

1 GILL SPERLEIN (172887)
 2 THE LAW FIRM OF GILL SPERLEIN
 3 584 Castro Street, Suite 849
 4 San Francisco, California 94114
 5 Telephone: (415) 487-1211 X32
 6 Facsimile: (415) 252-7747
 7 legal@titanmedia.com

8 Attorney for Plaintiff
 9 IO GROUP, INC.

10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**

12	IO GROUP, INC. v. VEOH NETWORKS, a California corporation	)	CASE NO. C-06-3926 (HRL)
13	IO GROUP, INC. v. DATA CONVERSIONS, INC. , a South Carolina corporation d/b/a AEBN and pornotube.com	)	CASE NO. C-06-5162 (HRL)
14	IO GROUP, INC. v. WEBNOVAS TECHNOLOGIES, INC., a Canadian business entity type unknown, and GONETMARKET, INC., a Nevada Corporation	)	CASE NO. C-06-5334 (JSW)
15		)	DECLARATION OF GILL SPERLEIN IN
16		)	SUPPORT OF PLAINTIFF IO GROUP,
17		)	INC.'S REPLY TO VEOH NETWORK
18		)	INC.'S OPPOSITION TO PLAINTIFF'S
19		)	ADMINISTRATIVE MOTION TO
20		)	CONSIDER WHETHER CASES
21		)	SHOULD BE RELATED

22 I, GILL SPERLEIN, declare:

23 1. I am an attorney at law licensed to practice in the State of California and attorney of
 24 record for Plaintiff Io Group, Inc.

25 2. I reviewed the website veoh.com prior to filing the complaint in this matter. At that
 26 time the website contained the following language: "Before any video is made available for
 27 viewing, it will go through a number of quality steps. After completing the publishing process, the
 28

1 video will move to the Veoh review process. This process is managed by Veoh to ensure the
2 video complies with the Terms of Use, as well as the accuracy and appropriateness of the
3 descriptive information.” This language appears in the highlighted section of otherwise true and
4 accurate printouts of various pages from veoh.com which I have attached hereto as Exhibit A.

5
6 3. I reviewed veoh.com on October 20, 2006 and the above-quoted language no
7 longer appears in the “Publishing Videos” section of the Frequently Asked Questions. I printed
8 time-date-stamped pages from the site and attached true and complete copies of those pages hereto
9 as Exhibit B.

10
11 4. I reviewed veoh.com on October 20, 2006. In the frequently Asked Questions
12 section of the site I observed that the site contained the following language: “**10. Can I charge**
13 **for my video?** Not yet, in the near future Veoh will be allowing publishers to offer content on a
14 pay-per-view, pay-to-own or subscription basis. If you are interested in offering content on a paid
15 basis, please contact us.” I printed time-date-stamped pages from the site and attached true and
16 complete copies of those pages hereto as Exhibit C.

17
18 5. I have viewed and listened to numerous interviews with Veoh Networks’ CEO
19 Dmetri Shapiro in which he states that Veoh intends to use advertising or charge pay-per-view
20 fees, the revenue from which will be shared between Veoh and publishers. As an example, I
21 printed one such article (which the Veoh site links to) and have attached it hereto as Exhibit D.

22
23 6. I have reviewed the websites veoh.com, xtube.com and pornotube.com. All three
24 sites organize videos by channels (although pornotube.com refers to the groups as categories
25 rather than channels), organizes videos by those which their viewers rate as favorites, group videos
26 by the most recently published videos, as well as the most viewed videos, and allow users to
27 search for videos by keywords in the user inputted description fields.
28

1 7. Each of the sites allows users to submit videos which the website operators
2 reformat and then broadcast.

3 8. Each of the operators transforms the files into Flash format.
4

5 9. Each of the operators broadcasts at least a portion of the material directly from its
6 web servers so that anyone with a computer and a high-speed Internet connection can view those
7 portions of the videos.

8 Pursuant to the laws of the United States, I declare under penalty of perjury the foregoing
9 is true and correct.
10

11
12 Dated: *October 20, 2006*

Respectfully submitted,

13 */s/ Gill Sperlein*

14 GILL SPERLEIN,
15 Attorney for Plaintiff
16
17
18
19
20
21
22
23
24
25
26
27
28

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

CERTIFICATE OF SERVICE

I am over 18 years of age, am employed in the county of San Francisco, at 69 Converse Street, San Francisco, California, 94103. I am readily familiar with the practice of this office for collection and processing of correspondence for mailing with United Parcel Service and correspondence is deposited with United Parcel Service that same day in the ordinary course of business.

Today I served the attached:

- **PLAINTIFF IO GROUP, INC.’S REPLY TO VEOH NETWORK INC.’S OPPOSITION TO PLAINTIFF’S ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED**
- **DECLARATION OF GILL SPERLEIN IN SUPPORT OF PLAINTIFF IO GROUP, INC.’S REPLY TO VEOH NETWORK INC.’S OPPOSITION TO PLAINTIFF’S ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED**

by causing a true and correct copy of the above to be placed with United Parcel Service at San Francisco, California in sealed envelopes with postage prepaid, addressed as follows:

Richard F. Cauley
Wang, Hartman & Gibbs, P.C.
1301 Dove Street, Suite 1050
Newport Beach, CA 92660

And via e-mail to rcauley@jcpw.com

Lance Blundell, General Counsel
Data Conversion, Inc. D/B/A AEBN
5300 Old Pineville Road, Suite 152
Charlotte, NC 28217

And via e-mail to Lance.Blundell@aebn.net

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 20, 2006.

/s/Eric Burford
Eric Burford

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

I hereby attest that this is the declaration of Eric Burford and the original with Eric Burford's holographic signature is on file for production for the Court if so ordered, or for inspection upon request by any party. Pursuant to the laws of the United States, I declare under penalty of perjury the foregoing is true and correct.

Dated: October 20, 2006

/s/ Gill Sperlein
GILL SPERLEIN,
Counsel for Plaintiff Io Group, Inc.