to this request to the extent it calls for
8 the production of privileged attorney-client communications, attorney work product,
9 or otherwise privileged or protected material. UMG further objects to this request on
10 the grounds that the phrase "evidencing, referring or relating to" is vague and
11 ambiguous.

12 Subject to and without waiving the foregoing objections, UMG will produce
13 non-privileged responsive documents, if any, to the extent identified by a search of the
14 files of specific employees and executives that UMG will identify utilizing specific
15 search terms that UMG will identify.

16 **REQUEST FOR PRODUCTION NO. 62.:**

17 All documents evidencing, referring or relating to your allegation in paragraph
18 4 of the Complaint that "Veoh has engaged in rampant infringement of Plaintiffs'
19 copyrighted music as part of Veoh's strategy to become one of the internet's most
20 popular and valuable 'video sharing' websites, and to thereby attract advertising
21 dollars and tens of millions of dollars of venture capital investment."

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 62:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects on the grounds that the documents requested are already within Veoh's
25 possession, custody, and control, and therefore equally or more readily available to
26 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
27 burdensome, and seeks documents that are neither relevant to the claims or defenses
28

1 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
2 in that it seeks documents "referring or relating to" this allegation. UMG further
3 objects to this request on the grounds that it is premature insofar as UMG has not yet
4 been able to identify all of the specific works for which UMG alleges infringement in
5 this action as the information to do so is possessed by Veoh and not UMG. As a result,
6 the nonprivileged documents UMG produces in response to this request, if any, should
7 not be construed as a representation by UMG that the works referred to in such
8 documents constitutes a complete list of UMG's copyrighted works that have appeared
9 on Veoh or as a representation that further factual investigation and discovery will not
10 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
11 objects to this request to the extent it calls for the production of privileged attorney-
12 client communications, attorney work product, or otherwise privileged or protected
13 material. UMG further objects to this request on the grounds that the phrase
14 "evidencing, referring or relating to" is vague and ambiguous.

15 Subject to and without waiving the foregoing objections, UMG will produce
16 non-privileged responsive documents, if any, to the extent identified by a search of the
17 files of specific employees and executives that UMG will identify utilizing 6 specific
18 search terms that UMG will identify.

19 **REQUEST FOR PRODUCTION NO. 63:**

20 All documents evidencing, referring or relating to your allegation in paragraph
21 4 of the Complaint that "Veoh's business plan is based on theft."

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 63:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects on the grounds that the documents requested are already within Veoh's
25 possession, custody, and control, and therefore equally or more readily available to
26 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
27 burdensome, and seeks documents that are neither relevant to the claims or defenses
28

1 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
2 in that it seeks documents "referring or relating to" this allegation. UMG further
3 objects to this request on the grounds that it is premature insofar as UMG has not yet
4 been able to identify all of the specific works for which UMG alleges infringement in
5 this action as the information to do so is possessed by Veoh and not UMG. As a result,
6 the nonprivileged documents UMG produces in response to this request, if any, should
7 not be construed as a representation by UMG that the works referred to in such
8 documents constitutes a complete list of UMG's copyrighted works that have appeared
9 on Veoh or as a representation that further factual investigation and discovery will not
10 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
11 objects to this request to the extent it calls for the production of privileged attorney-
12 client communications, attorney work product, or otherwise privileged or protected
13 material. UMG further objects to this request on the grounds that the phrase
14 "evidencing, referring or relating to" is vague and ambiguous.

15 Subject to and without waiving the foregoing objections, UMG will produce
16 non-privileged responsive documents, if any, to the extent identified by a search of the
17 files of specific employees and executives that UMG will identify utilizing specific
18 search terms that UMG will identify.

19 **REQUEST FOR PRODUCTION NO. 64:**

20 All documents evidencing, referring or relating to your allegation in paragraph
21 8 of the Complaint that "UMGR owns copyrights in ... the 'copyrighted sound
22 recordings' for which UMGR has obtained or has applied for Certificates of Copyright
23 Registration issued by the Register of Copyrights," for each of the copyrighted sound
24 recordings for which you claim infringement in this action.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 64:**

26 UMG incorporates by reference each of its General Objections. UMG further
27 objects that this request is overbroad, unduly burdensome, and seeks documents that
28

1 are neither relevant to the claims or defenses of any party nor reasonably calculated to
2 lead to the discovery of admissible evidence, in that it seeks documents "referring or
3 relating to" this allegation. UMG further objects that this request is overbroad, unduly
4 burdensome, and seeks documents that are neither relevant to the claims or defenses
5 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
6 in that it seeks documents "referring or relating to" this allegation. UMG further
7 objects to this request on the grounds that it is premature insofar as UMG has not yet
8 been able to identify all of the specific copyrighted sound recordings for which UMG
9 alleges infringement in this action as the information to do so is possessed by Veoh
10 and not UMG. As a result, the nonprivileged documents UMG produces in response to
11 this request, if any, should not be construed as a representation by UMG that the
12 works referred to in such documents constitutes a complete list of UMG's copyrighted
13 works that have appeared on Veoh or as a representation that further factual
14 investigation and discovery will not reveal more of UMG's copyrighted works that
15 have appeared on Veoh. UMG further objects to this request to the extent it calls for
16 the production of privileged attorney-client communications, attorney work product,
17 or otherwise privileged or protected material. UMG further objects to this request on
18 the grounds that the phrase "evidencing, referring or relating to" is vague and
19 ambiguous. UMG further objects to this request as duplicative of Request for
20 Production No. 56.

21 Subject to and without waiving the foregoing objections, UMG will produce
22 non-privileged responsive documents, if any, to the extent identified by a search of the
23 files of specific employees and executives that UMG will identify utilizing specific
24 search terms that UMG will identify.

25 **REQUEST FOR PRODUCTION NO. 66:**

26 All documents evidencing, referring or relating to your allegation in paragraph
27 9 of the Complaint that "UMGR has the exclusive rights ... to reproduce the
28

1 copyrighted sound recordings in copies or phonorecords; to prepare derivative
2 audiovisual works based upon the copyrighted sound recordings; to distribute copies
3 or phonorecords of the copyrighted sound recordings to the public; and to perform the
4 copyrighted sound recordings publicly by means of a digital audio transmission," for
5 each of the copyrighted sound recordings for which you claim infringement in this
6 action.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 66:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects that this request is overbroad, unduly burdensome, and seeks documents that
10 are neither relevant to the claims or defenses of any party nor reasonably calculated to
11 lead to the discovery of admissible evidence, in that it seeks documents "referring or
12 relating to" this allegation. UMG further objects to this request on the grounds that it
13 is premature insofar as UMG has not yet been able to identify all of the specific
14 copyrighted sound recordings for which UMG alleges infringement in this action as
15 the information to do so is possessed by Veoh and not UMG. As a result, the
16 nonprivileged documents UMG produces in response to this request, if any, should
17 not be construed as a representation by UMG that the works referred to in such
18 documents constitutes a complete list of UMG's copyrighted works that have appeared
19 on Veoh or as a representation that further factual investigation and discovery will not
20 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
21 objects to this request to the extent that it seeks documents already within Veoh's
22 possession, custody, or control, and therefore equally or more readily available to
23 Veoh than to UMG. UMG further objects to this request to the extent it calls for the
24 production of privileged attorney-client communications, attorney work product, or
25 otherwise privileged or protected material. UMG further objects to this request on the
26 grounds that the phrase "evidencing, referring or relating to" is vague and ambiguous.
27 UMG further objects to this request on the grounds that it seeks the production legal
28

1 authorities, for example, treatises, case law, and the like which are equally available to
2 Veoh as to UMG.

3 Subject to and without waiving the foregoing objections, UMG refers Veoh to
4 17 U.S.C. § 106.

5 **REQUEST FOR PRODUCTION NO. 67:**

6 All documents evidencing, referring or relating to your allegation in paragraph
7 10 of the Complaint that "UMC, SOU, UPIP, RMI, and MGB, Z-Tunes, and MGB
8 UK own (in whole or in part) copyrights in" the "copyrighted musical compositions,"
9 for each of the copyrighted musical compositions for which you claim infringement in
10 this action.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 67:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request is overbroad, unduly burdensome, and seeks documents that
14 are neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence, in that it seeks documents "referring or
16 relating to" this allegation. UMG further objects to this request on the grounds that it
17 is premature insofar as UMG has not yet been able to identify all of the specific
18 copyrighted musical compositions for which UMG alleges infringement in this action
19 as the information to do so is possessed by Veoh and not UMG. As a result, the
20 nonprivileged documents UMG produces in response to this request, if any, should
21 not be construed as a representation by UMG that the works referred to in such
22 documents constitutes a complete list of UMG's copyrighted works that have appeared
23 on Veoh or as a representation that further factual investigation and discovery will not
24 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
25 objects to this request to the extent it calls for the production of privileged attorney-
26 client communications, attorney work product, or otherwise privileged or protected
27 material. UMG further objects to this request on the grounds that the phrase
28

1 "evidencing, referring or relating to" is vague and ambiguous.

2 Subject to and without waiving the foregoing objections, UMG will produce
3 imaged files of its copyright registrations and/or a list of such copyrights.

4 **REQUEST FOR PRODUCTION NO. 68:**

5 All documents evidencing, referring or relating to your allegation in paragraph
6 10 of the Complaint that "UMC, SOU, UPIP, RMI, and MGB, Z-Tunes, and MGB
7 UK .. have obtained or have applied for Certificates of Copyright Registration issued
8 by the Register of Copyrights," for each of the copyrighted musical compositions for
9 which you claim infringement in this action.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 68:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects that this request is overbroad, unduly burdensome, and seeks documents that
13 are neither relevant to the claims or defenses of any party nor reasonably calculated to
14 lead to the discovery of admissible evidence, in that it seeks documents "referring or
15 relating to" this allegation. UMG further objects to this request on the grounds that it
16 is premature insofar as UMG has not yet been able to identify all of the specific
17 copyrighted musical compositions for which UMG alleges infringement in this action
18 as the information to do so is possessed by Veoh and not UMG. As a result, the
19 nonprivileged documents UMG produces in response to this request, if any, should
20 not be construed as a representation by UMG that the works referred to in such
21 documents constitutes a complete list of UMG's copyrighted works that have appeared
22 on Veoh or as a representation that further factual investigation and discovery will not
23 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
24 objects to this request to the extent it calls for the production of privileged attorney-
25 client communications, attorney work product, or otherwise privileged or protected
26 material. UMG further objects to this request on the grounds that the phrase
27 "evidencing, referring or relating to" is vague and ambiguous.

1 Subject to and without waiving the foregoing objections, UMG will produce
2 imaged files of its copyright registrations and/or a list of such copyrights.

3 **REQUEST FOR PRODUCTION NO. 70:**

4 All documents evidencing, referring or relating to your allegation in paragraph
5 11 of the Complaint that "UMC, SOU, UPIP, RMI or MGB, Z-Tunes, and MGB UK
6 have the exclusive rights ... to reproduce the copyrighted musical compositions in
7 phonorecords; to prepare derivative audiovisual works based upon the copyrighted
8 musical compositions; and to perform the copyrighted musical compositions
9 publicly," for each of the copyrighted musical compositions for which you claim
10 infringement in this action.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 70:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request is overbroad, unduly burdensome, and seeks documents that
14 are neither relevant to the claims or defenses of any party nor reasonably calculated to
15 lead to the discovery of admissible evidence, in that it seeks documents "referring or
16 relating to" this allegation. UMG further objects to this request on the grounds that it
17 is premature insofar as UMG has not yet been able to identify all of the specific
18 copyrighted musical compositions for which UMG alleges infringement in this action
19 as the information to do so is possessed by Veoh and not UMG. As a result, the
20 nonprivileged documents UMG produces in response to this request, if any, should
21 not be construed as a representation by UMG that the works referred to in such
22 documents constitutes a complete list of UMG's copyrighted works that have appeared
23 on Veoh or as a representation that further factual investigation and discovery will not
24 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
25 objects to this request to the extent it calls for the production of privileged attorney-
26 client communications, attorney work product, or otherwise privileged or protected
27 material. UMG further objects to this request on the grounds that the phrase
28

1 "evidencing, referring or relating to" is vague and ambiguous.

2 Subject to and without waiving the foregoing objections, UMG will produce
3 imaged files of its copyright registrations and/or a list of such copyrights:

4 **REQUEST FOR PRODUCTION NO. 71:**

5 All documents evidencing, referring or relating to your allegation in paragraph
6 13 of the Complaint that "Veoh is well aware of the mass infringement it has
7 facilitated."

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 71:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects on the grounds that the documents requested are already within Veoh's
11 possession, custody, and control, and therefore equally or more readily available to
12 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
13 burdensome, and seeks documents that are neither relevant to the claims or defenses
14 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
15 in that it seeks documents "referring or relating to" this allegation. UMG further
16 objects to this request to the extent it calls for the production of privileged attorney-
17 client communications, attorney work product, or otherwise privileged or protected
18 material. UMG further objects to this request on the grounds that the phrase
19 "evidencing, referring or relating to" is vague and ambiguous.

20 Subject to and without waiving the foregoing objections, UMG will produce
21 non-privileged responsive documents, if any, to the extent identified by a search of the
22 files of specific employees and executives that UMG will identify utilizing specific
23 search terms that UMG will identify.

24 **REQUEST FOR PRODUCTION NO. 72:**

25 All documents that evidence facts alleged in paragraph 13 of the Complaint that
26 "Veoh consciously is seeking to enjoy the benefits of exploiting copyrighted content,
27 such as increased traffic on its website, without having to pay copyright owners for
28

1 using their content."

2 **RESPONSE TO REQUEST FOR PRODUCTION NO. 72:**

3 UMG incorporates by reference each of its General Objections. UMG further
4 objects on the grounds that the documents requested are already within Veoh's
5 possession, custody, and control, and therefore equally or more readily available to
6 Veoh than to UMG. UMG further objects to this request to the extent it calls for the
7 production of privileged attorney-client communications, attorney work product, or
8 otherwise privileged or protected material.

9 Subject to and without waiving the foregoing objections, UMG will produce
10 non-privileged responsive documents, if any, to the extent identified by a search of the
11 files of specific employees and executives that UMG will identify utilizing specific
12 search terms that UMG will identify.

13 **REQUEST FOR PRODUCTION NO. 73:**

14 All documents evidencing, referring or relating to the allegations in paragraph
15 14 of the Complaint that Veoh's investors "benefit from Veoh's infringing acts."

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 73:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects on the grounds that the documents requested are already within Veoh's
19 possession, custody, and control, and therefore equally or more readily available to
20 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
21 burdensome, and seeks documents that are neither relevant to the claims or defenses
22 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
23 in that it seeks documents "referring or relating to" this allegation. UMG further
24 objects to this request to the extent it calls for the production of privileged attorney-
25 client communications, attorney work product, or otherwise privileged or protected
26 material. UMG further objects to this request on the grounds that the phrase
27 "evidencing, referring or relating to" is vague and ambiguous.

1 Subject to and without waiving the foregoing objections, UMG will produce
2 non-privileged responsive documents, if any, to the extent identified by a search of the
3 files of specific employees and executives that UMG will identify utilizing specific
4 search terms that UMG will identify.

5 **REQUEST FOR PRODUCTION NO. 74.:**

6 All documents evidencing, referring or relating to the allegations in paragraph
7 16 of the Complaint that "each of the Defendants was the agent of each of the other
8 defendants and, in doing the things alleged in this complaint, were acting within the
9 course and scope of such agency."

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 74:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects on the grounds that the documents requested are already within Veoh's
13 possession, custody, and control, and therefore equally or more readily available to
14 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
15 burdensome, and seeks documents that are neither relevant to the claims or defenses
16 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
17 in that it seeks documents "referring or relating to" this allegation. UMG further
18 objects to this request to the extent it calls for the production of privileged attorney-
19 client communications, attorney work product, or otherwise privileged or protected
20 material. UMG further objects to this request on the grounds that the phrase
21 "evidencing, referring or relating to" is vague and ambiguous.

22 Subject to and without waiving the foregoing objections, UMG will produce
23 non-privileged responsive documents, if any, to the extent identified by a search of the
24 files of specific employees and executives that UMG will identify utilizing specific
25 search terms that UMG will identify.

26 **REQUEST FOR PRODUCTION NO. 75:**

27 All documents evidencing, referring or relating to the allegations in paragraph
28

1 17 of your complaint that Veoh has created software and services "designed to
2 encourage, induce, and enable members of the public to make, upload, download,
3 'share,' sell, rent, and distribute permanent copies of videos without regard to the
4 rights of copyright owners."

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 75:**

6 UMG incorporates by reference each of its General Objections. UMG further
7 objects on the grounds that the documents requested are already within Veoh's
8 possession, custody, and control, and therefore equally or more readily available to
9 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
10 burdensome, and seeks documents that are neither relevant to the claims or defenses
11 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
12 in that it seeks documents "referring or relating to" this allegation. UMG further
13 objects to this request to the extent it calls for the production of privileged attorney-
14 client communications, attorney work product, or otherwise privileged or protected
15 material. UMG further objects to this request on the grounds that the phrase
16 "evidencing, referring or relating to" is vague and ambiguous.

17 Subject to and without waiving the foregoing objections, UMG will produce
18 non-privileged responsive documents, if any, to the extent identified by a search of the
19 files of specific employees and executives that UMG will identify utilizing specific
20 search terms that UMG will identify.

21 **REQUEST FOR PRODUCTION NO. 76:**

22 All documents evidencing, referring or relating to the allegations in paragraph
23 17 of your complaint that "Veoh uses the Veohnet p2p service to facilitate the
24 distribution of high quality copies of infringing content over the internet and to enable
25 Veoh to exploit its members' computers to engage in acts of copyright infringement."

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 76:**

27 UMG incorporates by reference each of its General Objections. UMG further
28

1 objects on the grounds that the documents requested are already within Veoh's
2 possession, custody, and control, and therefore equally or more readily available to
3 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
4 burdensome, and seeks documents that are neither relevant to the claims or defenses
5 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
6 in that it seeks documents "referring or relating to" this allegation. UMG further
7 objects to this request to the extent it calls for the production of privileged attorney-
8 client communications, attorney work product, or otherwise privileged or protected
9 material. UMG further objects to this request on the grounds that the phrase
10 "evidencing, referring or relating to" is vague and ambiguous.

11 Subject to and without waiving the foregoing objections, UMG will produce
12 non-privileged responsive documents, if any, to the extent identified by a search of the
13 files of specific employees and executives that UMG will identify utilizing specific
14 search terms that UMG will identify.

15 **REQUEST FOR PRODUCTION NO. 77:**

16 All documents evidencing, referring or relating to the allegations in paragraph
17 20 of your complaint that "by offering thousands of infringing works for free viewing
18 and downloading, and by providing sophisticated tools that enable the reproduction
19 and dissemination of video over the internet, the Veoh.com website has been able to
20 attract millions of unique visitors each month."

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 77:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects on the grounds that the documents requested are already within Veoh's
24 possession, custody, and control, and therefore equally or more readily available to
25 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
26 burdensome, and seeks documents that are neither relevant to the claims or defenses
27 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
28

1 in that it seeks documents "referring or relating to" this allegation. UMG further
2 objects to this request to the extent it calls for the production of privileged attorney-
3 client communications, attorney work product, or otherwise privileged or protected
4 material. UMG further objects to this request on the grounds that the phrase
5 "evidencing, referring or relating to" is vague and ambiguous.

6 Subject to and without waiving the foregoing objections, UMG will produce
7 non-privileged responsive documents, if any, to the extent identified by a search of the
8 files of specific employees and executives that UMG will identify utilizing specific
9 search terms that UMG will identify.

10 **REQUEST FOR PRODUCTION NO.78:**

11 All documents evidencing, referring or relating to the allegations in paragraph
12 20 of your complaint that "Veoh directly profits from its mass infringement by, among
13 other things, selling targeted advertisements that reflect what content (including
14 infringing content) Veoh's members are viewing, and by sharing in revenues when
15 members use Veoh's services to rent or sell videos."

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 78:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects on the grounds that the documents requested are already within Veoh's
19 possession, custody, and control, and therefore equally or more readily available to
20 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
21 burdensome, and seeks documents that are neither relevant to the claims or defenses
22 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
23 in that it seeks documents "referring or relating to" this allegation. UMG further
24 objects to this request to the extent it calls for the production of privileged attorney-
25 client communications, attorney work product, or otherwise privileged or protected
26 material. UMG further objects to this request on the grounds that the phrase
27 "evidencing, referring or relating to" is vague and ambiguous.

1 Subject to and without waiving the foregoing objections, UMG will produce
2 non-privileged responsive documents, if any, to the extent identified by a search of the
3 files of specific employees and executives that UMG will identify utilizing specific
4 search terms that UMG will identify.

5 **REQUEST FOR PRODUCTION NO. 79:**

6 All documents evidencing, referring or relating to the allegations in paragraph
7 21 of the Complaint, that "Veoh engages in direct infringement and indirect
8 infringement of Plaintiffs' copyrights".

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 79:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects on the grounds that the documents requested are already within Veoh's
12 possession, custody, and control, and therefore equally or more readily available to
13 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
14 burdensome, and seeks documents that are neither relevant to the claims or defenses
15 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
16 in that it seeks documents "referring or relating to" this allegation. UMG further
17 objects to this request on the grounds that it is premature insofar as UMG has not yet
18 been able to identify all of the specific copyrights for which UMG alleges
19 infringement in this action as the information to do so is possessed by Veoh and not
20 UMG. As a result, the nonprivileged documents UMG produces in response to this
21 request, if any, should not be construed as a representation by UMG that the works
22 referred to in such documents constitutes a complete list of UMG's copyrighted works
23 that have appeared on Veoh or as a representation that further factual investigation
24 and discovery will not reveal more of UMG's copyrighted works that have appeared
25 on Veoh. UMG further objects to this request to the extent it calls for the production
26 of privileged attorney-client communications, attorney work product, or otherwise
27 privileged or protected material. UMG further objects to this request on the grounds
28

1 that the phrase "evidencing, referring or relating to" is vague and ambiguous.

2 Subject to and without waiving the foregoing objections, UMG will produce
3 non-privileged responsive documents, if any, to the extent identified by a search of the
4 files of specific employees and executives that UMG will identify utilizing specific
5 search terms that UMG will identify.

6 **REQUEST FOR PRODUCTION NO. 80:**

7 All documents evidencing, referring or relating to the allegations in paragraph
8 21(a) of the Complaint that "in furtherance of its direct and indirect infringement"
9 Veoh "reproduced (i.e. made permanent copies of audiovisual works containing
10 thousands of Plaintiffs' copyrighted works on servers that Veoh owns or controls."

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 80:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects on the grounds that the documents requested are already within Veoh's
14 possession, custody, and control, and therefore equally or more readily available to
15 Veoh than to UMG, UMG further objects that this request is overbroad, unduly
16 burdensome, and seeks documents that are neither relevant to the claims or defenses
17 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
18 in that it seeks documents "referring or relating to" this allegation. UMG further
19 objects to this request on the grounds that it is premature insofar as UMG has not yet
20 been able to identify all of the specific copyrighted works for which UMG alleges
21 infringement in this action as the information to do so is possessed by Veoh b and not
22 UMG. As a result, the nonprivileged documents UMG produces in response to this
23 request, if any, should not be construed as a representation by UMG that the works
24 referred to in such documents constitutes a complete list of UMG's copyrighted works
25 that have appeared on Veoh or as a representation that further factual investigation
26 and discovery will not reveal more of UMG's copyrighted works that have appeared
27 on Veoh. UMG further objects to this request to the extent it calls for the production

1 of privileged attorney-client communications, attorney work product, or otherwise
2 privileged or protected material. UMG further objects to this request on the grounds
3 that the phrase "evidencing, referring or relating to" is vague and ambiguous.

4 Subject to and without waiving the foregoing objections, UMG will produce
5 non-privileged responsive documents, if any, to the extent identified by a search of the
6 files of specific employees and executives that UMG will identify utilizing specific
7 search terms that UMG will identify.

8 **REQUEST FOR PRODUCTION NO. 81:**

9 All documents evidencing, referring or relating to the allegations in paragraph
10 21 (e) of the Complaint that "in furtherance of its direct and indirect infringement"
11 Veoh "induced and enabled Veoh members to upload copies of videos without the
12 authorization of the copyright owner, including videos copied from third party
13 websites without authorization of the website or the copyright owner (and often in
14 violation of the third party website's terms of use)."

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 81:**

16 UMG incorporates by reference each of its General Objections. UMG further
17 objects on the grounds that the documents requested are already within Veoh's
18 possession, custody, and control, and therefore equally or more readily available to
19 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
20 burdensome, and seeks documents that are neither relevant to the claims or defenses
21 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
22 in that it seeks documents "referring or relating to" this allegation. UMG further
23 objects to this request to the extent it calls for the production of privileged attorney-
24 client communications, attorney work product, or otherwise privileged or protected
25 material. UMG further objects to this request on the grounds that the phrase
26 "evidencing, referring or relating to" is vague and ambiguous.

27 Subject to and without waiving the foregoing objections, UMG will produce
28

1 non-privileged responsive documents, if any, to the extent identified by a search of the
2 files of specific employees and executives that UMG will identify utilizing specific
3 search terms that UMG will identify.

4 **REQUEST FOR PRODUCTION NO. 82:**

5 All documents evidencing, referring or relating to the allegations in paragraph
6 21 (g) of your complaint that Veoh "created and distributed Veoh's client software,
7 which Veoh knows is being used to infringe copyrights."

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 82:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects on the grounds that the documents requested are already within Veoh's
11 possession, custody, and control, and therefore equally or more readily available to
12 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
13 burdensome, and seeks documents that are neither relevant to the claims or defenses
14 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
15 in that it seeks documents "referring or relating to" this allegation. UMG further
16 objects to this request to the extent it calls for the production of privileged attorney-
17 client communications, attorney work product, or otherwise privileged or protected
18 material. UMG further objects to this request on the grounds that the phrase
19 "evidencing, referring or relating to" is vague and ambiguous.

20 Subject to and without waiving the foregoing objections, UMG will produce
21 non-privileged responsive documents, if any, to the extent identified by a search of the
22 files of specific employees and executives that UMG will identify utilizing specific
23 search terms that UMG will identify.

24 **REQUEST FOR PRODUCTION NO. 83:**

25 All' documents evidencing, referring or relating to the allegations in paragraph
26 21 (f) of your complaint that Veoh "failed to use its right and ability to filter or screen
27 for copyright infringement."

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 83:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this request is vague and ambiguous and/or unintelligible in that paragraph
4 21 (f) of UMG's complaint does not include the language quoted. UMG further
5 objects to this request on the grounds that the phrase "evidencing, referring or relating
6 to" is vague and ambiguous. UMG further objects on the grounds that the documents
7 requested are already within Veoh's possession, custody, and control, and therefore
8 equally or more readily available to Veoh than to UMG. UMG further objects that this
9 request is overbroad, unduly burdensome, and seeks documents that are neither
10 relevant to the claims or defenses of any party nor reasonably calculated to lead to the
11 discovery of admissible evidence, in that it seeks documents "referring or relating to"
12 this allegation. UMG further objects to this request to the extent it calls for the
13 production of privileged attorney-client communications, attorney work product, or
14 otherwise privileged or protected material.

15 **REQUEST FOR PRODUCTION NO. 84:**

16 All documents evidencing, referring or relating to the allegations in paragraph
17 21 (1) of your complaint that Veoh "provided users with anonymity to upload, view,
18 download, copy and/or further distribute audiovisual works."

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 84:**

20 UMG incorporates by reference each of its General Objections. UMG further
21 objects on the grounds that the documents requested are already within Veoh's
22 possession, custody, and control, and therefore equally or more readily available to
23 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
24 burdensome, and seeks documents that are neither relevant to the claims or defenses
25 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
26 in that it seeks documents "referring or relating to" this allegation. UMG further
27 objects to this request to the extent it calls for the production of privileged attorney-

1 client communications, attorney work product, or otherwise privileged or protected
2 material. UMG further objects to this request on the grounds that the phrase
3 "evidencing, referring or relating to" is vague and ambiguous.

4 Subject to and without waiving the foregoing objections, UMG will produce
5 non-privileged responsive documents, if any, to the extent identified by a search of the
6 files of specific employees and executives that UMG will identify utilizing specific
7 search terms that UMG will identify.

8 **REQUEST FOR PRODUCTION NO. 85:**

9 All documents evidencing, referring or relating to the allegations in paragraph
10 21 (m) of your complaint that "for each video that a viewer watches, [Veoh] generated
11 a selection of 'related' videos - which regularly includes copyrighted works - for users
12 to consider while watching the video."

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 85:**

14 UMG incorporates by reference each of its General Objections. UMG further
15 objects on the grounds that the documents requested are already within Veoh's
16 possession, custody, and control, and therefore equally or more readily available to
17 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
18 burdensome, and seeks documents that are neither relevant to the claims or defenses
19 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
20 in that it seeks documents "referring or relating to" this allegation. UMG further
21 objects to this request to the extent it calls for the production of privileged attorney-
22 client communications, attorney work product, or otherwise privileged or I I protected
23 material. UMG further objects to this request on the grounds that the phrase
24 "evidencing, referring or relating to" is vague and ambiguous.

25 Subject to and without waiving the foregoing objections, UMG will produce
26 non-privileged responsive documents, if any, to the extent identified by a search of the
27 files of specific employees and executives that UMG will identify utilizing specific
28

1 search terms that UMG will identify.

2 **REQUEST FOR PRODUCTION NO. 86:**

3 All documents evidencing, referring or relating to the allegations in paragraph
4 22 of your complaint that "the foregoing acts indicate Veoh's ability and intent to
5 facilitate, encourage, and profit from the mass unauthorized exploitation of
6 copyrighted content, including Plaintiffs' copyrighted sound recordings and
7 copyrighted musical compositions."

8 **RESPONSE TO REQUEST FOR PRODUCTION NO 86:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects on the grounds that the documents requested are already within Veoh's
11 possession, custody, and control, and therefore equally or more readily available to
12 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
13 burdensome, and seeks documents that are neither relevant to the claims or defenses
14 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
15 in that it seeks documents "referring or relating to" this allegation. UMG further
16 objects to this request on the grounds that it is premature insofar as UMG has not yet
17 been able to identify all of the specific copyrighted sound recordings and copyrighted
18 musical compositions for which UMG alleges infringement in this action as the
19 information to do so is possessed by Veoh and not UMG. As a result, the
20 nonprivileged documents UMG produces in response to this request, if any, should
21 not be construed as a representation by UMG that the works referred to in such
22 documents constitutes a complete list of UMG's copyrighted works that have appeared
23 on Veoh or as a representation that further factual investigation and discovery will not
24 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
25 objects to this request to the extent it calls for the production of privileged attorney-
26 client communications, attorney work product, or otherwise privileged or protected
27 material. UMG further objects to this request on the grounds that the phrase

1 "evidencing, referring or relating to" is vague and ambiguous.

2 Subject to and without waiving the foregoing objections, UMG will produce
3 non-privileged responsive documents, if any, to the extent identified by a search of the
4 files of specific employees and executives that UMG will identify utilizing specific
5 search terms that UMG will identify.

6 **REQUEST FOR PRODUCTION NO. 87:**

7 All documents evidencing, referring or relating to the allegations in. paragraph
8 22 of your complaint that "Veoh currently provides several methods by which a Veoh
9 user can easily view, permanently copy, and/or share unauthorized reproductions of
10 music videos."

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 87:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects that this request is vague and ambiguous and/or unintelligible in that paragraph
14 22 of UMG's complaint does not include the language quoted. UMG further objects to
15 this request on the grounds that the phrase "evidencing, referring or relating to" is
16 vague and ambiguous. UMG further objects on the grounds that the documents
17 requested are already within Veoh's possession, custody, and control, and therefore
18 equally or more readily available to Veoh than to UMG. UMG further objects that this
19 request is overbroad, unduly burdensome, and seeks documents that are neither
20 relevant to the claims or defenses of any party nor reasonably calculated to lead to the
21 discovery of admissible evidence, in that it seeks documents "referring or relating to"
22 this allegation. UMG further objects to this request to the extent it calls for the
23 production of privileged attorney-client communications, attorney work product, or
24 otherwise privileged or protected material.

25 **REQUEST FOR PRODUCTION NO. 88:**

26 All documents evidencing, referring or relating to the allegations in paragraph
27 23 of the Complaint that "any member of the public can, for example, visit Veoh.com
28

1 where thousands of infringing works are available for immediate viewing,
2 downloading and other forms of "sharing."

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 88:**

4 UMG incorporates by reference each of its General Objections. UMG further
5 objects on the grounds that the documents requested are already within Veoh's
6 possession, custody, and control, and therefore equally or more readily available to
7 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
8 burdensome, and seeks documents that are neither relevant to the claims or defenses
9 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
10 in that it seeks documents "referring or relating to" this allegation. UMG further
11 objects to this request to the extent it calls for the production of privileged attorney-
12 client communications, attorney work product, or otherwise privileged or protected
13 material. UMG further objects to this request on the grounds that the phrase
14 "evidencing, referring or relating to" is vague and ambiguous.

15 Subject to and without waiving the foregoing objections, UMG will produce
16 non-privileged responsive documents, if any, to the extent identified by a search of the
17 files of specific employees and executives that UMG will identify utilizing specific
18 search terms that UMG will identify.

19 **REQUEST FOR PRODUCTION NO. 89:**

20 All documents evidencing, referring or relating to the allegations in paragraph
21 23 of the Complaint that "Veoh supplies statistics about how often each work has been
22 used without the permission of the copyright owner."

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 89:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects on the grounds that the documents requested are already within Veoh's
26 possession, custody, and control, and therefore equally or more readily available to .18
27 Veoh than to UMG. UMG further objects that this request is overbroad, unduly

1 burdensome, and seeks documents that are neither relevant to the claims or defenses
2 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
3 in that it seeks documents "referring or relating to" this allegation. UMG further
4 objects to this request to the extent it calls for the production of privileged attorney-
5 client communications, attorney work product, or otherwise privileged or protected
6 material. UMG further objects to this request on the grounds that the phrase
7 "evidencing, referring or relating to" is vague and ambiguous.

8 Subject to and without waiving the foregoing objections, UMG will produce
9 non-privileged responsive documents, if any, to the extent identified by a search of the
10 files of specific employees and executives that UMG will identify utilizing specific
11 search terms that UMG will identify.

12 **REQUEST FOR PRODUCTION NO. 90:**

13 All documents evidencing, referring or relating to the allegations in paragraph
14 24 of the Complaint that "Veoh also allows its users to view, copy, and share
15 copyrighted works through Veoh's software, VeohTV and Veoh Player."

16 **RESPONSE TO REQUEST FOR PRODUCTION NO 90:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects on the grounds that the documents requested are already within Veoh's
19 possession, custody, and control, and therefore equally or more readily available to
20 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
21 burdensome, and seeks documents that are neither relevant to the claims or defenses
22 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
23 in that it seeks documents "referring or relating to" this allegation. UMG further
24 objects to this request to the extent it calls for the production of privileged attorney-
25 client communications, attorney work product, or otherwise privileged or protected
26 material. UMG further objects to this request on the grounds that the phrase
27 "evidencing, referring or relating to" is vague and ambiguous.

1 Subject to and without waiving the foregoing objections, UMG will produce
2 non-privileged responsive documents, if any, to the extent identified by a search of the
3 files of specific employees and executives that UMG will identify utilizing specific
4 search terms that UMG will identify.

5 **REQUEST FOR PRODUCTION NO. 91.:**

6 All documents evidencing, referring or relating to the allegations in paragraph
7 25 of the Complaint that "to encourage and enable even further dissemination of
8 infringing copies across the internet, Veoh supplies its members with a number of
9 other tools, including a button to 'Share Video,' that is, email a link to the infringing
10 video or 'embed' a link to the video in another webpage."

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 91:**

12 UMG incorporates by reference each of its General Objections. UMG further
13 objects on the grounds that the documents requested are already within Veoh's
14 possession, custody, and control, and therefore equally or more readily available to
15 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
16 burdensome, and seeks documents that are neither relevant to the claims or defenses
17 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
18 in that it seeks documents "referring or relating to" this allegation. UMG further
19 objects to this request to the extent it calls for the production of privileged attorney-
20 client communications, attorney work product, or otherwise privileged or protected
21 material. UMG further objects to this request on the grounds that the phrase
22 "evidencing, referring or relating to" is vague and ambiguous.

23 Subject to and without waiving the foregoing objections, UMG will produce
24 non-privileged responsive documents, if any, to the extent identified by a search of the
25 files of specific employees and executives that UMG will identify utilizing specific
26 search terms that UMG will identify.

