

1 BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General
2 Civil Division

3 LESLEY FARBY
4 Assistant Branch Director
5 Civil Division, Federal Programs Branch

6 LESLIE COOPER VIGEN
7 Trial Attorney (DC Bar No. 1019782)
8 Civil Division, Federal Programs Branch
9 United States Department of Justice
10 1100 L Street, NW, Washington, DC 20005
11 Telephone: (202) 305-0727
12 Email: leslie.vigen@usdoj.gov

13 *Counsel for United States*

14 *[Additional counsel listed on signature page]*

15 **UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

16 Brayden STARK, Judd
17 OOSTYEN, Kevin BLACK, and
18 Maryann OWENS, individually
19 and on behalf of all others
20 similarly situated,

21 Plaintiffs,

22 v.

23 PATREON, INC.,

24 Defendant.

No. 3:22-cv-03131-JCS

**UNITED STATES OF AMERICA'S
ACKNOWLEDGEMENT OF
CONSTITUTIONAL
CHALLENGE, STIPULATED
REQUEST TO ENLARGE TIME
TO INTERVENE, AND
~~PROPOSED~~ ORDER**

25 Pursuant to Civil L.R. 6-2, subject to the Court's approval, the United
26 States, Plaintiffs, and Defendant, through their undersigned counsel of record,
27 **HEREBY STIPULATE** as follows:
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1 1. On August 6, 2022, Defendant filed a Notice of Constitutional
2 Question pursuant to Federal Rule of Civil Procedure 5.1 and Civil L.R. 3-8. *See*
3 ECF No. 24.

4 2. In that Notice, Defendant states that its Motion to Dismiss, *see* ECF
5 No. 21, “draws into question the constitutionality of the Video Privacy Protection
6 Act (“VPPA”), 18 U.S.C. § 2710,” specifically “whether the VPPA, on its face and as
7 Plaintiffs seek to apply it, is unconstitutional because it violates the First
8 Amendment to the United States Constitution.” ECF No. 24.

9 3. The United States is authorized to intervene in any federal court
10 action in which the constitutionality of an Act of Congress is drawn into question.
11 28 U.S.C. § 2403(a).

12 4. Pursuant to Federal Rule of Civil Procedure 5.1, the current deadline
13 for the United States to intervene is October 5, 2022.

14 5. The United States has not yet decided whether to intervene in this
15 action to defend the constitutionality of the VPPA.

16 6. The approval of the Solicitor General is required for the United
17 States to intervene in an action to defend the constitutionality of a federal statute,
18 *see* 28 C.F.R. § 0.21, and that approval process often takes several weeks.

19 7. The United States requires additional time to decide whether to
20 intervene due to the press of business for counsel for the United States, and
21 because the process of determining whether to intervene takes several weeks.

22 8. For these reasons, the United States, Plaintiffs, and Defendant
23 stipulate to provide the United States with 30 additional days—until November 4,
24 2022—to decide whether to intervene for the limited purpose of defending the
25 constitutionality of the VPPA.
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LESLEY FARBY
Assistant Branch Director
Civil Division, Federal Programs Branch

/s/ Leslie Cooper Vigen
LESLIE COOPER VIGEN
Trial Attorney (D.C. Bar No. 1019782)
Civil Division, Federal Programs Branch
United States Department of Justice
1100 L Street, NW, Washington, D.C. 20005
Telephone: (202) 305-0727
Email: leslie.vigen@usdoj.gov

Counsel for United States

/s/ Simon Grille
Adam E. Polk (SBN 273000)
Simon Grille (SBN 294914)
Kimberly Macey (SBN 342019)
GIRARD SHARP LLP
601 California Street, Suite 1400
San Francisco, CA 94108
Telephone: (415) 981-4800
apolk@girardsharp.com
sgrille@girardsharp.com
kmacey@girardsharp.com

Counsel for Plaintiffs

By: /s/ Nathan Walker
Fred Norton (CA SBN 224725)
Nathan Walker (CA SBN 206128)
Bree Hann (CA SBN 215695)
Gil Walton (CA SBN 324133)
THE NORTON LAW FIRM PC
299 Third Street, Suite 200
Oakland, CA 94607
Telephone: (510) 906-4900
fnorton@nortonlaw.com
nwalker@nortonlaw.com
bhann@nortonlaw.com
gwalton@nortonlaw.com

Counsel for Defendant

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ATTESTATION

I hereby attest, pursuant to Civil L.R. 5-1(h)(3), that each of the other signatories to this stipulation have concurred in the filing of the document.

/s/ Leslie Cooper Vigen
LESLIE COOPER VIGEN

~~**[PROPOSED]**~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 9/16/2022



Hon. Joseph C. Spero
United States Chief Magistrate Judge