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 9 IO GROUP, INC.

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

13	IO GROUP, INC., a California corporation,)	
14	Plaintiff,)	CASE NO. C-06-3926 (HRL)
15	vs.)	
16)	MOTION FOR ORDER ALLOWING
17	VEOH NETWORKS, Inc, a California)	PARTIES TO EXCEED OTHERWISE
18	Corporation,)	APPLICABLE PAGE LIMITATIONS
19	Defendant.)	AND [PROPOSED] ORDER
20)	
21)	Deadline for Dispositive Motions:
22)	September 4, 2007
23)	Trial Date: October 22, 2007
24)	

21 Pursuant to Local rule 7.11, Plaintiff Io Group, Inc. hereby moves the Court for an order
 22 allowing parties to exceed otherwise applicable page limitations for the purposes of summary
 23 judgment motions in this matter.

24 Both parties intend to file motions for summary judgment in this matter. Under the
 25 Court's Case Management Order dispositive motions must be heard by September 4, 2007. Trial
 26 is set to begin October 22, 2007.

27 Civil local rule 7.2(b) sets the page limitations for *all* motions and oppositions at twenty-
 28 five and Reply's at fifteen. Since this is a matter of first impression with complex legal issues

1 and a detailed factual foundation, Plaintiff requests and hereby moves the Court to increase page
2 limitations for summary judgment motions in this matter to fifty (twenty-five for replies).

3 This matter will require Parties to present many facts to the Court, including explanations
4 of rather complex technological processes. Sperlein Declaration at ¶4. By allowing parties
5 additional pages to set forth necessary information now, the Court will increase the likelihood that
6 at least some issues can be resolved on summary judgment, thereby either eliminating the need for
7 a trial or at least reducing the issues.

8 This action will present issues of first impression, not only for this Court but before all
9 U.S. Courts. A district court recently came close to addressing those legal issues on cross motions
10 for summary judgment, but ultimately did not because too many factual questions remained
11 opened. *See Tur v. YouTube*, No.06-4436, 2007 U.S. Dist. LEXIS 50254 (C.D. Cal. June 20,
12 2007). *Tur* highlights the importance of allowing the parties the opportunity to present all material
13 facts to the Court.

14 In *Tur* the owner of copyrights in certain video footage brought suit for copyright
15 infringement against YouTube.com, a website that operates in a manner similar in key aspects to
16 the website Defendant operates at www.veoh.com (the location where the infringement of
17 Plaintiff's works occurred).

18 In its ruling denying defendant's motion for summary judgment, the court acknowledged
19 the complexities involved in assessing the legal and factual questions in this type of case,
20 highlighting some of those issues specifically. "[T]here is clearly a significant amount of
21 maintenance and management that YouTube exerts over its website, but the nature and extent of
22 that management is unclear." Further, "there is insufficient evidence before the Court concerning
23 the process undertaken by YouTube from the time a user submits a video clip to the point of
24 display on the YouTube website." *Id.* LEXIS 50254 at *9. Thus the court acknowledged that
25 significant technological, factual issues must be presented to the court before a summary judgment
26 determination is appropriate.

27 The case before this Court includes all the same complex legal and factual issues present in
28 *Tur* and more. For example, in addition to the issues in *Tur*, this case involves questions about the
regulation of sexually explicit content and liability where defendant allowed users to download
video files to their home computers (YouTube streamed the videos from its site but did not allow

1 users to download and keep copies of the videos.) These additional issues and others add further
2 layers of complexity, and require additional briefing pages.

3 Unlike plaintiff in *Tur*, who had not performed any discovery whatsoever, Io Group has
4 invested considerable time, energy and resources into learning about the operation of Defendant's
5 website. Plaintiff took five depositions (as opposed to Defendant's one). *Id.* at ¶5. Plaintiff
6 requires additional briefing pages in order to properly put numerous undisputed facts it has
7 assembled before the Court and thereby ensure the Court has all the information required to make
8 an informed ruling on the matters of law. *Id.*

9 Defendant refused Plaintiff's request to stipulate to this request. *Id.* at ¶7. Plaintiff
10 reminds the Court of Defendant's refusal to respond to many of Defendant's discovery requests
11 until ordered to do so by the Court. Having been ordered to produce relevant information, now
12 Defendant seeks to keep the information from the Court, by objecting to a page limit extension
13 even though it is clearly warranted.

14 Dated: July 20, 2007

Respectfully Submitted,

15 /s/ Gill Sperlein
16 Gill Sperlein
17 THE LAW FIRM OF GILL SPERLEIN
18 Attorney's for Plaintiff

19 **[PROPOSED] ORDER**

20 Having read and considered Plaintiff's request to expand the page limitation for summary
21 judgment motions in this matter, and finding good cause therefore,

22 IT IS HERBY ORDERED that summary judgment briefs or memoranda filed with
23 opposition papers may not exceed fifty (50) pages of text and reply briefs or memorandum may
24 not exceed twenty (25) pages of text.

25
26
27 Dated: _____

28 HONORABLE HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE