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10-3270

10-3342

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

VIACOM INTERNATIONAL INC., COMEDY PARTNERS, COUNTRY MUSIC TELEVISION,
INC., PARAMOUNT PICTURES CORPORATION, BLACK ENTERTAINMENT TELEVISION
LLC,

Plaintiffs-Appellants,

(caption continued on inside cover)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

**JOINT APPENDIX
VOLUME II OF VI (Pages A-1 to A-795) – PUBLIC VERSION**

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v.

YOUTUBE, INC., YOUTUBE, LLC, GOOGLE, INC.,
Defendants-Appellees.

THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, on behalf of
themselves and all others similarly situated, BOURNE CO., CAL IV
ENTERTAINMENT, LLC, CHERRY LANE MUSIC PUBLISHING COMPANY,
INC., NATIONAL MUSIC PUBLISHERS' ASSOCIATION, THE RODGERS &
HAMMERSTEIN ORGANIZATION, EDWARD B. MARKS MUSIC
COMPANY, FREDDY BIENSTOCK MUSIC COMPANY, dba Bienstock
Publishing Company, ALLEY MUSIC CORPORATION, X-RAY DOG
MUSIC, INC., FEDERATION FRANCAISE DE TENNIS, THE MUSIC FORCE
MEDIA GROUP LLC, SIN-DROME RECORDS, LTD., on behalf of themselves
and all others similarly situated, MURBO MUSIC PUBLISHING, INC., STAGE
THREE MUSIC (US), INC., THE MUSIC FORCE, LLC,
Plaintiffs-Appellants,

ROBERT TUR, dba Los Angeles News Service,
THE SCOTTISH PREMIER LEAGUE LIMITED,
Plaintiffs,

v.

YOUTUBE, INC., YOUTUBE, LLC, GOOGLE, INC.,
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REDACTED

candidate to a number of new and old media firms, the possibility of lawsuits will probably keep potential suitors away for now.

1:14:54 PM nurblieh:

ah fark

1:15:01 PM nurblieh:

that's about the worst thing they could say.

1:15:29 PM nurblieh:

they could say we suck, but that wouldn't do any harm because the #s speak for

themselves. but this...

1:18:13 PM nurblieh:

this affects my chance at being rich, and that upsets me.

;)

1:21:21 PM maryrosedunton:

haha...totoally

1:22:03 PM maryrosedunton:

it's really bad. julie has been getting calls all day. to me, this is way scarier than people talking us having porn on our site

1:26:44 PM nurblieh:

i wonder if they cashed my early exercise check yet. ;)

nurblieh disconnected (1:26:48 PM)

9:58:47 PM maryrosedunton:

man, today sucks

10:01:38 PM maryrosedunton:

hrm. is this thing working?

10:04:38 PM nurblieh:

yeah

10:04:43 PM maryrosedunton:

hah

10:04:44 PM nurblieh:

sorry. was in the other room.

10:04:53 PM nurblieh:

aside from the bad press, why was today bad?

10:04:58 PM maryrosedunton:

that's ok, I keep having problems with my adium

10:05:06 PM maryrosedunton:

happened again today

10:05:07 PM nurblieh:

my day was shit, but it was just my stuff.

10:05:23 PM maryrosedunton:

where I could see everyone on my list, but the weren't getting my

messages

10:05:32 PM nurblieh:

doh

10:05:38 PM nurblieh:

i've never had that problem, that i know of.

10:05:48 PM maryrosedunton:

REDACTED

REDACTED

ha

10:14:40 PM nurblieh:

well i'm glad he realizes it

10:16:04 PM maryrosedunton:

hah...well, i think the thing is, we were all in early when
that newsweek thing
came out, and the shit hit the fan big time. the press was calling julie like
crazy, the

lawyers were calling us, we
were trying to find people to make some changes to the site (not even
including rizzo's
stuff) and no one was in
yet. steve was freaking out too. that was bad, bad press. that stuff could
squash us

10:17:44 PM nurblieh:

i hope everyone is overreacting to it.

