

# EXHIBIT V

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October 24, 2008

*VIA E-MAIL*

Brandon Baum, Esq.  
Mayer Brown, LLP  
Two Palo Alto Square  
3000 El Camino Real  
Palo Alto, California 94306  
Email: bbaum@mayerbrown.com

Re: *Viacom International, Inc., et al. v. YouTube, Inc., et al.*, CV 08-08211

Dear Mr. Baum:

I write in response to your motion to compel to production of document by BayTSP, Inc. served on October 20, 2008.

BayTSP has expended significant effort to gather, process, and review a vast amount of potentially responsive documents. Indeed, as shown by the communications cited in your declaration in support of YouTube's motion, BayTSP has repeatedly informed you that it has continued to resolve issues arising from the excessive volume of documents requiring review. *See, e.g.*, Ex. N to Baum Decl., July 10, 2008 Ltr from Ellikinos at 2 ("In any event, because there are over 4 terabytes of electronic documents to process and nearly 1000 search terms, our vendor has informed us that it will take approximately four weeks to filter the data."); *see also*, Ex. N to Baum Decl., August 21, 2008 Email from Hemminger ("As I explained the volume of documents has been greater than anticipated and hence taken much longer to review than anticipated.").

We are surprised by YouTube's motion to compel given BayTSP's ongoing efforts to provide documents responsive to YouTube's subpoena. As you note repeatedly in the memorandum accompanying your motion, BayTSP has in good faith engaged in numerous distinct dialogues with you regarding its continued efforts, informing you of our progress. The discrete nature of these discussions is evidenced by YouTube's periods of silence at the close of each discussion. These sporadic conversations while BayTSP diligently worked do not amount to numerous meet-and-confers as claimed in YouTube's motion. Consequently, YouTube has prematurely filed its motion in violation of Local Rule 37-1 and Judge Ware's Standing Order.

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Finally, in an additional attempt to amicably resolve any dispute YouTube may have with BayTSP, we provide the following as an update of the status of our production of documents pursuant to YouTube's subpoena. As stated on August 21, the burdensome number of documents has taken longer to review than anticipated. Nevertheless, we have spoken with Viacom's counsel and due to continued diligence by both BayTSP and Viacom, we anticipate that responsive documents will be made available to YouTube on a rolling basis beginning November 21, 2008. We therefore request that YouTube withdraw its improperly-filed motion to compel as moot and premature.

Please feel free to contact me should you wish to discuss this issue further.

Sincerely,



Kamran Jivani  
Associate

KJ:kj

cc: Steve Hemminger, Esq.