

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., ET AL.,	)	ECF Case
)	
Plaintiffs,	)	Civil No. 07-CV-2103 (LLS)
v.)	
YOUTUBE, INC., ET AL.,	)	DECLARATION OF
	)	ARTHUR CHAN
Defendants.)	
)	
)	
THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, ET AL., on behalf of themselves and all others similarly situated,	)	ECF Case
)	
Plaintiffs,	)	Civil No. 07-CV-3582 (LLS)
v.)	
YOUTUBE, INC., ET AL.,)	
)	
Defendants.)	

I, Arthur Chan, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am over the age of 18 and have personal knowledge of the matters set forth in this declaration. If called as a witness, I could and would testify competently to the matters stated herein.

2. I am an Executive Vice President of the digital marketing division of a media company called Palisades Media Group, Inc. ("PMG") based in Santa Monica, California. PMG is comprised of entertainment, business/consumer, direct response/direct marketing, political advertising, and interactive divisions. PMG provides services including research, marketing strategy, content and partnership

development, media planning, buying, and creative services for online as well as all forms of new media.

3. PMG has worked with a diverse client base including several companies in the television and film entertainment industry such as Paramount Vantage (a division of Paramount Pictures), Miramax Films, The Weinstein Company, Metro Goldwyn Mayer, United Artists, Spike TV, HBO, New Line Cinema, and Electronic Arts.

4. In the course of performing marketing services on behalf of our clients, PMG created and/or used several YouTube accounts with usernames that include "MiramaxFilm," "PalisadesMediaGroup," "Palisadesmg," "rubixkid," "EarlScheib," "LionsForLambs," "HalloweenDVD," "CollegeTheMovie," "TheWeinsteinCompany," "peachesruffhaus," "peacheslarue," "iheartdanec," "Pezcity," "moviemove," "chicagopictures," and other usernames. PMG employees used these YouTube accounts to upload to the YouTube website content either owned by PMG clients or content that PMG clients were authorized to distribute. Although the content PMG employees uploaded to the YouTube website was always provided by its clients and expressly authorized by them to appear on the YouTube service, PMG did not always contact YouTube to advise YouTube of these facts directly. We understand that much of this content was subsequently removed from the YouTube service by YouTube at the request of the purported copyright owners following YouTube's receipt of takedown notices.

5. Using the "MiramaxFilm" YouTube account, PMG employees uploaded video clips, including the following, to the YouTube service to promote a 2007 film titled "No Country for Old Men" that was co-produced by PMG's client Miramax Films and Paramount Pictures:

Video Title	Video URL
Miramax Films: No Country For Old Men - 2 Million Dollars	http://www.youtube.com/watch?v=_3Uz_7Pv9Os

Miramax Films: No Country For Old Men - Buenos Dias	http://www.youtube.com/watch?v=BxIE1HZAl1A
Miramax Films: No Country For Old Men - Phone Call	http://www.youtube.com/watch?v=d93VLmvqhiA
Miramax Films: No Country For Old Men - Call It	http://www.youtube.com/watch?v=nSu8M4oxd88
Miramax Films: No Country For Old Men - It's a Mess	http://www.youtube.com/watch?v=sQ3O5I56h9M
Miramax Films: No Country For Old Men - Going Out	http://www.youtube.com/watch?v=u_xavx4_Ctg
Miramax Films: No Country For Old Men - No Information	http://www.youtube.com/watch?v=uJdf1Mnr15s

6. The video clips residing at the URLs referenced in the preceding paragraph were provided to PMG by its client Miramax Films and were authorized to be on the YouTube service so that PMG could promote Miramax Films' new film "No Country for Old Men." Those videos clips are from the film "No Country for Old Men," each about one minute in length. Miramax Films gave PMG authorization to upload these video clips to YouTube. These video clips, however, are no longer available on the YouTube service and attempts to access them return the message: "This video is no longer available due to a copyright claim by Viacom International."

7. Using the "EarlScheib" YouTube account, PMG employees uploaded video clips on behalf of PMG client Earl Scheib to promote Earl Scheib's business. These video clips were provided to PMG by Earl Scheib and were authorized to be on the YouTube service. One of these clips, titled "Earl Scheib on Rob & Big!" located at <http://www.youtube.com/watch?v=LhO5SzZz9xQ>, was a one-minute video clip from the MTV reality television show "Rob & Big" of a conversation with an Earl Scheib employee regarding Earl Scheib's business. The video clip was filmed on the premises of Earl Scheib. Earl Scheib gave PMG authorization to upload this video clip to YouTube. This video clip, however, is no longer available on the YouTube service and

attempts to access it return the message: "This video is no longer available due to a copyright claim by Viacom International."

8. Other video clips uploaded to the YouTube service by PMG employees

with the understanding that PMG had authorization to do so include the following:

PMG Username	Video URL
CollegeTheMovie	http://www.youtube.com/watch?v=1OB5GyxgwTQ
CollegeTheMovie	http://www.youtube.com/watch?v=jy-K4wNrLI0
CollegeTheMovie	http://www.youtube.com/watch?v=mTpriPUo1bM
CollegeTheMovie	http://www.youtube.com/watch?v=GoH0tKHx_-Y
CollegeTheMovie	http://www.youtube.com/watch?v=ZPx2JuF8x8A
EarlScheib	http://www.youtube.com/watch?v=o6w1TouEFd0
EarlScheib	http://www.youtube.com/watch?v=tWseUYD3gcA
EarlScheib	http://www.youtube.com/watch?v=0o2bW2A29VI
EarlScheib	http://www.youtube.com/watch?v=IEeqCwvOHHo
HalloweenDVD	http://www.youtube.com/watch?v=hCseqlbhqUE
HalloweenDVD	http://www.youtube.com/watch?v=4j83AAGT2V4
HalloweenDVD	http://www.youtube.com/watch?v=X565b1JL4Bk
iheartdanec	http://www.youtube.com/watch?v=-Ccn_qiyntY
LionsForLambs	http://www.youtube.com/watch?v=n_V6ulwA0KE
LionsForLambs	http://www.youtube.com/watch?v=AKOiM_cGF0s
LionsForLambs	http://www.youtube.com/watch?v=fWbHCktmKWU
LionsForLambs	http://www.youtube.com/watch?v=yd7WNd9YsLw
LionsForLambs	http://www.youtube.com/watch?v=hTO3JM6aj3s
LionsForLambs	http://www.youtube.com/watch?v=99gmeID15V4
LionsForLambs	http://www.youtube.com/watch?v=k95TfmeEWAE
LionsForLambs	http://www.youtube.com/watch?v=iGYEGWx4IAI
LionsForLambs	http://www.youtube.com/watch?v=j_V00FlePek
LionsForLambs	http://www.youtube.com/watch?v=j1jUjvFP978
LionsForLambs	http://www.youtube.com/watch?v=p963kPgF3e8
LionsForLambs	http://www.youtube.com/watch?v=ud_aMTiNXL8
LionsForLambs	http://www.youtube.com/watch?v=sa7nv8GXzYQ
LionsForLambs	http://www.youtube.com/watch?v=rs96KHI_A10
LionsForLambs	http://www.youtube.com/watch?v=Rt6WJt-9KsU
LionsForLambs	http://www.youtube.com/watch?v=7UZBEIqvz5o
PalisadesMediaGroup	http://www.youtube.com/watch?v=PrEA5-fHY5Y
PalisadesMediaGroup	http://www.youtube.com/watch?v=CNumNsmLEhU
Palisadesmg	http://www.youtube.com/watch?v=tWubcKKf2JA
peacheslarue	http://www.youtube.com/watch?v=K-10NFwv748
peacheslarue	http://www.youtube.com/watch?v=V7GEHXfnw7U
Pezcity	http://www.youtube.com/watch?v=9UKcF97DZPQ
rubixkid	http://www.youtube.com/watch?v=zvOmKf9RVRg
TheWeinsteinCompany	http://www.youtube.com/watch?v=ILSvWxUNd0c
TheWeinsteinCompany	http://www.youtube.com/watch?v=Mz1uCq-97U4

TheWeinsteinCompany	http://www.youtube.com/watch?v=W32XIsLkTPI
TheWeinsteinCompany	http://www.youtube.com/watch?v=P0zbcKSt3U
TheWeinsteinCompany	http://www.youtube.com/watch?v=WvYnAys1IAM
TheWeinsteinCompany	http://www.youtube.com/watch?v=DmYPSP_aCLk
TheWeinsteinCompany	http://www.youtube.com/watch?v=HdLwCAJit18
TheWeinsteinCompany	http://www.youtube.com/watch?v=JS_JQsijVli
TheWeinsteinCompany	http://www.youtube.com/watch?v=TVQ02q_hluo
TheWeinsteinCompany	http://www.youtube.com/watch?v=POzXWylPWTE
TheWeinsteinCompany	http://www.youtube.com/watch?v=REZgbJanMqs
TheWeinsteinCompany	http://www.youtube.com/watch?v=7ZeHbd1aIV8
TheWeinsteinCompany	http://www.youtube.com/watch?v=_k5nEyuHRZc
TheWeinsteinCompany	http://www.youtube.com/watch?v=uQHkpWrXF_c
TheWeinsteinCompany	http://www.youtube.com/watch?v=BtSWAXgFeYE
TheWeinsteinCompany	http://www.youtube.com/watch?v=hgD94qi39JU
TheWeinsteinCompany	http://www.youtube.com/watch?v=ksNO4gPmPGg
TheWeinsteinCompany	http://www.youtube.com/watch?v=jZHwG7CyZfQ
TheWeinsteinCompany	http://www.youtube.com/watch?v=m4AxvB_M1p4
TheWeinsteinCompany	http://www.youtube.com/watch?v=1li_v14DNcU
TheWeinsteinCompany	http://www.youtube.com/watch?v=39PuFOTjtk8
TheWeinsteinCompany	http://www.youtube.com/watch?v=BULK1m9X8qQ
TheWeinsteinCompany	http://www.youtube.com/watch?v=jHglhwcwO8l
TheWeinsteinCompany	http://www.youtube.com/watch?v=ZV3B_6A_NMk
TheWeinsteinCompany	http://www.youtube.com/watch?v=5DEf-Q5R0qw
TheWeinsteinCompany	http://www.youtube.com/watch?v=9gVvGblIYB0
TheWeinsteinCompany	http://www.youtube.com/watch?v=SYK1a86qNS8
TheWeinsteinCompany	http://www.youtube.com/watch?v=e40oaiS2T9g
TheWeinsteinCompany	http://www.youtube.com/watch?v=vBx2gw0pqx0

9. The practice of conducting viral marketing campaigns by uploading content to YouTube and other similar online services to promote music, television programs, and motion pictures is widespread. PMG, as well as most other online marketing companies, frequently upload video clips owned by their clients to online services such as YouTube and other video websites. To the best of my knowledge, in every instance in which PMG has uploaded content to internet websites, PMG was authorized to do so by the content owner.

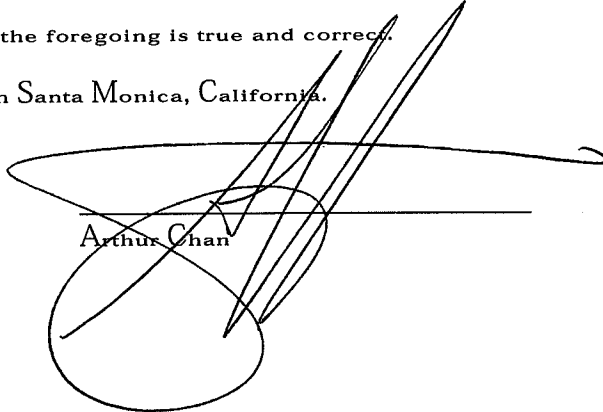
10. Sometimes PMG's clients expressly directed PMG to use YouTube to market their content and sometimes clients implicitly endorsed the use of YouTube. On most occasions, PMG did not include information accompanying uploads to YouTube that would indicate that its clients had approved of the upload. By using this tactic, it

would appear to a user that the upload in question was "grass roots" in nature and not the product of corporate marketing. This is a common viral marketing tactic and is especially effective for reaching a younger demographic, which may be turned off by overt corporate marketing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30 day of October, 2009 in Santa Monica, California.

Arthur Chan

A large, stylized handwritten signature in black ink is written over the printed name "Arthur Chan". The signature consists of several overlapping loops and lines, with a prominent horizontal stroke that extends to the right.

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**UNITED STATES DISTRICT COURT
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Plaintiffs,

ECF Case

v.

Civil No. 07-CV-2103 (LLS)

YOUTUBE, INC., ET AL.,

Defendants.

THE FOOTBALL ASSOCIATION
PREMIER LEAGUE LIMITED, ET AL., on
behalf of themselves and all others
similarly situated,

ECF Case

Civil No. 07-CV-3582 (LLS)

Plaintiffs,

v.

YOUTUBE, INC., ET AL.,

Defendants.

**DECLARATION OF CHAD HURLEY IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

CHAD HURLEY, pursuant to [28 U.S.C. § 1746](#), hereby declares as follows:

1. I am one of the three founders of YouTube and its Chief Executive Officer.

The following facts are true of my own personal knowledge and if called and sworn as a witness, I could and would testify competently to them.

2. Steve Chen, Jawed Karim and I first discussed the idea of launching a video site in early 2005. The concept we developed for the YouTube website was straightforward. From its earliest days, we intended YouTube to be a platform that would give users a convenient way to share personal videos and build a community around posting and viewing those videos. Users would upload their videos by visiting

the YouTube website, creating an account, and then selecting a video file from their computer to upload to YouTube's computer servers. Visitors to YouTube would be able to view videos they and others had uploaded to the website. We envisioned YouTube as a free service and it has always been one; it does not charge users to upload or view videos. This vision of YouTube is what we created in 2005 and what exists today, albeit on a scale beyond what we could have ever imagined.

3. At first, we envisioned that users would post homemade videos with a dating focus, like hotornot.com, except with users posting videos of themselves instead of pictures. See [Ex. 1](#) hereto, a true and correct copy of a February 22, 2005 email from Jawed to Steve and me.

4. By the time of the site's beta launch on April 23, 2005, the idea evolved into a more generalized hub for short, personal videos that would cause users to think of us as "the Yahoo of videos" or like "Flickr" (a photo-sharing service) for videos. See [Ex. 2](#) hereto, a true and correct copy an email that I sent April 3, 2005 to Steve and Jawed; [Ex. 3](#) is a true and correct copy of an April 1, 2005 email from Jawed to me and Steve.

5. We wanted users to "feature 'You' in the video ... be creative, be fun, be original, be whatever." The entire focus was on videos that were personally created. See [Ex. 4](#) hereto, a true and correct copy of an April 25, 2005 email from Steve to me and Jawed; [Ex. 5](#) hereto, a true and correct copy of an April 26, 2005 email string among me, Steve, and Jawed ("We are a site that features creative videos from personal users. It can be dating-oriented or creativity-oriented. We will not restrict.").

6. As I wrote in an email to Steve and Jawed, "so we aren't a film site, but a personal video clips site, for people to upload, store, search, and share their personal

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video clips. . . . I want real people, real videos.” See [Ex. 6](#) hereto, a true and correct copy of an email from me to Steve and Jawed dated April 29, 2005.

7. We decided upon the name “YouTube” for our site because we envisioned the site as a destination for users to upload and broadcast videos of themselves. See [Ex. 7](#) hereto, a true and correct copy of an April 17, 2005 email from Jawed to me and Steve (“The videos you upload should be about you (hence, YouTube!”)). Our company slogan, “Broadcast Yourself,” was also designed to convey the same message; as Steve said, it was a “succinct and exact slogan” for what we wanted the site to be about. See [Ex. 8](#) hereto, an April 25, 2005 email from Steve to Jawed and me.

8. Prior to the launch of YouTube, we decided to reject any videos that appeared on the site in violation of one of the following rules:

- Video must be about YOU
- Video must be appropriate for all audiences
- Video cannot contain contact information
- No copyrighted material

See [Ex. 9](#) hereto, a true and correct copy of an April 20, 2005 email exchange among Jawed, Steve and me discussing those rules. Further, from its inception, the Terms of Service of the YouTube site, the online agreement covering the service, prohibited users from uploading material that violated the copyrights of others.

9. To encourage users to upload creative videos of themselves on the site, we put an ad on Craigslist (an online classifieds service) seeking people to post videos of themselves meeting two requirements: “a) videos must be interesting! b) videos must be created by you!” See [Ex. 10](#) hereto, a true and correct copy of an April 28, 2005 email from Steve to Jawed and me. Other ads that we put out in those early days focused on

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our slogan, “Broadcast Yourself”, and invited users to share videos of personal thoughts, feelings, ideas, and expressions.

10. One user who saw our ads wrote us to say how much she appreciated the YouTube service. The user told us that her son-in-law was serving in Iraq, and her daughter was using YouTube to share videos of the couple’s baby with him while he was overseas. I thought this was a great example of what YouTube was all about, and the types of videos that we wanted to see on the site. See [Ex. 11](#) hereto, a true and correct copy of a July 18, 2005 email string among me, Steve, and Jawed where I wrote “this is exactly what I’m targeting, people that will add videos (video bloggers, people looking for free video hosting, etc.) so it’s not really to generate traffic . . . just good active users.” (ellipsis in original).

11. Although we wanted YouTube to offer a wide range of videos and promote free speech, we did not want videos with pornography or unauthorized copyrighted material on the site. See [Ex. 12](#) hereto, a true and correct copy of a April 28, 2005 email from Steve to Jawed and me (“As long as there’s no nudity or copyrighted materials, we should NOT be removing videos because it doesn’t meet any personal preferences.”). Steve felt that “it would be cool” if we could give users reasons for rejecting their videos; “there are three [reasons] I can think of right now: -duplicate video—inappropriate content—copyrighted material.” See [Ex. 13](#) hereto, a true and correct copy of a June 29, 2005 email from Steve to Jawed and me.

12. In July 2005, Steve and I had an exchange about a popular video site called filecabi.net that was similar to stupidvideos.com and big-boys.com in that they were all focused on hosting silly or prank-oriented videos. In that exchange, I described our

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vision for what we hoped YouTube would become, and what it in fact did become: “I would really like to build something more valuable and more useful . . . actually build something that people will talk about and changes the way people use video on the internet.” Steve replied: “another thing, still a fundamental difference between us and most of those other sites. we do have a community and it’s ALL user generated content.” See [Ex. 14](#) hereto, true and correct copy of an email string between me and Steve dated July 29, 2005 (ellipsis in original).

13. In August 2005, we put together a presentation outline for Sequoia Capital, a prominent venture capital firm that expressed interest in funding our company. In that presentation outline, we described our “Company Purpose” as follows: “*To become the primary outlet of user-generated video content on the Internet, and to allow anyone to upload, share, and browse this content.*” See [Ex. 15](#) hereto, a true and correct copy of the Sequoia Capital presentation outline dated August 21, 2005. (emphasis in original).

14. That same month, when my brother Brent Hurley signed on as an employee of YouTube, he sent us an e-mail describing the site as he found it at the time: “I think the ‘slices of life’ content our users provide is so unique. YouTube is reality TV at its best and most pure form. The database of content already collected amazes me.” See [Ex. 16](#), a true and correct copy of an email string among Brent Hurley, me, and other YouTube employees dated August 7, 2005.

15. As the YouTube site began to get more uploads in the summer of 2005, we started to come across situations where we encountered videos uploaded by users that were potentially unauthorized. For example, in one instance, I saw a video that looked like a network television show. Steve, Jawed and I are not lawyers. As a small start-up

working out of my garage during early and mid-2005, we did not have lawyers to advise us on copyright issues. But we viewed the posting of potentially unauthorized material as a problem, and we agreed that we wanted to put a stop to it. See [Ex. 17](#) hereto, a true and correct copy of a June 26, 2005 email thread among Steve, Jawed and me.

16. As a founder with a significant stake in the company, the last thing I wanted was for it be seen as or to become a haven for infringing or illegal content. The options we envisioned for YouTube were the standard evolutionary paths for a startup: an initial public offering, or acquisition by another company. We all believed that those options would not be available to us if our business was based or dependent upon illegitimate activities.

17. To make sure that is not how the site developed, when we started seeing an uptick in the number of videos uploaded to the site, we adopted a screening process to remove videos that we guessed were unauthorized copyrighted content, and told users that such content was unwelcome. See attached hereto, true and correct copies of emails among Steve, Jawed, and me in July and August 2005: [Ex. 18](#) (“[I] just unapproved and rejected the britney toxic music video.”); [Ex. 19](#) (“this guy has a ton of music videos that need to be removed.”); [Ex. 20](#) (noting that user uploaded clips from a Hong Kong movie and concluding “I think we should reject all that [stuff].”); [Ex. 21](#) (adding videos for review because “this is blatant copyrighted stuff”). As I put it in response to an inquiry from a user about why a video was rejected: “Yes, I believe this was a music video, right? So, it was rejected because it was copyrighted material. We are trying to build a community of real user-generated content and moving forward we are going to be more proactive about screening videos upfront.” See [Ex. 22](#) hereto, a

true and correct copy of an email I wrote dated July 3, 2005.

18. Despite our efforts, we quickly learned that this screening process was not scalable and was ineffective in identifying unauthorized material. Among other things, we realized that we were regularly making mistakes and taking down videos that actually were authorized and had been uploaded by the content owner. As a result, we ceased engaging in this practice as a general matter.

19. In the meantime, we were devising strategies to encourage users to post authorized material. For example, in the upload process, we added spaces for users to provide the date and place at which they recorded the video they were uploading. We intended that to signal to users that the site was constructed for personal videos that they themselves had recorded. See [Ex. 23](#) hereto, a true and correct copy of a June 26, 2005 email string among Jawed, Steve, Mike Solomon and me.

20. By September 2005, we added a community flagging feature that allowed users to flag inappropriate and unauthorized copyrighted content. See [Ex. 24](#) hereto, a true and correct copy of a September 6, 2005 email from Steve to all YouTube employees. Because we were concerned about ordinary users' ability to determine whether particular videos were uploaded to YouTube with or without permission, and because we were uncertain of the legal implications, we decided to eliminate the community flagging feature for copyright. However, it remained our express policy to actively discourage copyright infringement, to remind users in our standard communications that they needed to own all copyrights to the materials they uploaded to the site, and never to promote or encourage the posting of unauthorized material. See [Ex. 25](#) hereto, a true and correct copy of an email from me to Steve and Jawed

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dated September 25, 2005. (“we should never promote piracy or tell them how to do it. we should respond saying the canned response, you should own all copyrights to the material you upload.”).

21. In September 2005, we secured a commitment for our first venture capital investment from Sequoia Capital. We also engaged outside legal counsel to assist us in enhancing our copyright protection efforts on the site. We posted additional information on the site setting forth our prohibition on unauthorized copyrighted material, informed users that posting such materials would result in the termination of their account, and displayed clear instructions to copyright holders on how to provide notice to our designated agent of allegedly unauthorized materials that users had uploaded. Shortly thereafter, we formally registered our agent with the U.S. Copyright Office. See [Ex. 26](#) hereto, a true and correct copy of our agent registration, signed by me, and cover letter.

22. As shown by a description of YouTube that I drafted in October 2005, our plan for the site continued to center on personal, user-generated video clips. It had nothing to do with encouraging or capitalizing on copyright infringement:

YouTube is a new service that allows people to easily upload, tag, and share personal video clips. Digital cameras with video recording capability are quickly becoming a commodity consumer technology. As people continue to record more video clips, YouTube will fill the need of quickly distributing their content worldwide.

See [Ex. 27](#) hereto, a true and correct copy of an October 26, 2005 email that I sent to my brother, which encloses this description.

23. YouTube became enormously popular in a short time. At the time YouTube officially launched its service in December 2005, it was receiving more

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than 6,000 new video uploads each day, and its users were watching more than 2.5 million videos each day. By February 2006, the number of uploads had jumped to 20,000 per day, and users were watching more than 18 million videos per day. In the month of July 2006, users uploaded over 2.1 million video clips to the site, and watched more than 3 billion videos. By December 2007, users were uploading more than 300,000 videos each day and site traffic had soared to 800 million daily video views. By July 2008, uploads had reached more than 400,000 per day. See [Exs. 28 & 29](#) hereto, true and correct copies of site statistics for the YouTube service.

24. During this period of rapid growth, we continued to go out of our way to respect the copyrights of content owners. For example, when a “Saturday Night Live” skit entitled “Lazy Sunday” was uploaded to YouTube in December 2005 and drew an enormous amount of views from users, I reached out to NBC to determine whether the video was authorized to be on YouTube. See [Ex. 30](#) hereto, a true and correct copy of the email that I sent to NBC.

25. Although I contacted NBC on December 28, 2005, YouTube did not hear back about NBC’s position regarding the video until February 3, 2006, when I received a letter from NBC thanking us for opening a dialogue and asking that YouTube remove the Lazy Sunday video from our website. See [Ex. 31](#) hereto, a true and correct copy of NBC’s response to me.

26. YouTube is now the world’s fourth largest Internet site. Site traffic on YouTube has soared to over one billion video views per day. Today, more than 24 hours of new video are uploaded to the site every minute—that is almost four years

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worth of new video created every day.

27. Not only have the volume and range of videos uploaded to YouTube exceeded our expectations, but our community of users has too. YouTube users don't just post videos to YouTube and watch videos on YouTube, they interact with one another *through* YouTube. They form friendships, ask each other questions, invite responses, find organ donors, participate in contests, rally in support of one another, and challenge each other. Our users have used YouTube to create a new model for how individuals, companies, organizations and governments communicate. Its development has been both astonishing and humbling, and it has come without us ever seeking to grow the site or earn revenue from any unauthorized use of copyrighted material.

I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: March 3, 2010


Chad Hurley

A-117

To: "Steve Chen" [REDACTED] "Chad Hurley" [REDACTED]
From: "Jawed" [REDACTED]
Cc:
Bcc:
Received Date: 2005-04-01 02:20:32 GMT
Subject: new direction

Chad and I were discussing today that the focus of the site should be more like flickr. Basically a repository for all kinds of personal videos on the internet. Just like flickr. The dating may emerge implicitly, but after thinking about it more, I think that forcing dating would limit potential. We could certainly encourage dating content through pre-population of such content.

But generally I think we just want to be a "video bin", just like flickr is a picture bin... anything, whatever. Just an easy way to post videos.

Like flickr, we should also target the blogging community (early adopters) with APIs and with flash HTML snippets they can embed in their blogs.

So I believe that we should think much more like flickr than hotornot.

Jawed

Jawed Karim <http://jawed.com/>
<?xml version="1.0" encoding="UTF-8"?>
<!DOCTYPE plist PUBLIC "-//Apple Computer//DTD PLIST 1.0//EN" "http://www.apple.com/DTDs/PropertyList-1.0.dtd">
<plist version="1.0">
<dict>
 <key>flags</key>
 <integer>8590195841</integer>
 <key>original-mailbox</key>
 <string>imap://m3092049@mail.chadhurley.com/INBOX/old-messages</string>
 <key>remote-id</key>
 <string>2716</string>
</dict>
</plist>

From: Steve Chen [REDACTED]
Sent: Monday, April 25, 2005 2:58 PM
To: 'Jawed' [REDACTED]
Cc: 'Chad Hurley' [REDACTED]
Subject: RE: description

Yes. We want to force users to feature "You" in the video. That's it. Be creative, be fun, be original, be whatever.

A blend of both Flickr and Hot-or-Not. Hot-or-Not always has pictures of you. But it's always just a straight pose. We want videos of you, but it could be doing anything -- a talent, a hot pose, a dance, whatever.

-s

-----Original Message-----

From: Jawed [REDACTED]
Sent: Monday, April 25, 2005 3:54 PM
To: Steve Chen
Cc: Chad Hurley
Subject: Re: description

Agreed. Let's move away slightly from dating. More of a community site of videos about "you" (or "me").

Jawed

Jawed Karim <http://jawed.com/>

On Mon, 25 Apr 2005, Steve Chen wrote:

> I think it would be cool to have a description field for the video.
>
> Things I see going in there are "what was i doing when i made this
> video", "explanation of what the video is supposed to be depicting",
> "how did i make the video", "location of the video shoot", "anything
> else the author wants to express".
>
> Moving again more towards bloggish-idea. Chad and I chatted about
> this -- I think you two talked about it too -- that we're going to
> stick with Personal Videos / Video Blogging but move one step up from just
> pure dating.
>
> -s
>

From: Steve Chen [REDACTED]
Sent: Tuesday, April 26, 2005 5:45 PM
To: 'Jawed' [REDACTED]
Cc: 'Chad Hurley' [REDACTED]
Subject: RE: latest flash checked in?

I completely agree with everything you said. I also have received that feedback from many people -- the "straight/bi-sexual" thing is too forced.

-s

-----Original Message-----

From: Jawed [REDACTED]
Sent: Tuesday, April 26, 2005 6:22 PM
To: Steve Chen
Cc: 'Chad Hurley'
Subject: RE: latest flash checked in?

We may not be able to figure everything out tonight, but that's ok.

We also should be careful to not drastically change our model every two days, or without actually seeing the user reaction on a bigger scale than 20 users.

Right now I think we should not be as dating-centric. Many people have told me that the "straight/bi-sexual" thing seems too forced.

We just want people to have fun, we shouldn't FORCE them into dating. How about just a small change, and allowing people to select non-dating interaction with people.

Jawed

Jawed Karim <http://jawed.com/>

On Tue, 26 Apr 2005, Steve Chen wrote:

> We should meet.
>
> Hmm. I'm already going to be down there at 5. I didn't want to stick
> around for 4 hours in PA if I didn't have to.
>
> But hey -- regarding the HorN vs Flickr. I thought we were all on the
> same page as of last night.
>
> We are a Personal Video site. Drawing analogies to HorN and Flickr
> will not work because we embody qualities of both.
>
> We are a site that features creative videos from personal users. It
> can be dating-oriented or creativity-oriented. We will not restrict.
> We want to create a community around connections made by users viewing
> one another's videos.
>
> Do you guys agree?
>
> -s

>

From: Chad Hurley [REDACTED]
Sent: Friday, April 29, 2005 2:58 PM
To: Steve Chen [REDACTED]
Cc: 'Jawed' [REDACTED]
Subject: Re: <http://www.studentfilms.com/>

Hey guys,

I was thinking... looking for creative people to post videos and targeting sites like this for inspiration is only going to make us into another movie site, like ifilm or atom films. I really think we should focus on real personal clips that are taken by everyday people. We'll still allow short films like this, but I think what would set us apart from all the other movie sites out there, would be the flickr aspect... so we aren't a film site, but a personal video clips site, for people to upload, store, search, and share their personal video clips.

To compare this to the photo idea in another way, we wouldn't be a professional stock image site, but a personal photo site, like shutterfly, snapfish or ofoto.

I just really don't want to become another ifilm or atom films. I want real people, real videos.

-Chad

On Apr 29, 2005, at 3:44 PM, Steve Chen wrote:

> i think we should have that for wherever we show films.
>
> show the film length, channel/genre, the average rating (graphically
> with
> stars), number of raters. i think we should add the reviews asap and
> show
> that too.

>

> -s

>

> -----Original Message-----

> From: Jawed [REDACTED]
> Sent: Friday, April 29, 2005 3:36 PM
> To: Chad Hurley; Steve Chen
> Subject: <http://www.studentfilms.com/>

>
> <http://www.studentfilms.com/>

>

>

> Jawed

>

>

> Jawed Karim <http://jawed.com/>

>

From: Steve Chen [REDACTED]
Sent: Monday, April 25, 2005 5:01 PM
To: 'Jawed' [REDACTED]
Cc: 'Chad Hurley' [REDACTED]
Subject: RE: going with merrill lynch?

yes, i completely, completely agree.

the "broadcast yourself" is such a succinct and exact slogan for what we want.

-s

-----Original Message-----

From: Jawed [REDACTED]
Sent: Monday, April 25, 2005 5:58 PM
To: Steve Chen
Cc: 'Chad Hurley'
Subject: RE: going with merrill lynch?

This is why I think the "broadcast yourself" slogan must be central to the site, and to the design. It needs to appear somewhere.

That way people will understand what the site is supposed to be when they visit.

Jawed

Jawed Karim <http://jawed.com/>

On Mon, 25 Apr 2005, Steve Chen wrote:

> here, let me try to summarize.
>
> we are a video site about you, hence the "broadcast yourself" slogan.
> "dating" is one aspect of it as well as "blogging". i don't see why
> they must be mutually exclusive. if we don't have to be exclusive, we
> shouldn't be, thus not walling off a potential group of customers.

>
> -s

> -----Original Message-----

> From: Jawed [REDACTED]
> Sent: Monday, April 25, 2005 5:25 PM
> To: Chad Hurley
> Cc: Steve Chen
> Subject: Re: going with merrill lynch?

>
> screw blogging.

>
> we should just be a site where you can post videos of yourself.

>
> broadcast yourself. that's it.

>
> if can be dating if you want to make it dating, but there is no pressure.

>
>
> Jawed
>
>
> _____
> Jawed Karim <http://jawed.com/>
>
> On Mon, 25 Apr 2005, Chad Hurley wrote:
>
>> so which way are we moving? i keep getting mixed signals from both
>> of you. Are we moving towards blogging or dating?
>>
>>
>>
>>
>> On Apr 25, 2005, at 3:58 PM, Jawed wrote:
>>
>>> Yup, I agree.
>>>
>>> Chad, let's put in the design for this and I can hook up the code.
>>> Oh yeah, we should probably NOT make the web page title "Tune in
>>> hook
> up".
>>>
>>> Can we make "Broadcast yourself" more prominent.
>>>
>>> I think we should have "Broadcast yourself" in big letters somewhere.
>>> That
>>> is what the site is all about.
>>>
>>> Also, I want to keep signup the same but just take out the sex stuff.
>>>
>>>
>>> Jawed
>>>
>>> _____
>>> Jawed Karim <http://jawed.com/>
>>>
>>> On Mon, 25 Apr 2005, Steve Chen wrote:
>>>
>>>>
>>>> More feedback about us not going with dating.
>>>>
>>>> -s
>>>>
>>>>
>>>> _____
>>>> From: Breitenbach, Patrick [<mailto:pbreitenbach@paypal.com>]
>>>> Sent: Monday, April 25, 2005 3:55 PM
>>>> To: Steve Chen
>>>> Subject: RE: going with merrill lynch?
>>>>
>>>>
>>>> I'm not sure I have any.
>>>>
>>>> I don't know how comfortable I am with it being dating oriented.
>>>>
>>>> Do you want to keep this under wraps or blow it out?
>>>>
>>>> _____

>>>>
>>>> From: Steve Chen [REDACTED]
>>>> Sent: Monday, April 25, 2005 3:53 PM
>>>> To: Breitenbach, Patrick
>>>> Subject: RE: going with merrill lynch?
>>>>
>>>>
>>>> we have approve/unapprove things in place on the admin side.
>>>>
>>>> it's just a matter of getting videos in now...
>>>>
>>>> want to put a video in??????
>>>>
>>>> -s
>>>>
>>>> _____
>>>> From: Breitenbach, Patrick [<mailto:pbreitenbach@paypal.com>]
>>>> Sent: Monday, April 25, 2005 3:28 PM
>>>> To: Steve Chen
>>>> Subject: RE: going with merrill lynch?
>>>>
>>>>
>>>> nice. it works really well. how you gonna keep out the parm?
>>>>
>>>> _____
>>>>
>>>> From: Steve Chen [REDACTED]
>>>> Sent: Monday, April 25, 2005 3:23 PM
>>>> To: Breitenbach, Patrick
>>>> Subject: RE: going with merrill lynch?
>>>>
>>>>
>>>> www.youtube.com
>>>>
>>>> _____
>>>> From: Breitenbach, Patrick [<mailto:pbreitenbach@paypal.com>]
>>>> Sent: Monday, April 25, 2005 3:13 PM
>>>> To: Steve Chen
>>>> Subject: RE: going with merrill lynch?
>>>>
>>>>
>>>> that would be today.
>>>>
>>>> _____
>>>>
>>>> From: Steve Chen [REDACTED]
>>>> Sent: Friday, April 22, 2005 1:52 PM
>>>> To: Breitenbach, Patrick
>>>> Subject: RE: going with merrill lynch?
>>>>
>>>>
>>>> 3 more days!
>>>>
>>>> _____
>>>>
>>>> From: Breitenbach, Patrick [<mailto:pbreitenbach@paypal.com>]
>>>> Sent: Friday, April 22, 2005 1:00 PM
>>>> To: Steve Chen
>>>> Subject: RE: going with merrill lynch?

>>>
>>>
>>>> what's da url?
>>>
>>>
>>
>>
>>
>
>
>

From: Chad Hurley [REDACTED]
Sent: Wednesday, April 20, 2005 1:35 PM
To: Jawed [REDACTED]
Cc: Steve Chen [REDACTED]
Subject: Re: Message from YouTube (fwd)

I like it.

On Apr 20, 2005, at 1:33 PM, Jawed wrote:

> When your video gets rejected, you get this email.
>
> ----- Forwarded message -----
> Date: Wed, 20 Apr 2005 12:59:01 -0700 (PDT)
> From: noreply@youtube.com
> To: [REDACTED]
> Subject: Message from YouTube
>
> Dear jawed,
>
> Your video entitled "Minnesota Doggie" has been rejected because it
> violates one of the following rules:
>
> * Video must be about YOU
> * Video must be appropriate for all audiences
> * Video cannot contain contact information
> * No copyrighted material
>
> We look forward to another video from you. Thanks,
>
> The YouToube Team
>
>

From: Steve Chen [REDACTED]
Sent: Thursday, April 28, 2005 10:13 PM
To: Chad Hurley [REDACTED]; Jawed Karim [REDACTED]
Subject: another cl ad
Attach: Message Text.txt

YouTube.com is in need of creative content! Unleash your creative side and earn \$20 in the process!

YouTube.com is a web-based community based around creative and fun videos. We are seeking folks who possess a dash of technical know-how and a truckload of flare.

If you are female or an extremely creative male between the ages of 18 to 45 and if you have a digital camera that can create short video clips, please follow these steps to earn \$20:

1. Visit the website at www.YouTube.com and sign up for a new account.
2. Contact steve@youtube.com with the username you used to sign up.
3. Upon approval, upload 3 different videos of yourself. There are some simple requirements for the videos we'd like to see:
 - a) videos must be interesting!
 - b) videos must be created by you!
4. After uploading the videos, please send another email to steve@youtube.com. You will consequently receive \$20 via PayPal.

Our hope is that this experience will not much of your time and you'll have a bit of fun in the process. Of course, we'd prefer it if you would continue to use the site and help grow out this budding community.

-s

To: "Chad Hurley" <chad@youtube.com>
From: "Jawed" [REDACTED]
Cc: "Steve Chen" <steve@youtube.com>, "Pan Yu" [REDACTED], "Solomon Mike" [REDACTED]
Bcc:
Received Date: 2005-07-18 18:19:39 GMT
Subject: Re: YouTube Contact regarding Product Question

Hmm maybe you're right, I guess you never really know what helps, so it's best to try different things.

Jawed

<http://www.jawed.com/>

On Mon, 18 Jul 2005, Chad Hurley wrote:

> this is an awesome email!
>
> yeah, i'm only paying a few bucks a day to run some ad words...
> probably a good idea just to keep it up to generate a few quality
> leads. and this is exactly what i'm targeting, people that will add
> videos (video bloggers, people looking for free video hosting, etc.)
> so it's not really to generate traffic.... just good active users,
> which is much different for the traffic we are getting from these
> other sites.
>
> -chad
>
>
>
>
>
>
> On Jul 18, 2005, at 9:58 AM, Steve Chen wrote:
>
>> good shit.
>>
>> maybe it's still a good idea to keep up the google ads?
>>
>> -s
>>
>> Begin forwarded message:
>>
>>> From: "Roby or Cathy Hayes" [REDACTED]
>>> Date: July 18, 2005 4:55:07 PM PDT
>>> To: steve@youtube.com
>>> Subject: Re: YouTube Contact regarding Product Question
>>>
>>>
>>>
>>> Wow--thanks for the fast response. As to how I found your site:
>>> My son-in-law is serving in Iraq right now, but his server won't
>>> let him open videos through email. My daughter has been burning

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> >> DVDs of their new baby to send to him, but I wanted to find a
> >> faster way to get him in touch with his son, so I started googling
> >> for "video blogs" and "free video blogs" etc. Your site was
> >> listed to the right as a sponsored link.
> >>
> >> We've only just started today, so the jury is still out on whether
> >> he can open the website from there or not---still, your site is
> >> incredible and a wonderful public service. It's easy to use too.
> >> Thank you.
> >> Cathy Hayes
> >>
> >>
> >> -- Steve Chen <steve@youtube.com> wrote:
> >> Hi there --
> >>
> >> The videos will be up there permanently!
> >>
> >> We plan on launching several new features in the coming weeks that
> >> will make it easier to _share_ videos that you've uploaded with your
> >> family, friends, and co-workers.
> >>
> >> Curiously, how did you find the site?
> >>
> >> -s
> >>
> >> On Jul 18, 2005, at 8:48 AM, [REDACTED] wrote:
> >>
> >>
> >>> I just found your site and it's WONDERFUL. Thank you for that. How
> >>> long will a video be available for viewing here?
> >>>
> >>>
> >>
> >>
> >
>
>

From: Steve Chen [REDACTED]
Sent: Thursday, April 28, 2005 9:01 PM
To: Chad Hurley [REDACTED]; Jawed Karim [REDACTED]
Subject: videos and their contents
Attach: Message Text.txt

Hey.

As long as there's no nudity and copyrighted materials, we should NOT be removing videos because it doesn't meet any personal preferences. If I can stress one additional minor requirement, the videos should (at this point) be something everyone would want to watch. I'm saying this after I learned that a video was removed because your parents were viewing the site. The goal is for the site to be successful and not parentally approved. The other thing, what did your parents think of that guy dancing around in his underwear?

Anyway, I can't stress enough how important it is to get creative videos in there to seed the system. I see it as Flickr starting out. How did Flickr get the creative folks to go to their site to submit their pictures? I'm convinced it wasn't by seeding their database with 100 initial pictures that no one wanted to see. You know?

-s

From: Steve Chen [REDACTED]
Sent: Wednesday, June 29, 2005 1:12 AM
To: Karim Jawed [REDACTED]; Hurley Chad <chad@youtube.com>
Subject: reject reasons

it would be cool, when we reject videos, we can give people a reject reason.

there are three i can think of right now:

- duplicate video
- inappropriate content
- copyright material

-s

From: Steve Chen [REDACTED]
Sent: Friday, July 29, 2005 6:56 AM
To: Chad Hurley <chad@youtube.com>
Cc: YouTube Group [REDACTED]
Subject: Re: <http://www.filecabi.net/>

another thing, still a fundamental difference between us and most of those other sites. we do have a community and it's ALL user generated content.

-s

On Jul 29, 2005, at 7:45 AM, Chad Hurley wrote:

> hmm, i know they are getting a lot of traffic... but its because
> they are a stupidvideos.com-type of site. they might make enough
> money to pay hosing bills, but sites like this and big-boys.com
> will never go public. I would really like to build something more
> valuable and more useful... actually build something that people
> will talk about and changes they way people use video on the internet.

>

>

>

> On Jul 29, 2005, at 1:33 AM, Steve Chen wrote:

>

>

>> haha ya.

>>

>> or something.

>>

>> just something to watch out for. check out their alexa ranking.

>>

>> -s

>>

>> On Jul 29, 2005, at 1:25 AM, Chad Hurley wrote:

>>

>>

>>

>>> hmm, steal the movies?

>>>

>>>

>>>

>>> On Jul 29, 2005, at 1:05 AM, Steve Chen wrote:

>>>

>>>

>>>

>>>

>>>> steal it!

>>>>

>>>>

>>>>

>>>>

>>>>

>>>>

>>>>

>>>>

>>>>

>>>>

>>
>>
>>
>>
>>
>
>

From: Jawed [REDACTED]
Sent: Sunday, August 21, 2005 1:37 AM
To: Steve Chen [REDACTED]; Chad Hurley <chad@youtube.com>
Subject: Presentation outline
Attach: Sequoia.doc

I just finished the outline. It took me quite a while to write this, but I would feel very comfortable to present this. I took everything into account that you guys mentioned previously.

I fired it off to Roelof, but told him it's still preliminary. I'll be discussing it with Roelof tomorrow on the phone.

Your feedback please.

Note: I tried hard to exclude anything that's not really relevant to someone like Mike Moritz. There's more we can say, but the more we add, the harder it becomes to read.

Jawed

<http://www.jawed.com/>

<<...>>

YouTube

Company Purpose:

To become the primary outlet of user-generated video content on the Internet, and to allow anyone to upload, share, and browse this content.

Problem:

Video content is currently difficult to share:

- Video files are too large to e-mail (E-mails with video attachments bounce).
- Video files are too large to host (viewing just fifty videos at 20 MB each means serving 1 GB of bandwidth – exceeding most website quotas).
- No standardization of video file formats. To view many video file formats means having to install many different video players and video codecs.
- Videos exist as isolated files. There is no interaction between viewers. There is no interrelation between videos.

Solution:

Consumers upload their videos to YouTube. YouTube takes care of serving the content to millions of viewers.

YouTube's video encoding backend converts uploaded videos to Flash Video, which works in any web browser supporting Flash. (Flash penetration is 97.6% of Web users according to Macromedia.com.) Flash Video is a highly compressed streaming format that begins to play instantly. Unlike other delivery methods, it does not require the viewer to download the entire video file before viewing.

YouTube provides a community that connects users to videos, users to users, and videos to videos. Through these integrating features, videos receive more views, and users spend more time on YouTube. Because these features are similar to Flickr, YouTube is often referred to as "the Flickr of Video".

Market Size:

YouTube's growth will come as a result of these recent developments:

- Digital video recording technology is for the first time cheap enough to mass-produce and integrate into existing consumer products, such as digital photo cameras and cell phones, giving anyone the ability to create video content anytime, anywhere. As a result, user-generated video content will explode.

- Broadband Internet in the home has finally reached critical mass, making the Internet a viable alternative delivery mechanism for videos. Viewers are flocking to the Internet because it offers more variety of content and allows people to choose when and how to see it. Traditional media want to enter this space because they want to follow the audience, and because content there is cheaper and easier to distribute. Early examples of video content that has reached more viewers on the Internet than on television: Indian Ocean Tsunami videos, Jon Stewart's Crossfire appearance, Janet Jackson's Superbowl wardrobe malfunction.

Initially, YouTube will target home-grown (user-generated) video content, because in the short term that represent the fastest-growing type of video content, possessing the fastest-growing audience. This phase will enable YouTube to establish itself as the dominant player for Internet video content. Once YouTube's audience reach rivals that of traditional media networks, it will then be positioned to syndicate traditional media content (news, entertainment, MTV, etc) as well.

Competition:

Big players:

- Google Video – going after Hollywood, not personal videos
- 24 hour laundry – going after pure video hosting technology, not community

Small players:

- dailymotion – good technology, no exposure
- vimeo – bad technology, has potential for exposure (owned by CollegeHumor)
- PutFile – focuses on file hosting, lacks community, bad revenue model

Product Development:

Demo basic functionality.

- Community
 - o Connects users to videos. Users find videos through:
 - Search
 - Related videos
 - Related tags
 - Top rated, top viewed, most discussed
 - User videos,
 - User favorites
 - o Connects users to users:
 - Video discussion groups
 - Video comments
 - Private messages
 - Private/public video sharing

- Social networking (Friends)
- User videos
- User favorites
- Connects videos to videos:
 - Related videos
 - Related tags
- Open architecture
 - Developer XML APIs
 - RSS feeds
 - Externally embeddable video player (“YouTube off YouTube.com”). By letting people embed YouTube videos right into their own web sites, YouTube’s audience reaches even beyond YouTube.com
- Target vertical markets with a need for video content:
 - Auction videos for eBay items (perfect for eBay Motors)
 - Real estate videos for houses/apartments for sale/rent (“Do-It-Yourself MTV Cribs”)
 - Become the video platform for special interest websites: Car sites, Sports, Politics, etc
- Features currently in development:
 - Community features: groups, sharing, better ways to find videos
 - Driving external reach: external player, developer APIs

Sales & Distribution:

Revenue-generating options:

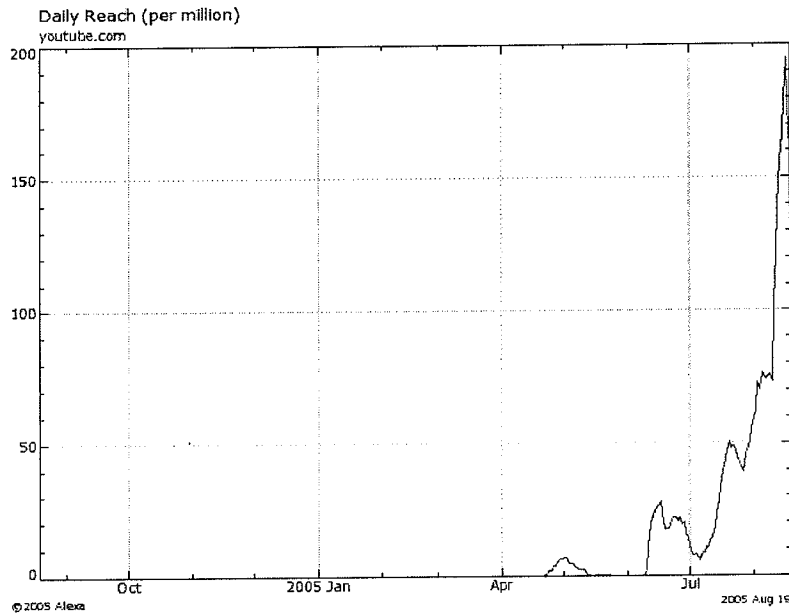
- Ads:
 - “Google Adwords” approach for YouTube: Allow advertisers to upload ad videos to YouTube. Thumbnails of these ad videos will be shown alongside other videos in video search results, and as “related videos”. As with Google Adwords, ad videos will only be shown when relevant, and will be clearly marked as ad videos.
 - Display interactive ads within the Flash video player, superimposed over the playing video.
 - Play a short video ad at the beginning of the actual video.
 - Display an ad image at the beginning of the actual video.
- Act as a for-pay distribution channel for promotional videos:
 - Events, conferences, concerts
- Charge members for premium features:
 - Ability to download original videos / view high resolution videos

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- Video editing features (within the browser, using Flash): video effects, transitions, titles, etc
- Advanced features for the externally embeddable video player
 - Offer specialized features for embedded auction/real estate videos (see **Product Development**)
- Charge viewers for premium content:
 - Allow members to sell their video content to YouTube viewers, with YouTube taking a cut of the proceeds.

Metrics:

Launched June 11th. Has already overtaken all previously existing competitors and is now the dominant player in this space.



Team:

Founders:

- Steve Chen:
 - Recruited by Max Levchin as one of PayPal's first engineers
 - University of Illinois, Computer Science
- Chad Hurley:
 - PayPal's first designer, responsible for PayPal site design, logo
- Jawed Karim:
 - Graduate student in Computer Science, Stanford University

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- Recruited by Max Levchin as one of PayPal's first engineers
- University of Illinois, Computer Science

From: Chad Hurley <chad@youtube.com>
Sent: Sunday, June 26, 2005 11:52 AM
To: Jawed [REDACTED]
Cc: Chen Steve [REDACTED]
Subject: Re: crappy videos

cool guys. yeah, i really think this is the best thing to do moving forward.... stopping it now, before it becomes a big problem down the road.

and once we build in paging and a tool to reject videos after they've been approved, i want to review all the old videos.

-chad

On Jun 26, 2005, at 12:45 PM, Jawed wrote:

> Yeha, screw it. Let's reject it.

>

> Jawed

>

>

> <http://www.jawed.com/>

>

>

>

> On Sun, 26 Jun 2005, Chad Hurley wrote:

>

>

>> Yo guys,

>>

>> This user, TheOCRox311, is uploading crappy videos... like the entire season finale of "Charmed" in 5 parts.

>>

>> I really want to start rejecting copyrighted material now. I think the key to our success is personal videos. If we are going to build this service, I think we should do it right and start enforcing this rule. We are not another "StupidVideos" or "Bittorrent".

>>

>> Viral videos are fine, like the airplane videos you found on the web or funny commercials people upload. But when it blatantly comes from a network or movie, we shouldn't mess around... we are going to be big and will perhaps someday even offer premium content, so I don't want to get sued or piss anyone off.

>>

>> What do you think? Do you care if I reject all of "TheOCRox311's" crap right now?

>>

>> -Chad

>>

>>

>>

>

>

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From: Chad Hurley <chad@youtube.com>

Sent: Saturday, July 2, 2005 10:35 AM

To: Karim Jawed [REDACTED]; Chen Steve [REDACTED]

Subject: more vids to remove

this guy has a ton of music videos that need to be removed...

http://www.youtube.com/profile_videos.php?user=slvgdvg

-chad

From: Jawed [REDACTED]
Sent: Saturday, July 16, 2005 6:36 AM
To: Chad Hurley <chad@youtube.com>; Steve Chen [REDACTED]
Subject: copyright

someone uploaded a shitload of "Initial D-" stuff. "Clip from the Hong Kong film Initial D."

I think we should reject all that shit.

Jawed

<http://www.jawed.com/>

From: Chad Hurley <chad@youtube.com>
Sent: Monday, July 4, 2005 7:04 PM
To: Karim Jawed [REDACTED]; Chen Steve <steve@youtube.com>
Subject: videos to add back to admin

this is blatant copyrighted stuff... no funny commercials, don't worry steve :)

<http://www.youtube.com/index.php?v=X9zd2PtMLUg>

http://www.youtube.com/watch.php?v=CqS_V4TtLnM

http://www.youtube.com/watch.php?v=VvNjBK1_vuU

<http://www.youtube.com/watch.php?v=gwFAquML90k>

From: Chad Hurley <chad@youtube.com>
Sent: Sunday, July 3, 2005 8:20 PM
To: slugdub [REDACTED]
Subject: Re: YouTube Contact regarding Other

Hello,

Yes, I believe this was a music video, right? So, it was rejected because it was copyrighted material. We are trying to build a community of real user-generated content and moving forward we are going to be more proactive about screening videos upfront. Some early video uploads were not properly screened, so you may see some violations on the current site. We are going to be reviewing and removing these shortly.

Thanks for your email and let us know if there is anything we could do improve our service. We look forward to more videos from you, by you of course. ;)

-Chad

On Jul 3, 2005, at 7:46 PM, [REDACTED] wrote:

> Why was my video entitled Goldfrapp - Ooh La La rejected for
> innaporopriate content?
>
>

From: Chad Hurley <chad@youtube.com>
Sent: Sunday, June 26, 2005 5:25 PM
To: Steve Chen [REDACTED]
Cc: Jawed [REDACTED]; Solomon Mike [REDACTED]
Subject: Re: google maps idea

yes, this will be very cool and I have already add "date recorded" to our playgrounds. i think, because we will focus more on personal videos, this makes a lot of sense. and just by having the fields on the video upload page will discourage adding copyrighted material.

-chad

On Jun 26, 2005, at 5:48 PM, Steve Chen wrote:

> Did you see, with the recent uploads, people have been leaving URLs
> for google maps.
>
> I think if we add location (users entering gps coordinates?? or
> just city, state, country, etc) we'll have a big win.
>
> -s
>

> On Jun 26, 2005, at 3:29 PM, Jawed wrote:

>
>
>> How about *integrating* google maps into youtube, as part of the
>> video
>> information? So that when you upload, you can provide a google
>> maps link
>> that shows where the video was shot. then we can display that in
>> some cool
>> way as the video is playing, or have a link that opens that map.
>>
>> Example:
>>
>> [http://maps.google.com/maps?](http://maps.google.com/maps?q=SJC&ll=37.366004,-121.925948&spn=0.007403,0.009956&t=k&hl=en)
>> [q=SJC&ll=37.366004,-121.925948&spn=0.007403,0.009956&t=k&hl=en](http://maps.google.com/maps?q=SJC&ll=37.366004,-121.925948&spn=0.007403,0.009956&t=k&hl=en)
>>
>> This is where I shot my takeoff video.
>>
>> Jawed
>>
>> <http://www.jawed.com/>
>>
>>
>>
>>
>
>
>

From: Chad Hurley <chad@youtube.com>
Sent: Sunday, September 25, 2005 1:58 PM
To: Chen Steve <steve@youtube.com>; youtube [REDACTED]
Subject: Re: YouTube Contact regarding Other

fyi: i don't know if we responded to this guy, but we should never promote piracy or tell them how to do it. we should respond saying the canned response that you that you should own all copyrights to the material you upload.

anyway, just wanted to bring up the issue to avoid legal issues. :)

-chad

On Sep 25, 2005, at 12:05 AM, [REDACTED] com wrote:

> Hello: I have a old clip of Patrick Norton from TechTV's the
> screen Savers show getting to ride with the blue angels. Can I
> upload that?
>
>

A-148

To: "Hurley Brent" <brent@youtube.com>
From: "Chad Hurley" <chad@youtube.com>
Cc:
Bcc:
Received Date: 2005-10-26 22:26:58 GMT
Subject: Description and Bio

YouTube description:

YouTube is a new service that allows people to easily upload, tag, and share personal video clips. Digital cameras with video recording capability are quickly becoming a commodity consumer technology. As people continue to record more video clips, YouTube will fill the need of quickly distributing their content worldwide.

My Bio:

Chad Hurley is the president and CEO of YouTube. Chad has an experienced background in web development and graphic design. He was the first member of the PayPal design team, where he lead efforts to develop the interface for the original Palm-based program that enabled secure wireless money transfers between handhelds. As the product evolved, he effectively designed auction features which solidified PayPal's long term success and is a credited member of two =critical auction patents. Chad looks forward to building an empowering video service for the world.=

To: "Maxcy Chris" <chris@youtube.com>
From: "Chad Hurley" <chad@youtube.com>
Cc:
Bcc:
Sent Date: 2005-12-29 18:32:20 CST
Subject: Fwd: YouTube Video

fyi... i guess this is good. it's not a yes or no. we'll see if they follow up or just ignore the request.

if you have time today, i would love to chat with you briefly... just let me know if you have time.

-chad

Begin forwarded message:

From: "Liepis, Marc (NBC Universal)" <Marc.Liepis@nbcuni.com>
Date: December 28, 2005 5:55:55 AM PST
To: "chad@youtube.com" <chad@youtube.com>
Subject: Re: YouTube Video

I don't believe it was posted with our consent. I will check, but can't imagine we'd have allowed it.

Thanks for reaching out.
ML

-----Original Message-----

From: Chad Hurley <chad@youtube.com>
To: Liepis, Marc (NBC Universal) <Marc.Liepis@nbcuni.com>
Sent: Wed Dec 28 02:35:22 2005
Subject: YouTube Video

Hi Marc,

I am the CEO and co-founder of YouTube, a website that allows users to watch and share videos. It was brought to my attention that the Saturday Night Live clip "Lazy Sunday" was posted on our site last week. Although we assume that users posting content to our site hold all necessary rights to do so, I wanted to proactively reach out and make sure this was the case.

This video has become extremely popular on our site with well over 1 million views in a week. But if this was posted without your consent, we can immediately remove the video at your request. Also, if you would wish to continue the clip's massive popularity, we would be happy to continue streaming this content with your approval.

I understand you deal with NBC's PR. I was hoping you could potentially provide us with some direction on how NBC would like to proceed. Either way, it would be very interesting to explore possible ways to replicate this exposure with future clips. I look forward to

hearing from you.

Best, Chad Hurley
CEO & Co-founder
YouTube, Inc.



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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

VIACOM INT'L INC., ET AL.,)

Plaintiffs,)

v.)

YOUTUBE, INC., ET AL.,)

Defendants)

ECF Case
Civil No. 07-CV-2103 (LLS)

THE FOOTBALL ASSOCIATION)
PREMIER LEAGUE LIMITED, ET AL.,)
on behalf of themselves and all others)
similarly situated,)

Plaintiffs,)

v.)

YOUTUBE, INC., ET AL.,)

Defendants.)

ECF Case
Civil No. 07-CV-3582 (LLS)

**DECLARATION OF DAVID KING IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

I, DAVID KING, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I work at Google as a Product Manager for YouTube's Content Identification system. I have held the title of Product Manager since I started working at Google in January 2007. Before joining YouTube, I worked for Real Networks, where I was the Senior Director of Content Operations. In that capacity, I ran Real Networks' content-licensing systems and worked closely with record labels and music publishers. I hold a B.A. degree in history from Princeton University.

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2. My job responsibilities at Google have focused primarily on managing the development and implementation of YouTube's content-identification technology and its associated rights-management features. Under my supervision, YouTube has invested tens of thousands of person-hours and million of dollars building state-of-the-art video and audio content-identification tools intended to help rights holders better control the usage of their materials on YouTube. In addition to the content-identification tools that have been custom-build by YouTube engineers, YouTube has also licensed audio-identification technology from a company called Audible Magic.

3. These technologies comprise the core of what we refer to as "Content ID." Content ID is a suite of tools that YouTube makes available free of charge to rights holders to make it easier for them to identify videos on YouTube that may contain their content and to instruct YouTube what they want done with those videos. Content ID uses advanced audio- and video-identification technology to scan every new video that users attempt to upload to YouTube—and all videos already posted on the service—against an ever-growing library of reference material supplied by participating copyright holders.

YouTube's Use of Audio Identification Technology

4. When I started working at YouTube in January 2007, YouTube's efforts to use digital technology to assist rights holders had been underway for some time. At that time, I was informed that YouTube had already implemented "MD-5 hash" technology to prevent users from uploading videos that were identical to

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videos that had been taken down after a request from a copyright owner. Also, I learned that in October 2006, YouTube had signed an agreement with Audible Magic to license audio identification technology to help rights holders more easily identify their content on YouTube.

5. In early 2007, Audible Magic was among the most established providers of audio-based content-identification technology. Audio-based content identification (sometimes called “audio fingerprinting”) is one way of using digital information to try to match unknown files posted to websites such as YouTube to content that may be owned by rights holders. At a high level of generality, an audio fingerprinting technology like Audible Magic works by generating a digital “fingerprint” of the audio track of the unknown file (the “probe”) and comparing that probe against an existing database of “reference” files that correspond to content supplied by rights holders. Given the way the technology works, unless a reference file corresponding to a given copyrighted work is in the Audible Magic database, Audible Magic will not be able to match probe files to that work.

6. At the time that YouTube licensed Audible Magic’s technology, Audible Magic had strong support from the music industry, particularly major record labels such as Warner Music Group and Universal Music Group. It is my understanding that Audible Magic’s technology was developed primarily to help those record labels identify their sound recordings on the Internet. Based on my conversations with Audible Magic, I understood that, as of late 2006 and early 2007, virtually all of the

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reference files that Audible Magic was maintaining in its database were from sound recordings owned by major record labels.

7. YouTube used Audible Magic's technology as an important component of our new "Claim Your Content" system ("CYC"). CYC was a predecessor to Content ID; it was a platform that enabled participating rights holders to "claim" videos containing their content that users had uploaded to YouTube. Audible Magic was one way that participating content owners could find videos that they wished to claim. Once it found a video, a rights holder could apply one of three policies that instructed YouTube what to do in response to the match. First, the rights holder could "block" a claimed video, that is, instruct YouTube to remove the video from YouTube. Second, the rights holder could "track" the video, that is, leave it up on YouTube and receive analytics and other information about how it was being viewed. Third, the rights holder could choose to "monetize" the video, that is, leave it up on YouTube and share in revenue associated with advertising that would be displayed on the page where users watched the video.

8. CYC launched in beta form in February 2007. The first copyright holder to use Audible Magic to "claim" a video on YouTube was Universal Music Group on February 14, 2007. In the weeks and months that followed, a number of other rights holders signed up to participate in the CYC program and to use Audible Magic to help identify videos containing their content. All told, between February 2007 and December 2009, approximately 50 different rights holders used Audible

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Magic to claim videos on YouTube. YouTube did not charge rights holders to sign up for or to use Audible Magic.

9. Rights holders using Audible Magic on YouTube were free to apply whatever usage policy they wished in the event of a match. YouTube's policy was to make CYC (including Audible Magic) open to all rights holders who wanted to use it, regardless of whether the rights holder was doing so in order to block its content from appearing on YouTube or to claim videos for the purpose of monetization.

10. There were multiple rights holders that used Audible Magic solely to block videos. [REDACTED]

[REDACTED] But most rights holders who used CYC chose instead to embrace the promotional opportunities that YouTube provided by allowing the videos they claimed to appear or remain on the service.

YouTube's Development of Video Identification Technology

11. Although the audio-based content-identification technology that Audible Magic provided was useful, particularly in helping the owners of sound recordings identify their content, it had certain limitations in reliably matching against certain kinds of *video-based* content. For example, most television programs and motion pictures include embedded music that is owned by someone other than the entity that owns the TV program or motion picture itself. Particularly because YouTube had entered into carefully negotiated agreements with most of the major record labels to allow their sound recordings to appear on

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YouTube, using audio-based content identification to identify television programs and movies was likely to lead to conflicting claims for the same piece of content. For example, the television show “CSI” uses the song “Who Are You” by The Who in its opening credits. An audio-based content identification system will not reliably be able to distinguish a video clip of the opening credits of CSI from a music video of “Who Are You” (or clip from a movie using the same song). Based on our experience with Audible Magic, we found that audio-only matching for video content resulted in confusion and inaccuracy.

12. In addition, many audio-visual works have a variable soundtrack, which can minimize the utility of audio-based content identification. Sporting events, for example, are often broadcast in different languages and with different commentators. And the background “stadium sounds” for many different sporting events (things like crowd noise and whistles, for example) are often quite similar and difficult to distinguish from each other. Audio-based content identification technology therefore would often be unreliable for identifying such works.

13. For these reasons, it was my belief (and the belief expressed to me by others on my team) that the most effective and reliable content identification technology for a video website like ours would be *video-based* content identification (sometimes called “video fingerprinting”). Video-based content identification works much like audio fingerprinting, with the important difference that the former uses the *video* channel of the probe file in identifying potential matches. By looking at the video channel, rather than just the audio channel, video-based content

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identification solves some of the key problems with using audio fingerprinting to try to identify audio-visual content such as television shows and movies.

14. From the very start of my tenure at Google, I saw video-based content identification as a meaningful new way for YouTube to further help rights holders find videos on YouTube that might contain their content. I also viewed the development of video-based content identification as an exciting technical challenge that would lead the way for other user-generated content websites, none of which had implemented such technology. Accordingly, in January 2007, almost immediately after I began working at Google, I made the decision that YouTube should build a video-based content identification tool to supplement (and ultimately supplant) our use of Audible Magic. It was expressed to me that the decision to build that technology—which we came to call “Video ID”—had the full support and encouragement of Google and YouTube management, including Eric Schmidt (the CEO of Google) and Chad Hurley (the CEO of YouTube).

15. Although the Video ID project formally began in January 2007, Google’s work on video-based content identification technology started well before I joined YouTube. When I first began investigating the feasibility of YouTube developing its own video-based content-identification tool, I learned that YouTube engineers had already been in active discussions with Google engineers about groundbreaking video-recognition technology that Google had been working on for several years. I was told to pick up those discussions as part of my new job responsibilities. Based on those conversations, my team and I were convinced that

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the work that Google had already done could serve as the backbone for a state-of-the-art video-based content identification system that could be built specifically for YouTube.

16. There were several reasons why YouTube decided to develop its own content-identification technology, as opposed to relying on technology from an external vendor. *First*, at that time there was no commercially available video-based content identification technology for use on websites like YouTube. Although there were a few companies that were testing early versions of such technology, none of them had a product that had actually been commercially deployed on any website. Nor were we confident that any of these third-party vendors was or would soon be in a position to offer video-based content identification technology that could reliably and efficiently operate on a site that handles the volume of video uploads to YouTube. As of early 2007, YouTube's scale of operations dwarfed that of any other video website, and that scale posed a significant technical and operational challenge to any content identification system. There was nothing available on the market, or even on the horizon, that seemed up to that challenge. *Second*, as I mentioned above, before its acquisition of YouTube, Google had already done significant work on video-identification technology, which we believed could be adapted to YouTube's needs without requiring us to build a product from scratch. That led us to believe that we could develop our own video-based content identification system more quickly and effectively than could any third party. *Third*, by building the technology ourselves, we could design it specifically to run on YouTube's systems.

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That would ensure that Video ID was efficiently integrated into YouTube's architecture, which we thought would make it faster, more reliable, better able to operate at scale, easier for rights holders to use, more adaptable to their needs, and ultimately more cost-effective, than any third-party technology.

17. I was responsible for leading the team that built and implemented Video ID. Full-scale development efforts began in January 2007. By July of that year, we had a product that was ready for initial testing by content owners. We were able to make such rapid progress in large part because of the skilled and dedicated team of engineers who were devoted to the project. Between January and October 2007, we had between 15 and 20 engineers and other technical personnel working full or part time on the project, not to mention dozens of other people involved in business, legal, and operational issues relating to the development and implementation of Video ID. All told, I would estimate that YouTube devoted more than 50,000 person-hours to building Video ID and preparing it for its public launch.

18. YouTube invited a group of major content owners to participate in pre-launch ("beta") testing of Video ID. Those tests occurred between July and September 2007. After getting feedback from the content owners who participated in those beta tests (including Viacom) and making further refinements to the technology, YouTube officially launched Video ID in October 2007.

19. Given the nature of my work at YouTube, I pay attention to what other similar websites are doing in the field of content-identification. To my knowledge,

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Video ID was the first video-based content identification technology to be deployed on any website dedicated to user-submitted content. YouTube was certainly the first (and I believe remains the only) such website to have developed and launched its own video-based content identification system.

20. In April 2008, YouTube supplemented Video ID by launching Audio ID. Like Audible Magic, Audio ID is an audio-based content identification technology, but because it was custom-built by Google and YouTube engineers specifically for use on YouTube in conjunction with Video ID, it is faster and more efficient in identifying audio content in the YouTube environment. Today, Audio ID and Video ID work together to make up the technological backbone of YouTube's Content ID system. Together, they create a cohesive suite of content-identification technologies that we can confidently make available to identify a wide variety of content on behalf of rights holders around the world.

YouTube's Implementation of Content ID

21. At the time that Content ID launched in October 2007, a wide range of rights holders signed up to take advantage of the tool. Since then, more and more content owners have started using Content ID. We currently have over 1000 content owners worldwide using Content ID to identify their content on YouTube. That includes every major U.S. television broadcaster, movie studio, and record label, as well as most of the largest music publishers and many of the major sports leagues in the United States and abroad. A true and correct list of the content owners signed up to use Content ID is attached hereto as Exhibit 1.

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22. YouTube makes (and has always made) Content ID available to rights holders free of charge. We have also worked hard to make the tool easy to sign up for and use. The only requirement to get access to Content ID is to sign a short agreement that ensures that YouTube and the participating rights holder have a mutual understanding of each party's rights and responsibilities in using this powerful technology for the purpose that it was intended: to assist rights holders with identifying and managing their own content, and not laying claim to content they do not own.

23. Content ID works by identifying videos on YouTube that match reference files supplied by participating rights holders. The library of reference files that YouTube currently maintains for that purpose is extensive. As of December 2009, it consisted of approximately 3 million reference files provided by participating rights holders.

24. If Content ID identifies a video as matching one of those reference files, the rights holder has several options for what it can instruct YouTube to do with that video: (a) block/remove the video; (b) allow the video to appear and share any revenue generated from advertising shown alongside it; (c) allow the video to appear, but with no monetization. Rights holders can designate their preferred policies in advance, which are then automatically applied by the Content ID system.

25. Rights holders can also designate different policies to apply to different regions, for example, instructing YouTube to block a given video from being shown to users in the United States, but allowing it to be displayed to users in Europe.

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Rights holders can also condition their policy choices based on other factors, such as the duration or proportionality of the match. For instance, a rights holder could instruct that videos that match more than 5 minutes of one of their reference files be blocked, while shorter matches be monetized. That is consistent with the basic ethos of Content ID, which is to give maximum flexibility and choice to rights holders about whether and how they want their content to appear on YouTube.

26. Since its launch in October 2007, every video that anyone attempts to post on YouTube has been screened using Content ID. Given the volume of new video uploads to YouTube, Content ID scans an enormous volume of video. As of December 2009, Content ID was scanning approximately 20 *hours*-worth of new video each *minute*. For each new video uploaded, Content ID generates a result (match or no-match) within a matter of seconds. Additionally, at the request of certain rights holders, YouTube has configured Content ID to scan new videos before they are actually posted. Thus, if a user attempts to upload a video that results in a match and the relevant rights holder has set a policy of “block,” the system is designed to prevent that video from ever making its way onto YouTube.

27. In addition to doing “pre-publication” scanning, Content ID also scans the full back catalogue of videos that are already posted on YouTube (currently, more than 200 million videos). When combined with the daily new uploads, that means that Content ID scans approximately 100 *years*-worth of video each day.

28. YouTube currently has a team of approximately 40 technical staff (engineers and product managers) working on Content ID. Since Content ID first

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launched, YouTube has continued to improve the product, working to make the technology even faster, more reliable, and more scalable. The technology that supports the Content ID platform is robust. Video and Audio ID are able to identify videos as matching a content owner's reference material even where the video may be significantly distorted or altered from the original file.

Viacom's Use of Content ID

29. Viacom is an active user of Content ID. Viacom was one of the initial group of rights holders who participated in the "beta" testing of Video ID before its public launch. After completing that testing, Viacom signed up to use Content ID in February 2008.

30. Since it began using Content ID, Viacom has provided thousands of reference files to YouTube for content that Viacom wished to be matched using the tool. It is my understanding that Viacom has not supplied YouTube with reference files corresponding to all of the content that Viacom owns. For example, Paramount has provided reference files for only 50 or so of its motion picture titles. Of course, any works that Viacom does not provide to YouTube as a reference file cannot and will not be matched using Content ID.

31. For the majority of the reference files it has provided for use in the Content ID system, Viacom has instructed that YouTube apply a policy of "block" to matching videos. Consistent with those instructions, Content ID has blocked or taken down videos identified as matching those Viacom references. For some of its reference files, however, Viacom has instructed YouTube to apply a policy of "track."

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Based on Viacom's instructions, Content ID has allowed videos identified as matching those Viacom references to be posted to or remain on YouTube and provided information to Viacom about how YouTube users are engaging with the matching videos.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: San Bruno, California
March 1, 2010


David King

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

<hr/>)	
VIACOM INTERNATIONAL INC.,)	
COMEDY PARTNERS, COUNTRY MUSIC)	
TELEVISION, INC., PARAMOUNT)	
PICTURES CORPORATION, and BLACK		)	ECF Case
ENTERTAINMENT TELEVISION)	
LLC,)	
	Plaintiffs,	)	Case No. 1:07-cv-02103 (LLS)
)	
	v.)	
		)	DECLARATION OF ZAHAVAH
YOUTUBE, INC., YOUTUBE, LLC, and		)	LEVINE
GOOGLE INC.,)	
)	
	Defendants.)	
)	
<hr/>)	

I, Zahavah Levine, declare as follows:

1. I am currently Associate General Counsel of Google Inc. ("Google"). Prior to Google's acquisition of YouTube, Inc. ("YouTube"), I was General Counsel and Vice President of Business Affairs of YouTube. I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would testify competently to them.

2. I have been a practicing attorney for fourteen years, and have spent most of my career practicing copyright law, first in private practice and then as in-house counsel to various companies. I have devoted the better part of my professional life to working hand-in-hand with major media companies on copyright licensing and copyright protection strategies.

3. In February 2006, I was contacted by Chris Maxcy at YouTube and asked to consider joining the company as its first in-house lawyer and its general counsel. Given my existing working relationships with some of the largest copyright holders in the world, I naturally inquired about YouTube's views regarding copyright protection during the interview process. The

company's founders Chad Hurley and Steve Chen, and a board member, Roelof Botha, explained YouTube's philosophy on this issue. They each strongly impressed upon me that neither they nor YouTube had any interest in growing the company or profiting by virtue of the presence of materials on the service that infringed others' copyrights. Each assured me that I would be given substantial resources and broad discretion to enable the company and copyright holders to combat the unauthorized uploading of videos to the YouTube service, and that they supported those efforts.

4. Since joining YouTube in March 2006, I have spent the considerable majority of my time – thousands upon thousand of hours – working with the company's executives, engineers, business development teams, product designers and staff as well as countless partners and users to minimize the incidence of unauthorized copyrighted material on the service, while ensuring that YouTube remained a vibrant platform for users around the world to share their own videos. During my tenure, YouTube and its parent company Google, have invested many millions of dollars on technologies and teams of employees directed to that end.

YouTube's User Education

5. A key component of YouTube's approach to protecting copyright holders is to educate its users. Through multiple means, YouTube warns users that they are prohibited from uploading to the site any copyrighted content to which they do not hold the rights, and strives to teach users how to abide by that prohibition.

6. Before being permitted to upload a video to the site, an individual must first register for our service. As part of the registration process, users must affirmatively accept YouTube's terms of use agreement. A true and correct copy of our current terms of use agreement is located at <http://www.youtube.com/t/terms> and is attached to this declaration as Exhibit 1. Virtually every page of the site contains a direct link to this agreement. It emphasizes YouTube's explicit prohibition on users' uploading copyrighted material that they do not have the right or authorization to share:

In connection with User Submissions, you further agree that you will not submit material that is copyrighted, protected by trade secret or otherwise

subject to third party proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner to post the material and to grant YouTube all of the license rights granted herein.

YouTube's terms of use agreement also makes clear that:

YouTube does not permit copyright infringing activities and infringement of intellectual property rights on its Website, and YouTube will remove all Content and User Submissions if properly notified that such Content or User Submission infringes on another's intellectual property rights. YouTube reserves the right to remove Content and User Submissions without prior notice.

These terms of the user agreement (and the condition that they be accepted before a user can upload a video) have been in force in essentially the same manner since YouTube's public launch in December 2005. True and correct copies of our December 2005 and January 2007 terms of use agreements with users are attached to this declaration as Exhibit 2.

7. YouTube also prominently features "Community Guidelines" for the service which are incorporated as part of its terms of service agreement and reinforce the message:

Respect copyright. Only upload videos that you made or that you are authorized to use. This means don't upload videos you didn't make, or use content in your videos that someone else owns the copyright to, such as music tracks, snippets of copyrighted programs, or videos made by other users, without necessary authorizations. Read our Copyright Tips for more information.

A true and correct copy of the current Community Guidelines page is attached to this declaration as Exhibit 3. YouTube's Community Guidelines, also at times called the "Code of Conduct," have contained essentially the same directives regarding copyright matters since they were added to the site in October 2006. True and correct copies of the October 2006 Community Guidelines and January 2007 Community Guidelines are attached to this declaration as Exhibit 4.

8. Beyond the express agreement YouTube obtains from users and the warnings contained in that agreement and the Community Guidelines, each time a user seeks to upload a video, YouTube explicitly reminds them, via multiple messages prominently displayed in the upload process, that they are prohibited from uploading copyrighted content unless they have the

right or authorization to do so. That warning is displayed in a highlighted box right next to the upload button on the “Video Upload” screen a user must view to upload a video. It reads:

Important: Do not upload any TV shows, music videos, music concerts, or commercials without permission unless they consist entirely of content you created yourself.

The Copyright Tips page and the Community Guidelines can help you determine whether your video infringes someone else's copyright.

By clicking "Upload Video", you are representing that this video does not violate YouTube's Terms of Use and that you own all copyrights in this video or have authorization to upload it.

A true and correct copy of the page a user encounters to upload a video is attached as Exhibit 5. The same message appears again on the screen where users are asked to provide descriptions of videos they have uploaded. YouTube has displayed equally prominent and direct warnings to users uploading videos to the service since my arrival at the company. For example, attached as Exhibit 6 to this declaration are true and correct examples of warnings provided to users during the YouTube upload process as of January 2007.

9. On our “*Copyright Tips*” page, located at http://youtube.com/t/howto_copyright, we give users considerable practical guidance on copyright basics and again describe the consequences to users of copyright infringement on the site. That same page provides links to even more information we prepare so that users can “*Learn More About Copyright*,” including answers to questions such as “*How do I know what is copyrighted?*” and “*What will happen if I upload infringing content?*” A copy of this page is attached to this Declaration as Exhibit 7.

10. YouTube also dedicates an area of the “Help” section of its website to providing users and content owners alike with information about copyright issues and YouTube’s approach regarding copyrighted material. A true and correct copy of this “Help” page <http://www.google.com/support/youtube/bin/topic.py?topic=10554> is attached hereto as Exhibit 8.

User Verification

11. Another step YouTube takes to deter infringing activity on the site (which has been in place since I arrived at the company) is to require that users submit a valid and working email

address to the company before the user may upload any video. YouTube verifies the accuracy of the email address provided by sending an email to the address and requiring the user to respond to it. Only after the validity of the email address is verified may the user upload a video to the service. By requiring verified email addresses, YouTube can ensure there is a mechanism to warn users of improper use of the service, and more readily hold them accountable for such use by, for example, terminating their account.

12. To further minimize the incidence of unauthorized copyrighted material on the site YouTube has, since March 2006, limited the duration of videos uploaded by ordinary users to ten minutes in length to prevent users from uploading a video file consisting of an entire television show or feature length film. To ensure YouTube remains a platform through which users can express themselves freely, we have, at times, made exceptions to our policy for certain users in an effort to accommodate their requests to share longer personal videos. In such cases, however, we have required additional verification from those users in an effort to ensure that the additional privilege we afforded them was used properly.

YouTube and the DMCA

13. YouTube has also sought to assist copyright owners in preventing infringement on the site by complying with the requirements and procedures of 17 U.S.C. §512 of the Digital Millennium Copyright Act (“DMCA”).

Registering a DMCA Agent

14. YouTube has designated an agent pursuant to the requirements of the DMCA, and has provided that agent’s contact information to the Copyright Office. YouTube’s agent is available to receive notifications of alleged copyright infringement on the site, and can be contacted at: DMCA Complaints, YouTube, Inc., 901 Cherry Ave., Second Floor, San Bruno, CA 94066, Fax: (650) 872-8513, Email: copyright@youtube.com.

15. Our DMCA agent’s contact information is accessible through YouTube’s “Copyright Infringement Notification” page, located at http://www.youtube.com/t/dmca_policy. A

link to this page is included at the bottom of virtually every page displayed on YouTube.com and is identified by the title “Copyright.” Rights holders can also directly access this information via links located on various YouTube.com pages, including: (1) the “Contact Us” page (http://www.youtube.com/t/contact_us) and (2) the “Copyright Tips” page (http://www.youtube.com/t/howto_copyright). These materials have existed in substantially the same form on the site since I arrived at the company.

Notice and Takedown Procedure

16. We have listed on our “Copyright Infringement Notification” page the information the DMCA requires (and that we request) copyright holders provide to YouTube to enable us to locate and remove allegedly infringing content. A true and correct copy of this page, http://www.youtube.com/t/dmca_policy is attached hereto as Exhibit 9.

17. Our goal is to make it very easy for copyright owners to inform us of alleged copyright infringement on our site. In addition to processing DMCA notices received by postal mail, email or fax, YouTube has developed an online form that walks content owners step-by-step through the process of sending us a DMCA notice. A true and correct copy of the form is attached hereto as Exhibit 10 and is accessible at http://www.youtube.com/copyright_complaint_form.

18. Further, in March 2006, YouTube launched its Content Verification Program (“CVP”). That program, open to any copyright owner, offers a tool we built to enable content owners to easily locate and flag their videos on the service and send DMCA notices with the click of a mouse. Content owners who sign up for CVP receive lists of videos matching search queries that they input. They can then flag videos they want removed simply by checking a box next to those videos on the list, and electronically send us a valid DMCA notice for such videos simply by clicking a button. I believe YouTube was the first online video service to offer such functionalities to content owners. To date, over 3000 content owners have registered to use the tools in our CVP program, and the tools are available worldwide and around the clock.

19. Once YouTube receives a notification of alleged infringement that substantially complies with the DMCA's requirements, we act promptly to remove the identified material from our service or disable access to it. Throughout my tenure at the company, we have removed almost all of the videos identified in DMCA notices within 24 hours; indeed, for the vast majority of DMCA notices (about 85%), we remove the identified videos within a few minutes using automated tools. We also employ a team throughout the world dedicated to processing manually-submitted DMCA notices, and to assisting copyright holders and users with issues arising from the notice process.

20. Our ability to process DMCA notices was severely tested by Viacom on Friday, February 2, 2007, when Viacom (through its agent, BayTSP) sent us DMCA notices requesting we remove more than one hundred thousand videos from the site. To handle that volume of requests, we had to devise special procedures and write special computer programs to ensure we did not disrupt the normal operation of the site. We also brought in additional personnel and had teams working overtime, around-the-clock through the weekend to respond. To complicate matters, at the same time, we were receiving regular "retractions" from Viacom for videos that it had included in these notices but which it then told us should not be removed. We were also receiving a stream of complaints from users and content partners claiming that Viacom was improperly requesting removal of their videos. And Viacom continued to send additional notices requesting much smaller groups of videos be removed. Despite all this, through our efforts, we were able to remove virtually all of the videos identified in Viacom's large-scale notice before the next business day.

21. For the purposes of these litigations, we have adopted a policy of removing videos from the site promptly after we become aware that they were identified in plaintiffs' various pleadings as allegedly infringing their copyrights. That policy, which I know was regularly followed, applied even where the plaintiffs did not send DMCA notices to YouTube's registered DMCA agent requesting removal of the videos. As a result, I understand that all of the videos that plaintiffs have claimed infringe their copyrights in these cases were removed from YouTube

shortly after they were identified to us, whether by DMCA notice or otherwise, to the extent those videos had not previously been removed.

22. YouTube's prompt responsiveness to takedown requests has drawn consistent praise and appreciation from content owners for years:

- "Thank you very much for your quick action to remove 'SUKKIRI' materials per our email of 20th July, 2006." (Nippon Television Network Corporation, 7/21/06)
- "Thanks for the SUPER FAST response – you guys rock!!!!!!!" (JustSayGO LLC -- 11/11/2006)
- "Thank you very much indeed for your fast response. I highly appreciate it as well you as your attitude towards the exchange of audiovisual materials through the Net. Thanks to companies like yours our business can be secure while taking advantage of the benefits of new technologies." (Antonio Hens -- 11/16/2006)
- "Thank you for the quick response. We appreciate your help in complying with this request" (NBC Universal, 4/4/07)
- "thank you so much, I really appreciate your wonderful work. I never thought you would be so efficient." (Somali Musician, Aar, 6/27/07)

I have attached these and other samples of similar messages drawn from our customer service database to this declaration as Exhibit 11. I could easily find hundreds more.

23. Beyond simply removing a video from the site when it has been the subject of a valid DMCA notice, we also email/contact the user who uploaded the video as part of our user education program to: (a) apprise them of the allegation; (b) remind them of the company's policy prohibiting upload of unauthorized copyrighted material; and (c) warn them that repeated acts of copyright infringement will result in the termination of their YouTube account. Copies of the standard messages we send users, which have been substantially the same since I arrived at the company, are attached hereto as Exhibit 12.

24. After we take down an allegedly infringing video, we post a prominent notice at the video's location on the site stating: "This video is no longer available due to a copyright claim by [party alleging infringement]." In doing so, we reinforce the message to any user who visits that video's page, that YouTube should not be used for the posting or accessing of unauthorized

copyrighted material. We have posted similar messages in these circumstances throughout my tenure at the company.

25. Since March 2006, YouTube also has automatically created a digital “hash” or fingerprint of every allegedly infringing video that we remove in response to the DMCA notices described above. A “hash” is essentially a unique numeric value that is generated by analyzing the attributes of a specific video. Once we have a hash for a video that has been removed from the service for alleged copyright infringement, we thereafter prevent any user from uploading a video with a hash that matches it. This “MD-5” filtering technology has been operational at the company since before I arrived. To expand upon its capabilities and allow us to block files similar, but not identical, to ones previously removed from the service, YouTube has invested heavily in developing and deploying video and audio identification technologies described in the accompanying declaration of David King.

26. Over its existence, YouTube has removed approximately 4.7 million videos from the service in response to DMCA take down notices and equivalent take down notices submitted by copyright holders, such as notices in foreign countries. In total, that represents less than one percent of the more than 500 million videos that users have uploaded to YouTube over time. Just as we could not and do not manually pre-screen or review each of the videos uploaded, we cannot feasibly undertake thorough investigations as to the legitimacy of every DMCA notice we receive. Accordingly, we do not know whether the notices we have received constitute valid claims. From personal experience though, I know that improper and invalid notices are a regular occurrence.

Termination of Accounts of Alleged Repeat Infringers

27. YouTube has had a policy of terminating the accounts of alleged repeat infringers since before I arrived at the company. As a general matter, that policy has been “three strikes and you’re out.” Thus, in almost all cases, if YouTube receives three takedown requests for content uploaded by a particular user, then YouTube will terminate the user’s YouTube account. Users are notified of YouTube’s policy of terminating repeat infringers in YouTube’s terms of use, on its

“Copyright Tips” page, in the “Help” section of the site, and via emails when they are notified that a video has been removed due to alleged copyright infringement.

28. YouTube tracks notices and issues strikes to users in automated fashion. While “three strikes” describes the basic rule in place, YouTube’s policy allows us to take account of circumstances in determining which of our users are actually “repeat infringers” whose accounts should be terminated. For example, where a user formally contests a claim of infringement using the counter-notice process set forth in Section 512(g) of the DMCA, that claim is not counted as a strike against the user. Further, from experience, YouTube has learned that some of its users are unfamiliar with copyright law, and are surprised when a content owner takes issue with a video they have uploaded. To help educate these users and to give them an opportunity to correct their behavior before suffering the loss of their account, YouTube assesses a single strike per notice, including in circumstances where a DMCA notice identifies more than one allegedly infringing video from the same user. After receiving notice and an explanation that a strike has been assessed, users routinely inform us that they have modified their behavior.

29. YouTube has also found it necessary on occasion to afford additional protections to users who are potential targets of improper or mistaken DMCA notices. For example, in the midst of the 2008 presidential race, we received a letter from Senator McCain’s campaign (a copy of which is attached as Exhibit 13) complaining about a rash of improper DMCA notices:

By providing a platform for political candidates and the American public to post, view, share, discuss, comment on, mash-up, re-mix, and argue over campaign-related videos, YouTube has played a prominent and overwhelmingly positive role in the 2008 election.

* * *

We write, however, to alert you to a problem that has already chilled this free and uninhibited discourse . . . overreaching copyright claims have resulted in the removal of non-infringing campaign videos from YouTube, thus silencing political speech. Numerous times during the course of the campaign, our advertisements or web videos have been the subject of DMCA takedown notices regarding uses that are clearly privileged under the fair use doctrine. . . . Despite the complete lack of merit in these copyright

claims, YouTube has removed our videos immediately upon receipt of takedown notices. This is both unfortunate and unnecessary.

Then-Senator Obama's presidential campaign had equally serious issues. In late June 2008, plaintiff Viacom sent YouTube a DMCA notice averring under penalty of perjury that a video the Obama campaign had uploaded entitled "Barack Obama's Speech on Father's Day" (<http://www.youtube.com/watch?v=Hj1hCDjwG6M>) violated its copyrights. Viacom's notice resulted in a "third strike" for the Obama campaign's account, causing its automatic termination (Viacom did not withdraw its erroneous copyright claim regarding the speech for more than two weeks). To ensure that both Senators McCain and Obama were able to continue communicating their messages to the electorate, we made special accommodations for them under our policy, and have done so for others in limited cases where circumstances have warranted.

30. When a user's account is terminated for violation of YouTube's repeat infringer policy, there are several ramifications. First, the account can no longer be used for any purpose on the service – among other things the user cannot upload additional videos, view age-restricted videos, post comments or participate in any YouTube programs. [REDACTED]

[REDACTED] Second, YouTube takes down *all* videos uploaded to the site from the terminated account – including videos that were not subject to any DMCA notice – along with all of the comments, ratings and view count totals associated with those videos. YouTube takes this protective step even though it results in the removal of large volumes of videos that the user may have had every right to upload and against which no allegation of copyright infringement has been or could be made. [REDACTED]

[REDACTED]

31. YouTube regularly enforces its repeat infringer policy. We have terminated more than 400,000 user accounts based at least in part for copyright strikes assessed under our repeat infringer policy. That figure, however, represents only a tiny fraction of YouTube's user base. Since its inception, there have been over 250,000,000 accounts registered on the YouTube service.

Praise from Copyright Holders

32. Throughout my tenure with YouTube, the company has received praise from content owners for its efforts to restrict and address copyright infringement by its users. Notable for example, were sentiments expressed by a representative of the Motion Picture Association of America, the trade and anti-piracy organization for the major Hollywood studios (including plaintiff Paramount). In March 2006, a representative of the MPAA, was quoted in the *Hollywood Reporter*, a prominent entertainment industry publication, as saying: "YouTube has been a good corporate citizen and taken off copyrighted material." A true and correct copy of the article in which the statement appeared is attached as Exhibit 14. Coming from the MPAA, the statement received considerable attention at YouTube and indicated to me that our company's copyright enforcement efforts generally met with the approval of leading content owners.

33. That view was repeatedly confirmed for me over time. In a June 2006 announcement of an agreement with NBC Universal in which it partnered with YouTube to provide content to be shown on the site, the president of NBC's entertainment division described YouTube as:

[T]he perfect online media partner to promote NBC's marquee entertainment to their audience and explore new and creative ways to harness the power of viral video in a manner that respects copyrights. We applaud YouTube for their continued willingness to work with us to remove any unauthorized NBC content and protect our copyrighted material. We are thrilled to be partnering with this forward-thinking company.

A true and correct copy of that announcement is attached as Exhibit 15. The same NBC executive also told the Wall Street Journal: "YouTube has done their work on protecting copyright and we have assurances that they will continue to do so. They are a bright light" A true and correct copy of that article from June 2006 is attached hereto as Exhibit 16. In announcing our September

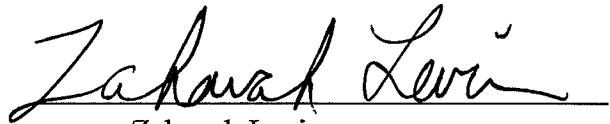
2006 agreement with the Warner Music Group to license its extensive music catalog, Warner's

Executive Vice-President commented:

We commend [CEO] Chad [Hurley] and the YouTube team for their commitment to creating a framework in which the needs of their users and rights of copyright holders can coexist in a mutually beneficial environment. We look forward to partnering with them to offer this powerful distribution platform to our artists and their fans.

That announcement is attached as Exhibit 17. Comments such as these from some of the largest content owners in the world merely confirmed my conviction that YouTube's overall approach to copyright issues has been and remains suitably protective of copyright interests.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. Executed the ___ day of March 2010, at San Bruno, California.


Zahavah Levine

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., ET AL.,

Plaintiffs,

v.

YOUTUBE, INC., ET AL.,

Defendants.

) ECF Case

) Civil No. 07-CV-2103 (LLS)

THE FOOTBALL ASSOCIATION
PREMIER LEAGUE LIMITED, ET AL.,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

YOUTUBE, INC., ET AL.,

Defendants.

) ECF Case

) Civil No. 07-CV-3582 (LLS)

**DECLARATION OF CHRISTOPHER MAXCY IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

CHRISTOPHER MAXCY, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am the Director of Partner Development at YouTube, Inc., where I have been employed since December 2005. I have held this position since October 2006. From December 2005 until October 2006, I held the position of Vice President of Business Development. Throughout my employment with YouTube, my responsibilities have included pursuing and negotiating contractual agreements with prominent copyright holders to license their content to appear on YouTube.

2. During my tenure at YouTube, I watched the site become enormously popular in a very short period of time. As YouTube's popularity grew, content owners increasingly began to express interest in partnering with YouTube to make their content available through the YouTube service. In late 2005 and early 2006, YouTube was inundated with requests from a wide variety of companies for

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partnership agreements. But at that time YouTube was still a small and relatively new company with only ten employees, and we did not have the capacity to negotiate deals with all of these companies as quickly as the requests came in.

3. Instead of simply waiting for YouTube to be able to negotiate a formal partnership agreement, many of those companies told us that they were already uploading content to YouTube to remain on the site. They frequently cited the tremendous promotional benefits of YouTube in expressing their interest in the service. We heard this refrain from dozens of companies, including Nike, Chevrolet, EA, Panasonic and Proctor & Gamble and major music and media companies, like NBC, BSKyB, E! Entertainment, HBO, Universal Music Group, the Weinstein Company, Sony Pictures, VH-1, Capitol Records, Palm Pictures, Atom Films, Disney, Fox and Viacom.

4. For example, I specifically recall conversations with Vince Mancini and Jonathan Miller at NBC who told me NBC was having its interns upload clips of their content to YouTube for promotional purposes.

5. In another example, Universal Music Group uploaded a video of the song "The Saints are Coming" by U2 and Greenday under the username vidsquare because they wanted the video to appear like it was an "unofficial" video that was uploaded by a regular user.

6. On several occasions, I actually had to introduce people from a company's marketing department to people in the same companies' legal department, because the legal department would ask YouTube to take down videos that their own marketing departments had uploaded. I recall this happening with Matador Records, Sony Pictures, Universal Music Group, and Warner Music Group, among others.

7. In one instance, Sony Pictures contacted YouTube to request that we take down an unauthorized trailer for Rocky 6, indicating that they were

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considering bringing a lawsuit against the user who had uploaded the clip. At Sony Pictures' request, we took the Rocky 6 trailer down. Later, Sony Pictures contacted YouTube to inform us that the video was authorized; it was Sylvester Stallone himself who had uploaded the Rocky 6 trailer to YouTube.

8. Even Viacom, in early 2006, reached out to YouTube to propose entering into a partnership agreement. Viacom's Paramount subsidiary was particularly interested in a partnership wherein Paramount would upload clips from its back catalog of films to YouTube. Attached here to as Exhibit 1 is an email from Kevin Donohue to me regarding his discussions with Paramount. For months prior to Google's acquisition of YouTube in October 2006, YouTube and Viacom discussed the terms of a potential deal. After the acquisition, Viacom continued to discuss a partnership agreement with both Google and YouTube.

9. Between 2006 and 2009, to complement the array of user-generated and uploaded content on the site, YouTube entered into hundreds of agreements with the world's most prominent copyright holders, including major film studios, television networks, record labels and sports organizations. For example, YouTube has entered into partnerships with all four of the major record labels and their major publisher affiliates (Universal Music Group, Warner Music Group, Sony BMG Music Entertainment, and EMI Group), as well as hundreds of indie labels and publishers. YouTube has also entered into content partnerships with movie and television studios, such as CBS, NBC/Universal, BBC, MGM Worldwide Digital Media, Sony Pictures Television, Inc. and Lions Gate Entertainment. And YouTube has content agreements with sports organizations, such as the NBA, NHL, ATP Tour, Inc., United States Tennis Association, Professional Bull Riders, Inc. and World Wrestling Entertainment, Inc.

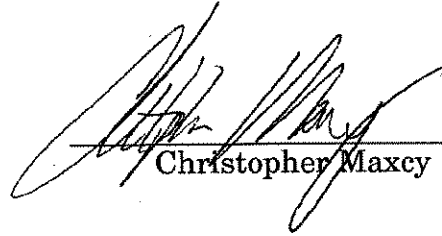
10. Under the terms of YouTube's partnership agreements, content partners can upload their videos directly to the service, or provide videos to

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YouTube for uploading, and can also “claim” as their own videos that ordinary YouTube users have posted. YouTube displays advertisements on web pages where users watch the uploaded or claimed videos (“Partner Watch Pages”), and shares the advertising revenue with the relevant content partner. Collectively, these content partnerships resulted in over 23 billion views of partner videos in 2007 – 2009.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: San Bruno, California
February 28, 2010



Christopher Maxcy

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., ET AL.,	)	ECF Case
)	
Plaintiffs,	)	Civil No. 07-CV-2103 (LLS)
v.)	
	)	DECLARATION OF
YOUTUBE, INC., ET AL.,	)	DANIEL OSTROW
)	
Defendants.)	
)	
)	
)	
)	
THE FOOTBALL ASSOCIATION)	
PREMIER LEAGUE LIMITED, ET AL., on)	
behalf of themselves and all others similarly	)	ECF Case
situated,)	
	)	Civil No. 07-CV-3582 (LLS)
Plaintiffs,)	
v.)	
)	
YOUTUBE, INC., ET AL.,)	
)	
Defendants.)	
)	

I, Daniel Ostrow, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the owner of a marketing company called Total Assault, LLC (“Total Assault”) based in Los Angeles, California. Total Assault works on behalf of numerous major record labels, movie studios and television networks to promote their content. Clients of Total Assault include Universal Home Video, Warner Brothers Records, Atlantic Records Group, MTV Networks, ParamountVantage, Sony Pictures Home Entertainment and Lionsgate Home Entertainment. I am over the age of 18 and have personal knowledge of the matters set forth in this declaration. If called as a witness, I could and would testify competently to the matters stated herein.

2. In the course of performing marketing services on behalf of our clients, Total Assault created a YouTube account with the username “BrienTA.” The materials

Total Assault employees uploaded to that account were provided by our media company clients and were authorized by them to appear on the YouTube service.

3. Specifically, Total Assault employees uploaded video clips appearing at the following URLs to the YouTube service to promote the music of Warner Brothers Records artist Jamie Kennedy:

Title	URL
Blowin Up - Episode 1, Act 1	http://www.youtube.com/watch?v=k6CSyIS5528
Blowin Up - Episode 1, Act 2	http://www.youtube.com/watch?v=lirJJiViWsE
Blowin Up - Episode 1, Act 3	http://www.youtube.com/watch?v=UXmn2TS_ALQ
Blowin Up - Episode 2, Act 1	http://www.youtube.com/watch?v=WLZfSH3j_Zg
Blowin Up - Episode 2, Act 2	http://www.youtube.com/watch?v=oQUgal6CFSI
Blowin Up - Episode 2, Act 3	http://www.youtube.com/watch?v=i55f6qUSq4A
Blowin Up - Episode 3, Act 1	http://www.youtube.com/watch?v=N7Q-vFtW8Lk
Blowin Up - Episode 3, Act 1 (sic)	http://www.youtube.com/watch?v=88XvlfKnGwI
Blowin Up - Episode 3, Act 3	http://www.youtube.com/watch?v=5tvtdQVpq_o
Blowin Up - Episode 4, Act 1	http://www.youtube.com/watch?v=Ux6aFYuTYNY
Blowin Up - Episode 4, Act 2	http://www.youtube.com/watch?v=pIGQYawzv9c
Blowin Up - Episode 4, Act 3	http://www.youtube.com/watch?v=K4sS0wA_-lA

4. The video clips residing at the URLs referenced in paragraph three were provided to Total Assault by employees at Warner Brothers Records via an FTP website. Warner Brothers Records provided Total Assault with those clips so that it could promote the music of Jamie Kennedy. Those videos clips contain four entire episodes of the MTV television program “Jamie Kennedy’s Blowin’ Up” split up into three segments each without any commercials. It is my belief that the video clips

referenced in paragraph three of this declaration were authorized by MTV Networks to appear on YouTube and that Total Assault had full rights to distribute them.

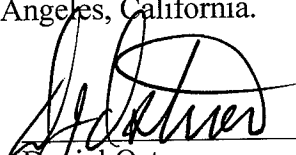
5. Total Assault performed marketing work directly on behalf of MTV Networks. At the direction of MTV Networks, Total Assault uploaded clips from the MTV programs "Cheyenne" and "Two-A-Days" to YouTube using the "BrienTA" YouTube account.

6. The practice by viral marketers of using YouTube to promote music, television programs and motion pictures is widespread. Total Assault has uploaded hundreds of videos to the YouTube service to promote our clients' content. Total Assault has used, among others, the following YouTube usernames when uploading materials to the YouTube service on behalf of our clients: armyofanyonemusic, atreyuvideos, BrienTA, jaredisburning, jredmoney, juniorejects, TAvideos, totalassault and totalken.

7. On July 28, 2009, I produced documents pursuant to a subpoena issued by YouTube in this case. Those documents were original copies of emails from my electronic files that were sent and received by me in the ordinary course of my regularly-conducted marketing activities. It was and is my regular practice to store email communications during the course of a marketing campaign to document and record the business activities of Total Assault.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 8 day of August, 2009 in Los Angeles, California.


Daniel Ostrow

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

VIACOM INT'L INC., ET AL.,
Plaintiffs,
v.
YOUTUBE, INC., ET AL.,
Defendants

ECF Case
Civil No. 07-CV-2103 (LLS)

THE FOOTBALL ASSOCIATION
PREMIER LEAGUE LIMITED, ET AL.,
on behalf of themselves and all others
similarly situated,
Plaintiffs,
v.
YOUTUBE, INC., ET AL.,
Defendants.

ECF Case
Civil No. 07-CV-3582 (LLS)

**DECLARATION OF SUZANNE REIDER IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

I, SUZANNE REIDER, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I work at Google Inc. as the Director of Sales for YouTube. I have been employed by Google since Google's acquisition of YouTube in November 2006. Prior to that, I served as the Chief Marketing Officer for YouTube. Before starting work at YouTube in September 2006, I worked at CNET, where I was the Senior Vice President and General Manager of the Entertainment Group. Through my positions at both CNET and Google, I have gained extensive professional experience in the field of Internet advertising and digital media.

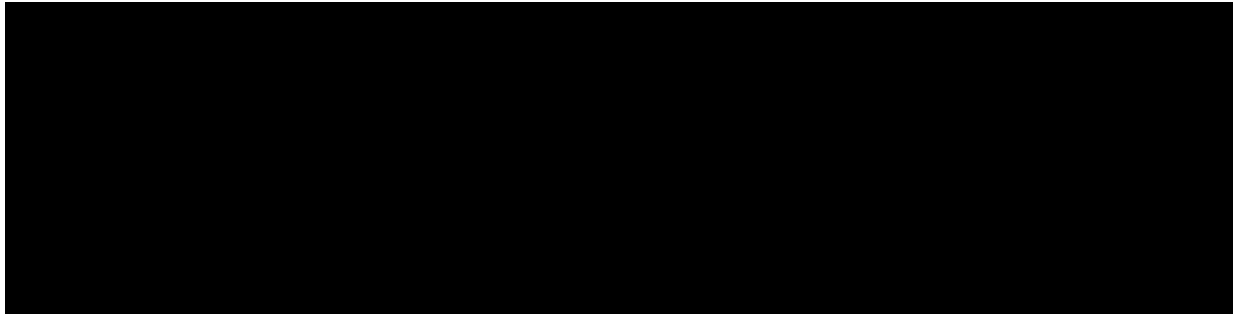
2. My job responsibilities at YouTube/Google have focused primarily on leading YouTube's advertising-sales efforts. I supervise a team of sales representatives whose job is to sell advertising and marketing programs on YouTube to a host of different advertisers, including some of the largest and most

well-known companies in America. In order to do that, I have to be familiar with the kinds of advertising opportunities that are available on YouTube, including where on the YouTube website advertising is allowed to appear and the types of advertisements that are allowed to appear on different types of pages.

3. YouTube's precise advertising opportunities have changed somewhat over the years to keep pace with the dynamic nature of Internet advertising. In general, however, there have been three primary advertising products that YouTube has made available to advertisers during my time at the company. *First*, we sell an advertisement on the YouTube homepage (www.youtube.com), which we call the "homepage ad." This ad, which can take several different creative forms, is sold to a single advertiser for a 24-hour period. *Second*, YouTube allows advertisers to purchase advertising on the pages of the YouTube website where the results of users' search queries are displayed. We refer to these pages as "search-results pages." *Third*, YouTube allows advertising to be displayed on pages where users can watch videos that have been uploaded or affirmatively claimed by one of YouTube's many "content partners" (content owners who have entered into written agreements with YouTube beyond the terms of service to allow their content to appear on YouTube and have advertising displayed against it). We call these pages "partner-watch pages."

4. Thousands of companies have purchased advertising space on YouTube during my time at the company, including most of the "Ad Age Top 100," a widely used industry list of the nation's top 100 advertisers. In 2009, over three-quarters of the Ad Age Top 50 advertised on YouTube. Those advertisers include some of the world's largest and best-known brands: Procter & Gamble, General Electric, PepsiCo., American Express, Bank of America, Kraft Foods, and Sears, just to name a few. In addition, large media companies and other prominent content owners—including Time Warner, Disney, News Corp., Lions Gate Entertainment, CBS (in

particular, for its coverage of the NCAA Final Four tournament), and the NBA—also have invested in advertising space on YouTube. Viacom itself has advertised on YouTube. Between 2006 and 2008, Viacom spent well over a million dollars purchasing advertising space on the YouTube website, including on the YouTube homepage and search-results pages.



6. For some of YouTube's advertising products, such as the homepage ad, YouTube charges advertisers a flat rate for their ad to appear for a certain amount of time. That means that the price that an advertiser pays to run a homepage ad does not vary based on how many users view or interact with that advertisement while it is displayed.

7. The pricing mechanism for other kinds of advertising is much more complicated. For some types of ads, the advertiser pays a fixed amount each time a user "clicks" on the advertisement itself. These type of ads are called "CPC" ads (or "cost per click"). Typically, clicking on a CPC ad takes the user to another webpage (whether on the YouTube website or on some other website) that provides further information about the advertiser's product or business. Closely related to a CPC ad is a "CPV" (or "cost per view") ad, where the advertisement takes the form of a video, and the advertiser pays a fixed amount each time a user clicks on and views the video-ad. For other types of ads, the advertiser pays a fixed amount for every 1000 "impressions" that are shown of the ad. An "impression" is a technical term in the Internet advertising industry, but it basically refers to the advertisement being displayed on a user's computer screen. These impression-based ads are called

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“CPM” ads (or “cost per mille [1000 impressions]”). “CPC,” “CPV,” and “CPM” are generic terms used in Internet advertising since long before YouTube was founded, and CPC, CPV, and CPM ads are standard types of Internet ads that run on countless websites, large and small.

8. At various times, CPC, CPV, and CPM ads have all appeared on YouTube search-result pages. Today, the majority of the advertising that appears on search-results pages are CPV video-ads uploaded to YouTube by advertisers. Such ads have gone by various names, but today we call them “promoted videos.”