10:17:51 PM maryrosedunton:

god, I hope so too

10:18:02 PM nurblieh:

i mean, if no one had mentioned it... iwould never have really
thought about what
being hte napster of video means.

10:18:04 PM maryrosedunton:

but the thing is, nbc and cbs glommed on to it

10:18:06 PM nurblieh:

now i of course i realize it's bad press

10:18:34 PM nurblieh:

i just hope our success speaks for itself. the press is going
to be idiotic no matter
what.

10:19:01 PM maryrosedunton:

ya, that's why there was so much pressure for rizzo's feature
- chris was saying
if we don't get an official partner now - other companies won't want to
work with us.

I guess warner brothers

already started questioning chris about the article

10:19:07 PM nurblieh:

i realize that calling us the napster of video is unimaginative
and lazy
journalism... hopefully everyone else does too.

10:19:30 PM maryrosedunton:

ya, but the truth of the matter is, probably 75-80% of our
views come from
copyrighted material

10:19:35 PM nurblieh:

tell them the WB is an awful channel and we wouldn't do business
with them
anyways. ;)

10:19:38 PM maryrosedunton:

haha

10:20:04 PM nurblieh:

yeesh. you might be right about those #s.

10:20:05 PM nurblieh:

that's bad

10:20:11 PM nurblieh:

but there is good original content....

10:20:26 PM maryrosedunton:

ya, there is some. it's just such a small percentage

10:21:09 PM nurblieh:

i shouldn't even be worrying about this. at the current pace
we won't have any
servers to serve content in 4 weeks. copyrighted or not.

10:21:17 PM maryrosedunton:

hahah

10:21:35 PM maryrosedunton:

well, if we clean our site of all copyrighted content, we
won't have that problem I
guess

10:21:39 PM nurblieh:

haha

10:21:46 PM nurblieh:

god i almost hope that happens

10:22:07 PM nurblieh:

all the stuff i care about is so amazingly screwed right now.

10:22:25 PM maryrosedunton:

:{

10:22:33 PM maryrosedunton:

what's up with the database anyway?

10:22:36 PM maryrosedunton:

not happy?

10:22:39 PM nurblieh:

shannon and micah called me today about IT stuff too.

10:22:41 PM nurblieh:

boy was i happy

10:22:50 PM maryrosedunton:

oh lord

10:22:58 PM nurblieh:

the new release had a lot of bad queries. cuong spent most
of the day finding
and fixing them.

10:23:05 PM nurblieh:

the DB is back to an ok state fortunately, or at least better.

10:23:09 PM maryrosedunton:


oh, I know, I got sucked into trying to help shannon with
her email for about
15mins

10:23:15 PM nurblieh:

i know, sorry about that.

10:23:23 PM maryrosedunton:

ha, that's ok



REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

themselves. but this...</pre></div>

<div class="receive">1:18:13 PM nurblied:<pre class="message">this affects my chance at being rich, and that upsets me. ;)</pre></div>

<div class="send">1:21:21 PM maryrosedunton:<pre class="message">haha...totoally</pre></div>

<div class="send">1:22:03 PM maryrosedunton:<pre class="message">it's really bad. julie has been getting calls all day. to me, this is way scarier than people talking us having porn on our site</pre></div>

<div class="receive">1:26:44 PM nurblied:<pre class="message">i wonder if they cashed my early exercise check yet. ;)</pre></div>

<div class="status">nurblied disconnected (1:26:48 PM)</div>

<div class="send">9:58:47 PM maryrosedunton:<pre class="message">man, today sucks</pre></div>

<div class="send">10:01:38 PM maryrosedunton:<pre class="message">hrm. is this thing working?</pre></div>

<div class="receive">10:04:38 PM nurblied:<pre class="message">yeah</pre></div>

<div class="send">10:04:43 PM maryrosedunton:<pre class="message">hah</pre></div>

<div class="receive">10:04:44 PM nurblied:<pre class="message">sorry. was in the other room.</pre></div>

<div class="receive">10:04:53 PM nurblied:<pre class="message">aside from the bad press, why was today bad?</pre></div>

<div class="send">10:04:58 PM maryrosedunton:<pre class="message">that's ok, I keep having problems with my adium</pre></div>

<div class="send">10:05:06 PM maryrosedunton:<pre class="message">happened again today</pre></div>

<div class="receive">10:05:07 PM nurblied:<pre class="message">my day was shit, but it was just my stuff.</pre></div>

<div class="send">10:05:23 PM maryrosedunton:<pre class="message">where I could see everyone on my list, but the weren't getting my messages</pre></div>

<div class="receive">10:05:32 PM nurblied:<pre class="message">doh</pre></div>

<div class="receive">10:05:38 PM nurblied:<pre class="message">i've never had that problem, that i know of.</pre></div>

<div class="send">10:05:48 PM maryrosedunton:<pre class="message">hah...so I'm not sure if I'm being ignored or it's not working. ;)</pre></div>

<div class="receive">10:06:00 PM nurblied:<pre class="message">hehe</pre></div>

<div class="send">10:08:41 PM maryrosedunton:<pre class="message">#1, the press thing like sent my day into a crazy downward tailspin. chad called me on my way in because he was freaking out about it and we were trying to get 8 million changes pushed live to cover our asses. kevin has been on my ass all day (and night) about rizzo's premium content stuff which still doesn't appear to be working. chad freaked out that no one was in the office by like 2PM and started ranting to me about 'core hours' for engineers. we went to pick up the keys for our new house -went to the house, and the keys don't work. also, the real estate agent told us that some crazy guy with gold teeth went up to the old owners while they were moving out, said he was the 'new owner' and needed to take some measurements. like idiots they let him in to inspect the place. now we have a potential crazy guy who is going to try and break into the house.</pre></div>

<div class="receive">10:09:31 PM nurblied:<pre class="message">wow, that is all crap.</pre></div>

<div class="send">10:09:35 PM maryrosedunton:<pre class="message">hah</pre></div>

<div class="receive">10:09:38 PM nurblied:<pre class="message">and all of it is completely out of your hands.</pre></div>

REDACTED

<pre class="message">hah...well, i think the thing is, we were all in early when that newsweek thing came out, and the shit hit the fan big time. the press was calling julie like crazy, the lawyers were calling us, we were trying to find people to make some changes to the site (not even including rizzo's stuff) and no one was in yet. steve was freaking out too. that was bad, bad press. that stuff could squash us</pre></div>

<div class="receive">10:17:44 PM nurblied:<pre class="message">i hope everyone is overreacting to it.</pre></div>

<div class="send">10:17:51 PM maryrosedunton:<pre class="message">god, i hope so too</pre></div>

<div class="receive">10:18:02 PM nurblied:<pre class="message">i mean, if no one had mentioned it... i would never have really thought about what being hte napster of video means.</pre></div>

<div class="send">10:18:04 PM maryrosedunton:<pre class="message">but the thing is, nbc and cbs glommed on to it</pre></div>

<div class="receive">10:18:06 PM nurblied:<pre class="message">now i of course i realize it's bad press</pre></div>

<div class="receive">10:18:34 PM nurblied:<pre class="message">i just hope our success speaks for itself. the press is going to be idiotic no matter what.</pre></div>

<div class="send">10:19:01 PM maryrosedunton:<pre class="message">ya, that's why there was so much pressure for rizzo's feature - chris was saying if we don't get an official partner _now_ - other companies won't want to work with us. i guess warner brothers already started questioning chris about the article</pre></div>

<div class="receive">10:19:07 PM nurblied:<pre class="message">i realize that calling us the napster of video is unimaginative and lazy journalism... hopefully everyone else does too.</pre></div>

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<div class="send">10:22:25 PM maryrosedunton:<pre class="message">:</pre></div>

