

1 D. GILL SPERLEIN (172887)
 2 THE LAW OFFICE OF D. GILL SPERLEIN
 3 584 Castro Street, Suite 879
 4 San Francisco, California 94114
 5 Telephone: (415) 404-6615
 6 Facsimile: (415) 404-6616
 7 gill@sperleinlaw.com

8 Attorney for Plaintiff
 9 IO GROUP, INC.

10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**
 12 **SAN JOSE DIVISION**

13	IO GROUP, INC. d/b/a TITAN MEDIA, a)	CASE NO.: 09-4401 (HRL)
14	California corporation,)	
15)	
16	Plaintiff,)	PROPOSED ORDER GRANTING IN PART
17)	PLAINTIFF IO GROUP, INC. LEAVE
18	vs.)	TO TAKE DISCOVERY PRIOR TO
19)	RULE 26 CONFERENCE
20	GARY NIEDERHELMAN and CHRISTIAN)	
21	TROY, individuals residing in the state of New)	
22	Jersey,)	No Hearing
23)	
24	Defendants.)	
25)	

26 **~~PROPOSED~~ ORDER**

27 Having considered Plaintiff's Miscellaneous Administrative Request Pursuant to Local
 28 Rule 7-11 for Leave to Take Discovery Prior to Rule 26 Conference and finding good cause
 therefore,

IT IS HEREBY ORDERED, that plaintiff is granted leave to take early discovery.
 Plaintiff may immediately serve on Defendant Gary Niederhelman ~~Requests for Admissions,~~
~~Requests for Production and Interrogatories~~, in substantially the same form as those attached to
 Plaintiff's Miscellaneous Administrative Request for Leave to Take Early Discovery at Exhibit A.

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

IT IS FURTHER ORDERED, that upon obtaining Internet protocol addresses from Defendant Gary Niederhelman, plaintiff may serve on Internet access providers subpoenas to obtain subscriber information for subscribers assigned ip addresses provided by Gary Niederhelman. Such subpoenas should be substantially in the same form as the example attached to plaintiff's Miscellaneous Administrative Request for Leave to Take Discovery Prior to Rule 26 Conference as Exhibit B;

IT IS FURTHER ORDERED, that if any Internet access provider served with a subpoena in accordance with this Order identifies a downstream access provider rather than an individual subscriber, plaintiff may serve on the downstream provider(s) such additional subpoenas as necessary in order to identify the individual subscriber assigned the ip address on the date and time in question;

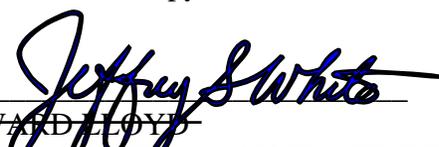
IT IS FURTHER ORDERED, that subpoenas authorized by this order and issued pursuant thereto shall be deemed appropriate court orders under 47 U.S.C. §551;

IT IS FURTHER ORDERED, that Internet access providers shall have twenty-one (21) days from the date they are served a subpoena and a copy of this order to respond to the subpoena in order that such provider shall have sufficient time to provide notice to the subscriber whose subscriber information plaintiff seeks to obtain thereby; and

IT IS FURTHER ORDERED, that good faith attempts by Internet service providers to notify the subscribers shall constitute compliance with this order.

It is **FURTHER ORDERED** that if Plaintiff is unable to obtain the necessary information by way of the interrogatories, it may renew its request for an order authorizing early discovery of documents. It is **FURTHER ORDERED** that Plaintiff shall serve a copy of this Order on Defendant and file proof of such service with the Court.

Dated: November 6, 2009


~~HOWARD LLOYD~~
~~UNITED STATES MAGISTRATE JUDGE~~
JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE