5.7 To name a few, Google owns mega video web portals: Google video, YouTube video, Flixya.com video, and has its 'Ads by Google' on Revver.com's, VideoWebTown.com's, and Nelsok.com's video sites [note: GooTube bought Motiono.com video but then shut it down].

5.8 Even when mega companies like News Corp. and NBC Universal tried to team up to create a video site for their own content--to isolate themselves from the internet-dominating GooTube, Google snickered down at them calling them the "Clown Co," according to the article in the LA Times by Dawn C. Chmielewski referenced below in this Complaint. When someone--in this case Google--who owns essentially nothing, can snicker at media kings who partly own the entire television industry and unfathomable volumes of content, something unlawful is going on.

5.9 How could Google not only not be intimidated by attempted media competition by some of the biggest media companies in the world, but laugh at the media conglomerates' very attempts to compete, if Google didn't have a grossly unfair amount of leverage? Plaintiff contends that it is GooTube's unfair leverage that allows them to belittle even grandscale competition. And Plaintiff contends that, if that leverage suffocates competition from the biggest media companies in the world, then it essentially annihilates competition or leverage on the part of its independent Laborers such as Plaintiff--independent Laborers being the predominant Laborers for GooTube.

5.10 GooTube dominates the internet and as the cyber dictators that they are, they have the utmost leverage in negotiations, and they wield that leverage against their very Laborers, to avoid providing their Laborers or content creators with any payment for their efforts.

5.11 GooTube wields their unfair leverage against their Laborers unlawfully and strategically, and they gain said leverage through, but not limited to through, false promises and inducements (including labor inducements), Psychological Manipulation, Coercion, Fraud, feigned

ignorance, systematically planned communication errors, and 'Forced Labor', in violation of state and federal law as well as in violation of Antitrust law and international law.

5.12 And as a direct result of Defendants [unlawfully usurped] Unfair Leverage, GooTube reaps astronomical volumes of valuable and monetizable traffic on GooTube's websites.

VI. ALLEGATIONS OF UNPAID CONTENT ACQUISITION

6.1 The Writers Guild of America ("WGA") mandates payment of $360 dollars to the writers of comedy programs up to two minutes in length, plus an additional $180 for each minute over. And that's just for the writer's of those programs.

6.2 Assuming Plaintiff's average length of four minutes for his comedy programs on YouTube.com, if YouTube owned the rights to Plaintiff's content, Plaintiff would be owed $720 dollars just for the writing aspect of the works he created and uploaded to YouTube.com -- an amount equal to over $82,800, not to mention Guild-mandated Pension and Health Fund Provisions.

6.3 However, notwithstanding the allegations of paragraph 6.1 and paragraph 6.2 of the Complaint, Plaintiff has not sold the rights of his content to YouTube, he has only leased YouTube the rights for a period of approximately one year. Therefore, Plaintiff estimates a 10% to15% lease value (based on WGA-mandated buy-out figures) of his content to YouTube in the amount of $40,000 dollars; $10,000 for the writing aspect of the material, and another $30,000 to account for other production costs, bringing the total lease value to an estimated $40,000.

6.4 The creation of Plaintiff's content has most certainly cost him anywhere from $30,000 dollars to $100,000 dollars and arguably much more -- not so much for the production costs of the video content itself, but moreso for his inability to work during the times he created it.

VII. GOOTUBE'S MODUS OPERANDI

7.1 Plaintiff has contacted YouTube and Google about the matters in this Complaint--as well as with the threat of litigation itself--numerous times and Defendants did not respond.

7.2 Plaintiff has a taped recording to Google corporate where the agent for Google refuses to transfer Plaintiff's call to anyone, refuses to direct him to any helpful resource, refuses to even give his own name or even employee ID, and smugly hides all of these said refusals under the protections of 'Google Policy'.

7.3 The only realistic way to communicate with Google is, sadly, to file a lawsuit against them, which doesn't ordinarily worry them because they already have the average attorney's systematic response digitally and algorithmically assessed -- which is why they didn't bat an eye when Viacom sued them for billions of dollars. Even though GooTube has absolutely no defense whatsoever to Viacom's case, Gootube doesn't fear it at all because they're much smarter and trickier than Viacom, or at least that belief comforts them greatly.

7.4 GooTube's scheme is actually quite intriguing and the philosophy of it can be better understood by viewing the document, entitled "GOOTUBE'S MODUS OPERANDI", appended to this Complaint and hereby incorporated as the allegations of paragraph 7.5 of the Complaint.

7.5 Document entitled "GOOTUBE'S MODUS OPERANDI" appended to this Complaint serve as the allegations of this paragraph of the Complaint.

7.6 Defendants have earned money and built a business off of the traffic that Plaintiff and Plaintiff's content has aggregated to Defendants' websites including YouTube.com, but Defendants have returned no payment to Plaintiff for said traffic. Plaintiff was one of the first big contributors to Motiono.com and helped build their site which later fostered its sale to GooTube.

7.7 A Businessweek article, entitled "Artists Have to Get Paid" cites Geoffrey Moore--tech consultant and venture capitalist--throughout as saying that the most fundamental aspect of any attempt to digitally distribute content is that "artists have to get paid", or the business will fail.

7.8 Defendants know this fact--that "artists have to get paid"--all too well, which is why they promise to pay artists like Plaintiff for their content and viewership/traffic on YouTube or induce them to believe that they will be paid for their labor. Defendants do so, because, without such a belief embedded in the mind of their Laborers, their Laborers will cease to be so highly motivated on behalf of GooTube's business -- as has happened with Plaintiff and other laborers upon discovering said reward to be a false, induced belief, implanted in their minds by Defendants.

7.9 Defendants sent Plaintiff an email telling him that he was extra suitable to be a revenue-sharing "Partner" with YouTube in the YouTube "Partner Program".

7.10 Defendants sent Plaintiff the above-referenced email, which is listed in the "YOUTUBE EMAIL DIGEST" and quoted below in section 12 of this Complaint, because they know that as long as artists like Plaintiff believe that they will get paid for their work on behalf of YouTube, that they'll keep working on behalf of YouTube toward that payday. But when it came down to paying Plaintiff, Defendants not only didn't deliver, they turned a deaf ear to Plaintiff.

7.11 It took about a year for Defendants to finally "rule" on Plaintiff's application to the Partner Program, all the while dodging communication along the way. And correspondences sent by Plaintiff to Defendants and defendant Evelyn post his denial from the Partner Program--inquiring more information on his [unlawful] denial from the Partner Program and for an explanation of certain criteria, went unanswered by Defendants.

7.12 Defendants have never paid Plaintiff for the traffic he generated on YouTube.com.

7.13 Faced with litigation from large tv corporations and content owners, such as Viacom, for allowing piracy of their content on YouTube.com, YouTube has struck deals with these large tv corporations, such as CBS, to display these corporations' content on YouTube.com.

7.14 Defendants are using the traffic and revenue from Plaintiff's original content to partner with large tv corporations in order to curtail litigation from said corporations that are victims of piracy on YouTube.com from a host of YouTube video uploaders who do not create original content as Plaintiff does. So, in effect, Plaintiff's original content serves as a litigation buffer for Defendants and helps them build their business even further, through unjust enrichment.

7.15 Instead of rewarding Plaintiff for his work in creating original content and drawing millions of viewers to YouTube.com, Defendants are using what would be his reward to do such things as perform damage control and cover legal costs, as well as to serve Defendants' ultimate goal: to move as much of network and cable television as possible to the internet to be available predominantly via "video sharing" websites that they own, such as YouTube.com.

7.16 This is how Defendants' plan works and has worked: First, they get Laborers to create content to draw millions of people to YouTube.com on a daily basis; then they use that monstrous storm of traffic to dictate what is watched and therefore be put in a prime position to seal deals with major tv networks to get the networks' material watched. Essentially, Defendants are paying back their victims of piracy with the traffic generated by the piracy, as well as the traffic generated by original content creators and Laborers such as Plaintiff, and they are only able to pay back the victims of piracy and network with them for their content because of the existence of original content such as Plaintiff's. The networks in turn have no choice but to deal, it's either do or die, be half victimized or completely victimized.

VIII. DEFENDANTS' CONTRACTUAL BREACHES AND FAILURE TO ABIDE BY THEIR OWN TERMS AND AGREEMENTS

8.1 The aforementioned article in the LA Times by Dawn C. Chmielewski, entitled "First fame, now cash for stars on YouTube" (dated May 5, 2007) opens with the following two paragraphs:

> *"The budding comedians and quirky entertainers who helped YouTube earn $1.65 billion from its sale to Google Inc. are about to start getting their own paydays. YouTube said Friday that it would soon start rewarding its top-drawing performers with better promotion and a cut of the revenue it generates from placing banner ads around the online videos."*

8.2 Such a statement or promise made by Defendants, that they would would start rewarding their top-drawing (or top-viewed) performers with better promotion and a cut of the revenue, would lead a reasonable person to believe that such would be the case; and that if one performer was a larger draw than another performer who was already getting a cut of the revenue, then the larger-drawing performer should not only be included in the revenue cut as well, but should come first in the line of revenue sharing before the lower-drawing performer. However, such is not the case, as Plaintiff is a much higher draw than dozens, if not hundreds, of other YouTube Partners who are sharing revenue with YouTube in the YouTube "Partner Program".

8.3 YouTube user '10,000 Maniacs' (Youtube.com/10000maniacs) is a Partner with defendant YouTube and has only 38 subscribers and their combined video content has accrued less than 75,000 total views. Plaintiff has accrued over 3.5 million views. It would seem to any calculation that Plaintiff's videos are more "top-drawing" than this user's.

8.4 YouTube user '1UPGameVideos' is a Partner with defendant YouTube who has zero views and hasn't even released a video yet. The two comments on his YouTube channel are "How the hell are you a partner..." and "you are a partner?" The user who wrote the first comment has since closed his account.

8.5 YouTube Partner 'grampl' has less than 60,000 combined views on all of its videos.

8.6 YouTube Partner 'sheltonfilms' has less than 200,000 combined views on all of her videos, with the exception of her first video (entitled "my name is lisa") which was assumptively featured by YouTube and has over 2 million views alone. Her combined viewership is still less than Plaintiff's combined viewership, despite her promotion by YouTube.

8.7 YouTube user '20thCFoxMovies' was made a Partner with one video--a preview for a mainstream movie--and a total of 171,195 views.

8.8 One of Plaintiff's videos alone on YouTube has more than twice the number of views of the sole video of the YouTube Partner '20thCFoxMovies'.

8.9 Plaintiff has about 35 times the views that YouTube Partner '3DoorsDown' has -- who is also a band with multiple albums in national record stores.

8.10 Even YouTube user and Partner 'FocusFeatures', a world-renowned production company, has only about 1.5 million views on YouTube. FocusFeatures' combined viewership in their YouTube Partner account is less than half of Plaintiff's combined viewership on just the accounts which Plaintiff applied to the YouTube Partner Program. Plaintiff has seen Focus Features' insignia on many of the movies he's rented. This goes to show that, even a world-renowned company that is additionally promoted by YouTube, still can't aggregate the traffic that Plaintiff--who was not promoted by YouTube--has labored to aggregate to YouTube.com.

8.11 There are numerous other YouTube Partners who not only don't compare to Plaintiff's "draw" on YouTube, they have essentially no draw on YouTube; and for that reason, but not limited to that reason, Defendants have broken their agreements, promises, and inducements to reward their "top-drawing" performers with Partnership and a cut of revenue.

8.12 Essentially what's happening is this, content creators like Plaintiff who helped build YouTube into a "sustainable eyeball business" as Google's Chief Executive Eric Schmidt calls YouTube, are not being rewarded for building YouTube's traffic.

8.13 Instead of rewarding eyeball aggregators (such as Plaintiff) for drawing the viewer (or eyeball) base to YouTube, as Defendants should do and have promised to do, Defendants are stealing the viewer base from these original eyeball aggregators and shifting those eyeballs to those with less to no presence on YouTube or, more aptly, to those whom YouTube wants to promote.

8.14 As of this writing, when one types in "I'm Fucking Jimmy Kimmel" into Yahoo's search engine, one can click to watch Plaintiff's same-titled video on YouTube (which is a parody of the YouTube-promoted "I'm Fucking Matt Damon" video); but, below Plaintiff's Jimmy Kimmel video are four YouTube "Promoted Videos". Each of these YouTube users/Partners whose videos are being promoted by YouTube--off of Plaintiff's content and traffic--have less views than Plaintiff, or have aggregated less eyeballs than Plaintiff has, despite their promotion.

8.15 YouTube is shifting Plaintiff's aggregation of eyeballs (or traffic aggregation) to other users to share revenue with them -- the revenue that Plaintiff generated from the traffic that Plaintiff generated. In short, Defendants are using Plaintiff's traffic to promote their revenue-sharing Partners or other users and sponsors, as opposed to revenue-sharing with Plaintiff himself for bringing in the traffic, as Defendants have agreed to do and have promulgated to do.

8.16 About a year ago, a SPAM epidemic swept YouTube and Plaintiff was in the middle of it, spending sometimes as much as a a half hour to an hour per day just marking and removing SPAM from the comments section of his videos--additional Labor in service to Defendants. The SPAM consisted of various URL's that all predominantly redirected to the adult website: www.Camazon.com and the adult website www.Camaholic.com, which is a porn site where users pay to watch live sex shows via webcam. Naturally, Plaintiff was eager to see the end of this SPAM, as he no doubt expected YouTube would be as well, as YouTube users were being tormented by it in the comment section of their videos, and were speaking out against it in videos and blogs. YouTube also sent Plaintiff over 500 SPAM emails notifying him of this porn SPAM.

8.17 Plaintiff emailed YouTube offering to make a video that would give people proactive steps to combat the SPAM referenced above in paragraph 8.16 of the Complaint.

8.18 The reason Plaintiff emailed YouTube before making the video and didn't just make the video on his own, is because he was only make the vide if he would be recognized for one of his contributions to YouTube. Plaintiff had hoped to, for a change, maybe get some promotion (and hence revenue) out of this service that he would be providing to YouTube.

8.19 Defendant Wynston replied to Plaintiff's inquiry, stating that *"we would certainly support and applaud such an effort"* to help combat the SPAM on YouTube.com.

8.20 When Plaintiff read those words "support and applaud" coming from YouTube--who normally didn't even respond coherently or respond at all to inquiries he had made in the past--Plaintiff was in a state of liberation and ecstasy, like he had just been knighted. And so Plaintiff put in some heavy overtime into this content-creating project.

8.21 After receiving the above-referenced email from Wynston, Plaintiff, in an effort to make YouTube account holders more proactive in the battle against SPAM, spent about 20 to 30 hours assembling a video that would later be entitled "CELEBRITIES AGAINST SPAM" (hereinafter "Celebrities") featuring Plaintiff impersonating a celebrity committee as "they" brainstormed a system to defeat SPAM --the system was taken from YouTube's guidelines, also restated by Wynston, for combating SPAM, and consisted mainly of first marking the SPAM, then blocking the user who created the SPAM, and then removing the SPAM comment itself.

8.22 Plaintiff emailed Wynston the link to the Celebrities video. Wynston responded, *"I thought it was great.."* and suggested that Plaintiff cut it down to the 3-4 minute range and he would then look into the "possibilities" of featuring it.

8.23 Wynston said, *"No promises here. Basically features are done in the following way. YouTube's members rate videos they like, and our editorial staff reviews highly-rated and recent videos for consideration in the "Featured Videos" section of the home page and the featured videos on the "Categories" page."* He also stated, *"I appreciate your efforts on the site's behalf. We need more members like you who are empowering the community to take action and cease their apathy."* Plaintiff was delighted at the time and couldn't have agreed more with Wynston.

8.24 Plaintiff cut a 4-minute version of the Celebrities video. Within about a day or less, the two videos had received six YouTube Honors, such as Top Rated video, Most Discussed video, and Top Favorited video. These Honors were extraodinary feats, especially considering that one of the videos only had 65 views at this point. These honors do not take viewership into account. For example, a video with 10 comments and 10 views loses out in the "Most Discussed" ranking to a video with 11 comments, even if that video with 11 comments has a million views.

8.25 Plaintiff sent Wynston a link to the abridged version of the Celebrities video and that's when Wynston stated that he was getting some feedback from his colleagues and looking into some "possibilities". It would take Wynston a month to write to Plaintiff again.

8.26 A month later, after several emails from Plaintiff, Wynston finally writes back, but doesn't comment on the "possibilities" he had said he was looking into, but comments only on a separate issue of Plaintiff's application to the YouTube Partner Program. And Wynston's comment on said issue was that he was waiting to hear a response on Plaintiff's application. Wynston never contacted Plaintiff with said response or said "possibilities." In fact, Wynston never contacted Plaintiff again at all, despite numerous followup emails from Plaintiff to Wynston.

8.27 Let's take a moment to look at the merits that Plaintiff's video had for being featured--compared with other videos that were featured--in accordance with Wynston's (as well as YouTube's) statement for what YouTube looks for to feature a video: Highly-rated and recent.

8.28 A video entitled "LisaNova does YOUTUBE!!!!" (hereinafter "Lisa's Video") was featured in numerous prominent places on YouTube.com including several times on the homepage of YouTube.com and was even promoted alongside Plaintiff's videos.

8.29 Lisa's Video had 3 out of 5 stars, compared with Plaintiff's Celebrities video which had a full 5 out of 5 stars--for both the full-length and abridged versions of the video--a perfect rating which remains to date on both versions.

8.30 Also featured above Lisa's Video at the time was a video entitled "Law & Order Pilot" with only 2 stars and 211 views. It currently has over 280,000 views (after being being featured) but only 1 in 650 viewers favorited that video.

8.31 A currently featured video (entitled "Mochipet "Get Your Whistle Wet"...") has only 2 stars and was only favorited by 1 in 2,600 of its viewers.

8.32 YouTube video entitled "Yellow Lab Puppy" was featured with a rating of one star out of five stars. It had over 5,000 ratings when Plaintiff saved the page documenting its average one-star rating.

8.33 YouTube had four CSPAN videos featured back to back on their homepage around April 25, 2008, half of which had two-star ratings. Clearly, CSPAN wasn't featured four times because they exceeded the criterion of being highly rated. And clearly, the videos aforementioned in paragraphs 8.28, 8.29, 8.30, and 8.31 of the Complaint weren't featured because they exceeded said criterion either. Said videos didn't even come close to meeting the criterion. CSPAN was clearly featured, against YouTube policy, because of CSPAN's relationship with YouTube.

8.34 Plaintiff's Celebrities video had not one negative comment, as opposed to two very negative comments on the first page of Lisa's Video: *"..this is so stupid and pathetic.."* and *"Lisa Nova, I will kill you..."*

8.35 Plaintiff's Celebrities video had straight positive comments such as *"awesome post"*, *"so funny"*, *"so true"*, *"top job... that gay camznow shit* [said porn SPAM] *is everywhere!!"*, *"glad that someones trying to do something about SPAM"*, *"Funny, this is the first time I actually see soemone do something to try to stop spam."*, etc.

8.36 Lisa's Video had been favorited by 1 out of 500 (0.2%) of its viewers. Plaintiff's Celebrities video had been favorited by 1 out of 4 (or 25.00%) of its viewers. In this respect, Plaintiff's video was **125 times** more liked than Lisa's Video which was featured by YouTube, and **657 times** more liked than the featured video aforementioned in paragraph 8.30 of the Complaint.

8.37 When Lisa's Video had 958,759 views, it had 8,201 comments. When Plaintiff's video had only 65 views, it had already 10 comments. Which means 1 in 116 people commented on Lisa's Video; whereas, 1 in 6 people commented on Plaintiff's Celebrities video.

8.38 Also, 25% of the viewers of one of Plaintiff's stop spam videos had joined the YouTube group "Stop Spam" which was associated with said video and advertised in said video.

8.39 Considering the ratio of ratings (and favoriting) to views, Plaintiff's Celebrities video was one of the, if not the, most liked and popular video in the history of YouTube videos, according to defendant YouTube's stats.

8.40 Additionally, Plaintiff's Celebrities video served the purpose of solving one of YouTube's biggest problems for users at the time--SPAM, and without making YouTube look bad; and it was a video effort that, in the words of Wynston, would be something that YouTube would "support and applaud". At the time, Plaintiff could think of no reason why this video wouldn't have been proudly featured by YouTube. However, Wynston never even got back to Plaintiff, as promised, about looking into featuring said video or otherwise promoting it, or even about working on the actual SPAM issue itself.

8.41 All of the allegations above, including those in this section 8 of the Complaint, prove that YouTube doesn't follow its own guidelines for featuring videos and that Defendants breached contract with Plaintiff on their terms for featuring videos and promoting content.

8.42 By Defendants' breach of their agreed-upon and promulgated terms for featuring videos, Plaintiff was deprived of tens of thousands of dollars in actual revenue or traffic revenue that he would have accrued by having his content promoted by YouTube rather than by his own regular and exhaustive efforts of aggregating traffic to YouTube.com.

IX. GOOTUBE'S MONOPOLIZATION & ABUSE OF POWER

9.1 GooTube's monopolization of the online entertainment business violates The Sherman Antitrust Act (15 U.S.C. 1-7) and other Antitrust law, so much so that it has forced larger companies to strike inferior deals with GooTube or lose out anyway to GooTube-induced piracy.

9.2 Given GooTube's dominance of the non subscription-based online entertainment and video market, it is all the more important that they be made to deal with their Laborers and their Laborers' creative content contributions (and the revenue/traffic thereof) in a fair and equitable way.

9.3 Defendants' abuse of power and disregard for their Laborers--who are the direct and sole cause of Defendants' profit--is made self-evident by the fact that Defendants haven't paid Plaintiff one cent for drawing the same amount of traffic to YouTube.com that they would charge Plaintiff millions for, and is further made self-evident by their lack of communication with Plaintiff.

9.4 YouTube attracts Laborers and users through promises of various consideration, which is one of the reasons everyone knows about YouTube and few know about other video websites and even much higher-quality video sites such as Blip.tv, which displays videos in near DVD-quality, as opposed to grainy "YouTube quality," and gives its users their own dynamic flash player, which Plaintiff was quoted $25,000 to have duplicated for his website. Plaintiff could obtain a video player similar to YouTube's for free.

9.5 Defendants use the traffic aggregated by Plaintiff and Plaintiff's content to promote other content and sponsored ads, without paying Plaintiff a percentage of the revenue they engorge as a result of said traffic. However, when Plaintiff sends traffic to his Blip.tv page, Blip does not promote any other content but Plaintiff's on said page -- a user can watch only Plaintiff's videos on Plaintiff's Blip page and can see no sponsored ads. Additionally, Plaintiff could embed his Blip

player onto his website or blog and the player would display only Plaintiff's videos, as opposed to YouTube's embeddable player which YouTube uses to promote their own videos, and any click on the YouTube embeddable player sends the clicker/viewer right to the YouTube website.

9.6 In the past, Plaintiff placed a few videos on Blip.tv for the purposes of embedding them on his website. Plaintiff never drove traffic TO Blip, never asked for nor expected a dime from Blip, and Blip never offered. Additionally, Plaintiff has at one time considered paying Blip for some additional features.

X. DEFENDANTS' DEADLOCKING OF PLAINTIFF'S ATTEMPTS TO SELF-MONETIZE YOUTUBE

10.1 In addition to not paying Plaintiff for his content and the traffic generated thereof, Defendants have also disciminately deadlocked Plaintiff's attempts to monetize YouTube.com for his own business purposes.

10.2 After receiving no compensation for his creative Labors on YouTube, and in need of drawing an income, Plaintiff began affiliating with websites which evenly split revenue accrued from any traffic directed by affiliates to their sites.

10.3 Plaintiff spent hundreds of hours making countless "promo videos" for the websites and services of various affiliate programs.

10.4 One of these such websites that Plaintiff affiliated with was www.Domai.com, a 'nude art' site that not only contained no pornographic content, but had an essay explaining why the models weren't even permitted to assume "erotic" poses as it would defeat the site's artistic goals.

10.5 Plaintiff opened a new YouTube account and uploaded several promo videos depicting various dressed (non-nude) Domai models with a URL directing users to Domai.com.

10.6 Plaintiff began making a few bucks from the viewership of said promo videos when YouTube began aggressively deleting these promo videos, making it unfeasible for Plaintiff to continue this business venture on YouTube.

10.7 One of these such promo videos that YouTube kept deleting was only head shots of a model with a URL on it that redirected to www.Domai.com, while tracking Plaintiff's traffic.

10.8 If the "head shots" promo video of Plaintiff's violated YouTube policy or videos with links to content that may be questionable for minors were not allowed on YouTube.com by YouTube policy and practice, then Plaintiff wouldn't have uploaded such videos to YouTube.com, nor exhausted hundreds of hours making these promo videos. However, YouTube policy disallows only "pornography" and their practice of not removing suggestive videos confirms this.

10.9 Plaintiff flagged a YouTube video a year ago entitled "Teen bangs her boyfriends brother in bathroom" with a link to www.ThatTeenBoobSite.com on it. If you enter said URL in a web browser, a hardcore pornography site immediately starts playing XXX sodomy videos with no prior age verification. This video has over one million views on YouTube, has been reviewed numerous times by YouTube staff, 'flagged' inappropriate by users, yet not deleted. YouTube does even request that you click a button confirming that you are 18 years old or older (hereinafter "Age Confirmation") before allowing you to view the video. This Age Confirmation button is something that Plaintiff was never even afforded with his "head shots" video depicting a graceful model.

10.10 A video entitled "A Tribute to Every Video Site" displays a girl rubbing her breasts in front of the camera. Plaintiff flagged the video, it was not removed and no Age Confirmation button was added to it by YouTube. Further, said video was featured by YouTube.

10.11 A video on YouTube.com entitled "college girl caught masturbating" shows a girl sitting naked in a shower and has a quarter of a million views. It was flagged but not deleted.

10.12 A video on YouTube.com entitled "Strip tease xxx girl strippin..." has 2 million views and a link to the porn webcam sex site www.SexTek.info. It was flagged but not deleted.

10.13 There's also a video of a nude model shoot on YouTube with over 12 million views which has not been deleted by YouTube.

10.14 The point of illustrating these "inappropriate videos" and their extremely high viewership is that videos viewed a lot are flagged a lot by YouTube users--who flag videos often for minor to no reason as a means of "policing" the site. And so, a video with a million views is bound to have been flagged hundreds, if not thousands or tens of thousands of times, which means YouTube has reviewed the video countless times and allowed it to remain on YouTube.com (often without Age Confirmation). Yet Plaintiff's videos, with low viewcounts, which were benign in comparison, were almost immediately deleted by YouTube, often without even being flagged. Among several potential reasons for this, Plaintiff contends that, despite GooTube promulgations to the contrary, GooTube isn't vying for mutual success between YouTube and its Laborers, they're vying for their Laborers to create content that GooTube can solely monetize and engorge the revenue thereof. Plaintiff also contends that Defendants are in some way affiliated with the adult content which they do not remove from their site (i.e., a GooTube employee knows the user).

10.15 Plaintiff's Domai promo videos were also uploaded to the popular video sharing site www.DailyMotion.com, a company very strict on inappropriate content, and his promo videos remain on Daily Motion to this day. But they were deleted from YouTube and Google video.

10.16 Months later, Plaintiff was approached to advertise a family-friendly dating site, and he created a few PG-rated promo videos of a man and woman holding hands on a beach with a URL advertising the dating site. All of these videos were deleted within days by YouTube.

10.17 These section 10 actions by YouTube are further examples that the policies, terms, and agreements made by YouTube are only followed when YouTube wants to follow them or when they are in YouTube's sole interest to follow or benefit solely YouTube and no one else.

10.18 Plaintiff has even had promo videos deleted by YouTube when they were set to private and only viewable by YouTube staff. This goes to show that YouTube is very aggressive in their content selection as well as in their pre-screening process--when they want to be--and are not merely the "hosting providers" that they claim to be in their answer to Viacom's complaint. And this also goes to show that YouTube does not in fact only monitor content brought to their attention by YouTube users, as they have led on to doing so many times, including in hearings.

10.19 When it is convenient for them, GooTube acts as if they are a data hosting company that doesn't examine what's being "stored" on their websites: "Oh, people put videos on our site too??" Yet they aggressively remove Plaintiff's promo videos because they may have benefited Plaintiff more than YouTube or more than YouTube's end goal--because they directed YouTube visitors to other commercial sites. But when the video content is less of an ad encouraging users to go elsewhere for a product, Defendants allow the videos to stay on their site to aggregate more traffic to their site and promote other videos and sponsors on their site. This conduct is not YouTube policy, it is YouTube practice, and it is contrary to YouTube promulgation.

10.20 YouTube recently added a "Video Annotations" feature so account holders can now append a note on their video to alert viewers to changes or updates to the content that have occurred

since the video was originally uploaded. You can also add a link to an updated version of the video or a related video, etc... However, YouTube only allows you to add a link to a video or page on YouTube.com. If you enter any other URL (that doesn't contain YouTube.com), the YouTube software states "You have entered an invalid URL." With said new feature, Defendants don't even allow Plaintiff and other Laborers the small monetization courtesy of providing a text link to their personal websites--and even on Plaintiff's own videos that he has Labored to create and market.

XI. DEFENDANTS' VIOLATIONS AND MANIPULATIONS OF THE DIGITAL MILENNIUM COPYRIGHT ACT ("DMCA")

11.1 Videos are additionally also removed by YouTube when they tend to detract from the content of their Partners. Plaintiff's Avril Lavigne parody video (entitled "Girlfriend - Avril Lavigne - Live Analysis by Dr. Carlton") was removed twice by YouTube under the guise of its content violating the DMCA, and allegedly at the request of mega YouTube Partner and mega music company 'RCA Records' (Youtube.com/RCA Records).

11.2 A search for "*Avril Lavigne Girlfriend*" brought up Plaintiff's Girlfriend parody (hereinafter "Plaintiff's Video") on the first page before RCA Records' ("RCA") actual music video for Avril Lavigne's song *Girlfriend* was even on the first page under said search terms.

11.3 After Plaintiff's Video was originally removed by Defendants, Plaintiff filed a DMCA counter-notification, and YouTube subsequently put Plaintiff's Video back on YouTube.com, and Heather at YouTube copyright informed Plaintiff that RCA Records had made an error with respect to their copyright claim on Plaintiff's Video--as well as other of his videos.

11.4 Once Plaintiff's Video was restored to YouTube.com, it lost its first-page ranking and, to Plaintiff's recollection, could be found on somewhere around the tenth page.

11.5 RCA's Girlfriend music video would go on to receive over **90 million views** and now comes up first by the same search terms "*Avril Lavigne Girlfriend*" that it didn't even come up on the first page for when Plaintiff's Video originally did.

11.6 This action by Defendants of 'chilling' Plaintiff's creative content is higly significant for several reasons, including, but not limited to, because:

(a) Plaintiff would've received a great deal of promotion for his work because it dealt in a popular term searched for on YouTube.com's search engine, rather than just because it was promoted solely through Plaintiff's own efforts and on other search engines.

(b) The chilling of Plaintiff's creative content is only done after the traffic generated from said content has served YouTube's purpose: i.e., populating YouTube's website, and right before it serves Plaintiff's purpose: natural promotion to a monetizable end. Plaintiff's content and Labor is used by Defendants to monetize with mega entertainment corporations like RCA Records. Defendants only share revenue with content creators when they have to or when it is in their sole interest to, as opposed to when their promulgated criteria for becoming a YouTube Partner is met by a YouTube account holder or Laborer.

(c) Plaintiff's creative content, and the content of other like YouTube Laborers (who are not mega entertainment corporations like RCA Records) which had originally served to draw all of the traffic to YouTube.com in the first place and make YouTube the number one traffic-drawing entertainment website it is today--is now, not only not being monetized between YouTube and Plaintiff (and YouTube and other like Laborers as Plaintiff), but said content is being replaced (by Defendants) by the content of mega entertainment corporations (like RCA Records) in efforts such as the effort to show these corporations that they are now the most valued on YouTube...