<div class="send">10:22:33 PM maryrosedunton:

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

CODED_FIELDS: BEGDOC: GOO001-07585952
ENDDOC: GOO001-07585953
BEGATTACH: GOO001-07585952
ENDATTACH: GOO001-07585953
RECORDTYPE: E-file
CUSTODIAN: Rizzo_(Matt)_ - GOONDCE00090052
DATASETID: GOONDCE00090052
MASTER_DATE:
PARENTFOLDER: GOONDCE00090052\GOONDCE00090052\HAL-SB-0153\1
Customer\Macintosh HD\Users\mrizzo\Library\Application Support\Adium
2.0\Users\Default\Logs\AIM.mattadoor\maryrosedunton\ - GOONDCE00090052
AUTHOR:
TO:
CC:
BCC:
NATIVEPATH:
FILEEXT: .AdiumHTMLLog
FILENAME: maryrosedunton (2006-08-03).AdiumHTMLLog - GOONDCE00090052
FILESIZE: 4938
MD5HASH:
25D393CF0A6D0AE61EEB6A7DD57621F04343B0E7BB1D2A413971D46835488FF7
CREATE_DATE:
RECEIVEDDATE:
SUBJECTTITLE:
ORIGINALSOUR: [UNAVAILABLE] - GOONDCE00090052
SENTON_DATE:
LASTMOD_DATE:

11:56:51 AM mattadoor:

don't I sound so caring in
that email?

12:42:05 PM maryrosedunton:

haha...you sound
incredibly caring

12:45:43 PM mattadoor:

it is just so CS can't
bitch

12:48:33 PM mattadoor:

is that video I featured
ok?

12:49:09 PM maryrosedunton:

oh I didn't even
realized you featured a video. I haven't looked at the home page yet

12:49:11 PM maryrosedunton:

ahhh

12:49:13 PM maryrosedunton:

I see it
now

12:49:29 PM mattadoor:

she had like
nothing...

12:49:34 PM mattadoor:

now 71K

12:49:37 PM mattadoor:

views

12:49:42 PM mattadoor:

that is power

12:49:52 PM maryrosedunton:

so *technically* if
you even perform a copyrighted song, it's considered infringement. but we can
leave this up until someone bitches

12:50:05 PM maryrosedunton:

I featured that kid
playing the stars wars theme on a bango and we had to take it down

12:50:11 PM mattadoor:

wow

12:50:14 PM maryrosedunton:

but it stayed up for
a day before we got notified

12:50:15 PM mattadoor:

lucas arts?

12:50:20 PM maryrosedunton:

ya

12:50:23 PM maryrosedunton:

they're
bastards

12:50:23 PM mattadoor:

that prick

12:50:32 PM mattadoor:

kid on a banjo

12:50:36 PM maryrosedunton:

5 1/2

stars

12:50:37 PM mattadoor:

they should be

ashamed

12:50:38 PM maryrosedunton:

it's doing

well

12:51:00 PM maryrosedunton:

totally! I mean come

on, that only helps promote stupid star wars

12:51:29 PM mattadoor:

yeah

12:51:51 PM mattadoor:

I actually got a chance to

meet the composer of that song

12:51:54 PM mattadoor:

in LS

12:51:56 PM mattadoor:

LA

12:52:00 PM mattadoor:

in 2004

mrd went away (1:21:43 PM)

Away Message: Away (1:21:43 PM)

mrd came back (1:29:36 PM)