9. As for the advertising that appears on partner-watch pages, such advertising will only appear when YouTube has entered into a written agreement with a content partner, and the content partner has affirmatively indicated that it wants advertisements to run in conjunction with videos that the partner has posted or claimed. YouTube is frequently introducing new advertising concepts on partner-watch pages, working in close collaboration with content partners and advertisers. As one of many such examples, last year, at the request of a content partner (Universal Music Group), American Express sponsored the live-streaming on YouTube of a concert that Alicia Keys gave to benefit her AIDS foundation.

10. There was a period prior to January 2007 when YouTube allowed ads be displayed on video-watch pages more broadly. But we had no reason to believe that any given watch page where an advertisement might have appeared was displaying a video that was not properly authorized to be on YouTube. During that period, moreover, YouTube would have received the same rates for watch-page ads regardless of what videos those ads appeared next to.

11. None of YouTube’s advertising offerings in any way favors videos that may not have been properly authorized to appear on YouTube over authorized videos. YouTube does not seek to earn advertising revenue from any potentially infringing activities.

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FILED UNDER SEAL**

12. From my professional experience, I am familiar with the kinds of advertising options offered by competing video websites (such as Daily Motion, Vimeo, Veoh, and Atom), other websites that are focused on user-submitted content (such as MySpace and Facebook), and video-ad networks (such as Tremor and VideoEgg) that aggregate for advertising purposes video inventory running on thousands of websites that host video. The kinds of advertising that YouTube allows to appear (including CPC and CPM ads, as well as in-video ads and overlays) are similar to the advertising that these websites and networks make available to advertisers and allow to be displayed on their platforms. YouTube's advertising offerings are consistent with prevailing industry standards.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: San Bruno, California
March 1, 2010



Suzanne Reider

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIACOM INT'L INC., ET AL.,

Plaintiffs,
v.

YOUTUBE, INC., ET AL.,

Defendants

ECF Case
Civil No. 07-CV-2103 (LLS)

THE FOOTBALL ASSOCIATION
PREMIER LEAGUE LIMITED, ET AL.,
on behalf of themselves and all others
similarly situated,

Plaintiffs,
v.

YOUTUBE, INC., ET AL.,

Defendants.

ECF Case
Civil No. 07-CV-3582 (LLS)

DECLARATION OF MICAH SCHAFFER IN SUPPORT OF DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT

I, Micah Schaffer, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a former employee of YouTube, Inc. ("YouTube"). While employed at YouTube, I held the following titles: Director of Community Development; Community Advocate; Associate Principal of YouTube Operations; Senior Specialist, Consumer Operations; and Policy Analyst. I worked at YouTube as a full-time employee from January 3, 2006 until July 7, 2009. My job duties varied when I first started at the company given its small size at that time. Eventually, my job responsibilities focused on YouTube's handling of inappropriate content on the website, copyright and DMCA compliance, and issues related to user behavior and

interactions. I worked in and helped set the policies for YouTube's Safety, Quality, and User Advocacy ("SQUAD") department. I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would testify competently to them.

2. Almost immediately upon starting work at YouTube, I became aware of companies using YouTube for marketing purposes. For example, in January 2006, I viewed a clip on YouTube that Nike had uploaded for promotional purposes to the account "Nikesoccer" featuring the soccer player Ronaldinho. I discussed this clip with other employees at YouTube, including the founders, and there was a general awareness at the company that this type of corporate marketing was taking place on YouTube. Indeed, at one point in its history, the Nike Ronaldinho clip was the most-watched video on YouTube. I learned later that Nike had also uploaded the exact same clip to YouTube using the account "JoeB" to make it appear as if that version of the clip had been uploaded to YouTube by an ordinary user unaffiliated with Nike. *See* <http://www.youtube.com/watch?v=KNwLn85I75Y>. I also learned from press accounts in the fall of 2006 that Nike acknowledged that the company posts videos to websites like YouTube using usernames unconnected with the company to appeal to younger audiences.

3. During my employment at YouTube, I experienced many instances in which YouTube became aware of the presence of content on the service that looked like it was professionally produced, but did not know whether the rights holder had uploaded that content or was allowing that content to remain on YouTube for promotional reasons. The appearance on YouTube of a short, satirical music video called "Lazy Sunday" in December 2005 and early 2006 illustrates this point. I had intimate knowledge of the "Lazy Sunday" video because I was responsible for the website of the comedy group, The Lonely Island, whose members created it. I knew

that the video had aired on NBC's Saturday Night Live, but when I first saw it on YouTube, on December 18, 2005, I did not know whether NBC was allowing user-uploaded versions of Lazy Sunday to remain on YouTube for promotional purposes. Based on my involvement with The Lonely Island and conversations with a member there, I believed that the writers and producers of Saturday Night Live thought that the presence of "Lazy Sunday" on Internet video websites like YouTube was providing marketing benefits for the show.

4. When I started at YouTube, I learned from Chad Hurley that he had contacted NBC in late December 2005 and asked whether NBC had authorized the posting of "Lazy Sunday" to YouTube or whether it was otherwise allowing that video to appear on YouTube. During the entire month of January 2006, the "Lazy Sunday" video remained accessible through YouTube and was watched millions of times as we waited for NBC's response. Ultimately an NBC representative thanked YouTube for reaching out and asked YouTube to remove Lazy Sunday from the website. Other YouTube employees and I then searched for versions of "Lazy Sunday" on YouTube and removed all of the ones we could find. We informed our users about this development in a blog post and directed them to visit NBC's website if they wanted to view the "Lazy Sunday" clip: "NBC recently contacted YouTube and asked us to remove Saturday Night Live's 'Lazy Sunday: Chronicles of Narnia' video. We know how popular that video is but YouTube respects the rights of copyright holders. You can still watch SNL's 'Lazy Sunday' video for free on NBC's website." A true and correct copy of an internal email message reflecting that blog post is attached hereto as Exhibit 1.

5. In addition to Nike's marketing and the ambiguity surrounding the appearance of Lazy Sunday on YouTube, I learned in early 2006 that various musicians, movie studios and television producers were also using YouTube to

promote their content. For example, music groups like Pretty Girls Make Graves, Early Man, Anti-Flag, Taking Back Sunday, OK Go and Hard-Fi were uploading videos to promote their music and build “buzz” about their bands. Television programmers like MTV2, VH-1 and BSKyB were also uploading materials to YouTube in early 2006 along with movie studios like Dimension Films and Paramount Classics (owned by Viacom).

6. Given my extensive experience reviewing videos on the YouTube website during the course of my employment, it was and is my belief that these instances where YouTube learned about promotional uses by major media companies were only the tip of the iceberg of the overall marketing taking place on YouTube. In many cases, I strongly suspected that content that appeared to be professionally produced had in fact been uploaded by the rights holder or with the rights holder’s permission for marketing purposes. In other cases, I believed that major content owners were acquiescing to their content appearing on YouTube because of the promotional benefit that those clips provided. That belief was informed, in part, by the routine practice of major media companies selectively removing some of their content from YouTube, while apparently letting other content remain active.

7. While I was aware of specific promotional uses of YouTube by the media companies and music groups listed above, my primary job responsibility in early 2006 was to deal with inappropriate material appearing on the service, including material that was alleged to infringe copyright. In the course of handling DMCA take-down requests from rights holders and DMCA counter-notifications from users, I regularly encountered situations where marketing departments or marketing agencies would upload content to YouTube on behalf of content owners and then representatives from the legal departments of those content owners mistakenly would request the removal of that very content. For example, Viacom-owned Paramount Classics uploaded a

trailer to YouTube to promote the movie "An Inconvenient Truth" in April 2006. *See* <http://www.youtube.com/watch?v=TUip6dqPynE>. Viacom then issued a take-down notice under the DMCA for that clip in May 2006 claiming it was a copyright infringement, and YouTube removed the clip. Paramount Classics then reached out to YouTube to tell us that the clip was authorized and that the clip should not have been removed. YouTube then reinstated the video. In February 2007, Viacom again sent YouTube another DMCA notice alleging that the Inconvenient Truth trailer that its employee had uploaded to YouTube was infringing. YouTube again removed the video and it remains inaccessible to this day.

8. In another example, CBS sent YouTube a DMCA take-down notice asking us to remove certain videos featuring Katie Couric. We did so promptly and CBS then retracted its DMCA notice. The videos, which were uploaded to the YouTube account "TXCANY," had in fact been uploaded to YouTube by a marketing agency working on behalf of CBS called Electric Artists.

9. This pattern of self-inflicted infringement claims repeated itself often and was well known to the YouTube employees working in the SQUAD department. If lawyers from major media companies were making mistakes about the allegedly infringing status of clips on YouTube despite their superior knowledge of the content at issue and the corporate policies of their clients, it seemed inconceivable to us that YouTube employees could make reliable determinations about the authorization status of clips on YouTube merely because they appeared to be professionally produced.

10. During my time working at YouTube, we took seriously the concerns of copyright holders who believed that their content was appearing on YouTube without authorization. We promptly removed as a matter of course video clips that were identified in valid DMCA take-down notices. When we thought that DMCA notices

were defective in some way, we had a policy of sending follow-up messages to the complaining party to elicit further information to enable us to find and remove the offending content.

11. While YouTube did not ever manually screen all of the videos uploaded by its users during my time at the company, in 2006, we sometimes spot checked videos after they had been uploaded and removed content on behalf of companies such as the Cartoon Network, NBC, Fox Television, World Wrestling Entertainment, Lucasfilm and the Recording Industry Association of America (“RIAA”). These reviews ordinarily took place in consultation with those companies and were usually targeted to particular programs or music groups based on our communications with the rights holders.

12. We conducted this spot checking because we had every interest in working with rights owners and no interest in hosting unauthorized content. However, proactive review was problematic for several reasons. First, it did not scale given the increasingly large number of videos being uploaded to YouTube at the time. Second, we quickly learned that proactive removal of content was not very effective. We sometimes removed content that was not, in fact, owned by the media companies on whose behalf we were conducting proactive monitoring.

13. Our proactive review and removal of content related to American Idol stands out as having led to a number of false positives. We then faced complaints from upset users whose content had been removed without cause. On another occasion in August 2006, YouTube received a DMCA take-down notice from Lucasfilm that contained a request to remove a specific video along with a vaguely-worded statement asking YouTube generally to remove content related to Star Wars movies. In response, we engaged in the proactive review and removal of 1029 videos. We then heard back from Lucasfilm that some of the content we removed had been authorized,

as the company generally permits its fans to “remix” and create mash-ups of its content. Lucasfilm asked that we restore all of the videos that we had proactively removed on its behalf and tell our users that the removals had taken place based on a “misunderstanding” instead of because of Lucasfilms’ take-down notice. We complied with that request. Attached hereto as Exhibits 2, 3 are true and correct copies of email messages between representatives from Lucasfilm and me reflecting this incident. These experiences taught us that the rights holders themselves were in a much better position to make determinations about the authorization status of videos appearing on YouTube, and we strived to offer them tools that would assist them in doing so.

14. On Friday, February 2, 2007, Viacom sent YouTube a mass DMCA take-down notice identifying approximately 100,000 clips that it wanted removed from YouTube. In response, YouTube engineers wrote and deployed a custom computer program to disable the identified videos from our website and worked through the weekend to ensure that it ran effectively. By the end of the next day, a Saturday, YouTube had, with immaterial exceptions, removed all of the clips that Viacom had identified in its mass take-down notice.

15. The fall-out from Viacom’s mass take-down further enforced what we had already come to recognize: widespread promotional marketing on YouTube by major media companies severely complicated any effort to make authorization determinations regarding YouTube videos based on a brief review of them. Viacom, for its part, identified many of its own authorized marketing videos as “infringing” in the mass take-down. SpikeTV (a Viacom subsidiary) reported to YouTube that its account had been suspended because of Viacom’s mistakes. Steve Farrell of SpikeTV wrote to YouTube on February 4, 2007: “I know you’re removing Viacom material, but you’ve suspended our account mistakenly. We entered into an agreement last

year with YouTube for an official Spike channel. All of those clips were legal.

Exclusion of the clips hosted within our Directors Channel should have been part of the cease and desist order from Viacom. Please reinstate the account immediately.”

A true and correct copy of Mr. Farrell’s message to YouTube and a follow-up conversation between Heather Gillette, who was the head of SQUAD at the time, and me is attached hereto as Exhibit 4.

16. In the mass take-down, Viacom also misidentified as infringing numerous authorized videos that had been uploaded by its own marketing agent, WiredSet, resulting in the suspension of WiredSet’s YouTube account. Paramount Pictures’ official YouTube account, Paraccount, received two copyright strikes as a result of mistakes in Viacom’s mass take-down and then YouTube suspended the account in early March 2006 when Viacom sent a third erroneous DMCA notice regarding content uploaded by its own employees. Viacom also issued erroneous take-down notices for the following YouTube accounts that it owned or controlled: (1) MTV2’s official account “MTV2”; and (2) VH1’s “bestweekevertv.”


17. Authorized videos not even owned by Viacom were also caught up in Viacom’s mass take-down. The record label for the band Panic! At The Disco reached out to YouTube to express its serious concern that Viacom had caused the band’s music videos wrongfully to be removed from YouTube. A true and correct copy of an email thread reflecting this exchange is attached hereto as Exhibit 5. SonyBMG complained to YouTube that its artists’ accounts had been suspended based on Viacom’s mistakes: “This makes no sense given the fact that it was cleared footage To say that the label is concerned is a huge understatement! Can you help me reestablish their access as quickly as possible?” A true and correct copy of an email message from SonyBMG containing this statement is attached hereto as Exhibit 6.

The Warner Music Group likewise complained that one of its authorized accounts had been suspended based on videos misidentified in Viacom's mass take-down and said that they were "certainly frustrated by this blatant abuse of the DMCA takedown statute." A true and correct copy of an email message from the Warner Music Group containing this statement is attached hereto as Exhibit 7.

18. Other famous YouTube users who had their accounts suspended based on erroneous identifications in Viacom's mass take-down include: (1) the musician Sean "P. Diddy" Combs; (2) the non-profit organization PETA; and (3) the musician Nelly Furtado. Viacom also misidentified as infringing videos associated with the accounts of other well known musicians such as Kid Rock, Paula DeAnda and Toby Keith. Viacom often retracted these erroneous DMCA notices when they were brought to the attention of its monitoring agent, BayTSP.

19. We happened to learn about these instances of Viacom's erroneous take-down requests and account terminations because they involved high-profile users who had the ability and incentive to reach out to YouTube and try to rectify Viacom's mistakes. We also received numerous DMCA counter-notices from ordinary users whose videos were wrongfully identified by Viacom as infringing in the mass take-down. Beyond these cases where we learned explicitly of Viacom's errors in the mass take-down, I believe that Viacom made many other mistakes given that many users lacked the sophistication, know-how or energy to try to challenge Viacom's claims.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed the 2nd day of March 2010, at San Francisco, California.



Micah Schaffer

To: "Heather Gillette" <hgillette@google.com>
From: "micahs@google.com" <micahs@google.com>
Cc:
Bcc:
Received Date: 2007-02-05 02:35:24 GMT
Subject: Re: Please put SpikeTV back up

We're not just restoring anything. Tomorrow morning we'll go through all the retractions and restore those and email the users. Then whatever is left we will email the users to submit counter notices... We should also keep track of the partners who were effected to make sure that they are reached out to, etc. These guys, MadTV, others..

M

On 2/4/07, Heather Gillette <hgillette@google.com> wrote:
> Are we just restoring these or do they have to go through the counter
> process? this is obviously another false positive.
>
> Wow, they have really screwed up. It's incredible.
>
> Heather
>
> ----- Forwarded message -----
> From: Farrell, Steve <Steve.Farrell@spiketv.com>
> Date: Feb 4, 2007 5:41 AM
> Subject: Please put SpikeTV back up
> To: copyright@youtube.com, heather@youtube.com
>
>
>
>
> I know you're removing Viacom material, but you've suspended our
> account mistakenly. We entered into an agreement last year with
> YouTube for an official Spike channel. All of those clips were legal.
> Exclusion of the clips hosted within our Directors Channel should
> have been part of the cease and desist order from Viacom. Please
> reinstate the account immediately.
>
> Steve Farrell
> VP of Digital Media
> Spike
>
