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

14 IO GROUP, INC.

15 Plaintiff,

16 vs.

17 VEOH NETWORKS, INC.

18 Defendant.

**Case No. C 06-3926 HRL**

**DEFENDANT VEOH NETWORKS, INC.'S  
 OPPOSITION TO PLAINTIFF'S  
 ADMINISTRATIVE MOTION FOR  
 LEAVE TO FILE SUPPLEMENTAL  
 BRIEF; [PROPOSED] ORDER**

19  
 20 The parties' cross-motions for summary judgment have been fully briefed in this case for  
 21 more than two months. The hearing on those motions was held in early September. Plaintiff now  
 22 seeks leave to file a supplemental brief regarding a recently issued district court order granting in  
 23 part a motion for permanent injunction. Further briefing is not warranted, and Defendant  
 24 respectfully requests that the Court deny Plaintiff's motion.

25 Local Rule 7-3(d) allows counsel to bring to the Court's attention new supplemental  
 26 authority, before the noticed hearing date. "[O]nce a reply is filed, no additional memoranda, papers  
 27 or letters may be filed without prior Court approval." Local Civ. R. 7-3(d). Even if the hearing date  
 28

**DEFENDANT VEOH NETWORKS, INC.'S OPP. TO PLAINTIFF'S ADMIN. MOT. FOR  
 LEAVE TO FILE SUPP. BR. EXPLAINING RELEVANCE OF RECENTLY ISSUED AUTHORITY**

Case No. C 06-3926 HRL

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1 had not yet passed, absent prior Court approval a party is only permitted to file a Statement of  
2 Recent Decision, containing a citation to and providing a copy of the new opinion, "without  
3 argument." See Local Rule 7-3(d). This case has been fully briefed and submitted, the hearing was  
4 in the beginning of September, and supplemental briefing at this stage is not warranted.

5 Moreover, the order to which Plaintiff cites, *MGM Studios, Inc. v. Grokster, Ltd.*, Nos. CV  
6 01-8541, CV 01-9923, Doc. No. 1287 (C.D. Cal. October 16, 2007)(the "*Grokster* Order"), does not  
7 call for further briefing in this case. The *Grokster* Order concerns the proper scope of injunctive  
8 relief following a grant of summary judgment in Plaintiff's favor on Defendant's liability for  
9 *inducement* of copyright infringement,<sup>1</sup> a claim not even asserted by Plaintiff in this case, and  
10 certainly not supported by the facts. Here Plaintiff has moved for summary judgment on the issue of  
11 liability for direct, vicarious, and contributory copyright infringement, and Defendant has moved for  
12 summary judgment concerning its entitlement to DMCA safe harbor. The issue of the proper scope  
13 of injunctive relief is not relevant to Plaintiff's motion for summary judgment, and the *Grokster*  
14 Order does not even address the issue of DMCA safe harbor, which is the basis for Veoh's motion  
15 for summary judgment. Plaintiff has failed to justify its request for supplemental briefing.

16 For these reasons, the Court should deny Plaintiff's Administrative Motion for Leave to  
17 File Supplemental Brief, which is unwarranted, and should disregard Plaintiff's Proposed

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26 <sup>1</sup> The decision granting summary judgment is *MGM Studios, Inc. v. Grokster, Ltd.*, 454 F. Supp. 2d  
27 966 (C.D. Cal. 2006).

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1 Supplemental Brief. If the Court grants Plaintiff's Motion, Defendant respectfully requests five  
2 Court days from the date of any such order to file a substantive response to Plaintiff's brief.

3 Respectfully submitted,

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5 Dated: October 25, 2007

WINSTON & STRAWN, LLP

6 By: /s/ Jennifer A. Golinveaux  
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8 Jennifer A. Golinveaux  
9 Matthew A. Scherb  
10 Attorneys for Defendant  
11 VEOH NETWORKS, INC.