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7	IO GROUP, INC.	
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9		ES DISTRICT COURT
10	NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION	
	SANTRAN	
11	IO GROUP, INC. d/b/a TITAN MEDIA, a	) CASE NO.: C-08-4050 (MMC)
12	California corporation,	)
13		) PLAINTIFF'S MISCELLANEOUS
14	Plaintiff,	) ADMINISTRATIVE REQUEST TO EXTEND ) DEADLINE TO SERVE DEFENDANT
15	vs.	) SUNRISE MEDIA, LTD., and <del>[PROPOSED]</del>
16	ANTELOPE MEDIA, LLC, an	) ORDER
17	Arizonian limited liability company,	)
	SUNRISE MEDIA, Ltd., a British Limited Company, MIKE HERMANN,	) No Hearing
18	a.k.a. MAIK HERRMANN, a resident	)
19	of Germany; THORSTEN PALICKI, a	)
20	resident of Germany; NEWHAVEN, a	)
01	Dutch business entity, type unknown,	
21	PATRICK SCHWARZ, a resident of	)
22	the Netherlands, and DOES 1 through 9 inclusive,	)
23		)
24	Defendants.	,
25		
26	Pursuant to Local Rule 7-11, Plaintiff	requests that the Court extend the deadline to serve
27	Defendant Sunrise Media, Ltd. Stipulation fo	or this motion could not be achieved because no
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		PLAINTIFF'S REQUEST TO EXTEND TIME TO SERVE DEFENDANT SUNRISE MEDIA, LTD. [PROPOSED] ORDER C-08-4050 (MMC)

defendants have appeared. The Court has once previously extended the deadline for service upon defendants.

PROCEDURAL AND FACTUAL BACKGROUND

On August 25, 2008, Plaintiff filed a Complaint for Copyright Infringement and other

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claims against Defendant Antelope Media, an Arizona limited liability company. Plaintiff served the Summons and Complaint on Antelope Media, LLC and it immediately dissolved. Its sole members/managers, Mike Herrmann and Thorsten Palicki, formed a new company in Great Britain, Sunrise Media, Ltd., and transferred assets to the newly formed company. Plaintiff amended its Complaint to name Sunrise Media, Ltd Herrmann and Palicki. Plaintiff also added a claim for fraudulent transfer.

On June 1, 2009 the Court Ordered Plaintiff to serve all defendants no later than September 25, 2009. Plaintiff served Defendants Palicki and Herrman on August 7th and 8th 2009 15 respectively. Sperlein Declaration at ¶2. At Palicki and Herrmann's request, the Court extended 16 until October 2, 2009 the deadline for them to file a pleading responsive to the Second Amended 17 18 Complaint.

19 Plaintiff now suspects that two additionally named defendants, Patrick Schwarz and 20 Newhaven Corp, are aliases. Plaintiff has ceased efforts to serve Schwarz and Newhaven, but 21 wishes to reserve the right to seek leave to serve them if discovery should reveal they actually 22 exist. Thus, the only Defendant remaining to be served is Sunrise Media, Ltd. 23

24 On March 20, 2009, Plaintiff attempted to serve Sunrise Media via registered mail as 25 provided for in the Federal Rules for Civil Procedure and permitted under the Hague Convention. 26 Sperlein Declaration at ¶3. Within a week the U.S. Post Office website reported the package 27 containing the Summons and Complaint had been successfully delivered, but the Post Office 28

failed to return the signature card. The Post Office suggested Plaintiff's counsel should wait at least six weeks, however, the Post Office never returned the signature card and all attempts to locate it failed. On June 1, the Court granted Plaintiff's request for additional time to serve all defendants. *See* Sperlein's Declaration in Support of Plaintiff's request for Early Discovery, Dckt. #50, ¶3.

<sup>7</sup> Uncertain as to the validity of the service attempt, within a week of the Court's order
<sup>8</sup> setting September 25, 2009 as the service deadline, Plaintiff engaged an International Process
<sup>9</sup> server who prepared the documents and delivered them to the Central Authority in London.
<sup>1</sup> Sperlein Declaration at ¶4. On August 10, 2009, after several months of waiting, the documents
<sup>2</sup> were returned with a message that they could not be served because the Sunrise Media, Ltd. had
<sup>3</sup> dissolved. Unfortunately, the Central Authority made an error and confused a different company
<sup>4</sup> with the Sunrise Media, Ltd. named as a defendant in this matter. This occurred in spite of the fact
<sup>5</sup> that the two companies had different company numbers and Plaintiff had provided the Central
<sup>7</sup> Authority with the correct number. *Id.* at ¶5.

Plaintiff immediately made inquires to the Central Authority and to its international
 process server. *Id.* at ¶6. Plaintiff was instructed that the only course of action was to resubmit
 the papers. Plaintiff's International Process server express mailed a second request on August 14,
 2009. Plaintiff is currently awaiting a response. *Id.*

## REQUEST

International service of process can be cumbersome and time consuming. Plaintiff has
 consistently attempted to move this matter forward as swiftly as possible. Service on Defendant
 Sunrise Media should be completed relatively soon, therefore, Plaintiff requests an additional sixty
 (60) days to serve Defendant Sunrise Media, Ltd.

1	Alternatively, Plaintiff requests that the Court issue an order deeming Sunrise Media, Ltd.	
2	as having been served based on the following facts. Although the signature card was not returned,	
3	the United States Post Office reports that the Summons and Complaint were delivered to Sunrise	
4 5	Media. The two sole share holders and officers of Sunrise Media, Thorsten Palicki and Mike	
6	Herrmann, have been served with Summons and copies of the Second Amended Complaint in	
7	their individual capacities. Palicki and Herrman were the sole managers/members of Antelope	
8	Media which Plaintiff served on September 18, 2008 – over a year ago. Palick and Herrmann the	
9	sole stock holders and corporate officers for Sunrise Media are well aware of the suit. They first	
10	wrote to the Court on October 23, 2008 on behalf of Antelope Media [Dckt #8], and subsequently	
11 12	sent letters to the Court on January 5, 2009 asking that the case be dismissed [Dckt #26], and on	
13	August 28, 2009 expressing surprise that they had been served and requesting additional time to	
14	file a response [Dckt #52]. Apparently seeking to avoid service for as long as possible, none of	
15		
16	the correspondence contained any current contact information.	
17	For the forgoing reasons, Plaintiff respectfully requests that the Court enter an order	
18 19	substantially in the form of the accompanying Proposed Order.	
20		
21	Dated: September 23, 2009       Respectfully submitted,         /s/ Gill Sperlein	
22	GILL SPERLEIN Attorney for Plaintiff IO GROUP, INC.	
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	PLAINTIFF'S REQUEST TO EXTEND TIME TO SERVE DEFENDANT SUNRISE MEDIA, LTD. [PROPOSED] ORDER C-08-4050 (MMC)	

1	-[PROPOSED] ORDER	
2 3	Having considered Plaintiff's Miscellaneous Administrative Request Pursuant to Local	
4	Rule 7-11 to Extend Deadline to Serve Defendants, Sunrise Media, Ltd., and finding good cause	
5	therefore,	
6	IT IS HEREBY ORDERED, that the deadline for serving Defendant Sunrise Media, Ltd.	
7	in this matter shall be extended sixty (60) days from the date of this order.	
8		
9	<del>[ALTERNATIVELY]</del>	
10		
11	-IT IS HEREBY ORDERED, that based on the facts set forth in Plaintiff's Miscellaneous-	
12	Administrative Request to Extend Deadline to Serve Defendant Sunrise Media, Ltd., the Court	
13	finds that Plaintiff's efforts have resulted in valid service upon Sunrise Media, Ltd.	
14	TT IS FURTHER ORDERED, that Sunrise Media, Ltd. shall have until-	
15	to file a pleading responsive to the Second Amended Complaint.	
16		
17	IT IS FURTHER ORDERED, that Plaintiff shall send a copy of this order to Defendant	
18	Sunrise Media, Ltd at its registered business address as set forth below:	
19	Sunrise Media, Ltd	
20	69 Great Hampton Street Birmingham	
21	United Kingdom B16 6EW	
22	IT IS FURTHER ORDERED that Plaintiff's claims against Patrick Schwarz and Newhaven	
23	are DISMISSED without prejudice, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.	
24	Dated: September 28, 2009 Maline M. Charge	
25	MAXINE M. CHESNEY UNITED STATES DISTRICT JUDGE	
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