1 **REQUEST FOR PRODUCTION NO.92:**

2 All documents evidencing, referring or relating to the allegations in paragraph
3 26 of the Complaint that "as Defendants know, should know, and/or with reasonable
4 diligence could ascertain, many of the audiovisual works on Veoh's website contain
5 copyrighted material, including the copyrighted sound recordings and the copyrighted
6 musical compositions."

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 92:**

8 UMG incorporates by reference each of its General Objections. UMG further
9 objects on the grounds that the documents requested are already within Veoh's
10 possession, custody, and control, and therefore equally or more readily available to
11 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
12 burdensome, and seeks documents that are neither relevant to the claims or defenses
13 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
14 in that it seeks documents "referring or relating to" this allegation. UMG further
15 objects to this request on the grounds that it is premature insofar as UMG has not yet
16 been able to identify all of the specific copyrighted sound recordings and copyrighted
17 musical compositions for which UMG alleges infringement in this action as the
18 information to do so is possessed by Veoh and not UMG. As a result, the
19 nonprivileged documents UMG produces in response to this request, if any, should
20 not be construed as a representation by UMG that the works referred to in such
21 documents constitutes a complete list of UMG's copyrighted works that have appeared
22 on Veoh or as a representation that further factual investigation and discovery will not
23 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
24 objects to this request to the extent it calls for the production of privileged attorney-
25 client communications, attorney work product, or otherwise privileged or protected
26 material. UMG further objects to this request on the grounds that the phrase
27 "evidencing, referring or relating to" is vague and ambiguous.

1 Subject to and without waiving the foregoing objections, UMG will produce
2 non-privileged responsive documents, if any, to the extent identified by a search of the
3 files of specific employees and executives that UMG will identify utilizing specific
4 search terms that UMG will identify.

5 **REQUEST FOR PRODUCTION NO. 93:**

6 All documents evidencing, referring or relating to the allegations in paragraph
7 27 of the Complaint that "Defendants have willfully, intentionally, and purposefully
8 reproduced, adapted, distributed, and publicly performed the copyrighted sound
9 recordings and the copyrighted musical compositions."

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 93:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects on the grounds that the documents requested are already within Veoh's
13 possession, custody, and control, and therefore equally or more readily available to
14 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
15 burdensome, and seeks documents that are neither relevant to the claims or defenses
16 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
17 in that it seeks documents "referring or relating to" this allegation. UMG further
18 objects to this request on the grounds that it is premature insofar as UMG has not yet
19 been able to identify all of the specific copyrighted sound recordings and copyrighted
20 musical compositions for which UMG alleges infringement in this action as the
21 information to do so is possessed by Veoh and not UMG. As a result, the
22 nonprivileged documents UMG produces in response to this request, if any, should
23 not be construed as a representation by UMG that the works referred to in such
24 documents constitutes a complete list of UMG's copyrighted works that have appeared
25 on Veoh or as a representation that further factual investigation and discovery will not
26 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
27 objects to this request to the extent it calls for the production of privileged attorney-

1 client communications, attorney work product, or otherwise privileged or protected
2 material. UMG further objects to this request on the grounds that the phrase
3 "evidencing, referring or relating to" is vague and ambiguous.

4 Subject to and without waiving the foregoing objections, UMG will produce
5 non-privileged responsive documents, if any, to the extent identified by a search of the
6 files of specific employees and executives that UMG will identify utilizing specific
7 search terms that UMG will identify.

8 **REQUEST FOR PRODUCTION NO. 94:**

9 All documents evidencing, referring or relating to the allegations in paragraph
10 27 of the Complaint that Defendants "knowingly facilitated, enabled, induced, and
11 materially contributed to infringing uses thereof."

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 94:**

13 UMG incorporates by reference each of its General Objections. UMG further
14 objects on the grounds that the documents requested are already within Veoh's
15 possession, custody, and control, and therefore equally or more readily available to
16 Veoh than to UMG. UMG further objects that this request is overbroad, unduly
17 burdensome, and seeks documents that are neither relevant to the claims or defenses
18 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
19 in that it seeks documents "referring or relating to" this allegation. UMG further
20 objects to this request on the grounds that it is premature insofar as UMG has not yet
21 been able to identify all of the specific copyrighted sound recordings and copyrighted
22 musical compositions for which UMG alleges infringement in this action as the
23 information to do so is possessed by Veoh and not UMG. As a result, the
24 nonprivileged documents UMG produces in response to this request, if any, should
25 not be construed as a representation by UMG that the works referred to in such
26 documents constitutes a complete list of UMG's copyrighted works that have appeared
27 on Veoh or as a representation that further factual investigation and discovery will not

1 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
2 objects to this request to the extent it calls for the production of privileged attorney-
3 client communications, attorney work product, or otherwise privileged or protected
4 material. UMG further objects to this request on the grounds that the phrase
5 "evidencing, referring or relating to" is vague and ambiguous.

6 Subject to and without waiving the foregoing objections, UMG will produce
7 non-privileged responsive documents, if any, to the extent identified by a search of the
8 files of specific employees and executives that UMG will identify utilizing specific
9 search terms that UMG will identify.

10 **REQUEST FOR PRODUCTION NO. 95:**

11 All documents evidencing, referring or relating to the allegations in paragraph
12 27 of the Complaint that Defendants "refused to exercise their ability to control or
13 supervise infringing uses thereof from which Defendants financially benefit, including
14 by earning revenue from selling advertising keyed to the content of the work selected
15 for viewing, and from the overall increase in user traffic and commercial value of its
16 business and property arising from the 'draw' of infringing copyrighted sound
17 recordings and copyrighted musical compositions.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 95:**

19 UMG incorporates by reference each of its General Objections. UMG further
20 objects on the grounds that the documents requested are already within Veoh's
21 possession, custody, and control, and therefore equally or more readily available to
22 Veoh than to UMG. UMG objects to this request as vague, ambiguous, and/or
23 argumentative in that Veoh fails to include the term "and/or" which precedes the
24 quotation. UMG further objects to this request on the grounds that the phrase
25 "evidencing, referring or relating to" is vague and ambiguous. UMG further objects
26 that this request is overbroad, unduly burdensome, and seeks documents that are
27 neither relevant to the claims or defenses of any party nor reasonably calculated to
28

1 lead to the discovery of admissible evidence, in that it seeks documents "referring or
2 relating to" this allegation. UMG further objects to this request on the grounds that it
3 is premature insofar as UMG has not yet been able to identify all of the specific
4 copyrighted sound recordings and copyrighted musical compositions for which UMG
5 alleges infringement in this action as the information to do so is possessed by Veoh
6 and not UMG. As a result, the nonprivileged documents UMG produces in response to
7 this request, if any, should not be construed as a representation by UMG that the
8 works referred to in such documents constitutes a complete list of UMG's copyrighted
9 works that have appeared on Veoh or as a representation that further factual
10 investigation and discovery will not reveal more of UMG's copyrighted works that
11 have appeared on Veoh. UMG further objects to this request to the extent it calls for
12 the production of privileged attorney-client communications, attorney work product,
13 or otherwise privileged or protected material.

14 Subject to and without waiving the foregoing objections, UMG will produce
15 non-privileged responsive documents, if any, to the extent identified by a search of the
16 files of specific employees and executives that UMG will identify utilizing specific
17 search terms that UMG will identify.

18 **REQUEST FOR PRODUCTION NO. 97:**

19 All documents evidencing, referring or relating to the allegations in paragraph
20 27 of the Complaint that "Defendants have continued to willfully infringe Plaintiffs'
21 rights even after Plaintiffs have notified them that their use of Plaintiffs copyrighted
22 materials violates Plaintiffs' rights under copyright."

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 97:**

24 UMG incorporates by reference each of its General Objections. UMG further
25 objects on the grounds that the documents requested are already within Veoh's
26 possession, custody, and control, and therefore equally or more readily available to
27 Veoh than to UMG. UMG further objects that this request is overbroad, unduly

1 burdensome, and seeks documents that are neither relevant to the claims or defenses
2 of any party nor reasonably calculated to lead to the discovery of admissible evidence,
3 in that it seeks documents "referring or relating to" this allegation. UMG further
4 objects to this request on the grounds that it is premature insofar as UMG has not yet
5 been able to identify all of the specific works for which UMG alleges infringement in
6 this action as the information to do so is possessed by Veoh and not UMG. As a result,
7 the nonprivileged documents UMG produces in response to this request, if any, should
8 not be construed as a representation by UMG that the works referred to in such
9 documents constitutes a complete list of UMG's copyrighted works that have appeared
10 on Veoh or as a representation that further factual investigation and discovery will not
11 reveal more of UMG's copyrighted works that have appeared on Veoh. UMG further
12 objects to this request to the extent it calls for the production of privileged attorney-
13 client communications, attorney work product, or otherwise privileged or protected
14 material. UMG further objects to this request on the grounds that the phrase
15 "evidencing, referring or relating to" is vague and ambiguous.

16 Subject to and without waiving the foregoing objections, UMG will produce
17 non-privileged responsive documents, if any, to the extent identified by a search of the
18 files of specific employees and executives that UMG will identify utilizing specific
19 search terms that UMG will identify.

20 **REQUEST FOR PRODUCTION NO. 149.**

21 All communications, whether direct or indirect, between you and Veoh.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 149;**

23 UMG incorporates by reference each of its General Objections. UMG objects to
24 this request on the grounds that the documents sought are already in Veoh's
25 possession, custody or control and therefore equally or more readily available to Veoh
26 than to UMG. Moreover, UMG objects to this request on the grounds that the term
27 "indirect" communications is vague and ambiguous. UMG objects that to the extent
28

1 this request seeks "All Communications" between UMG and Veoh, without limitation
2 as to subject-matter or time, this request is overbroad and unduly burdensome. UMG
3 also objects that this request seeks documents that are neither relevant to the claims or
4 defenses of any party nor reasonably calculated to lead to the discovery of admissible
5 evidence.

6 Subject to and without waiving the foregoing objections, UMG will produce
7 non-privileged responsive documents, if any, to the extent identified by a search of the
8 files of specific employees and executives that UMG will identify utilizing specific
9 search terms that UMG will identify.

10 **REQUEST FOR PRODUCTION NO. 170:**

11 All documents concerning public statements by you concerning this lawsuit,
12 including without limitation the factual basis for the allegations in the complaint and
13 your reasons for filing the lawsuit.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 170:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
17 that it seeks documents that are neither relevant to the claims or defenses of any party
18 nor reasonably calculated to lead to the discovery of admissible evidence. UMG
19 further objects to this request as vague and ambiguous as to what constitutes
20 documents "concerning" public statements. UMG further objects to the extent that this
21 request seeks documents that are not in UMG's possession, custody or control.

22 UMG further objects that the request seeks information that is already in Veoh's
23 possession, custody or control, or reasonably available to Veoh. UMG further objects
24 to this request to the extent it calls for the production of privileged attorney client
25 communications, attorney work product, or otherwise privileged or protected material.

26 Subject to and without waiving the foregoing objections, UMG will produce
27 non-privileged responsive documents, if any, to the extent identified by a search of the
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1 files of specific employees and executives that UMG will identify utilizing specific
2 search terms that UMG will identify.

3 **REQUEST FOR PRODUCTION NO. 171:**

4 All documents concerning communications between you and any person
5 (including, but not limited to, music publishers, record labels, artists, internet sites),
6 concerning this lawsuit, including without limitation the factual basis for the
7 allegations in the complaint and your reasons for filing the lawsuit.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 171:**

9 UMG incorporates by reference each of its General Objections. UMG further
10 objects that the request is vague and ambiguous, overbroad, unduly burdensome, and
11 that it seeks documents that are neither relevant to the claims or defenses of any party
12 nor reasonably calculated to lead to the discovery of admissible evidence. UMG
13 further objects to this request as vague and ambiguous as to what constitutes
14 "documents "concerning" communications." UMG further objects to the extent that
15 this request seeks documents that are not in UMG's possession, custody or control.
16 UMG objects to this request on the grounds that the term "person" is overbroad,
17 unduly burdensome, and vague and ambiguous. UMG further objects to this request to
18 the extent it calls for the production of privileged attorney-client communications,
19 attorney work product, or otherwise privileged or protected material.
20 Subject to and without waiving the foregoing objections, UMG will produce non-
21 privileged responsive documents, if any, to the extent identified by a search of the
22 files of specific employees and executives that UMG will identify utilizing specific
23 search terms that UMG will identify.

24 **B. Veoh's Contentions and Points and Authorities**

25 Veoh served discovery designed to uncover the existence of facts and evidence
26 providing specificity or support, if any, for Plaintiffs' claims. Instead of providing
27

1 good faith responses and documents however, Plaintiffs opted for evasiveness and
2 non-cooperation.

3 For example, in response to Veoh's straightforward Request No. 63 seeking
4 "All documents evidencing, referring or relating to your allegation in paragraph 4 of
5 the Complaint that 'Veoh's business plan is based on theft'," Plaintiffs provided the
6 same illusory response discussed in Section II, *supra*, *i.e.* that Plaintiffs "will produce
7 non-privileged responsive documents, if any, to the extent identified by a search of the
8 files of specific employees and executives that UMG will identify utilizing specific
9 search terms that UMG will identify." This response is insufficient in that Plaintiffs
10 do not agree to produce all responsive documents, and additionally, Plaintiffs have
11 failed and refused to provide the promised search terms, custodians, or documents.

12 Little more need be said regarding this gross failure of Plaintiffs' discovery
13 obligations. Veoh's discovery exploring and testing the factual underpinnings of
14 Plaintiffs' claims cannot reasonably be called objectionable and Plaintiffs must
15 provide supplemental responses and a complete production.

16 C. UMG's Contentions And Points Of Authorities

17 As with the preceding sections of this motion, Veoh once again suggests
18 (falsely) that UMG has refused to produce any meaningful discovery. Obviously, this
19 suggestion is belied by the reality of UMG's massive production. As already
20 described, UMG has broadly searched its files for documents relevant to its claims and
21 has produced the results of this search: 1.4 million pages of responsive documents.
22 Veoh, in contrast, has produced little. Furthermore, Veoh's demands for a complete
23 production at this stage of discovery are premature; UMG cannot provide a complete
24 production until Veoh produces documents evidencing its infringement of UMG's
25 copyrights – documents it continues to withhold.

26 1. Veoh Merely Repeats Its Flawed Arguments That UMG has 27 Not Adequately Searched For Relevant Materials

1 Veoh’s only complaint about UMG’s responses to the fifty-four document
2 requests it lists in this Section are UMG’s explicit mention of using a search
3 methodology to locate responsive documents and its alleged refusal to provide its
4 custodian and search term lists. This complaint lacks any merit. Although UMG is
5 the plaintiff in a copyright infringement suit, which by definition revolves around the
6 *defendant’s* conduct, UMG has undertaken an extremely broad search of its files for
7 relevant documents. As discussed above, in UMG’s portion of Section II of this joint
8 stipulation, UMG’s extensive searching has resulted in a production of more than 1.4
9 million pages of documents.

10 UMG has not hidden its intention to produce documents responsive to Veoh’s
11 requests. Of the fifty-four document requests Veoh lists in this Section, UMG
12 responds to forty-seven of them by saying it will use its search methodology to locate
13 and produce responsive documents.²⁶ These responses are not “illusory,” as Veoh
14 claims; UMG has offered to exchange custodian and search term lists with Veoh.
15 These responses also are not “insufficient,” as Veoh claims; UMG is not required to
16 produce *all* responsive documents, and its methodology has resulted in volumes of
17 responsive documents. Federal Courts expressly approve of the use of search
18 methodology as a means to identify documents for production. *See generally Treppel*
19 *v. Biovail Corp.*, 233 F.R.D. 363, 374 (S.D.N.Y. 2006) (“[T]here is no obligation on
20 the part of the responding party to examine every scrap of paper in its potentially
21 voluminous files in order to comply with its discovery obligations. Rather, it must

22 ²⁶ In the seven responses to which UMG does not state it will use its search
23 methodology to locate responsive documents, UMG has agreed, either in its responses
24 or during meet and confers with Veoh, to produce documents responsive to Veoh’s
25 requests that are located in UMG’s reasonable searching. In four of these seven RFPs,
26 UMG appropriately agrees to produce “imaged files of its copyright registrations
27 and/or a list of such copyrights.” *See* Calkins Decl. Ex. G at Nos. 56, 67, 68, and 70.
28 Further, while UMG, in response to Veoh RFP No. 66, does not say it will produce
any documents and instead refers Veoh to 17 U.S.C. § 106, this response will not stop
UMG from producing copyright registrations and/or a list of such copyrights. Ledahl
Decl. ¶ 4. Finally, while UMG does not say it will produce documents responsive to
RFP Nos. 83 and 87, this too did not stop UMG from producing any responsive
documents found using its search methodology. *Id.* at ¶ 9.

1 conduct a diligent search, which involves developing a reasonably comprehensive
2 search strategy.”). Veoh fails to explain why such an approach is not appropriate.

3 Further, the lone example of a request for production that Veoh chooses to
4 include in its portion of the joint stipulation speaks volumes about the
5 unreasonableness of Veoh’s positions. Veoh calls out its document request number 63
6 asking for “All documents evidencing, referring or relating to your allegation in
7 paragraph 4 of the Complaint that ‘Veoh’s business plan is based on theft.’”
8 Obviously, this particular allegation relates to Veoh’s conduct. Veoh cannot explain
9 what documents it believes UMG should be producing in response to this request (and
10 does not even try to offer such an explanation). UMG has already searched broadly
11 for documents referencing Veoh. Veoh’s decision to highlight this request
12 appropriately illustrates that this motion is about Veoh’s desire to simply make a
13 motion and not about any legitimate need for discovery.

14 **2. UMG Provided A Sufficient Response To Interrogatory No. 6**

15 Veoh’s Interrogatory No. 6 seeks identification of “all persons with knowledge
16 of the facts, allegations, and claims set forth in the complaint, stating the facts for
17 which each has knowledge.” Veoh complains that UMG has not provided an adequate
18 response even though UMG identified multiple individuals in its response. As UMG
19 stated in the response, it can’t possibly know of “all persons” who have knowledge of
20 Veoh’s infringement of UMG’s copyrights; many of these persons are simply visitors
21 to veoh.com and have no affiliation with UMG. This interrogatory is therefore
22 overbroad and unduly burdensome to answer fully. Further, various facts in the
23 complaint relate to the basic facts of UMG’s role in the music industry, the fact that it
24 has many copyrighted works, and other similarly general allegations. Obviously, a list
25 of every individual who knows anything about any of these allegations would include
26 every one of UMG’s thousands of employees. In a good faith effort to provide a
27 substantive response, UMG listed seven individuals who have the most knowledge of
28

1 Veoh’s infringement of UMG’s copyrights. Six of the seven are high level UMG
2 executives, while the seventh is a legal assistant at UMG’s outside counsel who has
3 spent time searching veoh.com. A supplemental response to this interrogatory is
4 unnecessary, and a full response to the interrogatory is impossible. Veoh’s motion
5 regarding this interrogatory should be denied.

6 **3. Veoh’s Demand For Comprehensive Production Regarding**
7 **Infringed Works Is Premature**

8 UMG objects to thirty three of the fifty four document requests Veoh lists in
9 this Section as premature insofar as UMG has not yet been able to identify all of the
10 specific works for which UMG alleges infringement, “as the information to do so is
11 possessed by Veoh and not UMG.” As discussed in section III above, Veoh has yet to
12 produce its own media files – the evidence of its infringement. Nonetheless, Veoh
13 complains that UMG has not yet produced all documents regarding Veoh’s
14 infringement. UMG cannot fully respond to these requests and produce all relevant
15 documents until UMG has determined the scope of Veoh’s infringement. Veoh
16 controls the necessary information for UMG to make such determinations. Veoh
17 never bothers to explain why it still continues to withhold its relevant media files.
18 The premature nature of Veoh’s requests constitutes an additional, independent,
19 reason to deny Veoh’s motion as to these requests. Veoh should not somehow benefit
20 from its own continuing discovery intransigence.

21 **VII. ISSUE NO. 6 – DISCOVERY RELATING TO NOTICE TO VEOH**

22 **A. Statement of Disputed Interrogatories and Requests For Production**
23 **and Plaintiffs' Responses**

24 **VEOH INTERROGATORIES 20, 21**

25 **INTERROGATORY NO. 20:**

26 For each work identified in your response to Interrogatory No. 1, describe in
27 detail each instance in which you stated or otherwise gave notice (in writing, orally,
28

1 pursuant to a DMCA Notice or otherwise), to Veoh prior to the commencement of this
2 litigation, that you objected to the inclusion, exploitation or availability of the work on
3 veoh.com.

4 **RESPONSE TO INTERROGATORY NO.20:**

5 UMG incorporates by reference each of its General Objections, as well as its
6 objections to Interrogatory No. 1. UMG further objects that the term "DMCA Notice"
7 is vague or ambiguous in this context. UMG also objects to this interrogatory on the
8 ground that it is overbroad and unduly burdensome as the information is within the
9 possession, custody, and control of Veoh. UMG further objects that this interrogatory
10 seeks information neither relevant to the subject matter of this action nor reasonably
11 calculated to lead to the discovery of admissible evidence to the extent, among other
12 things, it assumes or implies that UMG is in any respect obligated to provide written
13 or oral notice, under the DMCA or otherwise, of the infringement of UMG's works
14 through Veoh. UMG further objects to this interrogatory as argumentative and seeking
15 information neither relevant to the subject matter of this action nor reasonably
16 calculated to lead to the discovery of admissible evidence to the extent it assumes that
17 UMG is obligated to send notices of copyright infringement (pursuant to the DMCA
18 or otherwise), or that such notices would be efficacious in light of the ongoing mass
19 infringement of UMG's rights by Veoh.

20 Subject to and without waiving the foregoing, pursuant to Rule 33(d) of the
21 Federal Rules of Civil Procedure, UMG will produce relevant, non-privileged
22 communications, if any, relating to the infringement of UMG's works by Veoh.

23 **INTERROGATORY NO. 21:**

24 Describe in detail each instance in which Veoh failed to comply with a DMCA
25 Notice submitted by you or any other entity, to Veoh.

1 **RESPONSE TO INTERROGATORY NO. 21:**

2 UMG incorporates by reference each of its General Objections, as well as its
3 objections to Interrogatory No. 1. UMG further objects that the term "DMCA Notice"
4 is vague or ambiguous in this context, and moreover calls for a legal conclusion.
5 UMG also objects to this interrogatory on the ground that it is overbroad and unduly
6 burdensome. Information relating to Veoh's responses to notices of copyright
7 infringement are within Veoh's possession, custody, or control, and have not yet been
8 produced. UMG further objects to this interrogatory as argumentative and seeking
9 information neither relevant to the subject matter of this litigation nor reasonably
10 calculated to lead to the discovery of admissible evidence to the extent it assumes that
11 UMG is obligated to send notices of copyright infringement (pursuant to the DMCA
12 or otherwise).

13 **(VEOH REQUESTS NO. 157-160, 169)**

14 **REQUEST FOR PRODUCTION NO. 157:**

15 All documents between you and Veoh prior to the commencement of this
16 litigation in which you stated or otherwise gave notice to Veoh that you objected to
17 the availability, exploitation or inclusion of any work owned or controlled by you on
18 veoh.com.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 157:**

20 UMG incorporates by reference each of its General Objections. UMG objects
21 that this request is overbroad, unduly burdensome, and that it seeks documents that are
22 neither relevant to the claims or defenses of any party nor reasonably calculated to
23 lead to the discovery of admissible evidence. UMG further objects on the grounds that
24 the documents requested are already within Veoh's possession, custody, and control,
25 and are therefore equally or more readily available to Veoh than to UMG. UMG
26 objects to this request on the grounds that it is vague and ambiguous as to the term
27 "documents between you and Veoh."

1 Subject to and without waiving the foregoing objections, UMG will produce
2 non-privileged responsive documents, if any, to the extent identified by a search of the
3 files of specific employees and executives that UMG will identify utilizing specific
4 search terms that UMG will identify.

5 **REQUEST FOR PRODUCTION NO. 158:**

6 All documents concerning DMCA Notices, including but not limited to all
7 drafts of the notices, to any person(s) (other than Veoh), including but not limited to
8 documents regarding the decision to submit said DMCA Notifications generally or in
9 a particular instance.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO 158:**

11 UMG incorporates by reference each of its General Objections. UMG further
12 objects that the terms "DMCA Notices" and "DMCA Notifications" are vague and
13 ambiguous, and that they call for a legal conclusion. UMG further objects that the
14 request is overbroad, unduly burdensome, and that it seeks documents that are neither
15 relevant to the claims or defenses of any party nor reasonably calculated to lead to the
16 discovery of admissible evidence. UMG further objects to this request as vague and
17 ambiguous as to what constitutes documents "concerning DMCA Notices." UMG
18 further objects to the extent that this request seeks documents that are not in UMG's
19 possession, custody or control. UMG further objects to this request to the extent it
20 calls for the production of privileged attorney-client communications, attorney work
21 product, or otherwise privileged or protected material.

22 **REQUEST FOR PRODUCTION NO. 159:**

23 All documents concerning your decision not to submit a DMCA Notice to Veoh
24 regarding works owned or controlled by you that were available on Veoh.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 159:**

26 UMG incorporates by reference each of its General Objections. UMG further
27 objects that the request is overbroad, unduly burdensome, and that it seeks documents
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1 that are neither relevant to the claims or defenses of any party nor reasonably
2 calculated to lead to the discovery of admissible evidence. UMG further objects to this
3 request to the extent it assumes or implies that UMG is in any sense obligated to send
4 notices of copyright infringement to Veoh. UMG further objects to this request as
5 vague and ambiguous as to what constitutes documents "concerning" UMG's decision.
6 UMG further objects to the extent that this request seeks documents that are not in
7 UMG's possession, custody; or control. UMG further objects that the term "DMCA
8 Notices" is vague and ambiguous, and that it calls for a legal conclusion. UMG further
9 objects to this request to the extent it calls for the production of privileged attorney-
10 client communications, attorney work product, or otherwise privileged or protected
11 material.

12 Subject to and without waiving the foregoing objections, UMG will produce
13 non-privileged responsive documents, if any, to the extent identified by a search of the
14 files of specific employees and executives that UMG will identify utilizing specific
15 search terms that UMG will identify.

16 **REQUEST FOR PRODUCTION NO. 160:**

17 All documents concerning any policy, practice or procedure Plaintiffs have (or
18 have had in the past) that relates in any way to the DMCA, including, but not limited
19 to, the submission of DMCA Notices and any "notice and take down" policies
20 applicable to any internet service offered (either currently or in the past) by Plaintiffs.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 160:**

22 UMG incorporates by reference each of its General Objections. UMG further
23 objects to the request on the ground that "All documents concerning any policy,
24 practice, or procedure Plaintiffs have (or have had in the past) that relates in any way
25 to the DMCA," is vague and ambiguous. UMG further objects that the term "any
26 internet service offered (either currently or in the past) by Plaintiffs" is vague and
27 ambiguous. UMG further objects that the request is overbroad, unduly burdensome,
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1 and that it seeks documents that are neither relevant to the claims or defenses of any
2 party nor reasonably calculated to lead to the discovery of admissible evidence. UMG
3 further objects that the term "DMCA Notices" is vague and ambiguous, and that it
4 calls for a legal conclusion. UMG further objects to this request to the extent it calls
5 for the production of privileged attorney-client communications, attorney work
6 product, or otherwise privileged or protected material.

7 Subject to and without waiving the foregoing objections, UMG will produce
8 non-privileged responsive documents, if any, to the extent identified by a search of the
9 files of specific employees and executives that UMG will identify utilizing specific
10 search terms that UMG will identify.

11 **REQUEST FOR PRODUCTION NO. 169:**

12 All documents concerning all meetings and communications between you and
13 Veoh in 2007.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 169:**

15 UMG incorporates by reference each of its General Objections. UMG further
16 objects to this request as vague and ambiguous as to what constitutes "documents
17 "concerning" all meetings and communications." UMG further objects to the extent
18 that this request seeks documents that are not in UMG's possession, custody or
19 control. UMG further objects that the request seeks information that is already in
20 Veoh's possession, custody or control, or reasonably available to Veoh. UMG further
21 objects to this request to the extent it calls for the production of privileged attorney-
22 client communications, attorney work product, or otherwise privileged or protected
23 material.

24 Subject to and without waiving the foregoing objections, UMG will produce
25 non-privileged responsive documents, if any, to the extent identified by a search of the
26 files of specific employees and executives that UMG will identify utilizing specific
27 search terms that UMG will identify.

1 **B. Veoh's Contentions and Points and Authorities**

2 Conspicuously absent from the complaint is any allegation regarding Plaintiffs'
3 notice to Veoh of any infringing work. This is because Plaintiffs have never identified
4 any allegedly infringing work on Veoh. When asked, Plaintiffs maintain that Veoh's
5 very inquiry is "unduly burdensome" and that it is Veoh, not Plaintiffs, that "possesses
6 the most complete and accurate listing of [Plaintiffs'] copyrighted works" purportedly
7 infringed. This is simply an improper attempt to shift the burden of identifying the
8 works at the heart of Plaintiffs' own complaint, to Veoh. *See Hendrickson v.*
9 *Amazon.com, Inc.* 298 F. Supp.2d 914, 916 (C.D. Cal. 2003).

10 The DMCA requires Plaintiffs, as the purported copyright holders, to identify
11 and police their copyrighted works and provide notice to Veoh, the service provider,
12 in order that Veoh may take them down. As stated above, the burden of policing
13 copyright infringement – identifying the potentially infringing material and adequately
14 documenting infringement – falls squarely in the owners of the copyright. *Perfect 10,*
15 *Inc. v. CC Bill, LLC, supra*, at 1113 (9th Cir. 2007).

16 Plaintiffs also refuse in their written responses to produce all documents
17 relating to notice (and the decision not to give notice) from Plaintiffs to Veoh relating
18 to Veoh's purported infringement, and Plaintiffs' practice regarding notice to others.
19 Such documents and information are highly relevant in this case, particularly in light
20 of the notice requirement under the DMCA. (*See Hendrickson v. eBay, Inc.*, 165
21 F.Supp.2d 1082, 1089 (D.D. Cal. 2001) (under the DMCA "a service provider's duty
22 to act is triggered only upon receipt of proper notice.")).

23 During the two days of meet and confer proceedings, Plaintiffs' counsel
24 ultimately agreed to produce all notices sent by Plaintiffs to Veoh, Grouper, and
25 MySpace. (Calkins Decl. ¶ 14.) Plaintiffs' counsel also agreed to "look for"
26 documents responsive to Request No. 157 but cautioned that he would only be able to
27 do a "reasonable search" without specifying how "reasonable" differed from "diligent"
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1 in counsel's mind. (Calkins Decl. ¶ 15.) While counsel for Veoh did not agree that
2 such a production would satisfy Plaintiffs' discovery obligation, Veoh's counsel
3 agreed to review any notices and documents produced in an attempt to narrow the
4 dispute. Whether any of these documents are buried in Plaintiffs' recent dump of 1.4
5 million pages is unknown and will be extremely difficult to ascertain given the
6 disorganized state of the production.

7 **C. UMG's Contentions And Points Of Authorities**

8 Veoh admits that it did not even bother to look at UMG's production to
9 determine whether it has anything to complain about. Veoh propounded well over
10 200 document requests seeking virtually every document at UMG. UMG undertook
11 massive efforts to compile an enormous production of responsive materials. Now,
12 Veoh simply complains that "it will be extremely difficult" to ascertain whether
13 particular documents have been produced. Veoh's complaints – and the very fact that
14 Veoh presents this issue to the Court – warrant sanctions. UMG has already searched
15 widely for documents regarding Veoh. Veoh continues to withhold the most relevant
16 of its own documents – it has yet to produce any internal email communications, it has
17 yet to produce the specifications for its web site and client software, and it has yet to
18 produce even the evidence of its infringement, the media files.

19 Veoh's requests addressed in this section relate to notices of infringement from
20 UMG to Veoh. Veoh contends that UMG must produce such documents because
21 (according to Veoh) under the DMCA, UMG is required to give notice of
22 infringement to Veoh. These arguments put the cart before the horse and start from
23 the assumption that Veoh has already prevailed on its affirmative defenses in this case.
24 Veoh asserts that it is entitled to protection under provisions of the DMCA. Veoh
25 bears the burden of proving its entitlement to such protections. *See generally Corbis*
26 *Corp. v. Amazon.com, Inc.*, 351 F. Supp.2d 1090, 1099 (W.D. Wash. 2004). The
27 DMCA is not, however, a discovery statute. Veoh cannot simply assume that it will
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1 win its defense, and then use that assumption as the basis to demand discovery from
2 UMG.

3 Regardless, UMG has not disputed that it will produce notices it sent Veoh of
4 infringing acts by Veoh (though presumably Veoh already has such documents) as
5 well as other communications with Veoh. Ultimately, all of Veoh's requests in this
6 section were already properly addressed by UMG's responses and Veoh's motion
7 lacks any merit. UMG addresses the specific requests at issue in this section below:

- 8 • *Interrogatory No. 20.* Veoh asks that UMG identify those instances in
9 which UMG submitted notices of infringement. Given that UMG agreed
10 to produce relevant, non-privileged communications, pursuant to Rule
11 33(d), relating to the infringement of UMG's works by Veoh, Veoh's
12 decision to move to compel further response makes no sense. Veoh
13 offers no explanation as to why this response is insufficient. Veoh's
14 motion to compel as to this interrogatory should be denied.
- 15 • *Interrogatory No. 21.* Veoh asks that UMG describe those instances in
16 which *Veoh* failed to comply with UMG's notices of infringement.
17 Pursuant to Interrogatory No. 20, and Rule 33(d), UMG already agreed to
18 produce notices of infringement submitted to Veoh by UMG or on
19 UMG's behalf. This production will include "follow-up" notices
20 submitted by UMG or on UMG's behalf. These notices detail those
21 instances in which "Veoh failed to comply with" a previously submitted
22 notice of infringement. The follow-up notice, coupled with the
23 previously sent notice of infringement, reveal the date on which UMG
24 first submitted the notice of infringement, the content subject to that
25 notice, the date on which UMG sent a follow-up notice, and the content
26 included in the follow-notice, which was not removed in response to
27 UMG's first notice. Any other information pertaining to Veoh's failure to
28

1 comply with a notice of infringement is in Veoh's possession, not UMG's.
2 As such, Veoh's motion to compel as to this interrogatory should be
3 denied.

4 • *Requests for Production Nos. 157, 159, 169.* Veoh asks that UMG
5 produce documents pertaining to UMG's communications with Veoh,
6 along with documents pertaining to UMG's decision to send or not send
7 notices of infringement to Veoh. UMG already agreed to produce
8 relevant, non-privileged communications, pursuant to Rule 33(d), relating
9 to the infringement of UMG's works by Veoh, including notices of
10 infringement sent by UMG or on UMG's behalf. Moreover, UMG has
11 searched the files of employees charged with communicating with Veoh
12 regarding the infringement of UMG's works occurring on its site. UMG
13 produced relevant, non-privileged documents captured by this search.
14 Veoh nowhere explains how UMG's promise to produce notices of
15 infringement from UMG to Veoh, coupled with its extensive production,
16 is insufficient in any way. Veoh's motion regarding these requests
17 should be denied.

18 • *Requests for Production Nos. 158, 160.* Veoh asks that UMG produce
19 documents relating to notices of infringement generally. UMG searched
20 the files of those employees charged with notifying video-sharing sites of
21 infringement occurring on those sites. Further, UMG searched their files
22 with terms designed to capture "documents concerning [so-called]
23 DMCA Notices." UMG produced relevant, non-privileged documents
24 captured by this search. *See, e.g.,* Ledahl Decl. Exs. 11, 12, 13 (notices
25 of infringement sent by UMG to Grouper, MySpace, and YouTube).
26 That Veoh has no interest in reviewing UMG's production to locate these
27 documents is no reason to compel their production. Veoh never explains
28

1 why or how UMG's current production is insufficient. As such its motion
2 should be denied.

3 Simply put, Veoh's motion identifies no request or interrogatory for which
4 UMG has not conducted a reasonable, diligent search for documents. *Paramount*
5 *Pictures Corp. v. Replay TV, Inc.*, 2002 WL 1315811, *1 (C.D. Cal. April 29, 2002)
6 (ordering a party to undertake a "reasonable, diligent, good faith search"); *see also*
7 *Convolve, Inc. v. Compaq Computer Corp.*, 223 F.R.D. 162, 167-68 (S.D.N.Y. 2004)
8 (denying request for additional discovery even though it was relevant because
9 requesting party had not shown that the additional discovery was needed in light of the
10 discovery already provided). UMG has produced the relevant, responsive documents
11 located in its diligent search. As such, Veoh's motion as to these discovery requests
12 should be denied.

13 **VIII. ISSUE NO. 7 – DISCOVERY RELATING TO PLAINTIFFS'**
14 **ORGANIZATIONAL STRUCTURE AND IDENTIFICATION OF**
15 **WITNESSES**

16 **A. Statement of Disputed Interrogatories and Requests For Production**
17 **and Plaintiffs' Responses**

18 **VEOH INTERROGATORIES 6, 8, 18**

19 **INTERROGATORY NO. 6:**

20 Identify all persons with knowledge of the facts, allegations, and claims set
21 forth in the complaint, stating the facts for which each has knowledge.

22 **RESPONSE TO INTERROGATORY NO. 6:**

23 UMG incorporates by reference each of its General Objections. UMG further
24 objects that this interrogatory is overly broad and unduly burdensome insofar as it
25 calls for UMG to identify by name, address, and telephone number, all persons having
26 knowledge of various facts, which would include, among many others, virtually any
27 UMG employee that has visited Veoh and seen the rampant infringement of UMG

1 works there. UMG further objects that the instructions to "identify all persons" and
2 "stat[e] the facts for which each has knowledge" are unduly burdensome and,
3 additionally, render the interrogatory compound. UMG further objects to the
4 definition of "persons" as overly broad and unduly burdensome.

5 Subject to and without waiving the foregoing objections, UMG identifies the
6 following individuals who are most knowledgeable about Veoh's infringement of
7 plaintiffs' copyrights.

- 8 • David Ring, Senior Vice President, Business & Legal Affairs, Universal
9 Music Group, eLabs;
- 10 • David Weinberg, Vice President, Business & Legal Affairs, Universal
11 Music Group, eLabs;
- 12 • Larry Kenswil, Executive Vice President, Business. Strategy, Universal
13 Music Group;
- 14 • Tegan Kossowicz, Senior Director, Business & Legal Affairs, Royalties
15 & Copyright, Universal Music Group;
- 16 • Ed Arrow, Vice President, Copyright, Universal Music Publishing
17 Group;
- 18 • Harvey Geller, Senior Vice President, Business & Legal Affairs,
19 Universal Music Group;
- 20 • Jennifer Roberts, Legal Assistant, Irell & Manella.

21 Each of the foregoing individuals can be contacted through UMG's counsel,
22 Irell & Manella, 1800 Avenue of the Stars, Suite 900, Los Angeles, CA 90067.

23 **INTERROGATORY NO. 8:**

24 Identify all persons who have participated in any private or public
25 communications (other than purely privileged attorney-client communications) of
26 which you are aware relating to Veoh, including, but not limited to, communications
27 relating to this lawsuit, stating for each the nature of the communication.

1 **RESPONSE TO INTERROGATORY NO. 8:**

2 UMG incorporates by reference each of its General Objections. UMG further
3 objects that this interrogatory is overly broad and unduly burdensome insofar as it
4 calls for UMG to identify by name, address and telephone number, all persons having
5 "communications . . . relating to Veoh, including, but not limited to, communications
6 relating to this lawsuit." UMG also objects that this interrogatory seeks information
7 not relevant to the parties' claims or defenses and is not reasonably calculated to lead
8 to the discovery of admissible evidence. UMG further objects that the instruction to
9 "stat[e] for each the nature of the communication" is unduly burdensome. UMG
10 further objects that the phrases "private or public communications, and "purely
11 privileged attorney-client communications" are vague and ambiguous. UMG objects
12 to this interrogatory on the grounds that it is premature in that it calls for UMG to
13 produce information regarding the factual basis of its claims before UMG has had the
14 opportunity to complete its investigation of the facts or to conduct appropriate
15 discovery into the factual basis of its claims. UMG further objects to the definition of
16 "persons" as overly broad and unduly burdensome.

17 **INTERROGATORY NO. 18:**

18 Identify all persons, including but not limited to your employees, who have
19 responsibility for managing your relationship with any artist who performs or
20 performed any work for which you allege copyright infringement in this action.

21 **RESPONSE TO INTERROGATORY NO. 18:**

22 UMG incorporates by reference each of its General Objections. UMG further objects
23 that this interrogatory is overly broad and unduly burdensome insofar as it calls for
24 UMG to identify all persons who have responsibility for managing a relationship with
25 an "artist," which Veoh defines to include any performer, author, songwriter,
26 producer, composer, or owner (in whole or in part) of any copyrighted work, including
27 all such persons' agents, attorneys, managers, and representatives. Such a request may
28

1 include virtually any UMG employee who worked with artists, record labels, or UMG
2 entities that own copyrighted works. UMG further objects that this interrogatory
3 seeks information that is neither relevant to the parties' claims or defenses nor
4 reasonably calculated to lead to the discovery of admissible evidence since "artists,"
5 as that term is defined by Veoh, may not be the owners of the copyrights at issue in
6 this case. Furthermore, the definition of "artists" would require UMG to canvass
7 thousands of individuals or entities in order to respond to this interrogatory and, as
8 such, is grossly overbroad and unduly burdensome. Finally, UMG objects that this
9 discovery is premature to the extent that this interrogatory calls for UMG to identify
10 the works "for which [UMG] allege[s] copyright infringement in this action." UMG
11 further objects to the definition of "persons" as overly broad and unduly burdensome.

12 **(VEOH REQUESTS NOS. 222, 223, 230, 231)**

13 **REQUEST FOR PRODUCTION NO. 222:**

14 Documents sufficient to identify your organizational and/or management
15 structure currently, and for the past ten (10) years.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 222:**

17 UMG incorporates by reference each of its General Objections. UMG further
18 objects to this request as overbroad and unduly burdensome in that it seeks UMG's
19 organization and management structure for the past ten years. UMG further objects to
20 this request on the grounds that the phrase "organizational and/or management
21 structure" is vague and ambiguous.

22 **REQUEST FOR PRODUCTION NO. 223:**

23 Documents sufficient to identify any and all relationships between all persons
24 and/or entities related to you in any way, including but not limited to corporate and
25 joint venture relationships.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 223:**

27 UMG incorporates by reference each of its General Objections. UMG further
28

1 objects to this request because it is overbroad and unduly burdensome in that it seeks
2 information unrelated to the claims or defenses of any party and is not reasonably
3 calculated to lead to the discovery of admissible evidence. UMG further objects to this
4 request on the grounds that the phrase "relationships between all persons and/or
5 entities related to you in any way" is vague and ambiguous.

6 **REQUEST FOR PRODUCTION NO. 230:**

7 Documents sufficient to demonstrate your organizational structure and any
8 changes thereto for the past ten (10) years.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 230:**

10 UMG incorporates by reference each of its General Objections. UMG further
11 objects to this request as overbroad and unduly burdensome in that it seeks UMG's
12 organization and management structure for the past ten years. UMG further objects to
13 this request on the grounds that the phrase "organizational and/or management
14 structure" is vague and ambiguous. UMG further objects that this request is
15 duplicative of Request No. 222.

16 **REQUEST FOR PRODUCTION NO. 231:**

17 Documents sufficient to show the number and positions of your employees for
18 the past ten (10) years.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 231:**

20 UMG incorporates by reference each of its General Objections. UMG further objects
21 to the extent that this request is overbroad, unduly burdensome, and seeks documents
22 that are neither relevant to the claims or defenses of any party nor reasonably
23 calculated to lead to the discovery of admissible evidence. UMG employs thousands
24 of individuals throughout the world.

25 **B. Veah's Contentions and Points and Authorities**

26 Through this discovery Veah seeks to identify persons with knowledge of facts
27 and claims set forth in the Complaint and the facts for which each has knowledge
28

1 (Interrogatory No. 6), persons who may possess relevant knowledge (Interrogatory
2 No. 18), persons who might be potential witnesses, persons who may possess
3 discoverable documents (Requests Nos. 222, 223, 230, 231).

4 In UMG's response to Interrogatory No. 6 UMG identifies seven UMG
5 employees who are "most knowledgeable about Veoh's infringement of plaintiffs'
6 copyrights" yet fails to state facts for which each has knowledge. (Interrogatory No.
7 6). Clearly, Veoh is entitled to the facts each of the "most knowledgeable" employees
8 has regarding Veoh's purported infringement, which would presumably include at a
9 minimum, the identification of the works Plaintiffs allege have been infringed.

10 As discussed earlier in this motion, Plaintiffs have thusfar failed to produce any
11 list of custodians. In addition to any list, Veoh is entitled to examine Plaintiffs'
12 organizational charts to satisfy itself regarding who may possess discoverable
13 documents based on their job titles and duties and whose files should be searched for
14 responsive documents. This discovery is fundamental and non-objectionable and
15 Plaintiffs should be compelled to provide responses and documents immediately.

16 **C. UMG's Contentions And Points Of Authorities**

17 UMG's significant production already includes documents pertaining to UMG's
18 organizational structure – precisely the material Veoh claims to seek in this section.
19 UMG has also provided sufficient responses to Veoh's interrogatories. That Veoh has
20 moved to compel on these requests, despite UMG's production and responses, reveals
21 the improper, tactical nature of its motion. As with so much of its motion, Veoh
22 simply ignores the massive production that has already been provided and accuses
23 UMG of withholding documents. UMG respectfully submits that Veoh could not
24 possibly make such accusations in good faith given its failure to review the
25 information UMG has produced.

26 **1. Veoh's Interrogatory No. 6 Was Already Addressed In Section**
27 **VI**

1 Veoh moves twice on its Interrogatory No. 6. *See* J.S. §§ VI.A, VIII.A. Veoh
2 asks that UMG "[i]dentify all persons with knowledge of the facts, allegations, and
3 claims set forth in the complaint, stating the facts for which each has knowledge."
4 UMG already explained the problems with Veoh's interrogatory and the sufficiency of
5 UMG's response in its reply to section VI of this Joint Stipulation. Veoh's repetition
6 of the request does not make it any less objectionable, nor does it make UMG's
7 response any less sufficient. UMG respectfully refers the Court to section VI of this
8 Joint Stipulation for a discussion of this interrogatory.

9 **2. Veoh Fails To Offer Any Justification For Compelling Further**
10 **Response To Its Remaining Interrogatories**

11 Veoh includes no argument or justification for the Court's compelling a
12 response to Interrogatories Nos. 8 and 18. The Court should therefore deny Veoh's
13 motion to compel as to those interrogatories for failure to provide any basis to compel
14 further response. Regardless, as UMG set forth in its objections, these interrogatories
15 are improper and seek information unrelated to any claims or defenses at issue.

16 **a. Veoh's Interrogatory No. 8 Is Overbroad And Unduly**
17 **Burdensome**

18 Veoh's Interrogatory No. 8 asks that UMG "[i]dentify *all* persons who have
19 participated in *any private or public communications* (other than purely privileged
20 attorney-client communications) of which you are aware *relating to Veoh*, including
21 but not limited to, communications relating to this lawsuit, stating for each the nature
22 of the communication" (emphasis added). Responding to Veoh's interrogatory would
23 require that UMG identify each and every employee who has made a comment about
24 Veoh, no matter how tangential that comment may be to the litigation. UMG's
25 employee headcount—numbering into the thousands—makes this inquiry unduly
26 burdensome. *See* Declaration Of Gayle Moore In Support Of UMG's Opposition To
27 Veoh's Motion To Compel ("Moore Decl."), ¶ 2. Moreover, Veoh asks that UMG
28

1 identify these persons, along with their comments, regardless of whether the
2 comments have any relation to the person's job responsibilities at UMG ("any private
3 or public communications"). This interrogatory will therefore potentially require
4 UMG to document many communications of little to no probative value, such as: "I
5 watch licensed ABC content on Veoh" or "You can view ESPN programming on
6 Veoh." Those comments have no relation to this litigation, and requiring UMG to
7 seek and document them amounts to an undue burden. Finally, it bears repeating that
8 UMG has produced 1.4 million pages of documents to Veoh, including hundreds of
9 thousands of electronic documents. These documents include metadata identifying
10 the documents' authors; moreover, the database housing these documents is fully
11 searchable. Were Veoh truly interested in this information, it could easily run a search
12 for the term "Veoh" and sort the responsive documents by their author. This simple
13 search would generate much of the same information sought by this interrogatory. As
14 such, UMG respectfully submits that this Court should deny Veoh's motion as to
15 Interrogatory No. 8.²⁷

16 **b. Veoh's Interrogatory No. 18 Is Overbroad And Unduly**
17 **Burdensome**

18 Veoh's Interrogatory No. 18 is equally overbroad, asking that UMG "[i]dentify
19 all persons, including but not limited to your employees, who have responsibility for
20 managing your relationship with any artist who performs or performed any work for
21 which you allege copyright infringement in this action." Veoh defines "artist" to
22 include any performer, author, songwriter, producer, composer, or owner (in whole or
23 in part) of any copyrighted work, including all such persons' agents, attorneys,
24 managers, and representatives. So defined, Veoh's request would require that UMG
25 identify any and all employees who worked with artists, record labels, or UMG
26

27 ²⁷ Veoh also never explains what is meant by communications "other than purely
28 privileged attorney client communications."

1 entities that own copyrighted works—regardless of the nature of their employment.
2 UMG has relations with numerous artists across multiple record labels operating as
3 unincorporated divisions of UMG Recordings, Inc. *See* Ostroff Decl., ¶¶ 13-15. Each
4 of these record labels has independent dealings with artists recording for that label.
5 *Id.* Within any given label, many individuals may have contact with artists, including
6 A&R (Artist and Repertoire) personnel, attorneys and other legal personnel, marketing
7 personnel, business affairs personnel, accounting and finance personnel, and others.
8 Thus, for any one recording artist, a significant number of people within the
9 organization have some responsibility for managing UMG's relation with that artist
10 during the course of her association with UMG. Identifying each and every one of
11 these persons will impose significant costs on UMG; moreover, many of those persons
12 identified—accounting and finance personnel, for example—will have no relation
13 whatsoever to the claims and defenses at issue in this litigation. A complete answer to
14 this interrogatory would be burdensome for UMG to compile, and worthless to Veoh.

15 Veoh has made no attempt to reasonably limit its inquiry, nor does its motion
16 include any justification or argument supporting its assertion that the Court should
17 compel a response to this interrogatory. To be clear, Veoh includes no argument
18 *whatsoever* as to why persons responsible for managing UMG's relationships with
19 artists are relevant to this litigation. As to this interrogatory, then, its motion should
20 be denied.

21 **3. UMG's Production Already Addresses Requests For**
22 **Production Nos. 222, 223, 230, And 231**

23 Veoh argues that "Plaintiffs should be compelled to provide responses and
24 documents [relating to UMG's organizational structure] immediately." But UMG has
25 provided documents responsive to Veoh's requests relating to UMG's organizational
26 structure. Veoh, however, made no attempt to review UMG's production prior to
27

1 serving its motion. Had it reviewed UMG's production, it would have found the
2 following:

- 3 • UMG organizational charts, *see, e.g.*, Ledahl Decl. Exs. 7, 14, 15, 16;
- 4 • UMG corporate structure charts, *see, e.g.*, Ledahl Decl. Ex. 17; and
- 5 • UMG personnel descriptions, *see, e.g.*, Ledahl Decl. Ex. 18.

6 This list is not exhaustive. Rather, it reflects material easily located by
7 searching UMG's document production for terms like "org chart" or "organizational
8 chart." Veoh brought this motion without bothering to conduct such a search.²⁸
9 Veoh's discovery conduct is sanctionable, and UMG respectfully submits that its
10 motion with respect to these requests should be denied.

11 **IX. ISSUE NO. 8 – INTERROGATORY NO. 17 REGARDING "STANDARD**
12 **TECHNICAL MEASURES"**

13 **A. Statement of Disputed Interrogatories and Requests For Production**
14 **and Plaintiffs' Responses**

15 **VEOH INTERROGATORY NO. 17**

16 **INTERROGATORY NO. 17:**

17 Describe all "standard technical measures," as defined in 17 U.S.C. § 512(1)(2),
18 that you employed prior to filing this action.

19 **RESPONSE TO INTERROGATORY NO. 17:**

20 UMG incorporates by reference each of its General Objections. UMG further objects
21 that the interrogatory is overly broad and unduly burdensome in that it seeks a
22 description of "all `standard technical measures.'" UMG objects that the response to

23 _____
24 ²⁸ The ease with which such documents can be located also puts the lie to Veoh's
25 assertions that UMG's production is "in a state of total disarray." As revealed by
26 these facts, Veoh clearly made such assertions without bothering to ascertain whether
27 they were true. Indeed, much of UMG's production to Veoh is a reproduction of
28 UMG's earlier production to MySpace and Grouper. As the Court is well aware, the
MySpace and *Grouper* cases presented numerous contentious discovery disputes—yet
neither MySpace nor Grouper ever complained that UMG's production was "in a state
of total disarray." Perhaps this is because, unlike Veoh, Grouper and MySpace
actually took the time to review UMG's production.

1 this interrogatory depends on, among other things, discovery within Veoh's
2 possession, custody, or control. UMG objects that the discovery sought is premature
3 and seeks information concerning UMG's legal theories and contentions in this
4 lawsuit. UMG has not completed its investigation or analysis of the facts, its
5 discovery, or its analysis of the legal issues in this lawsuit. UMG objects that this
6 interrogatory is vague and ambiguous as to the meaning of the term "standard
7 technical measures," and the context in which it is used. For the same reasons, the
8 interrogatory seeks information not relevant to the claims or defenses of the parties or
9 likely to lead to the discovery of admissible evidence.

10 **B. Veoh's Contentions and Points and Authorities**

11 This Interrogatory merely asks Plaintiffs to "describe all 'standard technical
12 measures,' as defined in 17 U.S.C. § 512(i)(2), that [Plaintiffs] employed prior to
13 filing this action." If Plaintiffs did not employ any such measures, they should so
14 state. Plaintiffs' objections that this interrogatory is "overly broad and unduly
15 burdensome" are meritless, as are Plaintiffs' objections that Veoh controls the
16 information, that the Interrogatory is premature, that the Interrogatory is vague and
17 ambiguous, and that the Interrogatory seeks information not relevant to the claims or
18 defenses of the parties. Veoh has asserted a defense based on 17 U.S.C. § 512 and
19 Plaintiffs should be compelled to provide a complete response to this Interrogatory.

20 **C. UMG's Contentions And Points Of Authorities**

21 Veoh mischaracterizes Interrogatory No. 17 as "straightforward" when it is
22 nothing of the sort. This interrogatory is vague and ambiguous, overbroad and unduly
23 burdensome, and seeks information that is irrelevant to this litigation. When asked to
24 clarify what it is seeking with this interrogatory, Veoh, inexplicably, refused. The
25 interrogatory asks about "standard technical measures" and suggests that a definition
26 of such measures may be found in the copyright act. The definition to which Veoh
27 refers, however, provides no clarity for purposes of answering this interrogatory.

1 UMG inquired of Veoh about what it meant or what information it sought by this
2 interrogatory, but Veoh refused to provide any clarification. Veoh does no better in
3 the nine lines it devotes to this issue in its portion of this Joint Stipulation. Under
4 such circumstances, UMG has provided the best answer it could and no further
5 response should be compelled.

6 **1. Interrogatory No. 17 Seeks Irrelevant Information**

7 The “standard technical measures” UMG may have employed to protect its
8 content have little relevance to this litigation. The provision to which Veoh points
9 addresses one of many eligibility requirements for Veoh to invoke its defense under
10 the DMCA. Specifically, under 17 U.S.C. § 512(i), a service provider can only claim
11 the limitations on liability of section 512 if it “accommodates and does not interfere
12 with standard technical measures.” 17 U.S.C. § 512(i)(1)(B). Thus, the focus of the
13 “standard technical measures” in the statute is what Veoh does regarding such
14 measures, not UMG. Pursuant to this provision, an otherwise qualifying service
15 provider would lose its ability to claim any protection under the DMCA if it did not
16 accommodate standard technical measures, regardless of whether the copyright owner
17 employed any such measures to protect its works. Similarly here, this provision is
18 relevant to Veoh’s conduct. Veoh cites no authority suggesting that UMG must show
19 that it employed any “standard technical measures” as an element of its case. As such,
20 Veoh’s interrogatory seeks irrelevant information.

21 **2. Veoh Cannot Even Explain What Information UMG Should**
22 **Provide**

23 Interrogatory No. 17 seeks a description of “all standard technical measures”
24 UMG employed prior to filing this action. Even if this information about UMG’s use
25 of standard technical measures were relevant, Veoh cannot explain what information
26 UMG should provide. UMG objected that this interrogatory is vague and ambiguous
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1 in particular because it is unclear what qualifies as “standard technical measures.” In
2 the interrogatory, Veoh points to the definition in 17 U.S.C. § 512(i)(2), which reads:

3 As used in this subsection, the term “standard technical
4 measures” means technical measures that are used by
copyright owners to identify or protect copyrighted works
and—

5 (A) have been developed pursuant to a broad consensus of
6 copyright owners and service providers in an open, fair,
voluntary, multi-industry standards process;

7 (B) are available to any person on reasonable and
8 nondiscriminatory terms; and

9 (C) do not impose substantial costs on service providers or
substantial burdens on their systems or networks.

10 This definition, however, is not helpful. Veoh was unable to identify any measures
11 that “have been developed pursuant to a broad consensus of copyright owners and
12 service providers in an open, fair, voluntary, multi-industry standards process.” If
13 Veoh has some particular standard in mind, UMG invited it repeatedly to disclose it.
14 Veoh has yet to provide any answer. Ledahl Decl. ¶ 10. Where even Veoh cannot
15 explain what information UMG should be providing, it cannot support a motion to
16 compel further response.

17 **X. CONCLUSION**

18 **A. Veoh's Conclusion**

19 Plaintiffs have failed and refused to provide discovery to issues as basic as the
20 identification and ownership of the works at issue, factual support for Plaintiffs'
21 claims, Plaintiffs' damages claims including support for such claims and mitigation of
22 damages, Plaintiffs' viral marketing activities, Plaintiffs' notice (or decision not to give
23 notice) to Veoh of the allegedly infringing works, the identification of custodians and
24 potential fact witnesses, and Plaintiffs' organizational structure. Plaintiffs have
25 refused to provide documents in any good faith or reasonable manner, and have failed
26 to provide even information agreed to by counsel during the meet and confer process.
27 In short, Plaintiffs have abandoned their discovery obligations entirely, forcing Veoh
28

1 to seek this Court's assistance on each and every Interrogatory and document request.
2 Such conduct cannot be condoned. Plaintiffs should be compelled to provide proper,
3 complete responses, and documents within 10 days of this Court's order, to permit
4 Veoh to prepare its defense in this action.

5 **B. UMG's Conclusion**

6 Veoh brought its motion as a reaction to UMG's motion to compel. UMG
7 moved to compel further production from Veoh after Veoh failed to make any
8 meaningful production of documents or information. Veoh by contrast moved to
9 compel after UMG made a massive production of more than 1.4 million pages. Veoh
10 offers little more than a repetition of its discovery requests to support its motion.
11 Veoh has the burden of demonstrating a need for further discovery beyond that
12 already provided by UMG. It cannot possibly satisfy this burden because it has not
13 even tried to evaluate what materials have been produced by UMG. Veoh's motion
14 fails to show a need for further discovery from UMG and as such, it should be denied
15 in its entirety.

16 Dated: July 21, 2008

WINSTON & STRAWN LLP

17 By /s/ Rebecca Lawlor Calkins

18
19 Michael S. Elkin
20 Thomas P. Lane
21 Jennifer A. Golinveaux
22 Rebecca L. Calkins
23 Erin R. Ranahan
24 Attorneys for Defendant
25 VEOH NETWORKS, INC.

26 //

27 //

28 //

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1 Dated: July 21, 2008

IRELL & MANELLA LLP

2
3 By /s/ Brian Ledahl
4 Steven A. Marenberg
5 Elliot Brown
6 Brian Ledahl
7 Benjamin Glatstein
8 Attorneys for Plaintiffs
9 UMG RECORDINGS, INC.,
10 UNIVERSAL MUSIC CORP., SONGS OF
11 UNIVERSAL, INC.; UNIVERSAL-
12 POLYGRAM INTERNATIONAL
13 PUBLISHING, INC.; RONDOR MUSIC
14 INTERNATIONAL, INC.; UNIVERSAL
15 MUSIC – MGB NA LLC; UNIVERSAL
16 MUSIC – Z TUNES LLC; and
17 UNIVERSAL – MBG MUSIC
18 PUBLISHING LTD.
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