**The following is a true and correct copy of this
instant message conversation as produced by Defendants.**

<div class="send">11:56:51 AM mattadoor:
 <pre class="message">don't I sound so caring in that email?</pre></div>
 <div class="receive">12:42:05 PM <span
 class="sender">maryrosedunton: <pre class="message">haha...you sound incredibly
 caring</pre></div>
 <div class="send">12:45:43 PM mattadoor:
 <pre class="message">it is just so CS can't bitch</pre></div>
 <div class="send">12:48:33 PM mattadoor:
 <pre class="message">is that video I featured ok?</pre></div>
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 <div class="send">12:49:37 PM mattadoor:
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 <div class="send">12:50:11 PM mattadoor:
 <pre class="message">wow</pre></div>
 <div class="receive">12:50:14 PM <span
 class="sender">maryrosedunton: <pre class="message">but it stayed up for a day before we got
 notified</pre></div>
 <div class="send">12:50:15 PM mattadoor:
 <pre class="message">lucas arts?</pre></div>
 <div class="receive">12:50:20 PM <span
 class="sender">maryrosedunton: <pre class="message">ya</pre></div>
 <div class="receive">12:50:23 PM <span
 class="sender">maryrosedunton: <pre class="message">they're bastards</pre></div>
 <div class="send">12:50:23 PM mattadoor:
 <pre class="message">that prick</pre></div>
 <div class="send">12:50:32 PM mattadoor:
 <pre class="message">kid on a banjo</pre></div>
 <div class="receive">12:50:36 PM <span
 class="sender">maryrosedunton: <pre class="message">5 1/2 stars</pre></div>
 <div class="send">12:50:37 PM mattadoor:
 <pre class="message">they should be ashamed</pre></div>
 <div class="receive">12:50:38 PM <span
 class="sender">maryrosedunton: <pre class="message">it's doing well</pre></div>
 <div class="receive">12:51:00 PM <span
 class="sender">maryrosedunton: <pre class="message">totally! I mean come on, that only helps
 promote stupid star wars</pre></div>
 <div class="send">12:51:29 PM mattadoor:

```
</span><pre class="message">yeah</pre></div>
<div class="send"><span class="timestamp">12:51:51 PM</span> <span class="sender">mattadoor:
</span><pre class="message">I actually got a chance to meet the composer of that song</pre></div>
<div class="send"><span class="timestamp">12:51:54 PM</span> <span class="sender">mattadoor:
</span><pre class="message">in LS</pre></div>
<div class="send"><span class="timestamp">12:51:56 PM</span> <span class="sender">mattadoor:
</span><pre class="message">LA</pre></div>
<div class="send"><span class="timestamp">12:52:00 PM</span> <span class="sender">mattadoor:
</span><pre class="message">in 2004</pre></div>
<div class="status">mrd went away (1:21:43 PM)</div>
<div class="status">Away Message: Away (1:21:43 PM)</div>
<div class="status">mrd came back (1:29:36 PM)</div>
```

CODED FIELDS:

BEGDOC: GOO001-00829681

ENDDOC: GOO001-00829694

BEGATTACH: GOO001-00829681

ENDATTACH: GOO001-00829694

RECORDTYPE: E-File

CUSTODIAN: Dunton_(Maryrose)-GOONDCE000001612

DATASETID: GOONDCE000001612

MASTER_DATE: 03/15/2006

SENTON_DATE_TIME:

CREATE_DATE_TIME: 03/15/2006:07:59:57

LASTMOD_DATE_TIME: 03/15/2006:07:59:57

RECEIVED_DATE_TIME:

PARENTFOLDER: HAL-SB-0207\1 Customer\Macintosh HD\Users\maryrose\Library\Application Support\Adium 2.0\Users\Default\Logs\AIM.maryrosedunton\mattadoor-GOONDCE000001612

AUTHOR:

TO:

CC:

BCC:

SUBJECT_TITLE: mattadoor (2006-03-14).html

ORIGINALSOURCE:

NATIVEPATH:

FILEEXT: html

FILENAME: mattadoor (2006-03-14).html-GOONDCE000001612

FILESIZE: 61540

MD5HASH: dc222105be16056a201f222017434019

DATE: 3-22-08 EXHIBIT# 20

DEPONENT:

DUNTON, MARY ROSE

CASE: Viacom, et al., v. YouTube, et al., The Football Association Premier League, et al., v. YouTube, et al., Case Nos. 07-CV-2203 and 07-CV-3582

A. Ignacio Howard, CLR, RPR, CSR No. 9830

REDACTED

REDACTED

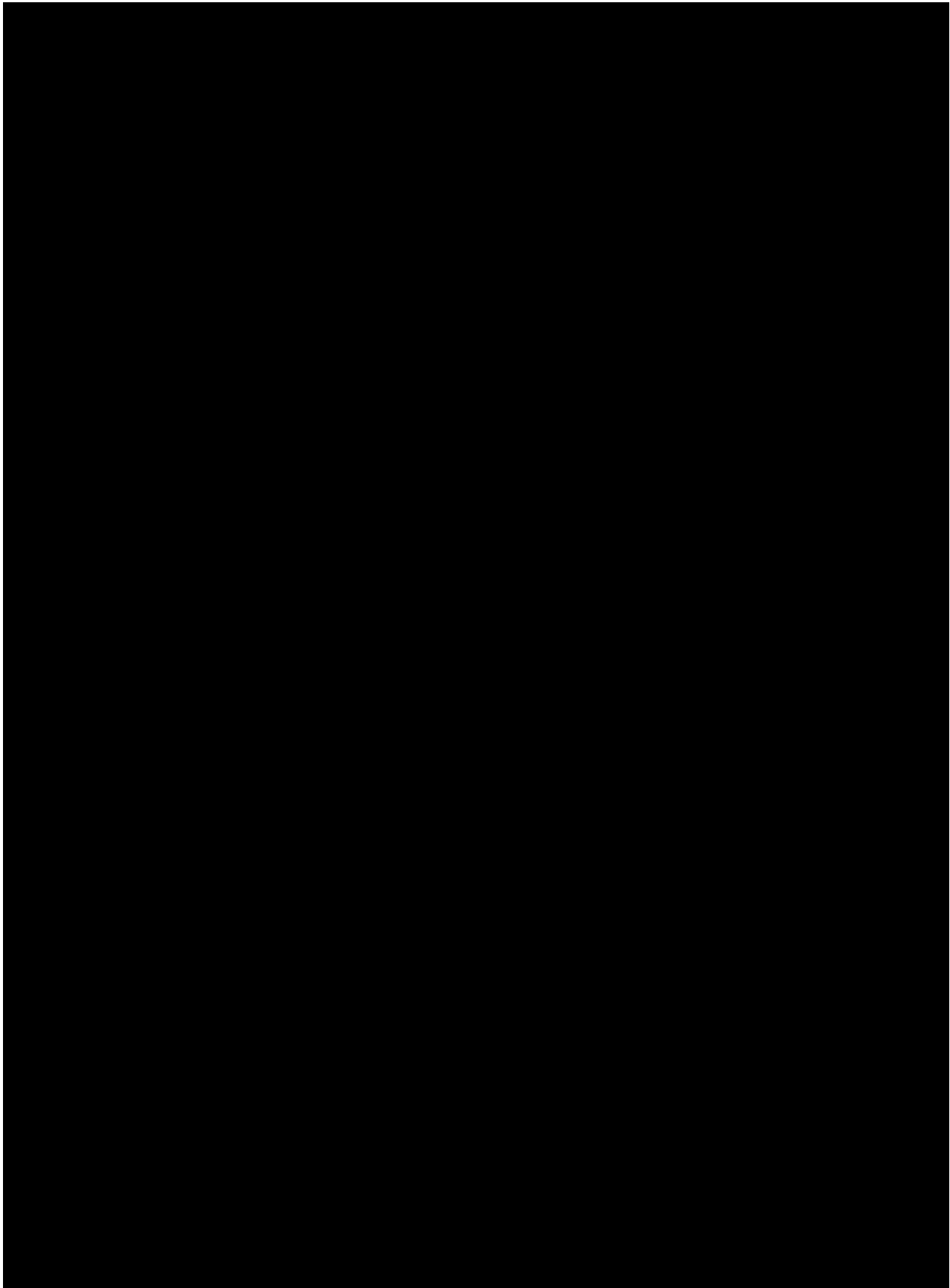
REDACTED

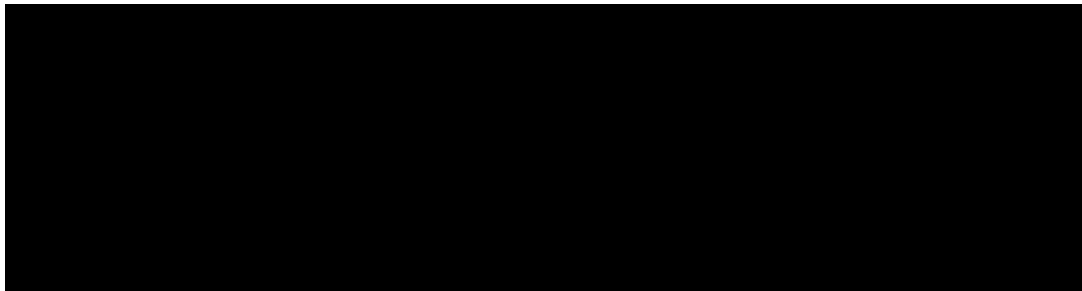
REDACTED

REDACTED

REDACTED

REDACTED





12:14:53 PM maryrosedunton:

oh so can we do a saved search w/
alerts for the copyright cop stuff? I'm
thinking we can be pretty ghetto about it and basically use the
same stuff we use for subscriptions and
repackage it. the only difference they can sign up for email
alerts

12:14:54 PM mattadoor:

u wear guy jeans?

12:15:04 PM maryrosedunton:

hah. both actually

12:15:08 PM maryrosedunton:

I have guys and girls

12:15:36 PM mattadoor:

shame the cut isn't universal

12:15:56 PM maryrosedunton:

I like some guys jeans because they're
cut straight

12:16:20 PM mattadoor:

you can have whatever you want, but
it is just how much time do you guys want
to give to these fucking assholes

12:16:30 PM mattadoor:

^^

12:16:55 PM maryrosedunton:

hah. not any time really.

12:16:56 PM mattadoor:

I would rather build stuff for people
that make our site better

12:17:11 PM mattadoor:

I still have to build some stuff
for solo

12:17:22 PM maryrosedunton:

agreed. hrm. well, let me talk to
brent and these guys and see how big a deal
they think this crap is

12:17:25 PM mattadoor:

to help with the indexing

12:17:27 PM maryrosedunton:

right

12:18:40 PM mattadoor:

also there is only going to be a
handful of people using this feature

12:18:47 PM maryrosedunton:

I hope so

12:18:47 PM mattadoor:

so why build it well

12:19:10 PM maryrosedunton:

basically this is all a cya for us.

kinda sucks really

12:20:10 PM mattadoor:

yeah I know but since we have it,

"dyeanu" (in heeb venacular)

12:20:47 PM maryrosedunton:

wait, what's dyeanu?

12:21:17 PM mattadoor:

it is what you say at passover when

you read the passage of the

plaques

12:21:19 PM mattadoor:

errr

12:21:26 PM mattadoor:

plagues

12:21:31 PM maryrosedunton:

ah

12:21:41 PM mattadoor:

u ever do that stuff?

12:22:06 PM mattadoor:

you know saved search wouldn't be

a bad idea for anyone

12:22:09 PM mattadoor:

err

12:22:10 PM mattadoor:

everyone

12:22:18 PM maryrosedunton:

no, we never did any of that stuff

12:22:24 PM maryrosedunton:

ya, true

12:23:25 PM maryrosedunton:

oh, users have asked for the saved

search stuff. the subscriptions is kinda that

idea I guess

12:24:03 PM maryrosedunton:

but I would rather be able to see

all the search results for my saved

searchs

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

**The following is a true and correct copy of this
instant message conversation as produced by Defendants.**

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED