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9 Attorneys for Defendant  
 10 VEOH NETWORKS, INC.

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**

**DECLARATION OF TED DUNNING  
 SUBMITTED IN SUPPORT OF  
 DEFENDANT VEOH NETWORKS, INC.'S  
 OPPOSITION TO PLAINTIFF'S MOTION  
 FOR SUMMARY JUDGMENT**

Date: September 4, 2007

Time: 10:00 a.m.

Place: Courtroom 2

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1 I, Ted Dunning, declare under penalty of perjury under the laws of the United States of  
2 America that the following statements are true and correct:

3 1. I am employed as Chief Scientist for Defendant Veoh Networks, Inc. ("Veoh"), and  
4 have been so employed by Veoh since its inception. My responsibilities at Veoh include  
5 responsibility for the development and management of Veoh's technology projects. I have a  
6 thorough understanding of Veoh's technology and how all aspects of the Veoh service and software  
7 function. I am also thoroughly familiar with Veoh's methods of maintaining information regarding  
8 users' use of Veoh, such as Veoh's tracking of the number of user uploads. Veoh regularly relies on  
9 such statistics in the course of its business operations. The statements contained herein are based on  
10 my own personal knowledge.

11 2. I provided a declaration in this case supporting Veoh own motion for summary  
12 judgment filed on July 30, 2007, in which I discussed Veoh's software and service, its automated  
13 publication process, and enforcement of Veoh's copyright policies.

14 3. As I explained in my July 30, 2007 declaration, after a user uploads a new video to  
15 Veoh, the Veoh system then automatically publishes the new video, making it available to other  
16 users of Veoh. Absent a failure in the computer system, publication is an entirely automated  
17 process. As part of the publication process, Veoh utilizes third party software to convert each user-  
18 submitted video into the Flash format for compatibility purposes, because the vast majority of Web  
19 users have software that can play videos in the Flash format. The conversion to Flash format is an  
20 entirely automated process. Veoh merely selects default values that are necessary for the encoding  
21 process, such as frame rate, bit rate, and frame size, from within a narrow range of parameters set by  
22 the third party software. Contrary to Io's assertion, the "codec", or compression format for the  
23 videos, is set by the third party software.

24 4. In addition to conversion to Flash format, as part of the automated publication  
25 process, Veoh's computers automatically confirm that uploaded files are in fact video files,  
26 automatically extract thumbnail frames from the user-submitted videos, and index the user-submitted

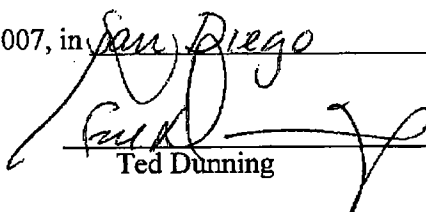
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1 videos.

2 5. To search for videos on Veoh, users may enter keyword search terms, in response to  
3 which Veoh returns a page of search results in a grid, each result identified by a title and a  
4 "thumbnail", which is a reduced-size screenshot extracted from a video. I have reviewed Exhibits E,  
5 D, and H of the Declaration of Keith Ruoff in Support of Plaintiff's Motion for Summary Judgment  
6 on Liability ("Ruoff Decl."). Exhibit H is an example of a Veoh search results page described in the  
7 first sentence of this paragraph. If a user clicks on a specific thumbnail on the search results page,  
8 he or she will see a "Video Details Page" that contains the video and a link called "Video  
9 Screencaps." Exhibit E to the Ruoff Decl. is an example of such a page. Clicking on the "Video  
10 Screencaps" link shows the user a set of 16 thumbnails of screenshots from the video. An example  
11 of this can be seen as Exhibit D to the Ruoff. Decl. The extraction of thumbnails is a fully  
12 automated process effected by Veoh's computers, and involves no human intervention or review.  
13 The thumbnails help users search for videos on Veoh's service and give users a quick idea, without  
14 having to watch a video, of the video's content.

15 6. Users have uploaded and shared hundreds of thousands of videos on Veoh. To date,  
16 Veoh has received notices of alleged copyright infringement in one form or another in connection  
17 with less than seven percent of those videos.

18 Executed this 14th day of August, 2007, in San Diego, California

  
\_\_\_\_\_  
Ted Dunning