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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

_____	)	
IO GROUP, INC., a California	)	
corporation,	)	
	)	
Plaintiff,	)	
vs.	)	Case No. C-06-03926 (HRL)
	)	
VEOH NETWORKS, INC., a	)	
California Corporation,	)	
	)	
Defendants.	)	
_____	)	

DEPOSITION OF TED DUNNING  
SAN DIEGO, CALIFORNIA  
MARCH 16, 2007

REPORTED BY RITA BURGESS, CSR NO. 8374

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

_____		)	
IO GROUP, INC., a California		)	
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	Plaintiff,	)	
vs.		)	Case No. C-06-03926 (HRL)
		)	
VEOH NETWORKS, INC., a		)	
California Corporation,		)	
	Defendants.	)	
_____		)	

DEPOSITION OF TED DUNNING,  
taken by the Plaintiff, commencing at the hour of 9:00 a.m.  
on Friday, March 16, 2007, at 530 "B" Street, Suite 350,  
San Diego, California, before Rita Burgess, Certified  
Shorthand Reporter, in and for the State of California.

1 APPEARANCES:

2 For the Plaintiff:

3 THE LAW OFFICES OF GILL SPERLEIN  
4 BY: GILL SPERLEIN  
5 584 Castro Street, Suite 849  
6 San Francisco, California 94114

6 For the Defendants:

7 WINSTON & STRAWN, LLP  
8 BY: JENNIFER A. GOLINVEZUX  
9 101 California Street  
10 San Francisco, California 94111-5894

11 Also Present:

12 Keith Webb

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1 MS. GOLINVEAUX: Object to the form of the  
2 question.

3 BY MR. SPERLEIN:

4 Q. Could you answer the question, please?

5 A. He manages several engineers.

6 Q. Okay. The developers that you mentioned, this  
7 is -- is that the entire development team -- well, let me  
8 strike that.

9 Could you describe what a developer does?

10 A. He writes software.

11 Q. Okay. So the three people that you mentioned  
12 before write software for Veoh?

13 A. That's correct.

14 Q. And do they report directly to you?

15 A. Yes.

16 Q. Veoh. And how long have you been working for  
17 Veoh?

18 A. Since before it was a company so, you know, from  
19 the first phase.

20 Q. Okay.

21 A. I don't remember the exact date.

22 Q. Do you remember what year or month?

23 A. It would be 2005, but I don't recall exactly  
24 which month.

25 Q. But you were there from the beginning, before the

1 beginning?

2 A. Yes.

3 Q. Did you know Dimitry Shapiro prior to coming  
4 together for this project?

5 MS. GOLINVEAUX: Object to the form of the  
6 question.

7 BY MR. SPERLEIN:

8 Q. You can answer.

9 A. No.

10 Q. Did Mr. Shapiro contact you and ask you if you  
11 would work with him on this project?

12 A. Yes.

13 Q. Are you familiar with Veoh's policies regarding  
14 copyrighted material?

15 A. Some of the policies.

16 Q. And are you familiar with Veoh's policies  
17 concerning sexually explicit material?

18 A. Some of the policies.

19 Q. Will you describe briefly in your own words what  
20 Veoh Network does, what its mission statement is?

21 MS. GOLINVEAUX: Object to the form of the  
22 question; it's compound.

23 BY MR. SPERLEIN:

24 Q. You can go ahead and answer.

25 A. The mission statement?

1 Q. Yes, sir.

2 A. Our goal is to allow people to publish video on  
3 the internet.

4 Q. And how do you accomplish that? How does Veoh  
5 accomplish that goal?

6 A. We write software that helps them download videos  
7 that other people have published and software that manages  
8 that video so that it can be presented in an efficient  
9 fashion.

10 Q. Okay. And specifically, how does that operate?  
11 Do you -- does Veoh operate a web site?

12 A. Yes.

13 Q. And what is your URL for that web site?

14 A. The primary group domain for that is  
15 www.veoh.com.

16 Q. And Veoh uses computers in the -- in its efforts  
17 to allow people to publish videos; is that correct?

18 A. Yes, we use computers.

19 Q. Okay. Are there -- can your computer systems be  
20 divided into several different systems?

21 Do you want me to clarify a little bit what  
22 I'm --

23 A. I would love you to.

24 Q. Okay. Veoh.com is a web site, and presumably is  
25 run from some sort of server; is that correct?

1 A. That's correct.

2 Q. Do you have a separate network at Veah that you  
3 use for -- within the office for the exchange of e-mails or  
4 accounting systems, things like that?

5 MS. GOLINVEAUX: Object to the form of the  
6 question.

7 THE WITNESS: There are many sub networks as is  
8 typical in any network environment.

9 BY MR. SPERLEIN:

10 Q. Would you tell me what you would consider the  
11 primary three or four networks?

12 A. Primary, in what sense?

13 Q. Primary as in the most important to the company.

14 A. The most important would of course be the  
15 external internet. Secondary would be the internal networks  
16 at the co-location facilities. That would definitely be the  
17 top three or four.

18 Q. Will you explain briefly what a co-location  
19 facility is?

20 MS. GOLINVEAUX: I'm sorry. Could you repeat the  
21 question?

22 BY MR. SPERLEIN:

23 Q. Will you explain briefly what a co-location  
24 facility is?

25 A. It is a computer facility maintained by a company

1 which rents out space and access to networking.

2 Q. And in that situation, does -- they just provide  
3 the computer space, but does Veoh control how that -- how  
4 those computer systems are programmed?

5 MS. GOLINVEAUX: Object to the form of the  
6 question.

7 THE WITNESS: A co-location facility provides  
8 space, and whoever rents the space controls whatever  
9 computers that they place in the space.

10 BY MR. SPERLEIN:

11 Q. Okay. I want to go through now what happens when  
12 someone wants to publish a video on the Veoh system.

13 What is the first step that if I were an  
14 individual and I had a video file that I wanted to publish,  
15 what would I have to do to publish it through the Veoh  
16 system?

17 A. There are two primary mechanisms. One is you can  
18 upload smaller videos using a browser. Larger videos require  
19 the use of software that we have written in order to manage  
20 the upload in the event of network errors and similar  
21 corruptions.

22 Q. Starting with the first type that you mentioned,  
23 smaller videos, is there a size limitation on that?

24 A. I don't know if there are precise size  
25 limitations on that.



1 Q. If I went to the web site -- let me back up just  
2 a moment.

3 If I wanted to upload a smaller video file, would  
4 I have to go to the Veoh.com web site?

5 A. If you would like to upload a small video file,  
6 you can go to the Veoh web site.

7 Q. And what would other possibilities be for  
8 uploading a small video file?

9 A. If you already have our software, you can use our  
10 software.

11 Q. If I were using the web site would I first have  
12 to register with Veoh.com?

13 MS. GOLINVEAUX: Object to the form of the  
14 question.

15 THE WITNESS: I believe there's some registration  
16 requirements. I'm not sure of the details.

17 BY MR. SPERLEIN:

18 Q. Do you know any of the procedure at all?

19 A. I have not uploaded a video in many months.

20 Q. Would the process of registration be something  
21 that would be programmed by someone in your department?

22 A. Any registration process would be programmed by  
23 somebody.

24 Q. Would it be someone from your developing --  
25 development team?

1 Media digital rights management has ever been hacked or -- if  
2 I use that terminology, will you understand what I'm asking?  
3 Has anyone ever been able to break that system and copy  
4 videos that were protected with it to your knowledge?

5 A. I know that at least one version of Windows Media  
6 audio has been hacked. I don't know if other versions have  
7 been hacked, and I don't know if video has been hacked.  
8 Generally, I know it's a fairly secure system.

9 Q. If a publisher elects to have his video  
10 protected, then Veoh attaches the Windows DRM protection; is  
11 that correct?

12 A. Yes.

13 Q. And when that occurs, then, if other users  
14 download that video to their system, they, in theory, are not  
15 able to make a copy of that video file; is that correct?

16 No, it's not. Let me rephrase the question.

17 There are limitations on how and when a video  
18 file would be copied; is that correct?

19 A. No. It's generally incorrect as well. Copying  
20 itself is not constrained. It's usually playing, which is  
21 constrained.

22 Q. A little bit later we're going to get in to some  
23 questions about how Veoh has handled video files that contain  
24 sexually explicit material, but for right now I just want to  
25 ask you a couple of questions relating to that.

1                   Was there a time when Veoh allowed publishers to  
2 submit and publish video files that contain sexually explicit  
3 material?

4           A.     There was a time.

5           Q.     And was there a time when Veoh ceased permitting  
6 sexually explicit videos on its system?

7           A.     There was also a time that we ceased to.

8           Q.     At that time when Veoh elected to prohibit adult  
9 videos or sexually explicit videos from being on the Veoh  
10 system, did Veoh use the function that we're talking about,  
11 whereby they could go to a user's computer and have a video  
12 file deleted and thereby erase existing adult video files  
13 from users who had already downloaded it?

14          A.     I think so, because I think we got some  
15 complaints about that happening, so I didn't -- I didn't  
16 perform that take down, but I think I saw complaints about it  
17 happening.

18          Q.     Would you know how Veoh would have identified the  
19 adult material that they wanted to remove from the system?

20          A.     There's a database flag which indicates,  
21 presumably indicates, whether or not something is explicit.

22          Q.     When you say a database tag, this is different  
23 from --

24          A.     Flag.

25          Q.     Flag. Okay.

1 an intermediate and a sexually explicit?

2 A. The number of active levels has varied. It's an  
3 integer, so there's a very large number of potential levels.  
4 Currently there are two levels and neither of them is  
5 explicit, because we do not allow explicit material.

6 Q. Okay. So currently when a producer is going  
7 through the data entry process, you said there are two levels  
8 that they are allowed to choose from; is that correct?

9 A. I believe so.

10 Q. Do you know what those are?

11 A. I think that they are suitable for all audiences,  
12 or contains -- and I don't know what the language is, but  
13 some material that would not be suitable for all audiences.

14 Q. Contains nudity or --

15 A. I don't know what the details are, but there are  
16 presumably non-sexually explicit things that are not  
17 appropriate for all audiences. I don't know how to say that  
18 well. It's a difficult thing to say.

19 Q. That's okay. I think we got the idea.

20 If a user currently selects the second one that  
21 you described, it may have material that's not suitable for  
22 all ages, does Veoh then review the video clip to make sure  
23 there's no explicit, sexually explicit material on it?

24 A. No.

25 Q. Does Veoh or somebody else, do they engage some

1 I, RITA BURGESS, Certified Shorthand Reporter for the State  
2 of California do hereby state under penalty of perjury:

3  
4  
5 That the witness in the foregoing deposition was by me first  
6 duly sworn to testify to the truth, the whole truth and  
7 nothing but the truth in the foregoing cause; that the  
8 deposition was taken by me in machine shorthand and that the  
9 foregoing contains a true record of the testimony of the  
10 witness.

11  
12  
13 Dated this 31<sup>st</sup> day of March, 2007, at  
14 San Diego, California.

15 Rita Burgess  
16 RITA BURGESS  
17 C.S.R. No. 8374  
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