

1 Steven D. Hemminger (State Bar No. 110665)
 2 ALSTON & BIRD LLP
 3 Two Palo Alto Square
 4 3000 El Camino Real, Suite 400
 5 Palo Alto, CA 94306-2112
 6 Tel.: (650) 838-2000
 7 Fax: (650) 838-2001
 8 Email: Steve.Hemminger@alston.com

7 Attorney for Nonparty
 8 BayTSP, Inc.

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

12 Viacom International Inc., *et al.*,

14 Plaintiffs,

15 v.

16 YouTube, Inc. *et al.*,

17 Defendants.

Case No. 08-MC-80211-JF-PVT

**[PROPOSED] ORDER DENYING
 DEFENDANT YOUTUBE'S MOTION
 TO COMPEL PRODUCTION OF
 DOCUMENTS**

19 The Football Association Premier League
 20 Limited, *et al.*,

21 Plaintiffs,

22 v.

23 YouTube, Inc. *et al.*,

24 Defendants.

Date: December 9, 2008
 Time: 10:00 a.m.
 Dept.: Courtroom 5, 4th Floor
 Judge: Patricia V. Trumbull

1 Having considered Defendant YouTube's Motion to Compel Production of Docu-
2 ments, BayTSP's Response to Defendant YouTube's Motion to Compel Production of
3 Documents, and all supporting documents, the pleadings and papers on file with the Court,
4 and good cause appearing therefore, IT IS HEREBY ORDERED that Defendant YouTube's
5 Motion to Compel Production of Documents is Denied.

6 The Court is denying YouTube's motion and the Court hereby Orders:

7 (i) YouTube's subpoena *duces tecum* to BayTSP be limited to include only Plaintiffs
8 and their subsidiaries;

9 (ii) YouTube's subpoena *duces tecum* to BayTSP be limited to exclude BayTSP's
10 proprietary software and BayTSP's nonparty clients;

11 (iii) Production by making responsive documents available for YouTube's inspection
12 on two computer terminals at Alston & Bird LLP's offices located at Two Palo Alto Square,
13 3000 El Camino Real, Suite 400, Palo Alto, CA., shall be sufficient;

14 (iv) Documents responsive to the limited scope allowed by this Order shall be made
15 available for inspection on a rolling-basis terminating two weeks after the totality of
16 responsive non-privileged documents has been made available;

17 (v) Inadvertent production documents protected under the attorney-client privilege,
18 work-product protection, or any other applicable privilege or protection, despite reasonable
19 efforts to prescreen such documents prior to production, will not waive the applicable
20 privilege or protection, and YouTube will return such inadvertently produced Discovery
21 Material promptly after learning of its inadvertent production; and

22 (vi) Should YouTube indicate it seeks copies of documents made available for
23 inspection, electronic and paper copies such documents shall be provided to YouTube at you
24 YouTube's expense.

25
26 Dated: November ____, 2008

Patricia V. Trumball
Magistrate Judge