

## A-401

71

1 GILLETTE

2 12:03:53 Q If NBC had contacted you directly and said,

3 12:03:58 "Please put the material back up," would you have done

4 12:04:01 that?

5 12:04:03 A Yes, we would have.

6 12:04:08 Q But you don't recall them doing that?

7 12:04:09 A I don't recall whether we did or we did not.

8 12:04:11 Q Just to be clear, you mentioned a movie where

9 12:04:23 someone had a shadow in front of them, and what was

10 12:04:26 that movie?

11 12:04:27 A I don't recall.

12 12:04:27 Q Do you know who -- who the content owner of

13 12:04:32 that movie was?

14 12:04:33 A I don't recall. I'm sorry.

15 12:04:35 Q It's okay.

16 12:04:36 Do you remember whether YouTube, in fact,

17 12:04:40 proactively scanned for and removed that movie from

18 12:04:44 its website?

19 12:04:44 MR. SHAPIRO: Objection; compound.

20 12:04:46 MR. BROWNE: Let me break it down.

21 12:04:48 Q Do you remember whether YouTube proactively

22 12:04:50 scanned for that movie?

23 12:04:55 A I believe we did. I could be wrong. I

24 12:04:59 believe we did.

25 12:05:00 Q Do you know whether YouTube proactively

1 GILLETTE

2 12:05:02 removed that movie from a -- a website?

3 12:05:07 A Again, I -- I believe -- I believe we did as

4 12:05:10 part of the scanning, yes.

5 12:05:11 Q And did there come a time when you learned

6 12:05:20 that the content owner for that movie actually wanted

7 12:05:23 that material up on its website?

8 12:05:26 A Yes, sorry, I did.

9 12:05:26 Q And how did you -- how did you learn that?

10 12:05:37 A They could have come directly to me. I may

11 12:05:42 have been told from another person within the company,

12 12:05:48 you know. These larger media companies were -- were

13 12:05:57 definitely communicating with many others within

14 12:05:59 our -- within YouTube. So it may have come to me

15 12:06:02 through someone else or directly.

16 12:06:05 Q Excuse me.

17 12:06:06 But is it your understanding that the content

18 12:06:08 owner for this movie we're talking about was a large

19 12:06:10 media company?

20 12:06:11 A That is my recollection, yes.

21 12:06:12 Q But -- but you don't remember which company?

22 12:06:14 A I don't. This -- frequency of these types of

23 12:06:19 incidents were daily.

24 12:06:21 Q Were you proactively scanning -- scanning for

25 12:06:29 potentially unauthorized copyrighted material on a

1 GILLETTE

2 12:06:32 daily basis?

3 12:06:34 MR. SHAPIRO: Objection; time frame.

4 12:06:36 THE WITNESS: Yeah.

5 12:06:36 MR. BROWNE: Q. During any time frame?

6 12:06:40 A Yes. As I stated earlier, we did do

7 12:06:43 proactive scanning at various stages, yes.

8 12:06:46 Q And you did that on a daily basis?

9 12:06:48 A Not necessarily, no. I'm not quite sure.

10 12:06:52 Are you asking me if we did consecutive days?

11 12:06:56 Q I'm just asking you basically if every day,

12 12:06:59 was there any point in time that every day YouTube

13 12:07:03 would proactively scan for potentially unauthorized

14 12:07:06 material on its website?

15 12:07:09 A There were definitely days where people

16 12:07:12 were -- were tasked with that. Whether they were able

17 12:07:15 to get to that or not in that day, that was not always

18 12:07:19 the case, but -- but yes, there -- yes, that -- they

19 12:07:24 were tasked with it.

20 12:07:25 Q And during what time frame were they tasked

21 12:07:27 with that?

22 12:07:29 A I do not recall actually the -- the periods

23 12:07:31 where we did proactive scanning when -- when exactly

24 12:07:34 they were.

25 12:07:35 Q Do you recall when it -- well, did it ever

1 GILLETTE

2 12:07:39 stop?

3 12:07:40 A Yes, it did.

4 12:07:41 Q Okay. Do you recall when?

5 12:07:48 A I recall that it was pre-acquisition. I'm

6 12:07:54 fairly sure. I do not recall how early on we actually

7 12:08:03 decided to stop doing that.

8 12:08:06 Q Who at YouTube made that decision to stop

9 12:08:09 doing that?

10 12:08:10 A I believe legal. It was a legal decision.

11 12:08:13 Q And how did you come to learn of that

12 12:08:22 decision?

13 12:08:22 MR. SHAPIRO: Don't recount any conversations

14 12:08:24 with counsel.

15 12:08:25 THE WITNESS: Yeah, and I -- so this is

16 12:08:28 privileged.

17 12:08:28 MR. BROWNE: Okay. Let me just add a couple

18 12:08:30 of questions.

19 12:08:31 Q Did you learn of it from -- from YouTube's

20 12:08:33 lawyers?

21 12:08:34 A Yes.

22 12:08:35 Q Okay. Did you learn of it in -- in any way

23 12:08:39 outside of coming from YouTube's lawyers?

24 12:08:45 A I do not believe so, no.

25 12:08:47 Q What lawyer or lawyers told you about this?

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GILLETTE

13:17:28 Q Okay.

13:17:28 A I think I sent it to her because I wanted to  
13:17:31 show her examples of why we can't block anything  
13:17:36 tagged with the words "Torino 2006 Olympic Games,"  
13:17:44 because these most likely that I'm referencing here  
13:17:46 probably came up with those same tags in the metadata.

13:17:53 Q But whether or not you could block them,  
13:17:55 would that have prevented you from going out and  
13:17:58 proactively screening for them?

13:17:59 A For unauthorized?

13:18:00 Q Yes.

13:18:02 A I don't know. Again, I don't know if we were  
13:18:04 doing that at this time, and I don't know if we did  
13:18:09 anything in reference to this specific incident  
13:18:12 either.

13:18:20 Q Should we take a lunch break?

13:18:22 MR. SHAPIRO: Sounds good.

13:18:23 THE VIDEOGRAPHER: The time is 1:18.

13:18:25 Off the record.

13:18:26 (Lunch break taken.)

---oOo---

1 GILLETTE  
2 A F T E R N O O N S E S S I O N  
3  
4 (Document marked Gillette Exhibit 4  
5 14:10:52 for identification.)  
6 14:10:52 THE VIDEOGRAPHER: The time is 2:10.  
7 14:10:54 On the record.  
8 14:10:55 MR. BROWNE: Q. Ms. Gillette, in front of  
9 14:10:59 you now, I think, is Exhibit 4. Have you had a chance  
10 14:11:04 to review that?  
11 14:11:06 A Let me look at it completely one moment.  
12 14:11:08 Q Okay.  
13 14:11:39 A Okay.  
14 14:11:40 Q Okay. Do you recognize that?  
15 14:11:46 A No.  
16 14:11:46 Q It appears to be an e-mail from you to Micha  
17 14:11:51 Schaffer dated April 13, 2006; do you agree with that?  
18 14:11:56 A It appears to be that, yes.  
19 14:11:57 Q In this e-mail which appears to be from you,  
20 14:12:00 you say "Joe has a list of all of the earlier  
21 14:12:03 infringement notifications that we have received, and  
22 14:12:05 I would like you to cycle through this once a day and  
23 14:12:08 search for their content on our site"; do you see  
24 14:12:12 that?  
25 14:12:12 A Yes, I do.

1 GILLETTE

2 14:12:12 Q Who is Joe?

3 14:12:13 A I presume that Joe is Joe Smith who used to

4 14:12:18 be on my team.

5 14:12:20 Q And when you say "my team," what team are you

6 14:12:23 referring to?

7 14:12:24 A SQUAD.

8 14:12:24 Q The content SQUAD?

9 14:12:27 A He was more Live Site duties actually for the

10 14:12:30 majority of his time, so yes, Live Site.

11 14:12:34 Q And -- and the list of all the earlier

12 14:12:37 infringement notifications that we have received, what

13 14:12:40 list is that referring to?

14 14:12:44 A I believe what that is referring to is, in

15 14:12:51 fact, an initial list that we started. Like an Excel

16 14:13:01 spreadsheet that we started where we were, at one

17 14:13:04 time, keeping track via that method.

18 14:13:07 Q Keeping track of what?

19 14:13:09 A Notifications that we had received.

20 14:13:13 Q Do you mean DMCA notifications?

21 14:13:17 A Yes. I mean some of them may not have been

22 14:13:20 complete, so takedown notifications.

23 14:13:23 Q Relating to copyright?

24 14:13:25 A Yes, I believe that's what this is referring

25 14:13:27 to.

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GILLETTE

14:13:28 Q Why -- why were you keeping that list?

14:13:40 A I think I wanted to have record of -- of  
14:13:45 these notifications. I mean, I wanted to be able to  
14:13:48 speak to how many we were receiving, et cetera. It's  
14:13:54 just an -- important thing to have record.

14:13:55 Q And did there come a time when you or your  
14:13:58 team stopped maintaining this list?

14:14:01 A Yes.

14:14:01 Q When was that?

14:14:04 A I do not know for sure.

14:14:06 Q Why did you stop maintaining that list?

14:14:12 A The scale. It was incredibly manual to  
14:14:18 manual input -- manually input the information for  
14:14:21 each notification.

14:14:22 Q During the time that you were maintaining the  
14:14:26 list, who -- who manually inputted the information  
14:14:30 relating -- relating to each notification?

14:14:33 A I -- I definitely added to it. I -- I  
14:14:36 believe other members of the Copyright Team would add  
14:14:39 to it. I, at one point, also had Shannon Hermes, the  
14:14:48 office manager, as well, help us. So she would, at  
14:14:52 the end of the day, go through and do data entry for  
14:14:54 us.

14:14:55 Q Now, excuse me, you say there in Exhibit 4,



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GILLETTE

14:15:03 you say to Joe, "I would like you to cycle through --"

14:15:09 I'm sorry -- you say to Micah, I believe, "I would  
14:15:12 like you to cycle through this once a day and search  
14:15:15 through for their content on our site"; do you see  
14:15:15 that?

14:15:20 A Yes.

14:15:20 Q What did you mean by that?

14:15:21 A As I -- as I read it today, again, I don't  
14:15:23 recall this e-mail, I -- I believe what I was doing  
14:15:25 here was to try to figure out those content owners  
14:15:29 that had concerns about potentially unauthorized  
14:15:32 content on our sites and really help them to locate  
14:15:37 that unauthorized content.

14:15:38 Q Did the content owners ask you to do this?

14:15:43 A No, I don't believe so.

14:15:44 Q What would happen if -- if Micah or anyone  
14:15:52 was able to locate additional content from these  
14:15:56 content owners on the site? What happened then?

14:16:01 A As with all of our proactive scanning, we  
14:16:04 would make an attempt at determining if something was  
14:16:06 unauthorized or not and remove it.

14:16:08 Q And how would you make that attempt?

14:16:13 A By looking at it.

14:16:14 Q By reviewing the -- the video?

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GILLETTE

14:16:18 A Yes, or I don't know if it -- yes. I'm

14:16:21 not....

14:16:22 Q And who -- who would review those videos?

14:16:31 A Over the course of all of our proactive

14:16:33 scanning are you referring to? Because there were

14:16:36 many people that would be involved.

14:16:38 Q Well, about this time frame in April of 2006,

14:16:42 who was there? I don't need a person, if it was a

14:16:47 team --

14:16:47 A Yeah.

14:16:47 Q -- but maybe there wasn't. I don't know.

14:16:51 A I have -- I don't know if it was this same

14:16:54 time frame, but I did -- I definitely did rely on both

14:16:58 the copyright folks as well as the Live Site Team to

14:17:01 help with proactive scanning.

14:17:02 Q In those instances where you did determine

14:17:06 that something was unauthorized and you removed it,

14:17:09 did you do anything else?

14:17:11 MR. SHAPIRO: Objection; vague; ambiguous.

14:17:14 MR. BROWNE: Q. With respect to that

14:17:16 content?

14:17:23 A An -- I believe in the early stages we were

14:17:27 manually sending e-mails to folks that had had their

14:17:31 content -- alerting them to their removal.

1 GILLETTE

2 14:17:35 Q Do you character -- would you characterize

3 14:17:37 April 2006 as an early stage?

4 14:17:40 A Yeah, I -- yes.

5 14:17:43 Q And at what stage did you stop sending

6 14:17:45 e-mails to the folks that had their content removed?

7 14:17:51 A I don't think we ever stopped. It's just

8 14:17:52 that we went from manual to automatic e-mails from the

9 14:17:56 system.

10 14:17:58 Q But speaking in case there was any confusion

11 14:18:01 specifically and only with respect to material that

12 14:18:05 YouTube proactively scanned for and removed?

13 14:18:10 A No, not specific to that. In general, our

14 14:18:12 notifications went from manual e-mails to automated

15 14:18:17 e-mails.

16 14:18:17 Q But in those cases where YouTube did

17 14:18:19 proactively scan for and remove content, did you also

18 14:18:23 send an e-mail to the content owner alerting them to

19 14:18:30 that?

20 14:18:31 A To the uploader you mean? We would send

21 14:18:36 e-mails to the uploader.

22 14:18:37 Q Oh, got you. Okay. Thank you for that.

23 14:18:41 Did you -- did you also contact the content

24 14:18:50 owner?

25 14:18:53 A In a proactive scan, no, we did not.

1 GILLETTE

2 14:18:56 Q And then the next sentence in this e-mail, it

3 14:19:11 says "If you see a lot -- a lot for any of the content

4 14:19:14 owners, you could also ask whoever is working that day

5 14:19:18 in support to help you fair it out more"; do you see

6 14:19:22 that?

7 14:19:23 A Yes, I do.

8 14:19:23 Q What did you mean by that?

9 14:19:25 A In that --

10 14:19:27 MR. SHAPIRO: Objection; she says she doesn't

11 14:19:29 remember the e-mail.

12 14:19:30 THE WITNESS: But I will continue to answer

13 14:19:35 as speculation.

14 14:19:36 MR. SHAPIRO: I'm not instructing not to

15 14:19:38 answer. He can reformulate his question if he wants,

16 14:19:40 or he can ask you to ask the question -- answer the

17 14:19:43 question he's asked --

18 14:19:44 THE WITNESS: Thanks.

19 14:19:46 MR. SHAPIRO: -- but you should answer his

20 14:19:48 question, a question from him.

21 14:19:48 MR. BROWNE: Q. Well, I'm going to stand on

22 14:19:50 that question.

23 14:19:51 A Right. So I can speculate what I meant by

24 14:19:54 this, as I read it today, is that this -- I'm talking

25 14:19:57 about shear volume -- if something -- if a lot of

1 GILLETTE

2 14:20:00 search results came up, you could ask for help.

3 14:20:03 Q Help from who?

4 14:20:07 A From support I say here. I don't know

5 14:20:09 exactly what I mean there.

6 14:20:11 Q During this time frame, April 2006, if you

7 14:20:22 remember, was -- was this, and by "this," I mean going

8 14:20:27 through the list of the earlier infringement

9 14:20:29 notifications and conducting a proactive scan, was

10 14:20:31 this being done on a daily basis?

11 14:20:33 A You said starting in -- in --

12 14:20:35 Q Around the April time frame of this e-mail.

13 14:20:38 A Oh, again, I -- I don't remember.

14 14:20:52 Q Whose idea was it to do this?

15 14:20:56 A I don't remember.

16 14:21:00 Q Did you have any concerns -- strike that.

17 14:21:02 I'm gonna mark -- actually, I'm gonna -- it's

18 14:21:06 an exhibit that's already been marked. I'm going to

19 14:21:24 hand it out. It was Schaffer Exhibit 8. Rather than

20 14:21:28 mark the same thing over and over again, I thought I'd

21 14:21:30 mark the one with the exhibit sticker on it.

22 14:21:33 MR. SHAPIRO: Okay.

23 14:21:39 MR. BROWNE: Q. And in front of you,

24 14:21:42 Ms. Gillette, is Exhibit 8, and it appears to be an

25 14:21:54 e-mail from someone named Lee Gunby to an e-mail list

1 GILLETTE

2 14:21:59 called [REDACTED]; do you see that?

3 14:22:07 A Yeah, I'd like to take a look at it.

4 14:22:09 Q Oh, sure. Let me know when you're ready.

5 14:22:32 You know, I should -- I'm going to refer to this as

6 14:22:38 Schaffer Exhibit 8, I guess.

7 14:23:14 Who is -- who is, if you know, Lee Gunby?

8 14:23:18 A Lee Gunby was an employee on my team.

9 14:23:25 Q Was he a part of the Live Site Team or was he

10 14:23:28 something else?

11 14:23:28 A Yes, he was a part of Live Site.

12 14:23:32 Q Did Mr. Gunby, at this time of August 2006,

13 14:23:38 did he report to you?

14 14:23:38 A Yes.

15 14:23:38 Q Were you responsible for assigning him work?

16 14:23:46 A Yes.

17 14:23:46 Q Was anyone else responsible for assigning

18 14:23:48 Mr. Gunby work in this August 2006 time frame?

19 14:23:56 A No.

20 14:23:57 Q Do you have a recollection of seeing Schaffer

21 14:24:06 Exhibit 8 before?

22 14:24:07 A No.

23 14:24:07 Q Do you know -- are you familiar with the

24 14:24:11 e-mail list [REDACTED]?

25 14:24:18 A Yes.

1 GILLETTE

2 14:24:18 Q Who is a member of that group?

3 14:24:20 A That, it would have been anyone on the SQUAD

4 14:24:22 Team at this date.

5 14:24:26 Q And that would include yourself?

6 14:24:28 A Yes.

7 14:24:28 Q Okay. You see there it appears that

8 14:24:39 Mr. Gunby is e-mailing the support rep group. He says

9 14:24:39 "I just thought I'd pass along a form that I use

10 14:24:43 nightly to help me keep track of tasks"; do you see

11 14:24:47 that?

12 14:24:47 A Yes, I do.

13 14:24:48 Q And then if you go -- and actually I'll just

14 14:24:52 finish it. The next sentence says "Just delete my

15 14:24:55 proactive scans and input your own and you're ready to

16 14:24:58 go"; do you see that?

17 14:24:59 A Yes, I do.

18 14:24:59 Q And then there's an attachment or something

19 14:25:02 to this e-mail. Do you recognize the format in that

20 14:25:09 attachment?

21 14:25:10 A No.

22 14:25:12 Q Have you ever seen, during your time at

23 14:25:15 YouTube, documents similar to this?

24 14:25:25 A No.

25 14:25:25 Q Do you have any reason to believe that --

1 GILLETTE

2 14:25:26 that you didn't get this e-mail?

3 14:25:31 A No.

4 14:25:31 Q Did you ever instruct Mr. Gunby to -- to

5 14:25:35 conduct proactive scans?

6 14:25:37 A Yes.

7 14:25:37 Q If you look on -- I'm sorry -- if you look on

8 14:25:49 the second page of Schaffer Exhibit 8 on this form,

9 14:25:52 you see about halfway down some -- some -- what appear

10 14:25:57 to be content listed, American Idol, U.S.A., Simpsons,

11 14:26:03 Family Guy, Lazy Sunday, Carson Daly. Do you see

12 14:26:06 that, and then it goes on and on?

13 14:26:08 A Yes, I do.

14 14:26:09 Q Okay. Did you ever instruct Mr. Gunby to

15 14:26:14 conduct proactive scans on any of the content that you

16 14:26:19 see --

17 14:26:19 A Yes.

18 14:26:19 Q -- listed there? Okay.

19 14:26:22 And why did you do that?

20 14:26:24 A Again, this proactive scanning is something

21 14:26:26 that we were trying to do to assist content owners

22 14:26:29 in -- in removing what we thought might be

23 14:26:31 unauthorized content. It's the same situation.

24 14:26:36 Q Now, Mr. Gunby, on the front page he says to

25 14:26:39 the support group "Just delete your pro -- delete my



1 GILLETTE

2 14:26:41 proactive scans and then put your own."

3 14:26:44 Did -- did other members of the support

4 14:26:47 group -- let me see if I can ask this differently --

5 14:26:50 did different members of the support group -- were

6 14:26:53 different members of the support group responsible for

7 14:26:56 different proactive scans?

8 14:26:58 A Yes, at one time they were.

9 14:26:59 Q And would that time include approximately

10 14:27:02 August 2006?

11 14:27:02 A It would appear so.

12 14:27:03 Q How did the -- how did the different members

13 14:27:05 of the support group learn which proactive scans they

14 14:27:12 were responsible for?

15 14:27:17 A I can only recall one method which we used.

16 14:27:26 The -- those users, and the caveat being or the

17 14:27:31 exception to this being American Idol, but those users

18 14:27:36 who signed up for our Content Verification Program as

19 14:27:40 a good faith effort and not something we communicated

20 14:27:44 to them, we chose also to try to help them in removing

21 14:27:47 what we thought might be unauthorized content.

22 14:27:52 Q And you say you didn't tell the users that

23 14:27:55 you were conducting these proactive scans; is that

24 14:27:58 right?

25 14:27:59 A Not necessarily. In the case of American

1 GILLETTE

2 14:28:00 Idol, we did definitively.

3 14:28:03 Q Are you aware of any other users that you --

4 14:28:06 that you did say this to?

5 14:28:08 A I don't remember.

6 14:28:11 Q Was there a policy against saying it, telling

7 14:28:13 the user that?

8 14:28:14 A No.

9 14:28:14 Q Oh.

10 14:28:19 But how did each particular member of the

11 14:28:21 support group find out his or her area of

12 14:28:25 responsibility for proactive scanning at any given

13 14:28:28 time?

14 14:28:31 A There were forms that members/content owners

15 14:28:36 would fill out when they wanted to enroll in the CVP

16 14:28:40 program, and that existed in a binder, and the team

17 14:28:43 would go through those and divvy them up themselves.

18 14:28:48 Q How -- who chose which content owners got put

19 14:28:54 into the binder?

20 14:28:58 A They were anyone who had signed up for the

21 14:29:01 CVP account. They chose themselves.

22 14:29:02 Q They didn't necessarily know that they were

23 14:29:05 choosing themselves for this though?

24 14:29:07 A You're right.

25 14:29:08 Q Okay. Okay. I'm going to introduce another

**Schapiro Exhibit 72**



YEAR: [1998](#) : [1999](#) : [2000](#) : [2001](#) : [2002](#) : [2003](#) : [2004](#) : [2005](#) : [2006](#) : [2007](#) : [2008](#) : [2009](#)  
 MONTH: [Jan](#) : [Feb](#) : [Mar](#) : [Apr](#) : [May](#) : [Jun](#) : [Jul](#) : [Aug](#) : [Sep](#) : [Oct](#) : [Nov](#) : [Dec](#)

FRIDAY, AUGUST 1, 2003

Will this website ever have complete episodes to download  
 No it wont. Comedy Central wants you to actually tune in to see the shows, that's why we only give clips. There are plenty of other fine places where you can download episodes in full. Kazza.com, Limewire.com, or Morpheus.com

FRIDAY, AUGUST 1, 2003

At the end of "Here Comes the Neighborhood", they pull Kenny's dead body on a sled. Is it supposed to be an unexplained death, or did something actually happen? That is an unexplained death. When Matt and Trey were making that episode they didn't want to deal with coming up with a Kenny death, so they just threw him on a sled, dead. I was told that the scene was one of the last scenes made because Trey was avoiding it so much. When it came time to do the scene, all Trey said was "Just put a dead Kenny on the sled that the kids are carrying, and lets not say why!"

MONDAY, AUGUST 4, 2003

I was surprised that in the last FAQ you recommended downloading episodes on KaZaa and other file sharers. What are Matt and Trey's official stances on South Park episode piracy?  
 Matt and Trey do not mind when fans download their episodes off the Internet; they feel that it's good when people watch the show no matter how they do it.

TUESDAY, AUGUST 5, 2003

UR stupid! seeling south park iz da lamest think eva!!!! UR running it! F\*CK U!!  
 ... I'm sure I can just leave this one as is, what a douche!

TUESDAY, AUGUST 5, 2003

I would like to know why Cartmans voice is different from the first couple of seasons? Was it changed on purpose?  
 Cartman's voice has changed not on purpose, but just because the show has evolved. If you pay attention, all the boys' voices have changed (except perhaps, Kenny's). Things like this happen all the time with cartoon show like this. For example, Hank Hill's voice from "King of the Hill" has changed over the years from a sort of low grumble, to something more understandable.

TUESDAY, AUGUST 5, 2003

Has there been any news on the air date/release date for the project that Matt and Trey are working on (Team America)?  
 There is still no news about the dates of Team America. We'll keep you posted.

TUESDAY, AUGUST 5, 2003

Hello, I am one of the Canadian's that you were making fun of for getting so angry at your comments. I just wanted to say that the last comment you made to me made me laugh so hard, that I realized that all you're doing is messing with people in good humor. I apologize if I seemed out of order, I hadn't had my snack time. :) Thanks again!  
 No problem, it's good to know that you Canadians have a sense of humor after all. :)

MONDAY, AUGUST 11, 2003

Some of the fire effects are really realistic, how do you do that in a cartoon like South Park?  
 South Park is made in a really awesome program called MAYA. It is created by a company named Alias/Wavefront. The program is responsible for movies like Final Fantasy: The Spirits Within, and most Final Fantasy movie clips from the SquareSoft video game series. It's capable of doing super cool things, and obviously, pretty crappy things. When things like fire and portholes to hell need to be created and look cool, it's really easy for it to be made in MAYA.

MONDAY, AUGUST 11, 2003

Does Trey or Matt ever look at the BBS and read what their crazy fans are saying about them?  
 I know for sure that Matt reads the BBS a lot. I'm almost positive that Trey has too. One of the biggest users from the office (besides me) is Eric Stough, Director of Animation. He always checks the BBS after premiers!

MONDAY, AUGUST 11, 2003

When are the South Park Episodes going to be out on VHS?  
 Most of the South Park seasons have already been released on VHS volumes. Please check amazon.com for more information, or comedycentral.com/store

THURSDAY, AUGUST 14, 2003

Someone offered me a South Park DVD today called South Park Winterland. I was told it is a new south park film. Were they just trying to con me or is there really a new film out that I don't know about?  
 They're just trying to con you. "Winter Wonderland" is a collection of A Very Crappy Christmas, Are you there God? It's me Jesus, Cartman's silly hate crime 2000 and Something you can do with your finger. [http://www.amazon.com/exec/obidos/tg/detail/-/B00005O5DN/qid=1060896200/sr=8-5/ref=sr\\_8\\_5/102-7668703-2481705?v=glance&s=dvd&n=507846](http://www.amazon.com/exec/obidos/tg/detail/-/B00005O5DN/qid=1060896200/sr=8-5/ref=sr_8_5/102-7668703-2481705?v=glance&s=dvd&n=507846)

MONDAY, AUGUST 18, 2003



What is the name of the song Cartman sings when he's in congress?  
"Heat of the Moment" by Asia

MONDAY, AUGUST 18, 2003  
Who owns the rights to Southpark?  
All episodes of South park are Copyrighted © 1997 - 2003 by Comedy Partners/Comedy Central

MONDAY, AUGUST 18, 2003  
How do you pick which episodes are re-run ?  
Comedy Central picks all the re-runs during the down season.

WEDNESDAY, AUGUST 20, 2003  
Do they make South Park bedspreads?  
The best way to find items like these are in online auctions. Check out ebay.com for more news.

WEDNESDAY, AUGUST 20, 2003  
I heard that South Park Season 3 will be on DVD soon. Will Trey and Matt be doing Audio Commentary for the episodes?  
We still do not know when season three will be coming out. I am sure there will be no commentary on the discs as well. If there is any news to confirm this, I will post it; everything else is up in the air.

WEDNESDAY, AUGUST 20, 2003  
Have you ever "got it on" with Matt or Trey?  
No, Matt and Trey are too busy getting it on with the thousands and thousands of hot young women who come to the office every day to serve them up a hot cup of love. (I'm kidding for those of you going WHOA!)

WEDNESDAY, AUGUST 20, 2003  
Was that really George Clooney in the Big Gay AI episode? How did you get him to do the show when still pretty new?  
Actually, Matt and Trey kind of owe the success of South Park to George. When their first short movie "The Spirit of Christmas: Jesus Vs. Frosty" was being passed around the Internet, George had gotten a copy of it, called them up, and paid them to make a new one. "The Spirit of Christmas: Jesus Vs. Santa" was born.

WEDNESDAY, AUGUST 20, 2003  
Are Matt and Trey going to make fun of the up and coming election with AHHHHHHNOLD? Those of you who don't vote for him... big mistake!  
Matt and Trey have been out of the office working on "Team America" for the time being, I haven't heard any gripes or jokes aimed at Ahhnold, or any other candidate in the ReCallifornia.

THURSDAY, AUGUST 21, 2003  
Why do you perpetuate false truths such as this? Q: Was that really George Clooney in the Big Gay AI episode? How did you get him to do the show when still pretty new?  
A: Actually, Matt and Trey kind of owe the success of South Park to George. When their first short movie "The Spirit of Christmas: Jesus Vs. Frosty" was being passed around the Internet, George had gotten a copy of it, called them up, and paid them to make a new one. "The Spirit of Christmas: Jesus Vs. Santa" was born. This is a true story. It is not a so called "false truth." Oh, and by the way... how can something be a false truth anyhow? Can we say oxymoron? I think this person has his/her panties in a bunch. God, I love it when people waste their energy on hating me ((evil grin #432))!

THURSDAY, AUGUST 21, 2003  
Since Matt & Trey thinks it's cool with people being able to download episodes through the internet, does that make it legal to put them up on my own server?  
No, putting up episodes on your server is not legal, unless of course you have the express written consent of Comedy Central.

THURSDAY, AUGUST 21, 2003  
When does the new season come out?  
New episodes of South Park will air October 22nd 2003 with eight new episodes.

THURSDAY, AUGUST 21, 2003  
What does the side of Officer Barbrady's patrol car say?  
"To patronize and annoy."

FRIDAY, AUGUST 22, 2003  
Why isn't there any video downloads for "chickenpox?" That's the best episode!  
When Southparkstudios.com first launched, we had taken various files for South Park from many sites, mainly Comedycentral.com and beef-cake.com (beef-cake.com was the largest fan ran South Park site on the net at the time, when SPS.com launched the owner of beef-cake and Matt Stone decided to take it down). Over the years I've been trying to get those downloads updated to at least five per episode, but it's been difficult due to program changes, and production.

MONDAY, AUGUST 25, 2003  
Why does your banner say "All New Episodes Coming in October?" Dude, they're not that new anymore they just havn't been on tv yet...I downloaded them all in like...May.  
WOW! You must have downloaded them from the magical psychic server because the episodes airing in October haven't even been scripted yet... can I have the URL?

MONDAY, AUGUST 25, 2003  
Is there any place to get Beers jerseys or those cool beer mug helmets in BASEketball?  
Many items from the movie BASEketball are being sold on ebay.com auctions as I type.

MONDAY, AUGUST 25, 2003  
Have you thought about a second movie of South Park?  
Trey and Matt have thought of making another South Park movie once before. All they had to do was remember how much of a pain in the ass the last one was to make and they stop thinking about it! They hope to make another one some day, but so far there are no plans to do so.

MONDAY, AUGUST 25, 2003  
Do yo buy or accept story ideas?  
No, Matt and Trey used to read them but so many people sent in such huge numbers it got too hard to read them all. Then there are the legal issues of accepting outside material. Since the very beginning Matt and Trey have written their own episodes without fan interaction.

MONDAY, AUGUST 25, 2003  
When will the "Bart of War" be replayed? I cannot find that episode listed or available for download anywhere.

Perhaps it's because you're searching for a Simpsons Site, this is a South Park site, and "The Bart of War" is an episode of the Simpsons. :)

THURSDAY, AUGUST 28, 2003

I think your show is funny, but how did you attract such a stupid audience?

Many people think that South Park is just funny because the boys curse, and say naughty things. They don't understand it's more than just curse words. South Park is both crude and insightful, unfortunately when they're 13 and stoned most of the time, they just don't get it.

THURSDAY, AUGUST 28, 2003

Why do I have to download the top ten FAQs? What if I don't have Adobe PDF?

We decided to make the top ten FAQs downloadable because many people wrote in asking why I haven't changed the FAQs in forever, turns out they were just reading the top ten and not looking further down. Removing them from the header and making them downloadable cleaned up the FAQ board. If you don't have Adobe PDF just click the link at the top of this page and get it. The program is free, and many people use PDFs.

THURSDAY, AUGUST 28, 2003

Why was Chris (Satan's EX) sent to Hell?

We have no idea, they never talked about that in the episode. Many things that aren't explained in the show are usually left unexplained. Matt and Trey's goal usually is to totally confuse it's audience.

THURSDAY, AUGUST 28, 2003

Why can't I use the BBS as a chatroom? Isn't that what it's for, to chat?

No, the BBS is not a chatroom. The BBS is a discussion board where topics have some sort of conversation going on. Threads like "I want to talk to User2343" are lame, and annoy the users. Keep it off the board, that is what our chatroom is for, and why we enabled the Private Message (PM) system on it.

Email

Question



Ask It!

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**Schapiro Exhibit 73**

# A-424

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## YouTube removing Comedy Central clips

### Video-sharing site being purchased by Google reportedly taking down copyrighted material after notice from Viacom unit.

October 30 2006: 5:53 PM EST

NEW YORK (CNNMoney.com) -- Oh my God, they purged Kenny!

The *New York Times* reported Monday that video sharing site YouTube is removing copyrighted material from cable network Comedy Central, including episodes of "South Park" (whose character Kenny is killed in every episode) as well as "The Daily Show" and "The Colbert Report."

#### South Park's crude road to success

Comedy Central, a unit of [Viacom \(Charts\)](#), has clips of the shows on its own Web site, but YouTube has become a popular destination for those wanting to watch "South Park," especially past episodes that can't be found on the Comedy Central site.

Jeff Reifman, who the *Times* reported broke the news on the news-sharing blog NewsCloud, received a notice from YouTube that a number of clips he had posted to the site were being taken down as a result "of a third-party notification by Comedy Central claiming that this material is infringing."

Photo Gallery



The notice, which Reifman also posted on his blog, further warned, "Repeat incidents of copyright infringement will result in the deletion of your account and all videos uploaded to that account. In order to avoid future strikes against your account, please delete any videos to which you do not own the rights, and refrain from uploading additional videos that infringe on the copyrights of others."

Internet search engine [Google \(Charts\)](#), which has its own exclusive deals to present some copyrighted video clips over the Web, agreed to buy YouTube last month for \$1.65 billion.

The *Times* reports that YouTube did not respond to repeated messages left over the weekend.

Some media executives have speculated that YouTube would face copyright lawsuits once it was owned by a deep-pocketed media company that it did not face when it had relatively little in the way of assets. In September, billionaire Internet mogul Mark Cuban said at a forum in New York that anyone who bought YouTube would be a "moron" because of the litigation risks associated with the company since some videos posted on the site could violate copyright infringements.

The official Web site of "South Park" included a frequently asked question segment that appeared to give fans the go-ahead to download episodes onto video-sharing sites.

"Matt and Trey do not mind when fans download their episodes off the Internet; they feel that it's good when people watch the show no matter how they do it," said the site's August 2003 posting, referring to the show's creators, [Matt Stone and Trey Parker](#).

Reifman questioned whether the push to remove copyrighted material now that Google is buying the site will hurt its value, and will also hurt Comedy Central, which saw the popularity of its shows grow as people shared clips of favorite episodes.

"Apparently, all good things come to an end when there [are] money and attorneys involved," Reifman wrote. "With Google purchasing YouTube, ComedyCentral figured there was now an opportunity aka profit center to target. And they've [pre]sumably made these ... requests to YouTube."

Google is not the only company buying online video-sharing sites. [Sony \(Charts\)](#) bought online video firm Grouper for \$65 million in August. NBC Universal, a unit of [General Electric \(Charts\)](#), paid \$600 million for iVillage, a network of sites that focuses on women, in March. [Time Warner \(Charts\)](#), which also owns CNNMoney.com, bought three firms with social networking or online video ties this year. And [News Corp. \(Charts\)](#) paid \$590 million last year for Interim, parent of the social networking phenomenon MySpace.

[How Trey and Matt made 'South Park' a success](#)

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# A-425

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**Schapiro Exhibit 74**

# A-427

To: "DMCA Complaints" <copyright\_counternotice@youtube.com>  
From: "Cord Frederic Romberg" <[REDACTED]>  
Cc:  
Bcc:  
Received Date: 2006-11-10 10:46:49 GMT  
Subject: Re: Video Rejected: Copyright Infringement

---

i thought comedy central said it's ok to youtube south park stuff???  
what is correct now? they want it or not???? you guys are confusing...

cfr

On Nov 10, 2006, at 4:22 PM, DMCA Complaints wrote:

> YouTube  
>  
> Dear Member:  
>  
> This is to notify you that we have removed or disabled access to  
> the following material as a result of a third-party notification by => Comedy Central claiming that this material  
is infringing:  
>  
> South Park 1011 1st 10min: <http://www.youtube.com/watch?v=YQVVIArbr4Q>  
>  
> Please Note: Repeat incidents of copyright infringement will result => in the deletion of your account and all  
videos uploaded to that  
> account. In order to avoid future strikes against your account,  
> please delete any videos to which you do not own the rights, and  
> refrain from uploading additional videos that infringe on the  
> copyrights of others. For more information about YouTube's  
> copyright policy, please read the Copyright Tips guide.  
>  
> If you elect to send us a counter notice, to be effective it must  
> be a written communication provided to our designated agent that  
> includes substantially the following (please consult your legal  
> counsel or see 17 U.S.C. Section 512(g)(3) to confirm these  
> requirements):  
>  
> (A) A physical or electronic signature of the subscriber.  
>  
> (B) Identification of the material that has been removed or to  
> which access has been disabled and the location at which the  
> material appeared before it was removed or access to it was disabled.  
>  
> (C) A statement under penalty of perjury that the subscriber has a  
> good faith belief that the material was removed or disabled as a  
> result of mistake or misidentification of the material to be  
> removed or disabled.  
>  
> (D) The subscriber's name, address, and telephone number, and a  
> statement that the subscriber consents to the jurisdiction of  
> Federal District Court for the judicial district in which the  
> address is located, or if the subscriber's address is outside of  
> the United States, for any judicial district in which the service  
> provider may be found, and that the subscriber will accept service  
> of process from the person who provided notification under

- > subsection (c)(1)(C) or an agent of such person.
  - >
  - > Such written notice should be sent to our designated agent as follows:
  - >
  - > DMCA Complaints
  - > YouTube, Inc.
  - > 1000 Cherry Ave.
  - > Second Floor
  - > San Bruno, CA 94066
  - > Email: copyright@youtube.com
  - >
  - > Please note that under Section 512(f) of the Copyright Act, any
  - > person who knowingly materially misrepresents that material or
  - > activity was removed or disabled by mistake or misidentification
  - > may be subject to liability.
  - >
  - > Sincerely,
  - > YouTube, Inc.
  - >
  - > Copyright © 2006 YouTube, Inc.
  - >
  - >
-

**Schapiro Exhibit 75**

## A-430

**From:** Steve Chen <[REDACTED]>  
**Sent:** Wednesday, June 15, 2005 5:19 PM  
**To:** Chad Hurley <chad@youtube.com>  
**Cc:** Karim Jawed <[REDACTED]>  
**Subject:** Re: user moderation flagging  
**Attach:** Message Text.txt

---

wait. read my other email. they're complaining about that spam place that was using our IP address.  
not about our content.

-s

On Jun 15, 2005, at 4:54 PM, Chad Hurley wrote:

so, a way to avoid the copyright bastards might be to remove the "No copyrighted or obscene material." line and let the users moderate the videos themselves. legally, this will probably be better for us, as we'll make the case we can review all videos and tell them if they're concerned they have the tools to do it themselves.... like craigslist on top of the page...

<http://www.craigslist.org/pen/off/79065159.html>

please flag with care : [miscategorized] [prohibited] [spam] [discussion] [best of]

or hotornot under the pictures...

Please help keep this site **FUN, CLEAN, and REAL.**  
[Click here](#) if the picture above is broken, copyrighted, or inappropriate.

**Schapiro Exhibit 76**

**From:** Chad Hurley <chad@youtube.com>  
**Sent:** Wednesday, June 15, 2005 1:48 PM  
**To:** Steve Chen <[REDACTED]>  
**Cc:** Karim Jawed <[REDACTED]>  
**Subject:** Re: committed rss feed icons and links

---

we need to figure this out soon... this could be very CRITICAL!

On Jun 15, 2005, at 2:33 PM, Steve Chen wrote:

> yes. i can change that.  
>  
> btw check out -- <http://www.serverbeach.com/catalog/aup.php>  
>  
> we got a complaint from someone that we were violating their user  
> agreement. i \*think\* it may be because we're hosting copyrighted  
> content. instead of taking it down -- i'm not about to take down  
> content because our ISP is giving us shit -- we should just  
> investigate moving www.youtube.com.

> -s

> On Jun 15, 2005, at 2:28 PM, Chad Hurley wrote:

>> check and update these pages:  
>>  
>> results.php  
>> watch.php  
>> profile.php  
>>  
>> make sure it all works right and that the results page can handle  
>> multiple tags for the rss.

>> and steve can we change the user's rss feed title to User //  
>> username, just like the tag rss Tag // tag

>> -chad

>>  
>>  
>  
>  
>



**Schapiro Exhibit 77**

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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

vs. ) NO. 07-CV-2203

YOUTUBE, INC., YOUTUBE, LLC, )  
and GOOGLE, INC., )  
Defendants. )

THE FOOTBALL ASSOCIATION PREMIER )  
LEAGUE LIMITED, BOURNE CO., et al., )  
on behalf of themselves and all )  
others similarly situated, )  
Plaintiffs, )

vs. ) NO. 07-CV-3582

YOUTUBE, INC., YOUTUBE, LLC, and )  
GOOGLE, INC., )  
Defendants. )

VIDEOTAPED DEPOSITION OF JAWED KARIM  
PALO ALTO, CALIFORNIA  
TUESDAY, JUNE 9, 2009

JOB NO. 16798

1 KARIM, JAWED  
2 JUNE 9, 2009  
3 10:11 a.m.  
4

5 VIDEOTAPED DEPOSITION OF JAWED KARIM,  
6 held at the offices of WILSON, SONSINI,  
7 GOODRICH & ROSATI, 601 California Avenue,  
8 Palo Alto, California, pursuant to notice,  
9 before R. CHAYO AYON, CLR, CSR License  
10 No. 12372.  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 KARIM, JAWED

2 A P P E A R A N C E S:

3

4 FOR THE PLAINTIFFS VIACOM INTERNATIONAL, INC.:

5 SHEARMAN & STERLING, LLP

6 BY: STUART J. BASKIN, ESQ.

7 599 Lexington Avenue

8 New York, New York 10022-6069

9 (212) 848-4000 stuart.baskin@shearman.com

10

11 FOR THE PLAINTIFFS VIACOM INTERNATIONAL INC.:

12 JENNER & BLOCK, LLP

13 BY: SUSAN J. KOHLMANN, ESQ.

14 SCOTT B. WILKENS, ESQ.

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16 Suite 900

17 Washington, D.C. 20001

18 (202) 639-6000 skohlmann@jenner.com

19

20 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

21 BERNSTEIN, LITOWITZ, BERGER & GROSSMAN, LLP

22 BY: JOHN BROWNE, ESQ.

23 1285 Avenue of the Americas

24 New York, New York 10019

25 (800) 380-8496 johnb@blbglaw.com

DAVID FELDMAN WORLDWIDE, INC.

805 Third Avenue, New York, New York 10022 (212)705-8585

1 KARIM, JAWED

2 A P P E A R A N C E S (Continued.)

3

4 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC, and  
5 GOOGLE, INC.:

6 MAYER BROWN, LLP

7 BY: MATTHEW D. INGBER, ESQ.

8 BRIAN WILLEN, ESQ.

9 1675 Broadway

10 New York, New York 10019-5820

11 (212) 506-2279 mingber@mayerbrownrowe.com

12

13 FOR THE WITNESS:

14 DURIE, TANGRI, PAGE, LEMLEY, ROBERTS &  
15 KENT, LLP

16 BY: MICHAEL H. PAGE, ESQ.

17 332 Pine Street, Suite 200

18 San Francisco, California 94104

19 (415) 362-6666 mpage@durietangri.com

20

21 ALSO PRESENT:

22 KELLY TRUELOVE, Ph.D,

23 TRUELOVE RESEARCH, CONSULTANT FOR VIACOM

24 LOU MEADOWS, VIDEOGRAPHER

25

DAVID FELDMAN WORLDWIDE, INC.

805 Third Avenue, New York, New York 10022 (212)705-8585

1 KARIM, JAWED

10:29:23 2 Trepia with you?

10:29:24 3 A. It was Cuong Do.

10:29:26 4 Q. Okay. And when you began YouTube with the  
10:29:37 5 two other founders, did you have a formal title?

10:29:40 6 A. I don't think -- I don't think any of us  
10:29:54 7 had formal titles when we started.

10:29:56 8 Q. And up until the time when you signed the  
10:30:01 9 consulting agreement, did you ever have a formal  
10:30:04 10 title at YouTube?

10:30:05 11 MR. PAGE: Objection, foundation.

10:30:08 12 THE WITNESS: I don't think I had a formal  
10:30:14 13 title.

10:30:14 14 BY MR. BASKIN:

10:30:15 15 Q. Did Mr. Hurley?

10:30:19 16 MR. PAGE: Objection, vague as to time.

10:30:21 17 BY MR. BASKIN:

10:30:21 18 Q. Well, up until the time when you signed the  
10:30:23 19 consulting agreement, did Mr. Hurley have a formal  
10:30:28 20 title?

10:30:29 21 A. I think that -- I think the first time he  
10:30:39 22 had a formal title was when the company received its  
10:30:45 23 first investment. But I don't think before that it  
10:30:48 24 was formalized.

10:30:49 25 Q. When Sequoia first invested money, he

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1 KARIM, JAWED

10:30:54 2 procured a formal title?

10:30:56 3 A. I think so.

10:30:58 4 Q. And what was the formal title? Do you  
10:30:59 5 remember?

10:30:59 6 A. I think it was probably CEO.

10:31:01 7 Q. And at that point in time, did you get a  
10:31:03 8 formal title?

10:31:04 9 A. No, I did not have a title.

10:31:11 10 Q. Now, you signed a consulting contract in  
10:31:14 11 and around 2005; is that correct?

10:31:14 12 A. I don't remember the date when I signed it.

10:31:17 13 Q. And what caused you to become a consultant  
10:31:20 14 of -- of YouTube? How did that come about?

10:31:23 15 MR. PAGE: Objection, vague and ambiguous.

10:31:24 16 THE WITNESS: So -- when the project was  
10:31:28 17 started, I had sort of already determined I was  
10:31:32 18 going to go to school, to graduate school. And so  
10:31:40 19 I -- but you know, I thought it was a cool project,  
10:31:43 20 and so I wanted to stay involved in it. But I had  
10:31:48 21 already, you know, determined that I wasn't going to  
10:31:51 22 join the company, YouTube.

10:31:53 23 So as sort of a way for me to remain  
10:32:00 24 involved as a consultant, I basically signed a  
10:32:06 25 consulting agreement.

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1 KARIM, JAWED

10:32:07 2 BY MR. BASKIN:

10:32:08 3 Q. And was it your idea that you would become  
10:32:10 4 a consultant?

10:32:11 5 A. It was my idea, I would say, to -- to  
10:32:18 6 remain involved part-time in the company. But you  
10:32:27 7 know, whether that took the shape of a consulting  
10:32:32 8 agreement in the legal sense, that was not my idea.

10:32:37 9 Q. By the way, then when you were involved  
10:32:39 10 with Trepia, did Trepia ever receive any external  
10:32:45 11 funding?

10:32:49 12 MR. PAGE: Objection. It's vague and  
10:32:51 13 ambiguous.

10:32:51 14 THE WITNESS: I don't remember it receiving  
10:32:56 15 any external funding.

10:32:59 16 BY MR. BASKIN:

10:33:00 17 Q. And no venture capital firm invested in  
10:33:04 18 Trepia?

10:33:05 19 A. No, I don't think so, no.

10:33:06 20 Q. Just you and the cofounder?

10:33:08 21 A. Uh-huh, yeah.

10:33:09 22 MR. BASKIN: Now, let me -- let's mark as  
10:33:15 23 Exhibit 2 a document that is entitled Consulting  
10:33:33 24 Agreement.

10:33:33 25 (Plaintiffs' Exhibit No. 2 was marked for



1 KARIM, JAWED

15:38:41 2 here by, "In other news, Jawed, please stop putting  
15:38:46 3 stolen videos on the site"?

15:38:48 4 MR. PAGE: Objection, calls for  
15:38:49 5 speculation.

15:38:49 6 THE WITNESS: I don't know which videos  
15:38:51 7 he's referring to.

15:38:52 8 BY MR. BASKIN:

15:38:53 9 Q. Well, how many stolen videos were you  
15:38:56 10 putting on the site?

15:38:57 11 MR. PAGE: Objection, assumes facts.

15:39:01 12 MR. INGBER: Argumentative.

15:39:02 13 THE WITNESS: I didn't steal any videos.  
15:39:04 14 Initially -- this is very early in the history of  
15:39:07 15 the Web site, and we needed to seed the Web site  
15:39:10 16 with videos.

15:39:11 17 And so the earliest videos that were  
15:39:16 18 uploaded, I uploaded videos of airplanes, like  
15:39:21 19 aviation videos. So these were videos of airplanes  
15:39:26 20 taking off, landing, flying, landing at airports.

15:39:30 21 And so I uploaded a lot of those types of  
15:39:33 22 videos. And I remember Steve and Chad occasionally  
15:39:40 23 would complain that the site's turning into an  
15:39:43 24 airplane site, and I -- I think he might have been  
15:39:46 25 referring to those videos.

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1 KARIM, JAWED

15:39:47 2 BY MR. BASKIN:

15:39:47 3 Q. And from which site were you stealing those  
15:39:50 4 videos?

15:39:52 5 MR. INGBER: Objection, assumes facts,  
15:39:55 6 argumentative, mischaracterizes, misstates the  
15:39:58 7 witness's testimony.

15:39:59 8 THE WITNESS: They're not stolen. They  
15:40:00 9 were not stolen videos. I would -- would browse on  
15:40:03 10 the Web for airplane-related videos on aviation  
15:40:08 11 community Web sites, and these were user-generated  
15:40:14 12 videos created by aviation enthusiasts.

15:40:23 13 So, for example, this would be like a  
15:40:26 14 10-second shaky video camera clip of a 747 taking  
15:40:31 15 off, and these clips were usually already on  
15:40:34 16 multiple aviation Web sites.

15:40:37 17 And so I decided just to take a lot of  
15:40:39 18 those clips and copy them to our site as well.

15:40:42 19 BY MR. BASKIN:

15:40:47 20 Q. And apart from that you -- that possible  
15:40:52 21 explanation, you don't know what Mr. Chen is  
15:40:54 22 referring to here?

15:41:00 23 MR. INGBER: Objection to the -- to the  
15:41:02 24 term "possible explanation," to the extent it  
15:41:04 25 misstates his testimony.

1 KARIM, JAWED

15:41:05 2 THE WITNESS: Um, I think he was referring  
15:41:08 3 to those probably, because that's what I initially  
15:41:10 4 used to populate the Web site.

15:41:13 5 BY MR. BASKIN:

15:41:13 6 Q. Let me hand what you we'll mark as  
15:41:17 7 Exhibit 41.

15:41:17 8 (Plaintiffs' Exhibit No. 41 was marked for  
15:41:43 9 identification.)

15:41:43 10 THE WITNESS: (Document review.)

15:42:05 11 BY MR. BASKIN:

15:42:06 12 Q. Do you recall, sir, sending Exhibit 41 on  
15:42:11 13 July 19, 2005?

15:42:12 14 A. No.

15:42:13 15 Q. That is you who wrote -- who -- who sent --  
15:42:15 16 sent this e-mail; correct?

15:42:16 17 MR. PAGE: Objection, calls for  
15:42:18 18 speculation, asked and answered.

15:42:21 19 THE WITNESS: I'm on the sender list.

15:42:25 20 BY MR. BASKIN:

15:42:25 21 Q. Now -- and I take it there is no other  
15:42:27 22 person at the company -- no other person you know  
15:42:30 23 that has the same Web site as you, Jawed? Mailing  
15:42:35 24 address as you; correct?

15:42:35 25 MR. PAGE: Objection, calls for

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1 KARIM, JAWED

15:42:40 2 speculation.

15:42:40 3 THE WITNESS: Who has that same Web site?

15:42:43 4 BY MR. BASKIN:

15:42:43 5 Q. The -- the same mailing address as you?

15:42:45 6 A. E-mail address?

15:42:47 7 MR. INGBER: Calls for speculation.

15:42:48 8 THE WITNESS: I mean -- no, I don't think  
15:42:50 9 so.

15:42:50 10 BY MR. BASKIN:

15:42:51 11 Q. Now, in this e-mail, Mr. Chen said: "You

15:43:02 12 posted ten StupidVideos last night," and proceeds to

15:43:09 13 complain about your doing so.

15:43:11 14 Do you know what ten e-mail -- what ten  
15:43:13 15 videos he was referencing here?

15:43:15 16 MR. INGBER: Objection to the extent it  
15:43:19 17 mischaracterizes the document and calls for  
15:43:23 18 speculation.

15:43:23 19 THE WITNESS: I don't know which videos  
15:43:25 20 he's referring to.

15:43:26 21 BY MR. BASKIN:

15:43:27 22 Q. Do you recall -- strike that.

15:43:28 23 Am I correct that you and Mr. Chen and

15:43:31 24 Mr. Hurley used the phrase "StupidVideos" to connote

15:43:35 25 the type of videos found on stupidvideo.com?

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1 KARIM, JAWED

15:43:41 2 MR. INGBER: Objection, calls for  
15:43:42 3 speculation.

15:43:42 4 THE WITNESS: I don't -- I don't know. I  
15:43:47 5 think probably -- I -- I don't know. It could  
15:43:54 6 mean -- I think it probably means silly videos.

15:43:57 7 BY MR. BASKIN:

15:43:57 8 Q. Am I correct that the three founders used  
15:44:02 9 the phrase "StupidVideos" as a code for  
15:44:06 10 copyright-violated videos?

15:44:08 11 MR. INGBER: Objection.

15:44:09 12 MR. PAGE: Misstates his prior testimony  
15:44:12 13 and calls for speculation.

15:44:13 14 THE WITNESS: Absolutely not. We didn't  
15:44:16 15 have any codes for any types of videos.

15:44:19 16 BY MR. BASKIN:

15:44:19 17 Q. What ten videos, stupid or otherwise, do  
15:44:24 18 you think Mr. Chen is referencing here?

15:44:26 19 MR. PAGE: Objection, asked and answered.

15:44:27 20 MR. INGBER: And calls for speculation.

15:44:28 21 THE WITNESS: I don't know.

15:44:29 22 BY MR. BASKIN:

15:44:30 23 Q. You don't recall what ten -- you don't  
15:44:36 24 recall -- strike that -- posting ten videos on the  
15:44:39 25 site the night before receiving this e-mail from

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1 KARIM, JAWED

15:44:42 2 Mr. Chen?

15:44:44 3 MR. INGBER: Objection, asked and answered.

15:44:46 4 THE WITNESS: Well, this is July 19, 2005.

15:44:49 5 There's no way I could recall uploading specific

15:44:52 6 videos on this. It's four years ago.

15:44:52 7 BY MR. BASKIN:

15:45:29 8 Q. I'll show you what we'll mark as

15:45:31 9 Exhibit 42.

15:45:31 10 (Plaintiffs' Exhibit No. 42 was marked for  
15:46:00 11 identification.)

15:46:00 12 BY MR. BASKIN:

15:46:00 13 Q. Sir, I have no reason to believe you

15:46:03 14 received this e-mail, but who is Professor Smile?

15:46:07 15 MR. PAGE: Objection, calls for

15:46:09 16 speculation, no foundation.

15:46:10 17 THE WITNESS: That's a YouTube user name.

15:46:12 18 BY MR. BASKIN:

15:46:12 19 Q. And apparently, based on this, am I correct

15:46:15 20 that Professor Smile had his account disabled at

15:46:20 21 YouTube?

15:46:20 22 MR. INGBER: Objection, lacks foundation.

15:46:26 23 THE WITNESS: I don't know, but the e-mail

15:46:28 24 says his account was disabled.

15:46:31 25 BY MR. BASKIN:

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1 KARIM, JAWED

16:09:41 2 MR. INGBER: Objection, vague and  
16:09:43 3 ambiguous.

16:09:43 4 MR. PAGE: Misstates the document.

16:09:45 5 THE WITNESS: What's --

16:09:46 6 BY MR. BASKIN:

16:09:46 7 Q. Excuse me. The -- the "to" line, the  
16:09:49 8 YouTube Group, [REDACTED], you would  
16:09:54 9 be a recipient of such an e-mail; correct?

16:09:57 10 A. Until at some point when I was no longer  
16:10:00 11 involved.

16:10:00 12 Q. But July 22, 2005, you were very much  
16:10:05 13 involved; correct?

16:10:05 14 A. Yes.

16:10:06 15 MR. PAGE: Objection.

16:10:08 16 BY MR. BASKIN:

16:10:08 17 Q. Now, this e-mail purports to pass along  
16:10:13 18 a -- a marketing document. And you see it makes  
16:10:21 19 reference on the top of Exhibit 46 to Charles  
16:10:24 20 Chariya, C-h-a-r-i-y-a. And -- which is the -- the  
16:10:31 21 author of the marketing analysis set forth in -- in  
16:10:35 22 Exhibit 45. Do you see that, sir?

16:10:37 23 MR. PAGE: Objection, compound.

16:10:41 24 BY MR. BASKIN:

16:10:42 25 Q. Do you see that?

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1 KARIM, JAWED

16:10:44 2 A. I see Exhibit 45.

16:10:47 3 Q. Who is Charles Chariya?

16:10:49 4 A. I think he's an acquaintance of Steve, but  
16:10:52 5 I have not met him.

16:10:54 6 Q. Was he involved at -- at -- at Yahoo, do  
16:10:59 7 you know?

16:10:59 8 A. I know that he worked at Yahoo. That's all  
16:11:05 9 I know, though.

16:11:06 10 Q. Do you recall reviewing Exhibit 45?

16:11:10 11 A. I actually do not remember seeing this  
16:11:13 12 before.

16:11:14 13 Q. Okay. Finally, let me hand you what we'll  
16:11:31 14 mark as Exhibit -- sorry -- 47.

16:11:31 15 (Plaintiffs' Exhibit No. 47 was marked for  
16:11:54 16 identification.)

16:11:54 17 THE WITNESS: (Document review.)

16:12:15 18 BY MR. BASKIN:

16:12:16 19 Q. Can you identify for us, sir, what is  
16:12:19 20 Exhibit 47?

16:12:19 21 A. It's a document I wrote.

16:12:24 22 Q. And did you write it on or about the date  
16:12:28 23 set forth on the document?

16:12:29 24 A. Yes.

16:12:30 25 Q. And for what purpose did you write this

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1 KARIM, JAWED

16:12:36 2 document?

16:12:37 3 A. I just wrote this to communicate some  
16:12:49 4 ideas.

16:12:50 5 Q. And to whom did you communicate these  
16:12:53 6 ideas?

16:12:53 7 MR. PAGE: Objection, assumes facts.

16:12:57 8 THE WITNESS: This was handed out by me at  
16:13:01 9 a board meeting and -- but it was only handed out.  
16:13:07 10 It was not discussed. So I don't know if anyone  
16:13:09 11 other than me actually ever read this.

16:13:11 12 BY MR. BASKIN:

16:13:11 13 Q. You -- you were at a board meeting that  
16:13:13 14 occurred on the day after you wrote this memo;  
16:13:16 15 correct?

16:13:16 16 A. Yes.

16:13:17 17 Q. And you distributed Exhibit 47 to the  
16:13:23 18 members of the board?

16:13:24 19 A. Yes.

16:13:25 20 Q. And -- but there was no discussion taken at  
16:13:31 21 the meeting at the time?

16:13:31 22 A. No.

16:13:32 23 Q. Was there -- was there scheduled to be a  
16:13:53 24 discussion of Exhibit 47 at the board meeting?

16:13:56 25 MR. PAGE: Objection, calls for

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1 KARIM, JAWED

16:14:00 2 speculation.

16:14:00 3 THE WITNESS: I remember handing it out at  
16:14:04 4 the board meeting, and -- I -- I was just an  
16:14:10 5 observer on the board. I was not -- never a member  
16:14:12 6 of the board.

16:14:13 7 And I remember, you know, the members,  
16:14:16 8 they're saying, you know, "Thanks. We'll check it  
16:14:18 9 out."

16:14:19 10 BY MR. BASKIN:

16:14:20 11 Q. And going into the board meeting, was a  
16:14:27 12 discussion of your memo a scheduled item for the  
16:14:30 13 board meeting?

16:14:31 14 A. No, it was not.

16:14:32 15 Q. What caused you to hand it out at the board  
16:14:35 16 meeting?

16:14:35 17 A. So between board meetings, I would  
16:14:45 18 sometimes, you know, have some ideas. And then I  
16:14:50 19 thought it would be better organized to assemble  
16:14:56 20 them into one document that I could then hand out at  
16:14:59 21 the board meeting.

16:15:00 22 Q. So was it your practice to hand out  
16:15:05 23 memoranda from time to time at the board meeting?

16:15:07 24 MR. INGBER: Objection, mischaracterizes  
16:15:11 25 his testimony.

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1 KARIM, JAWED

16:15:11 2 THE WITNESS: I think it was the only time  
16:15:13 3 I did that, but I would verbally discuss things at  
16:15:14 4 board meetings that I had developed over the  
16:15:16 5 previous month.

16:15:18 6 BY MR. BASKIN:

16:15:18 7 Q. And was there a reason you recall why you  
16:15:21 8 decided to communicate to the board in writing on  
16:15:28 9 March 23, 2006, rather than orally?

16:15:32 10 A. Because I had accumulated a lot of  
16:15:35 11 different things.

16:15:36 12 Q. Did you propose at the board meeting that  
16:15:44 13 the board discuss the -- the items set forth in  
16:15:48 14 Exhibit 47?

16:15:48 15 A. I remember saying, you know, "Here are some  
16:15:52 16 things that I wanted to talk about."

16:15:57 17 Q. And did someone make the decision not to  
16:15:59 18 discuss Exhibit 47 at the board meeting?

16:16:02 19 MR. INGBER: Objection, calls for  
16:16:03 20 speculation.

16:16:03 21 MR. PAGE: Join.

16:16:06 22 THE WITNESS: It was -- I handed it out,  
16:16:10 23 and Steve said, "Thanks, I will -- I will look at  
16:16:16 24 it," and then the meeting proceeded, but not with  
16:16:22 25 this.

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1 KARIM, JAWED

16:16:23 2 BY MR. BASKIN:

16:16:24 3 Q. And did there come a time in a subsequent  
16:16:28 4 board meeting when you had occasion to discuss  
16:16:31 5 Exhibit 47 with the board members?

16:16:33 6 A. No. This was never discussed.

16:16:39 7 Q. Did there come a time when any member of  
16:16:42 8 the board contacted you to discuss any of the topics  
16:16:46 9 set forth in Exhibit 47?

16:16:47 10 A. No.

16:16:48 11 Q. Did there come a time when Mr. Hurley  
16:16:50 12 discussed with you the matters set forth in  
16:16:54 13 Exhibit 47?

16:16:54 14 MR. PAGE: Objection, asked and answered.

16:16:56 15 MR. INGBER: Objection, asked and answered.

16:16:58 16 MR. PAGE: Stop doing that.

16:16:59 17 THE WITNESS: This was never brought up by  
16:17:03 18 anyone again after I handed it out.

16:17:05 19 BY MR. BASKIN:

16:17:05 20 Q. So if I understand, after you handed it out  
16:17:09 21 at the board meeting, no human being associated with  
16:17:13 22 YouTube talked to you about this exhibit; is that  
16:17:15 23 correct?

16:17:15 24 A. That's correct.

16:17:16 25 Q. And did any human being associated with

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1 KARIM, JAWED

16:17:20 2 YouTube ever e-mail you in connection with this  
16:17:22 3 exhibit?

16:17:23 4 A. Not that I remember.

16:17:24 5 Q. Um, in subsequent board meetings, did you  
16:17:30 6 attempt orally to raise any of the items set forth  
16:17:34 7 in Exhibit 47?

16:17:37 8 MR. PAGE: Objection, assumes facts.

16:17:40 9 THE WITNESS: No, I did not.

16:17:41 10 BY MR. BASKIN:

16:17:42 11 Q. And at any prior board meeting, did you  
16:17:46 12 discuss the topics set forth in Exhibit 47 orally?

16:17:50 13 MR. PAGE: Objection, compound.

16:17:51 14 THE WITNESS: I didn't.

16:17:53 15 BY MR. BASKIN:

16:18:27 16 Q. I have one more document to show you, sir.

16:18:31 17 MR. WILLEN: You said that last time.

18 MR. BASKIN: Yeah, I know. I made a  
19 mistake last time.

20 (Discussion held off the record.)

21 (Plaintiffs' Exhibit No. 48 was marked for  
22 identification.)

23 BY MR. BASKIN:

16:20:09 24 Q. Let me hand out Exhibit 48.

16:20:31 25 A. (Document review.)

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1 KARIM, JAWED

16:20:53 2 Q. Mr. Karim, did you prepare an e-mail out,  
16:21:02 3 Exhibit 48?

16:21:03 4 A. It looks like I did.

16:21:05 5 Q. Do you know whether -- was there any  
16:21:08 6 follow-up discussion with anyone as to your idea of  
16:21:13 7 preventing a user from removing a video from the  
16:21:16 8 site?

16:21:17 9 MR. INGBER: Objection to the extent it  
16:21:20 10 mischaracterizes the document.

16:21:22 11 THE WITNESS: I'm sorry. What was the  
16:21:24 12 question?

16:21:24 13 BY MR. BASKIN:

16:21:24 14 Q. Did you ever discuss this with anyone, your  
16:21:25 15 idea set forth in this e-mail with anyone? Discuss  
16:21:29 16 with them orally.

16:21:29 17 A. Not that I remember.

16:21:31 18 Q. Do you know whether YouTube, in fact, ever  
16:21:33 19 adopted the policy of trying to prevent,  
16:21:36 20 temporarily, users from removing their videos from  
16:21:42 21 the site?

16:21:42 22 MR. INGBER: Objection to the extent it  
16:21:44 23 mischaracterizes the document.

16:21:46 24 THE WITNESS: I don't know.

16:21:46 25 BY MR. BASKIN:

1 KARIM, JAWED

16:37:17 2 BY MR. BROWNE:

16:37:18 3 Q. Do you draw any conclusions from that, that  
16:37:22 4 you haven't been contacted, that you are authorized  
16:37:22 5 to upload their stuff?

16:37:24 6 MR. INGBER: Objection, argumentative, and  
16:37:27 7 appears to call for a legal conclusion.

16:37:27 8 THE WITNESS: I don't make any conclusion  
16:37:29 9 from not being contacted.

16:37:32 10 BY MR. BROWNE:

16:37:32 11 Q. Did you ever receive an e-mail during your  
16:37:34 12 time at YouTube where someone contended that videos  
16:37:40 13 that you had uploaded from CNN were unauthorized?

16:37:46 14 A. I remember Steve e-mailing me and asking  
16:37:52 15 why I had uploaded CNN videos, I think.

16:37:57 16 Q. And what did you -- what did you say to  
16:38:00 17 him?

16:38:00 18 MR. PAGE: Objection, assumes facts.

16:38:06 19 THE WITNESS: Well, I remember having  
16:38:09 20 uploaded short historical video clips that CNN had  
16:38:14 21 on their Web site.

16:38:15 22 So this was -- these were like 20-second  
16:38:19 23 clips of the Challenger space shuttle explosion or  
16:38:25 24 the moon landing and the OJ Simpson verdict.

16:38:31 25 And I remember uploading a couple of those

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1 KARIM, JAWED

16:38:34 2 types of historical short news clips to -- to  
16:38:39 3 YouTube.

16:38:39 4 BY MR. BROWNE:

16:38:39 5 Q. And why did you do that?

16:38:41 6 A. I thought they were interesting, that  
16:38:44 7 people might be interested in watching them.

16:38:47 8 Q. I'm going to get this wrong. Did Mr. Chen  
16:38:57 9 or Mr. Hurley contact you about that? I just forget  
16:39:01 10 what you said.

16:39:01 11 A. I think it was Steve.

16:39:03 12 Q. Okay, Steve. After Mr. Chen contacted you  
16:39:05 13 about that, did -- did you or anyone else then  
16:39:07 14 remove those videos from the YouTube site?

16:39:09 15 A. I don't think I removed them after that. I  
16:39:13 16 may have removed them a long time later.

16:39:16 17 Q. Why did you remove them -- why do you  
16:39:20 18 believe you may have removed them a long time later?

16:39:23 19 A. I don't know.

16:39:25 20 Q. Do you have any recollection as -- as -- as  
16:39:28 21 to why -- why you removed them?

16:39:31 22 A. I removed a lot of videos at various  
16:39:36 23 points, things that I thought were no longer  
16:39:38 24 relevant or interesting or too personal.

16:39:45 25 Q. Did you remove the CNN videos because you

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1 KARIM, JAWED

16:39:49 2 thought they were no longer relevant?

16:39:51 3 MR. INGBER: Objection, assumes facts.

16:39:54 4 THE WITNESS: I -- there was sufficient  
16:40:00 5 other content covering a lot of those topics.

16:40:04 6 When I initially uploaded those videos, the  
16:40:07 7 site was pretty -- pretty bare. So if you searched,  
16:40:10 8 for, say, you know, "moon landing," you would get  
16:40:13 9 nothing.

16:40:15 10 And so I wanted, you know, to have some,  
16:40:18 11 you know, representative short, kind of fair-use  
16:40:21 12 interesting clips. But at a later point, now, if  
16:40:25 13 you search for any of those topics, there is such a  
16:40:28 14 huge amount of information that some of the videos I  
16:40:32 15 had uploaded earlier, in general, not just CNN  
16:40:38 16 videos, I didn't think were adding much value.

16:40:41 17 BY MR. BROWNE:

16:40:41 18 Q. But you uploaded them because you thought  
16:40:44 19 users might like to come to YouTube and watch them?

16:40:47 20 MR. INGBER: Objection, asked and answered,  
16:40:49 21 gives an incomplete characterization of his  
16:40:53 22 testimony.

16:40:53 23 THE WITNESS: What I had said earlier is  
16:40:54 24 that I thought they would be interesting videos.

16:41:03 25 MR. BROWNE: Are we up to 46?

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1 KARIM, JAWED

16:41:05 2 MR. PAGE: 49.

16:41:05 3 MR. BROWNE: All right. So let me just

16:41:05 4 introduce document 49.

16:41:05 5 (Plaintiffs' Exhibit No. 49 was marked for

16:41:23 6 identification.)

16:41:23 7 BY MR. BROWNE:

16:41:24 8 Q. Mr. Karim, the court reporter is about to

16:41:28 9 put in front of you a -- Exhibit 49, which is a

16:41:39 10 Bates stamp JK ending in 989.

16:41:39 11 A. (Document review.)

16:41:42 12 Q. And do you -- have you -- do you recognize

16:41:43 13 that document?

16:41:46 14 A. I don't remember -- I don't remember

16:41:48 15 getting this e-mail.

16:41:49 16 Q. Excluding anything that your lawyers might

16:41:54 17 have shown you in preparation for this deposition,

16:41:57 18 whether or not you got the e-mail, do you remember

16:41:57 19 seeing the e-mail?

16:42:01 20 Again, excluding anything your lawyers

16:42:05 21 showed you.

16:42:05 22 A. I do not remember seeing this e-mail.

16:42:07 23 Q. Do you know who Jill Valentine is?

16:42:13 24 A. I have no idea who that is.

16:42:15 25 Q. Oh, I'm sorry. In -- but you see there on

# **Schapiro Exhibit 78**

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., COMEDY )  
 PARTNERS, COUNTRY MUSIC )  
 TELEVISION, INC., PARAMOUNT )  
 PICTURES CORPORATION, and BLACK )  
 ENTERTAINMENT TELEVISION LLC, )  
 )  
 Plaintiffs, )  
 vs. ) Case No. 07CV2203  
 YOUTUBE, INC., YOUTUBE, LLC, )  
 and GOOGLE, INC., )  
 )  
 Defendants. )

THE FOOTBALL ASSOCIATION PREMIER )  
 LEAGUE LIMITED, BOURNE CO., et al., )  
 on behalf of themselves and all )  
 others similarly situated, )  
 )  
 Plaintiffs, )  
 vs. ) Case No. 07CV3582  
 YOUTUBE, INC., YOUTUBE, LLC, and )  
 GOOGLE, INC., )  
 )  
 Defendants. )

VIDEOTAPED DEPOSITION OF TINA EXARHOS

NEW YORK, NEW YORK

MONDAY, FEBRUARY 23, 2009

REPORTED BY:  
ERICA RUGGIERI, CSR, RPR  
JOB NO: 16507

DAVID FELDMAN WORLDWIDE, INC.  
805 Third Avenue, New York, New York 10022 (212) 705-8585

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February 23, 2009  
9:36 a.m.

VIDEOTAPED DEPOSITION OF TINA  
EXARHOS, held at the offices of Wilson  
Sonsini Goodrich & Rosati, 1301 Avenue of,  
New York, New York, pursuant to notice,  
before before Erica L. Ruggieri,  
Registered Professional Reporter and  
Notary Public of the State of New York.

DAVID FELDMAN WORLDWIDE, INC.  
805 Third Avenue, New York, New York 10022 (212)705-8585

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A P P E A R A N C E S

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DAVID FELDMAN WORLDWIDE, INC.  
805 Third Avenue, New York, New York 10022 (212) 705-8585

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A P P E A R A N C E S: (Cont'd)

ALSO PRESENT:

MICHELENA HALLIE, MTV Networks

CARLOS KING, Videographer

\* \* \*

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1 T. EXARHOS

2 article or interview.

3 Can I read it?

10:33:19

4 MR. WILKENS: If you need to  
5 read it, take your time and read it.

6 THE WITNESS: Yeah, I don't  
7 remember, so I'd like to read it.

8 MR. VOLKMER: Sure.

9 (Witness reads document.)

10:37:18

10 A. Okay.

11 Q. So having read the article, do  
12 you recall being interviewed for it?

13 A. I don't remember the exact  
14 interview, but I do remember the article.

10:37:25

15 Q. And who did you talk with in  
16 connection with this article?

17 A. Again, I don't recall the  
18 interview, but I'm sure it was the  
19 reporter.

10:37:41

20 Q. Mr. Morrissey?

21 A. Brian Morrissey.

22 Q. Do you remember speaking with  
23 Mr. Morrissey about these issues?

10:37:48

24 A. I don't remember the interview  
25 itself, because it was three years ago.



1 T. EXARHOS

2 Q. Do you recall sending any  
3 e-mails about this article?

4 A. I don't recall.

10:37:58

5 Q. In the second page, the third  
6 paragraph, there's a quote from you,  
7 saying "For MTV, giving promotional clips  
8 was a no brainer, because it didn't have  
9 to pay for placement."

10:38:14

10 That refers to giving  
11 promotional clips to YouTube, correct?

12 A. Yes.

13 Q. And is that an accurate quote?

14 A. Yeah. I don't remember the

10:38:30

15 interview, but I don't see anything that I  
16 disagree with, so.

17 Q. And you believed that providing  
18 promotional clips to YouTube was a no  
19 brainer, correct?

10:38:39

20 A. Yes, I believed it was, you  
21 know, a good way to market some of our  
22 priority shows, amongst other things. But  
23 yes, I think that it was a mutual --

24 mutually beneficial relationship. They

10:39:01

25 were receiving valuable content that we

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1 T. EXARHOS

2 were providing, and they were providing  
3 good promotional placement for us.

10:39:14

4 Q. And the promotional clips that  
5 MTV provided to YouTube, they were  
6 authorized to be on YouTube, correct?

7 A. The ones that I'm referring to?

8 Q. Right. They were authorized to  
9 be on YouTube, correct?

10:39:24

10 A. Correct.

11 Q. Do you know what the term  
12 content council refers to?

13 A. It was a meeting.

14 Q. A single meeting?

10:39:38

15 A. I don't recall exactly how many  
16 meetings, but I think that it might have  
17 been a -- it might have been a one-time  
18 meeting that we did. I don't remember if  
19 it was more than one meeting.

10:39:54

20 Q. And what was the topic of the  
21 meeting?

22 A. If it's the meeting that I think  
23 we are talking about, we discussed just  
24 kind of in the changing environment -- you  
25 know what, I can tell you what I know I

10:40:14

1 T. EXARHOS

2 I can't tell you definitively.

04:32:23

3 Q. Right. But you have  
4 considerable expertise in marketing,  
5 especially the marketing practices at MTV.  
6 There might be no one who is more  
7 qualified to make a guess about what's  
8 happening in this e-mail than you. And I  
9 want to know what you think is the most  
10 likely scenario here.

04:32:32

11 Is this clip being leaked to  
12 YouTube with MTV's authorization?

13 MR. WILKENS: Objection.

04:32:50

14 A. Yeah. Well, I have expertise.  
15 I just don't have the specifics around  
16 this campaign. So again, my guess,  
17 without the definitive knowledge, is that  
18 it was; but it's a guess, because I don't  
19 have the information.

04:33:03

20 Q. Okay. And if you could turn to  
21 the last page.

22 A. Uh-hum.

23 Q. The title is More Perez Hilton  
24 Freaking Out.

04:33:17

25 Do you know what that video was?

1 T. EXARHOS

2 A. It was, I believe it was from  
3 the show Celebrity Rap Superstar. And  
4 Perez Hilton was freaking out.

04:33:37

5 Q. And do you know if this  
6 particular clip at 2359232 was authorized  
7 to be on YouTube by MTV?

04:34:04

8 A. Again, I think this is the clip  
9 that Andrea Manning is referring to, so --  
10 yeah. Again, we were promoting the show  
11 at that time. I don't remember the  
12 specifics of that clip, so I can't tell  
13 you definitively.

04:34:19

14 Q. You don't know one way or the  
15 other whether this clip is authorized to  
16 be on the YouTube service?

17 A. Around this specific clip, I  
18 don't know.

04:34:30

19 Q. What would you need to find out?

20 A. I could easily -- I could have  
21 called on Andrea and found out. I mean  
22 whoever was responsible for that campaign,  
23 I would have been able to find out.

04:34:42

24 Q. And the user, the YouTube user  
25 here is gossip girl 40.

1 T. EXARHOS

2 Are you familiar with that  
3 YouTube user?

4 A. No.

04:34:48 5 Q. Have you ever heard that user  
6 name before, gossipgirl40?

7 A. No.

8 Q. Do you know if that's somebody  
9 at MTV?

04:34:59 10 A. I don't.

11 Q. Do you know if it's someone  
12 working at MTV's direction?

13 MR. WILKENS: Objection.

14 A. I don't.

04:35:29 15 MR. WILKENS: Is this a good  
16 time for a break?

17 MR. VOLKMER: It is. Let's take  
18 a break.

19 THE VIDEOGRAPHER: The time is  
04:35:34 20 4:36 p.m., and that's -- we are taking  
21 a break.

22 (Whereupon, there is a recess in  
23 the proceedings.)

24 THE VIDEOGRAPHER: The time is  
04:49:42 25 4:50 p.m. and we are back on the

1 T. EXARHOS

2 record.

3 Q. Back on.

04:49:50 4 Does MTV engage in any marketing  
5 for shows that are no longer on the air  
6 and for which they, they have not put out  
7 a DVD?

8 A. Not that I can think of, no.

9 Q. Do you know why that is?

04:50:05 10 A. Well, my primary goal, from a  
11 marketing perspective, is to drive people  
12 back to either watch our shows or go to  
13 our website or buy our products. So if  
14 there was no call to action like that,  
04:50:23 15 then we wouldn't be actively marketing  
16 anything.

17 Q. Because there's nothing to  
18 market, right?

19 A. Yeah.

04:50:32 20 MR. WILKENS: Objection.

21 A. I can't think of an instance  
22 where we would be.

23 Q. Okay. I'm going to read off a  
24 list of shows that I have here, and I'd  
04:50:43 25 like you to tell me whether MTV or its

1 T. EXARHOS

2 that Viacom produced, with Bates  
3 number VIA00397855, marked for  
4 identification, as of this date.)

05:09:34

5 (Exarhos Exhibit 38, screen  
6 shot of URL from Exhibit 37 printed  
7 off the Internet February 20th,  
8 2009, marked for identification, as  
9 of this date.)

05:09:10

10 (Witness reviews documents.)

11 Q. 37 is an e-mail that Viacom  
12 produced in this litigation, with Bates  
13 number VIA00397855. It's from Eric  
14 Eckelman to Tina Exarhos and Eric Mackall,  
15 on October 11, 2006.

05:09:30

16 And Exhibit 38 is a screen shot  
17 of the URL from Exhibit 37 that I have  
18 printed off the Internet on February 20th,  
19 2009. And the subject line of the e-mail  
20 is "There's No Hope," and then there's a  
21 YouTube URL.

05:09:49

22 Do you remember watching that  
23 YouTube URL?

24 A. I don't remember, specifically.  
25 Though looking at the -- it looks

05:10:03

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1 T. EXARHOS

2 familiar, but I don't remember,  
3 specifically.

05:10:10

4 Q. And the video is entitled  
5 "George Versus Suzanne Malveaux," and the  
6 screen shot shows a portion of the video  
7 clip which was the journalist Suzanne  
8 Malveaux interviewing George W. Bush on  
9 C-span about North Korea's nuclear arms  
10 proliferation.

05:10:26

11 Do you recall watching that  
12 video on YouTube?

13 MR. WILKENS: Objection.

05:10:34

14 A. Yeah. I'm not sure -- I'm not  
15 sure if I watched it or if I watched it,  
16 you know, from this link. I may have. I  
17 just don't recall.

05:10:52

18 Q. And do you know who uploaded  
19 this video, George versus Suzanne  
20 Malveaux?

21 A. I don't.

22 Q. Do you know if it was authorized  
23 to be on YouTube?

05:10:59

24 A. I don't know if it was  
25 authorized, but it looks like a news clip,



1 T. EXARHOS

2 which my understanding of news clips is  
3 that there was fair use of news clips.

05:11:21 4 MR. VOLKMER: Let's mark  
5 Exhibit 39.

6 (Exarhos Exhibit 39,  
7 December 5, 2006 e-mail produced by  
8 Viacom, bearing Bates numbers  
9 VIA00865730, marked for  
05:11:41 10 identification, as of this date.)

11 Q. This is an e-mail produced by  
12 Viacom, with Bates numbers VIA00865730.  
13 It's an e-mail from Laura Levine to  
14 several individuals, including Tina  
05:11:57 15 Exarhos, on December 5, 2006.

16 A. Okay.

17 Q. Who is Laura Levine?

18 A. Lauren Levine.

19 Q. I'm sorry, Lauren Levine.

05:12:13 20 A. That's okay. She -- she's a  
21 friend of mine. She works at Nickelodeon.

22 Q. She's an MTV employee?

23 A. MTV Networks.

24 Q. She says, "Check out this link,  
05:12:27 25 it's a bit of a wow."

1 T. EXARHOS

2 You respond, "Who did this? I  
3 must know."

05:12:33

4 She says, "It's Robbie Williams,  
5 part of his Rude Box something, something.  
6 Genius."

7 Do you know what this video is?

05:12:53

8 A. I don't remember what it was,  
9 but something genius from Robbie Williams,  
10 I guess. I don't remember if I watched  
11 it, but [REDACTED]  
12 I don't know what the actual video was.

05:13:10

13 Q. You say "Who did this? I must  
14 know." That suggests you watched the  
15 video.

16 A. Or I must know before I watch  
17 it.

18 Q. Possibly.

05:13:15

19 MR. VOLKMER: I'd like to mark  
20 Exhibit 40.

21 (Exarhos Exhibit 40, e-mail  
22 produced by Viacom, Bates number  
23 VIA00908297, marked for  
24 identification, as of this date.)

05:13:30

25 Q. This is an e-mail produced by

**Schapiro Exhibit 79**



Thank you for choosing **SEO Inc.** to provide you with your search engine optimization and branding campaign. Please provide us with the following information so we can get started on your web site placements.

**A) Initial keyword list:**

Please provide a list of 15-25 keyword(s) and keyword phrases in order of importance that are most relevant and significant to your business, your products, and your target market.

Most of these words also get significant traffic used with the word "free"

1.	video	11.	stunts	21.	movie clips / trailers
2.	share	12.	music videos	22.	stupid videos
3.	camera	13.	dv camera	23.	home movies
4.	phone	14.	cartoons	24.	
5.	upload video	15.	Flash	25.	
6.	post video	16.	sexy videos	26.	
7.	funny videos	17.	sex / sex related keywords	27.	
8.	random	18.	crazy videos	28.	
9.	viral	19.	caught on tape	29.	
10.	prank	20.	wtf	30.	

**B) Competitors' website addresses:**

Please provide the URLs for 5-10 of your competitors' websites to be used during our competitive keyword analysis.

1.	www.youtube.com	6.	www.vsocial.com
2.	www.ifilm.com	7.	www.dailymotion.com
3.	www.vidilife.com	8.	www.grouper.com
4.	www.zippyvideos.com	9.	www.vmix.com
5.	www.revver.com	10.	www.myspace.com

**C) Other domain names:**

If you are using multiple domain names please list below

1.	www.addictingclips.com	6.	
2.		7.	
3.		8.	
4.		9.	
5.		10.	



## D) Web server information

Hosting information:	{ in house server, dedicated hosting, shared hosting or other }
Type:	{ Apache, IIS or other }
Script language used:	{ html, asp, php, cfm, jsp or other }

## E) Website access information:

**File Transfer**

Host name:	{ ftp.yourwebsite.com or IP }
Username:	
Password:	
Port:	{ if FTP is located on a port other than Port 21 }

For: FTP, SFTP, SCP, etc.

OR

**Web/CMS login**

Type:	
Web address:	
Username:	
Password:	

For: FrontPage, Yahoo Store, Custom CMS, etc.

F) Do you have access to any web traffic statistics packages (Web Trends, Hitbox, Urchin, Livestats, etc.)? If so, what is the access information?

G) Do you have any affiliate websites?

**Schapiro Exhibit 80**

---

Subject: Hitmaker Comp  
From: "Jackson, Brendan" <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=BJACKSON69575362>  
To: Roesch, Scott; Sanders, Joel; Albrecht, Chris; Barrera, John  
Cc: Joves, Steve  
Date: Thu, 05 Apr 2007 16:45:59 +0000

I wanted to pass along the latest versions of the Hitmaker cpage. The text is still FPO, but Chris's team should be providing copy tomorrow. From a layout perspective I think we are good to go though, and unless there are any major comments/concerns, we are going so start building these pages out. Please let me know any questions.

Thanks –

Brendan

brendan.jackson

senior product manager

atom films/addicting clips

mtv networks

225 bush st. #1200

san francisco, ca 94104

o: 415.503.2442

f: 415.503.2555



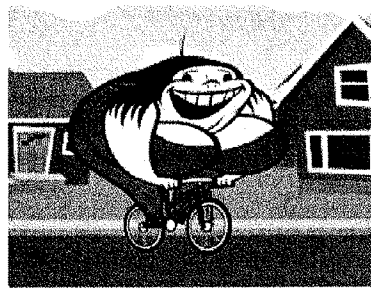
List of attachments:  
af\_04\_hitmaker.jpg  
ac\_06\_hitmaker.jpg

# HITMAKER PROGRAM

Become a star online and on TV.

- 1** Become a star: Upload Now!
- 2** Your chance to be on AtomFilms
- 3** You've just hit the big time

[CLICK HERE TO UPLOAD VIDEOS!](#)



Now playing on Comedy Central:

**Fat Girls On Bikes**  
from: killerburrito77

Started on AtomFilms and you can now see it on Comedy Central.

### MORE ATOM SUCCESS STORIES

[see all success stories](#)



**Future Shock**  
from: killerburrito77  
Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna



**Future Shock**  
from: killerburrito77  
Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna



**Future Shock**  
from: killerburrito77  
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**Future Shock**  
from: killerburrito77  
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### COMING SOON

[see all](#)



#### Comedy Central's Test Pilots

Starting in June you can submit your pilot for and see if Comedy Central will put you on TV.



#### Star Wars Fan Movie Challenge

Starting in June you can submit your pilot for and see if Comedy Central will put you on TV.



#### AtomFilms Studio

Starting in June you can submit your pilot for and see if Comedy Central will put you on TV.

### 500 MORE REASONS TO UPLOAD

- Sed ut perspiciatis unde omnis
- Sed ut perspiciatis unde omnis
- Sed ut perspiciatis unde omnis
- Sed ut perspiciatis unde omnis

Most Watched Films: Film #1, Film #2, Film #3  
Most Watched Channels: Channel #1, Channel #2, Channel #3

AddictingClips is the place to upload, play, and share your video clips, cartoons and Flash games. We've got free funny videos, indie music videos, hilarious cartoons, video game clips, eye-opening animations, movie clips, sports clips, celebrity clips, stunts, crazy videos, stupid videos, and more.

Make sure to get our free e-mail updates and RSS feed. If you've got clips of your own, upload them now, and you could earn real money in our Dash for Clips program.

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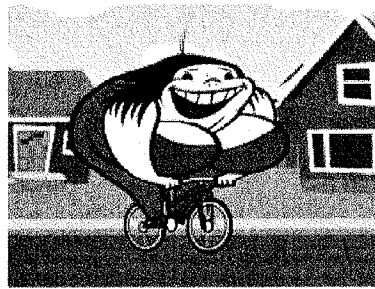


# HITMAKER PROGRAM

Become a star online and on TV.

- 1** Become a star: Upload Now!
- 2** Your chance to be on AtomFilms
- 3** You've just hit the big time

**CLICK HERE TO UPLOAD VIDEOS!**



**Now playing on Comedy Central:**

**Fat Girls On Bikes**  
from: killerburrito77

Started on AtomFilms and you can now see it on Comedy Central.

### MORE ATOM SUCCESS STORIES

[see all success stories](#)



**Future Shock**  
from: killerburrito77  
Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna



**Future Shock**  
from: killerburrito77  
Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna



**Future Shock**  
from: killerburrito77  
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**Future Shock**  
from: killerburrito77  
Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod magna

### COMING SOON

[see all](#)



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Starting in June you can submit your pilot for and see if Comedy Central will put you on TV.



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Starting in June you can submit your pilot for and see if Comedy Central will put you on TV.

### WHAT ATOM CAN DO FOR YOU

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- Sed ut perspiciatis unde omnis
- Sed ut perspiciatis unde omnis
- Sed ut perspiciatis unde omnis

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# **Schapiro Exhibit 81**

**From:** Steve Chen <[REDACTED]>  
**Sent:** Tuesday, February 22, 2005 12:18 PM  
**To:** Jawed Karim <[REDACTED]>  
**Cc:** Chad Hurley <[REDACTED]>  
**Subject:** Re: Strategy: please comment

---

hey.

can you tell me what you have in place in terms of revenue-stream, the dating module, and interaction with payment engine?

how is that coded now? how fleshed out is it? are you comfortable with it?

-s

Tuesday, February 22, 2005, 11:36:01 AM, you wrote:

> Product design:  
> -----

> The site should look good, but not too professional. It should look like  
> it was thrown together by a couple of guys. Note that hotornot and  
> friendster, while easy to use, don't look professional, and yet they've  
> had enormous success. We don't want to look too professional because it  
> scares people off. Subconsciously, if it looks professional, people think  
> it's expensive to use.

> The most important aspect of the design is ease of use. Our moms should be  
> able to use the site easily.

> Timing/Competition:  
> -----

> I think our timing is perfect. Digital video recording just became  
> commonplace last year since this is now supported by most digital cameras.

> There is one site I'm aware of: stupidvideos.com, that also hosts videos  
> and allows viewers to rate them. Luckily the site hasn't caught on very  
> much. We should discuss why this is the case, and why we expect our site  
> to gain more traction.

> Note that they have the simplest possible implementation: they simply host  
> A VI and MPEG files, just like mpegnation.com, a site that hosts videos for  
> use in auctions. Auto-converting uploaded videos to flash will set us  
> apart from the rest, especially if the flash player is slick.

> Site Focus:  
> -----

> Our focus should implicitly be dating, just like hotornot. Note that  
> hotornot is a dating site without seeming too much like one. This puts  
> people at ease. I believe that a dating-focused video site will draw much  
> more attention than stupidvideos. Why? Because dating and finding girls is  
> what most people who are not married are primarily occupied with. There  
> are only so many stupid videos you can watch.

> Also, most people have little motivation to post their own "stupid" video.

## A-484

> Such videos are pretty difficult to make: you have to do something stupid,  
> which might be embarrassing or painful, and it requires planning. And  
> what's the payoff? Even if your video is popular, what do you get out of  
> it?

> A personal dating-video however is easy to put together, and the reward is  
> clear: potential contacts from people who want to date you. People will be  
> motivated to put up their videos, and it takes a minimal time investment  
> to do so.

> The fact that stupidvideos.com is thriving, making 14k/mo, and having been  
> around since 2001 is a big encouragement. It shows that such a site does  
> in fact work, despite bandwidth cost concerns, and I believe we can far  
> exceed the popularity of this site. We should look at them closely, for  
> example see what ISP they are using, and possibly call their ISP to see  
> what rate they paying for bandwidth.

> Rollout:  
> -----

> Although we want our product to get out ASAP, it must be ready for  
> primetime. Our design and features should be superior to stupidvideos when  
> we launch. Before public launch we should have a private launch, which  
> requires a password to access the site. During the private launch phase we  
> should encourage our friends to populate the site with dating-oriented  
> videos. This way, when we launch to the world, visitors will know what  
> kinds of videos they should upload.

> Private launch target date: May 15th.

> Jawed

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

> "First, let me make it very clear, poor people aren't necessarily  
> killers. Just because you happen to be not rich doesn't mean you're  
> willing to kill." - George W. Bush, Washington, D.C., May 19, 2003

# **Schapiro Exhibit 83**

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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

Plaintiffs, )

vs. )

NO. 07-CV-2203 )

YOUTUBE, INC., YOUTUBE, LLC, )  
and GOOGLE, INC., )

Defendants. )

\_\_\_\_\_)  
THE FOOTBALL ASSOCIATION PREMIER )  
LEAGUE LIMITED, BOURNE CO., et al., )  
on behalf of themselves and all )  
others similarly situated, )

Plaintiffs, )

vs. )

NO. 07-CV-3582 )

YOUTUBE, INC., YOUTUBE, LLC, and )  
GOOGLE, INC., )

Defendants. )

\_\_\_\_\_)  
VIDEOTAPED DEPOSITION OF CHAD HURLEY  
SAN FRANCISCO, CALIFORNIA  
WEDNESDAY, APRIL 22, 2009

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CLR  
JOB NO. 16789

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APRIL 22, 2009

9:08 a.m.

VIDEOTAPED DEPOSITION OF CHAD HURLEY,  
held at the offices of SHEARMAN & STERLING,  
525 Market Street, San Francisco, California,  
pursuant to notice, before ANDREA M. IGNACIO  
HOWARD, CLR, CCRR, RPR, CSR License No. 9830.

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A P P E A R A N C E S :

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A P P E A R A N C E S (Continued.)

FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and  
GOOGLE, INC.:

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KEN REESER, Videographer.

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HURLEY, CHAD

10:58:49 Q Did you have any other goals at that time  
10:58:55 with respect to the YouTube website?

10:58:59 A I can't, you know, remember specifically.  
10:59:02 It's just we -- we wanted to build a -- a great site.  
10:59:06 We wanted to build a great team. We -- yeah, I mean,  
10:59:09 we were creating business. We want to be successful  
10:59:11 on all levels.

10:59:13 Q Was one of your goals at this time to  
10:59:18 potentially sell the YouTube website?

10:59:22 A I mean, yeah. You could dream. We -- we  
10:59:26 never imagined what would have happened, you know. It  
10:59:30 looks like I'm discussing going public. I mean, we  
10:59:32 did have the experience of being involved with PayPal.  
10:59:34 We saw what was possible with just -- come up with a  
10:59:37 simple idea that would empower people with, you know,  
10:59:41 an otherwise complicated procedure that, you know,  
10:59:44 give them a solution.

10:59:45 So, you know, if we did the right things,  
10:59:48 potentially we could -- we would find ourselves in the  
10:59:50 same position. We were optimistic about that.

10:59:53 Q Would -- would having additional traffic help  
10:59:58 advance your goal of potentially selling the YouTube  
11:00:00 website?

11:00:02 A Sure. It could be a factor.

1 HURLEY, CHAD

2 11:00:04 Q Would having additional traffic help increase

3 11:00:09 the price by which you might be able to sell the

4 11:00:11 YouTube website?

5 11:00:13 A Yeah. Again, it -- it could be one of the

6 11:00:15 factors that someone would consider.

7 11:00:16 Q Can you think of any other reason, other than

8 11:00:23 ones that we've discussed, why -- why YouTube needed

9 11:00:27 to attract more traffic in July of 2005?

10 11:00:30 MR. SCHAPIRO: Objection; lacks foundation.

11 11:00:31 THE WITNESS: Yeah, I -- I don't know what

12 11:00:34 you necessarily mean. It just -- like I said, we were

13 11:00:38 trying to build a great service, a great site on all

14 11:00:42 levels, just...

15 11:00:47 MR. BROWNE: Q. But as of July of '05

16 11:00:50 and -- and I'm sorry if you answered this already, but

17 11:00:53 you were already considering -- you and your

18 11:00:56 cofounders were already considering selling

19 11:00:59 advertisements on the YouTube website; is that right?

20 11:01:02 A It's probably something -- it's probably

21 11:01:05 something that we were considering. I don't know, you

22 11:01:08 know, specifically if -- of our plans. I can't

23 11:01:12 remember at the time. You know, again, another thing

24 11:01:15 that we were -- we were looking at doing is -- is, you

25 11:01:20 know, creating a site that people could share their

1 HURLEY, CHAD

2 11:01:23 experiences.

3 11:01:24 i mean, these sites, Stupid Videos or Big

4 11:01:26 Boys or, you know, which became great, these were

5 11:01:31 sites that were paying people to do, basically, stupid

6 11:01:34 things. You know, jumping off buildings, drinking a

7 11:01:37 gallon of milk, whatever. That's not what we wanted

8 11:01:40 the site to be about. We were trying to build a

9 11:01:42 community.

10 11:01:44 Q Well, you were also, at that time, thinking

11 11:01:46 of ways to start making money off of the website;

12 11:01:51 weren't you?

13 11:01:52 A I'm sure, but, I mean, we were thinking about

14 11:01:53 lots of things beyond just advertising. I mean, at

15 11:01:56 the end of the day, you have to create a great service

16 11:01:58 for your users and build a great community to -- to

17 11:02:02 have any chance of success.

18 11:02:03 Q And you have to have a lot of traffic to have

19 11:02:06 any chance of success; is that right?

20 11:02:08 A Again, that's another factor that would come

21 11:02:10 into play. Sure.

22 11:02:12 MR. BROWNE: Let's mark Exhibit 6.

23 11:02:23 (Document marked Hurley, C., Exhibit 7

24 11:02:28 for identification.)

25 11:02:28 MR. BASKIN: I believe, Exhibit 7.

1 HURLEY, CHAD

2 11:02:30 MR. BROWNE: Oh, Exhibit 7. I'm sorry.

3 11:02:41 THE WITNESS: Thanks. That's a long one.

4 11:02:57 MR. BROWNE: Wait. I said 6, and you guys

5 11:03:01 said 7.

6 11:03:02 MR. SCHAPIRO: This is 7.

7 11:03:03 MR. BROWNE: Oh, okay. So you were right.

8 11:03:05 THE WITNESS: Should I start reading it?

9 11:03:07 MR. BROWNE: Yeah, you know --

10 11:03:08 THE WITNESS: It looks like a resumé in the

11 11:03:10 middle here, so I'll skip through that.

12 11:03:12 MR. BROWNE: I'm sorry.

13 11:03:13 Q You said it looks like a resumé? Can I see

14 11:03:19 what --

15 11:03:20 A In the middle there. Is that the right one?

16 11:03:28 Q Yeah. We have the same one. Sorry about

17 11:03:29 that. It didn't seem right to me.

18 11:03:32 A Yeah.

19 11:03:45 Q Yeah, in fact, Mr. Hurley, I -- so we can all

20 11:03:48 get out of here today, I -- I'll tell you I'm not

21 11:03:51 going to ask you any questions about any part of this

22 11:03:54 document starting on the second half of page two and

23 11:03:56 continuing to the end.

24 11:03:58 A Okay. I'll hurry up and read my part, at

25 11:04:00 least.

1 HURLEY, CHAD

2 17:10:01 e-mail?

3 17:10:05 A Yeah, it looks like I got it.

4 17:10:06 Q And there actually was a prior e-mail

5 17:10:09 reference that you sent out on November 16th, 2006,

6 17:10:16 responding to Peter Chang in which you stated that

7 17:10:22 this could potentially be a very powerful acquisition

8 17:10:25 for Google; correct?

9 17:10:29 A Yeah, it looks like that's what I did, yeah.

10 17:10:31 [REDACTED]

11 17:11:38 [REDACTED]

12 17:11:47 [REDACTED]

13 17:11:49 [REDACTED]

14 17:11:51 MR. SCHAPIRO: Objection; asked and answered.

15 17:11:53 [REDACTED]

16 17:11:57 [REDACTED]

17 17:11:59 [REDACTED]

18 17:12:02 MR. BASKIN: Q. And, in fact, basically all

19 17:12:09 of the media companies that you were talking to in and

20 17:12:14 around October 2006 wanted you to adopt a similar

21 17:12:19 technology to this, a filtering technology; isn't that

22 17:12:24 correct?

23 17:12:24 MR. SCHAPIRO: Objection; lacks foundation.

24 17:12:29 MR. BASKIN: Q. Is that true, sir?

25 17:12:32 A It may have been the case. I --

1 HURLEY, CHAD

2 17:12:35 Q Do you know who Kevin Donahue is?

3 17:12:37 A Yeah, I think he leads partnerships, some

4 17:12:41 partnerships for us. I think he reports to -- to

5 17:12:44 Chris, I think.

6 17:12:45 Q And did he report to you that all of your

7 17:12:48 would-be partners basically want YouTube to agree to

8 17:12:56 certain filtering and copyright protection standards

9 17:12:58 as part of transactions?

10 17:13:02 A It may have been the case. I mean, we make

11 17:13:04 our tools available to them. We want to make our

12 17:13:07 tools available generally to anyone. They don't need

13 17:13:10 to -- to enter into a licensing agreement because of

14 17:13:13 it.

15 17:13:13 Q Okay. We'll get to that.

16 17:13:15 We'll just mark -- let's mark as Exhibit 26,

17 17:13:21 which we'll provide to everyone.

18 17:13:22 (Document marked Hurley, C., Exhibit 26

19 17:13:26 for identification.)

20 17:13:26 THE VIDEOGRAPHER: Counsel, could you slide

21 17:13:28 your microphone up?

22 17:13:29 MR. BASKIN: Yes. Sorry.

23 17:13:38 MR. SCHAPIRO: She's marking it.

24 17:13:44 THE WITNESS: Okay. Let me just read this

25 17:13:45 quickly.

1 HURLEY, CHAD

2 17:13:50 MR. BASKIN: Just, again, to speed things

3 17:13:51 along, I'm only going to be referencing the first

4 17:13:55 paragraph with you, so we can try to get everyone to

5 17:13:57 the garage on time.

6 17:13:58 THE WITNESS: Okay. All right.

7 17:14:56 MR. BASKIN: Q. Now, again, this is an

8 17:14:59 e-mail, Exhibit 26, an e-mail, in fact, received by

9 17:15:03 you, correct, sir?

10 17:15:05 A Yeah, that's what it looks like.

11 17:15:06 Q And in the first paragraph, Mr. Donahue is

12 17:15:09 discussing with you some of the wishes of the networks

13 17:15:13 and studios with which you are engaging in discussions

14 17:15:17 at the time; is that correct?

15 17:15:18 A Yeah, it looks like that's what he's

16 17:15:20 discussing here.

17 17:15:21 Q And among the things that they want, I

18 17:15:26 believe, he says, "I believe the business development

19 17:15:29 people would like to do a deal, but you must -- they

20 17:15:34 must satisfy their lawyers and that means that they

21 17:15:36 want YouTube to agree to certain filtering and

22 17:15:40 copyright protection standards"; do you see that?

23 17:15:43 A I see that.

24 17:15:43 Q And was the transaction with Audible Magic,

25 17:15:46 at least in part, intended to provide a filtering



1 HURLEY, CHAD

2 17:35:14 come on board.

3 17:35:15 Q Are you suggesting that you think you might

4 17:35:17 have entered into a techno- -- a license agreement

5 17:35:18 with NBC in and around February 2007?

6 17:35:21 A I don't know if it was part of that deal or

7 17:35:22 if this was a separate one. I don't know.

8 17:35:24 Q And did you, in fact, not end up offering to

9 17:35:27 NBC in and around February 2007 video techno- --

10 17:35:32 fingerprinting technology once they declined to enter

11 17:35:36 into a license agreement with YouTube?

12 17:35:38 MR. SCHAPIRO: Objection; unclear syntax.

13 17:35:46 MR. BASKIN: You can answer a question with

14 17:35:49 unclear syntax.

15 17:35:49 MR. SCHAPIRO: Did you, in fact, not end up

16 17:35:52 offering --

17 17:35:52 THE WITNESS: Yeah.

18 17:35:52 MR. SCHAPIRO: -- once they declined.

19 17:35:54 MR. BASKIN: Okay. Thank you. Let me clear

20 17:35:55 it up.

21 17:35:56 Q Once they declined to enter into a license

22 17:36:00 agreement with you, isn't it true, sir, that you

23 17:36:03 refused to provide NBC with -- with filtering

24 17:36:07 technology -- with fingerprinting technology in and

25 17:36:08 around February 2007?

1 HURLEY, CHAD

2 17:36:10 MR. SCHAPIRO: Objection; assumes they

3 17:36:11 declined.

4 17:36:12 THE WITNESS: Yeah, so, assuming they

5 17:36:14 declined and, you know, assuming I would remember this

6 17:36:17 deal, I -- I do not know.

7 17:36:19 MR. BASKIN: Q. Viacom the same thing? Were

8 17:36:20 you prepared to offer Viacom fingerprinting technology

9 17:36:24 in and around December, January, February, of 2006 and

10 17:36:28 2007?

11 17:36:29 A I -- I don't know.

12 17:36:31 Q And once Viacom refused to enter into a

13 17:36:35 license agreement with YouTube, did YouTube offer

14 17:36:37 Viacom fingerprinting technology in -- in and around

15 17:36:41 February 2007?

16 17:36:42 MR. SCHAPIRO: Objection; foundation;

17 17:36:43 compound.

18 17:36:44 THE WITNESS: Again, like all of these

19 17:36:47 examples, I do not know what was in the deal terms.

20 17:36:51 MR. BASKIN: Q. How about EMI Music Group?

21 17:36:53 Are you familiar with that transaction?

22 17:36:55 A You know, I -- I know of the company. You

23 17:37:00 know, the -- I knew we were trying to enter deals with

24 17:37:02 all of the major music labels. Again, I don't know

25 17:37:05 the specific terms, but...

1 HURLEY, CHAD

2 17:37:06 Q Did you enter into a transaction with EMI?

3 17:37:10 A I think we were able to reach agreement with

4 17:37:11 them.

5 17:37:11 Q And as part of that transaction with EMI,

6 17:37:14 they provided you with a license agreement, did they

7 17:37:16 not?

8 17:37:17 A Yeah.

9 17:37:17 Q And as part of the transaction with EMI for a

10 17:37:20 license agreement, you offered them fingerprint

11 17:37:23 technology, did you not, Mr. Hurley?

12 17:37:25 A I don't know.

13 17:37:26 Q Are you familiar with the -- with the

14 17:37:28 transaction with EMI? Did anyone report to you about

15 17:37:32 it, sir?

16 17:37:33 A Again, it would probably go up to Chris

17 17:37:37 Maxcy.

18 17:37:37 Q Were you told, sir, that in connection with

19 17:37:40 EMI's transaction, that YouTube contracted to provide

20 17:37:48 EMI with audio fingerprinting technology that shall

21 17:37:57 be -- shall be 95 percent or greater effective at

22 17:38:01 protecting them from uploads on your website?

23 17:38:06 A Well, considering I don't remember the terms

24 17:38:07 from any of these deals, I'm sure I don't remember

25 17:38:10 that number as well.

1 HURLEY, CHAD

2 18:40:47 Q Do you recall the proposals or suggestions

3 18:40:54 that Mr. Fricklas makes on the top of page two of this

4 18:40:58 letter having been discussed internally at YouTube?

5 18:41:01 A We may have. Like I said, I didn't see this.

6 18:41:04 I don't remember seeing this specific document. I --

7 18:41:10 I -- I can't remember if it was discussed, these

8 18:41:15 specific points.

9 18:41:16 MR. BASKIN: I have no further questions.

10 18:41:19 Thank you.

11 18:41:19 THE WITNESS: Thank you.

12 18:41:23 THE VIDEOGRAPHER: This concludes today's

13 18:41:25 videotaped deposition --

14 18:41:27 MR. SCHAPIRO: No, no, it doesn't,

15 18:41:28 unfortunately.

16 18:41:29 THE VIDEOGRAPHER: Okay.

17 18:41:29 MR. SCHAPIRO: I'm going to have a couple of

18 18:41:30 minutes of redirect, but we'll need to step out and

19 18:41:33 prepare for a second.

20 18:41:34 THE VIDEOGRAPHER: The time is 6:40.

21 18:41:36 We're off the record.

22 18:41:38 (Recess taken.)

23 18:48:58 THE VIDEOGRAPHER: The time is 6:48 p.m.

24 18:49:02 We're back on the record.

25 18:49:02 ///