

08 CA 11394 DPW

Paragraph 4.20 of the Complaint:
The "YOUTUBE EMAIL DIGEST"

The following "YouTube Email Digest" was written by Plaintiff Benjamin Ligeri (during the months of June and July of 2008) while reviewing emails sent between Benjamin Ligeri and YouTube, predominantly regarding his Bennybaby account and channel on YouTube.

March 23, 2007,

The Youtube Team (YT) sent me an email telling me that a character video I had made in response to the TurboTax Rap Competition "Racial Deductions" was removed due to its inappropriate nature. And a followup email alerting me that a second part of the video "Rap Taxes Parody" was also removed for the same reason.

I responded to both emails, which allow you to respond with an objection, and I objected in that the video did not violate the terms of use and asked how to proceed with said objection. I received no reply.

The TurboTax Rap Competition hosted by Vanilla Ice called for a two-minute rap about taxes, one of my parody characters "BIGGA BLD" created a five-minute parody video and a 2 minute shortened version for the competition.

The video was refused entry by TurboTax, under the guise that it had a picture of Art Garfunkel, which it did not. It had a picture of a blond gentleman playing the saxophone who slightly resembled Garfunkel, it was part of the many jokes in the video.

After the fact, I could see why TurboTax wanted no part in this video of mine, as it didn't glorify TurboTax, which is what the winner's video did. It turns out TurboTax was looking for the "best glorification of their company" rap video as opposed to the best "tax rap" video as they advertised. But I thought it could win the 25,000 if Youtube users were allowed to vote on it, which is what was promised, but the video was never allowed into the contest so users could never vote on it.

May 22, 2007,

YouTube, Inc. sent me an email alerting me that (another parody character of mine) Professor Carlton's GIRLFRIEND parody was removed as a result of a third-party notification by RCA Records claiming that the material was infringing their copyright.

Later, YouTube, Inc. sent the same copyright notification in regards to PROFESSOR CARLTON's ORDINARY DAY parody. And to another copy of the Girlfriend video hosted on Professor Carlton's own YouTube page (Youtube.com/ProfessorCarlton)... as character videos are hosted not only on my main account (Youtube.com/Bennybaby), but also on the individual character accounts as well. In this case, the two videos were the same -- except that one was surround sound and the other close up.

It took me awhile to find an email to write back to YouTube copyright office with, and then I found "copyright@youtube.com" and emailed them to explain that there was no copyright violation in those videos.

First of all, they would be Fair uSe exempted anyway even if there was any usage of copyrighted material. Professor Carlton simply makes fun of ridiculous lyrics in pop songs -- Carlton's work is excluded from copyright claims under both the Criticism and the Parody Fair Use exemptions. In addition, Carlton didn't even use any of the audio or video from the song for the parody. He just criticized a few lines of the lyrics.

I was emotionally crazed when I realized that my videos were being removed one by one and I could find NO RECOURSE at the time. I didn't know of the Digital Millennium Copyright Act ("DMCA") at the time. I emailed copyright@youtube.com with my phone number in the SUBJECT of the email, telling them that they were making a huge mistake and to please contact me.

I received an email from MARK (of YT) telling me that I could file a DMCA counter-notification if I felt that the copyright holder had misidentified my work. I found the notice, filled it out and faxed it in right away.

May 23, 2007,

Heather (of YT) responded that my counter notification was received and forwarded to the party that sent the takedown notification.

I responded, asking who the "party" was that it was forwarded to. And also asking for a copy of the original copyright infringement claim, because I did not know what was even being claimed as copyright. I gave the example that I could be arguing about the song but they might be claiming a shot of a guy walking by in the b.g. It could be anything, and I was told to defend against an allegation but not told the allegation.

In a separate inquiry, I asked how long the process takes. Heather only answered the length question, 10 to 14 days for a counter notice to process.

I asked again for a copy and was sent a Notice of Claimed Copyright Infringement, dated a month earlier (4-27-07) with the scribbled name Sara Hruska (sp?) and IP Owner Sony BMG and an address and email and no other information, several

markings were blacked out.

Obviously this didn't tell me what the claim was, it didn't even mention my video or me or anything else. Just a form with a name on it, dated a month earlier -- not meeting the requirements of a sworn DMCA notice and an indication of the work being claimed.

I responded to Heather, telling her just that, in short, that the form was meaningless.

Later, I received a notice from Heather that RCA Records had retracted their claim and my video would be restored in a few days. It took some time for it to be restored and it lost its ranking as well, which was very high, and which, taken in consideration with the second time this video was deleted (two months later) the removal likely cost the video over a million views. The actual Girlfriend video by Avril Lavigne, posted by RCA Records is now at over 90 million views to give a frame of reference and Carlton's parody video was listed above it originally, and was climbing in views together with the RCA video. The second time the video was removed for fraudulent copyright claim (mentioned below) was the time RCA released another music video by Avril Lavigne of the same album as Girlfriend which influenced high search volume for Avril again, and hence Carlton.

May 24, 2007,

I sent another email asking about the two other videos that had also been removed due to RCA's claim, if they would be restored as well.

May 25, 2007,

I received the following email in response:

"Hi there,

RCA Records has informed us that a number of notices of claimed copyright infringement they submitted to us on Tuesday, 2007.05.22, were submitted in error. They have retracted their claims with respect to those videos.

We are in the process of restoring this material. For technical reasons this process will take a few days. We appreciate your patience in this matter.

Sincerely,

The YouTube Team"

When you think about it, it doesn't seem highly possible that one could submit a

copyright claim in error; nonetheless, the vides were ultimately restored.

June 10, 2007,

I sent an email to Youtube objecting to a video of mine being deleted for "inappropriate content" reasons. I also asked that if something was inappropriate in it, that they tell me what was inappropriate so that I could edit it -- which they never did.

June 13, 2007,

Nidhi (of YT) sent me a generic response on how youtube reviews videos to determine if they're inappropriate along with a link to the ENTIRE Youtube terms of use; which I read the relevant portion of and found nothing therein to establish my video as being inappropriate. Only extreme reasons were given in the terms for deletion of a video, such as hate/violence or pornographic. Nidhi also stated in his email: "If we remove your video after reviewing it, you can assume that we removed it purposefully, and you should take our warning notification seriously."

I responded to Nidhi alerting him to the fact that his quoted statement was untrue.

Youtube has corrected the mistake of removing my videos numerous time in the past; in fact, in almost all cases they have corrected the mistake.

June 25, 2007,

Background Note: I read an article "First fame, now cash for stars on YouTube" in the LA Times (dated May 5, 2007) by Dawn C. Chmielewski stating that Youtube would start paying its non-corporate top video producers. I looked at some of the users being partnered and noticed that I had both more views and more subscribers than many of the current partners, so I attempted to inquire about becoming a partner. Also, I was planning to start spending a lot more time making content and advertising my YouTube account, possibly from a tv show platform as well; so, needless to say, it was important that all the money spent promoting Youtube's site wasn't done with absolutely no return payment, and so...

I submitted an email to Youtube via their (Google?) contact form (which is well hidden), requesting whether or not Youtube would make me a partner (and share revenue) as I may have a show going on tv as well (a new concept show that would be half on tv and half on the internet), and I would need to know whether or not to advertise my Youtube channel -- which I could only do if Youtube was paying me for said traffic -- If they weren't, I would be forced to send the traffic to a private website where revenue could be made off of the traffic and advertising costs could be covered.

June 26, 2007,

Around this time, an epidemic proportion of SPAM started appearing in the comments section of almost all Youtube videos. Most of the SPAM were various URL's--including the prominent URL: "Camznow.com"--which all redirected to the URL: www.Camazon.com, which was a site where you paid to see naked girls perform sexual acts live in front of a web camera.

Needless to say, it wasn't too "family friendly" and it was certainly a pornographic spam that violated the federal CAN SPAM ACT. And I was spending up to an hour a day dealing with this spam and removing it. In addition to the other 8 to 16 hours a day I was spending creating and uploading and managing and marketing my Youtube videos.

I started sending legal compliance notices to Camazon.com who acted like they didn't know that the SPAM was going on and blamed it on a third-party advertiser and also acted like they wanted to help. However, their actions spoke differently. They kept requesting a lot of information and then as soon as I provided it to them, they deleted my inquiry and didn't respond. In addition, they asked for a copy of all of the SPAM, which may have been in the millions, so I just sent them some samples. Almost every video you selected on Youtube at the time had this SPAM on it.

I wondered how they could get away with such a grossly illegal form of spamming and how Youtube could allow it, but I thought nothing of the connection at the time.

I just wanted to solve the spam problem as it was negatively affecting almost every video creator on Youtube and I thought of an idea to solve the epidemic: to make a video that was both funny and informative, teaching people the simple steps to mark and report the spam and then delete it so that Youtube could track and prevent it or something like that. Because if you just remove the SPAM, Youtube might not know about it, so you have to mark it using the feature they have next to the comment.

Using the contact form again, I sent the following email to Youtube:

"I want to help you guys get rid of these camznow spam's, if it means making a video or what have you. I get 10 of these a day. Are you guys aware of them? They're spreading onto every video like crazy.

I'm here to help, just commission me."

It got up to 30 to 50 spams a day at one point.

June 28, 2007,

In response to my application or email request to be a revenue-sharing Partner with YouTube, I received the following response:

"Hi there,

Thanks for your email. We appreciate your interest in working with YouTube. The quickest way to speak with us about forming a content partnership is to enter your information at <http://www.youtube.com/advertise>. Someone will get in touch with you shortly once you've done that.

Hope this helps,

*Kavitha
The YouTube Team"*

I responded as follows:

"I've already filled out the advertise form awhile ago, even though I'm not an advertiser. This is urgent, as you can see by the nature of my query below, please have someone contact me as soon as possible about this.

Thank You Very Much,

*Ben Ligeri
(401) 952-6661"*

This inquiry was answered on June 29, 2007, and copied below.

June 28, 2007 (cont'd)

I received an email from Wynston (of YT) in response to my June 26th email effort to help Youtube rid themselves of this epidemic SPAM that could've jeopardized the site's functionality and was driving YouTube users away, but didn't have to.

The email from Wynston, stated, in relevant part:

*"We appreciate your cooperation and if you would like to create a campaign to help stop this kind of spam, we would certainly **support and applaud** such an effort [emphasis added]. Kind of a grass-roots strategy to solving the spam from camznow. Thanks again."*

After I spent days making this video and starting a group for Youtube members to get involved in stopping the spam, and after the video received unanimous support and top ratings from Youtube users, and after sending emails and legal notices to the

spammers, and after numerous correspondences and empty promises from Wynston, time would reveal that my effort was not supported nor applauded in the least, contrary to Wynston's promise in the above email.

June 29, 2007,

Kavitha's reply to my email about already applying--via YouTube's advertising form--to be a content partner with YouTube:

"Hi there, Thanks for your response. Please be patient, someone will get in touch with you shortly"

Not only was I not contacted shortly on this matter, I was never contacted about the matter.

June 30, 2007,

I emailed Wynston with, among other things, a URL of the STOP SPAM video I had made (entitled CELEBRITIES AGAINST SPAM) and a URL of the group that I started and I told him I'd spent the last 30 straight hours on the task. I also asked Wynston about featuring the video.

Wynston's full reply:

"Hi there,

Thanks again for your email, Benny. I got a chance to watch the video and thought it was great.

As far as the feature goes, it isn't really the type of content that is typically chosen. That said, it definitely serves it's purpose and if you could cut it down a bit (for example, cut out all of the fly bits) and possibly getting it down around the 3-4 minute range, I will look at it again. I think it is important though to keep the message and just cut what you think isn't the meat. 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. In addition, our programming team takes suggestions from members at editor@youtube.com and scans the site for videos of interest.

(cont'd)

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. We will continue to create a site that allows you all to do so.

That said, I am definitely going to watch your other videos. I haven't gotten a chance to check out the group you created, but I will eventually. Again, I want to thank you for all the time you put into this and hopefully the rest of the community will respond positively.

Regards,

*Wynston
The YouTube Team"*

We will soon learn that these were nothing more than bathetic words and everything Wynston said was essentially false. However, Wynston's email above sounded really wonderful to me at the time. He suggests that a shorter version of the video may be featured (as the first cut was nine minutes), but he mainly relies on the set standards that Youtube has for featuring videos, which he defines as: High ratings, Recent, Liked by members.

Well, the full-length CELEBRITIES AGAINST SPAM video--which was originally entitled "Help Defeat the God of SPAM"--and the abridged version which I created the next day at a running time of 4 minutes) both exceeded these standards for being featured. And the abridged video may have exceeded these standards more than any other video in the history of Youtube:

In about a day or less of the abridged video being on Youtube, it had received FOUR HONORS (the original received an additional 2 honors), including honors in the following categories:

Top Rated
Most Discussed
Top Favorited

When a video is "favorited" it means it was saved by the viewer so that they'd have a link on their account to watch it without having to search for it again.

These honors were extraordinary, especially considering the fact that the video only had 65 views at this point! A video with 65 views is lucky to get one rating or one comment. Any action by a Youtube user is usually had at a 1 in a 100 to 1 in a 1,000 ratio, this video was getting action at a 1 in 6 ratio -- again, possibly the highest ratio of response on any video in the history of Youtube!

The only thing lacking was the view count, which the quality of the video and the artist has no control over. People just weren't searching for anti-spam videos, which is exactly why it should've been featured. Considering--from a microcosm standpoint--the response it received, if it were featured, it may have been the most popular video on YouTube of all time. I also received several emails about the video, and receiving an email about a video is one of the rarest things you can encounter on Youtube. I've had videos with over 100,000 views and not received an email about them. And when the original, full-length anti-spam video had only 18 views, I had already received two emails. And the group I started had five members. That means more than 25% of the viewers of the video joined the anti-spam group it was promoting.

**It should be noted that the reason I was seeking the video to be featured, in addition to helping solve the spam epidemic, was, for one, to get paid (as it is rumored that Youtube pays users for featured videos), and two, to get my other videos in the spotlight, possibly forging the partnership with Youtube and I.

As far as "rumors" go, rumors are the only thing Youtube and Google dribbles to the "internet peasants" = everyone on the internet struggling to appease GooTube. ("GooTube" is a nickname given to the duo after Google purchased Youtube for 1.65 billion). Gootube hardly ever answers a question with an answer, rather they answer a question with an idea for an answer or an implication of one. By their responses, the staff at GooTube appear to have both the communication ability and the innocence of a 6-year-old child with learning disabilities. Literally. Either that is the level of the staff or that is the level they pretend to be at. One of the two options is unquestionably the case. And it's most likely the latter.

June 30, 2007 (cont'd).

I sent Wynston a link to the abridged video of "CELEBRITIES AGAINST SPAM" and told him about the high stats and that it certainly met the qualifications of being featured and stated in part:

"And since you do feature some "How To's" like "How to Freeze a Beer" or "How to Rip a PhoneBook in Half", I'm thinking, "How to Save Youtube From SPAM" (and save the communication on Youtube) has to at least rival those others, no?"

and closed the email with:

"Either way, I appreciate your time and I value whatever decision you make. I'm sure it's for the best. Thank you very much"

I also described my videos to him -- since he said he definitely wanted to watch them, I told him the various categories and serials and what he could expect.

July 2, 2007,

I sent a followup email to Wynston, making sure he received my emails and provided him with an update on the stats of the anti-spam videos and group, which had thirty members. And the video still only had about 100 views, which means over 25% of the viewers of the "CELEBRITIES AGAINST SPAM" video were still joining the group.

Also on July 2, 2007, I had several people subscribe to my videos.

July 3, 2007,

I sent another followup email to Wynston asking if he had received my emails over the past few days.

July 4, 2007,

I received an initial response from Wynston, which, short of salutations, stated:

"Thanks for your emails, Ben. I apologize for just responding now, but I don't work on Sunday and Monday. I have received your emails and was getting some feedback from colleagues about your anti-spam "campaign" video and we're still looking into some possibilities. No promises, though. Thanks for your patience and keep up the good work/fight the good fight."

"we're still looking into some possibilities" = the "idea" for the answer. Not the answer. Although he states "No promises", he already made a few. Plus, just a non-cut and paste email from Gootube is already a promise of greatness. I wasn't thinking so pessimistically at the time, of course, I honestly thought he would be looking into some possibilities, though it did seem like it might be a bit of an unusual process.

July 6, 2007,

I wrote to Kavitha again, as no one had gotten back to me yet on the advertiser form I had filled out about partnering--and little did I know at the time, that no one would ever get back to me it--re-expressing the urgency of getting either approved or denied for the Partner Program prior to the launch of THE MUSIC SHOW and further investments in advertising. I explained that I had to have an answer to take back to investors.

I sent a message to Youtube through the contact form telling them about my conversations with Kavitha and expressing the urgency for a response. The reason I sent another email is because I feared a name like Kavitha may have represented an outsourced employee who didn't speak English and was therefore just cutting and pasting english phrases from a list. This happens a lot in the outsourced world.

I was unsure if Youtube was outsourcing at all to begin with. And Kavitha wasn't a name even listed in the all-encompassing database of BabyNames.com and she kept saying the same thing and doing it.

As an example of outsourced non-organic communications, I once chatted with McAfee anti-virus technical support and when I noticed that the "person" I was chatting with didn't really hear what I was saying, I stated that I needed help with a squid's ass or something and they asked me what model the squid's ass was or something. That's kinda what I thought might've been happening between Kavitha and I.

I received an automated reply from The Youtube Team (YT) telling me that my inquiry was received.

July 7, 2007,

I sent the following email, in whole, to Wynston:

"Dear Wynston,

Well I've been keeping up the good fight. I'm talking to people constantly and getting reports of lower SPAM. Attached is a correspondence I am having with CAMZNOW and I believe it will soon lead to the end of their SPAMMING.

Tell me that wouldn't be a huge accomplishment, after all, this SPAM has affected almost every regular user on Youtube, and it's all gonna be gone soon. What am I getting? The Purple Heart? Medal of Honor? Featured on the front page of Youtube, just like the guy who taught us how to rip a phonebook in half? What's the winning of this huge SPAM battle worth?

What do you mean by "possibilities"? You said "we're still looking into some possibilities."

CELEBRITIES AGAINST SPAM (<http://youtube.com/watch?v=8BNwvNmnnB4>) has gotten higher ratings and reviews than most featured videos. The group (<http://www.Youtube.com/group/StopSPAM>) is thriving.

If you want to feature me really badly as a thanks, but don't want to feature the SPAM vid for whatever reason, I do have 70 other videos.

Thanks again for everything Wynston,

Sincerely,

*Benjamin Ligeri
(cont'd)*

p.s. What is the "videos being watched" section all about. We know thousands of videos are being watched all the time, so which ones are included in the displayed five?"

In a separate correspondence, I also emailed the following, in relevant part, to Wynston about my struggle to get an answer back on the Partner Program.

"Dear Wynston,

On another note, I've been emailing Youtube like crazy (and filled out the form I was sent) about becoming a Youtube Partner, but I haven't heard back. It's been weeks and I'm on a tight deadline, as my show is soon going to be on national tv.

Here's the deal. I need to tell these new investors whether or not I will be able to partner with Youtube, or how it's done, how much, etc..., otherwise we won't be able to feed the show's views back to Youtube. Anyway, I really want to stay with Youtube, but I can't spend millions drawing traffic to your site if I'm getting absolutely nothing back....."

July 9, 2007,

I emailed Wynston a link to a video I made, (as a character named "MC ARTIFICIAL") called the "Go See SiCKO" rap. It was a video supporting the movie SiCKO and encouraging users to sign the H.R. 676 to establish Universal Health Care.

I thought it may be of interest to Youtube in featuring, as it was featured on the front page of MichaelMoore.com--on the actual homepage--where it is to this day. And they feature Moore's videos from time to time to keep up with their liberal identity.

July 11, 2007,

I received an email from Shenaz (of YT), for some reason it was replied to my SiCKO email above, which stated in relevant part:

"Hi Benny,

Thanks for your emails and sorry for the delay in getting back to you. We appreciate your interest in the program and are constantly evaluating the program and will be adding new partners to the program if and when appropriate. That said, please fill out the following form if you are interested in becoming a YouTube content partner:"

A link was provided below to another form or application. I had already applied, both in email and through other forms given me by Youtube staff, and I was checking on the status when I got this contradictory email from Shenaz above that states that they apologize for the delay in getting back to me, but at the same time, provides me with another form to apply for something they're already admitting a delay in getting back to me on. That's what happens after awhile when a company issues insincere correspondences, they ten to contradict themselves and not even make any sense, while at the same time appearing to be so nice and benign with "thank you's" and "apologies."

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Hoping to keep my back and forth dialogue with one person, like Wynston, and not someone new every time, I sent the following email back to Shenaz:

"Dear Shenaz,

thanks for your reply, but I'm waiting for Wynston to get back to me on a couple of things we've been going back & forth on for awhile, so could you please see that he gets my emails? Thank you.

As far as the partner program and "having an interest", it's not that I have an interest, it's that The Music Show has a NECESSITY to provide it's uniquely and unparalleled original content to partnered sites (=paying sites). As you know, The Music Show is moving to tv in a month, and will need to refer it's (possibly) 20-something million viewers to a website or internet video portal of some kind to see the rest of the half-tv/half-internet show. So, videos will be introduced and highlighted on the tv show, much like a director's are on The Tonight Show, then those viewers will be referred to the internet to watch complete segments.

I NEED TO KNOW, 100% MUST KNOW, whether or not I can partner with Youtube or I will NOT be able to refer millions of people to your site for free. This obviously goes without saying, as the investors would never allow that, and neither would you in this situation. It's important that I discuss this and other pressing issues with Youtube. Maybe we can get on the phone, either that, or I'll make a trip to your corporate office.

Thanks,

Bennybaby"

My wrists were extended, I would've done anything to consummate communication with this company, including flying across the entire country to their corporate office.

July 12, 2007,

I sent the following email to Wynston:

"Dear Wynston, I sent you three very important emails a week ago, one that was EXTREMELY VITAL on the partner program. I need to talk to you very soon. I can't stress that enough. It would be better too if you called me, I have some serious stuff I can't divulge through email:

401.952.6661 (my cell)

508.336.2049 (my work)

Thank you, Benjamin Ligeri"

Honestly, I was trying to sound a bit mysterious in this email to induce a phone call to consummate communication.

It should be noted here that large corporations have a serious ax to grind with telephone communication and email is a very limited form of communication as is. Adding any incoherency or inconsistency to the email medium completely nullifies it as a means of communication. Unlike the telephone, where two people may go back & forth fifty times in the space of a few minutes to clarify one point, there is no back & forth in one email. One side is presented at a time, contingent on so many things that could be gleaned right over in a phone call.

One can't cut and paste on a phone call--though Google customer service reps are pushing these barriers. Needless to say, I was eager to get on the phone as I felt a five-minute conversation with a coherent human being may solve a year's worth of incoherent emails.

Email is great when one you want to tell someone a complete thought, like "check this out" or "read this", but when there's numerous variables that require clarification, the two participaters in email must be very sharp and quick in responses or the gist of the communication is always lost in time.

Email is also easy to ignore, to chill, to silence, to pretend you didn't receive the email. To answer questions in it that weren't asked and not answers ones that were asked. This is why GooTube loves this form of communication so much.

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July 14, 2007,

I sent the following email to Wynston:

"Please don't blow me off, I brought a million views to Youtube, much from outside marketing, great original content, in addition to dedicating days and days to help solving your SPAM problem, with successful results, and forget about getting featured, I can't even get an email returned. I really need to discuss some pressing issues with Youtube, I deserve a few minutes, please be somewhat fair and give me this. Please. I'm begging. Thanks, Benjamin Ligeri"

I really was begging too. I was prostituting myself and begging (a position Gootube loves to get its laborers in and often does). I would do anything to get an answer. It's no wonder I needed an answer so bad, Youtube had an effectual monopoly on video sharing at the time. And now the number one search engine was sending all video searches to Youtube (unlawfully, of course), so one needed to strike a deal with Youtube to get anywhere. After all, even NBC couldn't break away!! They tried to work with Yahoo and other mega-conglomerates to build a video portal but GooTube owned the internet and so NBC was forced to strike a deal with GooTube.

July 17, 2007,

I had a dispute with Ayieno (of YT) about Youtube flagging a video (which forces a user to submit to being 18 or older to watch it) that was a rap parody about a rapper's pubic fro. It was a "PG-15" video and I replied in part to Ayieno's decision to keep it flagged with this: "Ya know, I've flagged videos with severe racism and violence and you didn't restrict them, I'd like to know WHY this video is being restricted..."

It's important to note that I was on Youtube almost "24-7" during these times and was constantly the butt of the absolute contradictions in all of their policies. I test flagged some NC-17 to X rated videos by corporations and movie studios, and noticed that Youtube often not only didn't delete the video but didn't even flag the video with their "confirm you are 18 or older" button. One of these such videos was even FEATURED by Youtube and had a famous actor intimating fingering a vagina as well as using the word "cunt" several times. That's right, I flagged it and Youtube let it go without even the Age Confirmation button. I didn't personally have a problem with this NC-17 Kevin Smith video, I just had a problem with them not having a problem with it while having a problem with my PG-15 video.

Also, my overtime hours on Youtube led me to write so many emails and maybe followup more than an average person would who may just give up after a few unanswered emails.

July 18, 2007,

I sent the following email to Wynston:

"Dear Wynston, if you are getting my emails and have just been extremely busy, that's fine, just let me know you're getting my emails. I'm over here single-handedly fighting a battle against SPAM and saving your company a lot of money and dissatisfied customers and I'm not even getting a response on my "good fight" that I'm fighting.

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I'm assuming you only allow advertising from people Youtube is friendly with or knows or something, because I filled out the advertising form over a month ago and have sent several emails and have not heard back.

I've also done the same about partner info. and have not heard back. Now I've brought you over a half a million views (including from outside marketing) all in the past TWO MONTHS), you're not just gonna ignore a guy like me, are ya? 5,000 people with my daily traffic = all your daily traffic. Meaning, if 5,000 people brought my traffic, that would represent your daily traffic, and I'm just getting warmed up. I have big plans and I NEED TO TALK TO SOMEONE AT YOUTUBE!!!!!!!!!!!!!!

Sincerely,
Ben Ligeri"

it's important to note at this point, it's been over two weeks since Wynston replied to tell me he's going to reply **soon and almost three weeks since Kavitha told me someone would respond **shortly** about the partner program and the advertising application, and I have not heard back from either. All issues were pressing and the urgency was so stated to Youtube in a multitude of ignored emails. The life of a video artist can be intense.

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And in the midst of all this, instead of getting any responses or any of the followup correspondence promised, I get another slap in the face from Youtube:

an email notifying me that "Professor Carlton's" GIRLFRIEND Parody video has been removed yet again due to a copyright infringement notification by RCA RECORDS yet again, not even two months after the first one was withdrawn by RCA Records because of an "error" they had made ON THE SAME EXACT VIDEO.

The first time, the Girlfriend parody video was removed by Youtube at the time of heavy traffic to the 'Avril Lavigne' search term, and a few days ago Avril had come out with a new hit video and another was slated for release in two days. It would seem Youtube was trying to chill my parody content to provide a clear path to their sponsor's content (RCA RECORDS) free from "obtrusive user generated content", the kind of content that meets the definition of Youtube's bathetic trademarked motto "Broadcast Yourself."

**It's important to note here that GooTube's intention was never the "Broadcast Yourself" motto they proclaimed and continue to proclaim to this day, their intention was to make Youtube a one-stop TIVO for all copyrighted tv content. It was clear that once users were searching for all video on Youtube.com, GooTube could begin to phase out the user-generated content in place of corporate tv content. This is clear in Youtube's featuring of broadcast station content from corporations like CBS. Youtube will let user's leave on their own though, as more and more new video sharing sites that are more user-friendly continue to crowd the market. Today, I looked at the featured videos section of Youtube.com (the homepage) and saw five featured videos of the Rolling Stones. FIVE. The videos of the guy making an omelette in a plastic bag or the dog rollerskating are all just diversions of YouTube's ultimate goal of turning Youtube.com into network[ed] tv.

[definition: "TIVO" is a machine that automatically finds and digitally records your favorite tv shows].

I wrote to Youtube a few times telling them that a copyright claim had already been made on this video in the past and was thence retracted in error. I even copied the original retraction email sent to me by The Youtube Team (YT).

Despite the clear points in the email, I got this ridiculous generic response from Harry (of YT):

"Dear Benjamin, We received notification from RCA Records. When we're notified that a particular video uploaded to our site infringes another's copyright, we remove the material as the law requires. If you feel a content owner has misidentified your content as infringing, you may file a DMCA counter-notification. For more information, visit our Copyright Tips page, http://youtube.com/t/dmca_policy.

Sincerely,

Harry

The YouTube Team"

I replied, copying my previous email once again, since it either hadn't been read or was read by someone fixated on intellectually and emotionally punishing me. I told Harry once again that I was cleared by Youtube and RCA on this EXACT SAME ISSUE last month, copying to him the email from Youtube that stated RCA had made an "error" with respect to my videos and has retracted their copyright infringement claim and my videos were being restored to Youtube.com.

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July 19, 2007,

Unrelated to any of the preceding conversations thus far, I sent the following email to Youtube, convinced of a likely error in the ranking system:

*"Dear Youtube, This is a big concern, so hopefully I'm somehow wrong about this, but I don't think the HONORS system is calculating views accurately. For one, I know I rank in the top 100 most viewed comedians this month, and two, last month I went from number 20 [most viewed comedians] for most of the month, to none. Then I went back & forth between number 20 most viewed and no honors. It seems unlikely that I wouldn't hit a lower level, like #98 most viewed, or #40 something most viewed. It seems odd to go between #20 most viewed one second, then not even in the top 100 the next second, then back to #20 most viewed the next second.
Thanks, Ben Ligeri*

I received an automated reply telling me that the message was received.

****we'll take this time to note that I was one of the most viewed comedians on Youtube during this time, maintaining a top 20 rank for about a month and even making number one for several days. I've since had days and weeks with twice as many views as I did back then, but for some reason, I don't get ranked anymore.**

In response, I received the following email from Kshema (of YT):

*"Hi there, Thanks for your email. I appreciate you bringing this issue to our attention. We're currently investigating the situation and it should be fixed soon. Thank you for your patience and I apologize for any inconvenience.
Regards,
Kshema
The YouTube Team"*

Nobody every got back to me on this issue.

Also on this day, I sent a legal notification to the Youtube copyright department, requesting that the email be forwarded to Youtube's legal department, as Youtube was violating the law with respect to the DMCA notifications.

I received a reply stating that my message had been queued for review.

Today, I get to hear back from Harry -- two days after my followup to his improper response to my first email alerting him that the copyright infringement form that Youtube claims has been filed by RCA Records on behalf of my Girlfriend parody video was already retracted the month prio. If you recall, after telling Harry this the first time, he wrote back with this email:

"Dear Benjamin, We received notification from RCA Records. When we're notified that a particular video uploaded to our site infringes another's copyright, we remove the material as the law requires. If you feel a content owner has misidentified your content as infringing, you may file a DMCA counter-notification. For more information, visit our Copyright Tips page, http://youtube.com/t/dmca_policy.

Sincerely,

Harry

The YouTube Team"

Once again, Harry wrote back with the exact same email, word for word. At this point, I was convinced Harry was trying to help The Youtube Team in bringing about my mental and physical collapse. I replied with the following email:

"What is it that you have against me, Harry? Why are you doing everything in your power to make my life a living hell? Please tell me that? No matter what I say or bring to your attention, you continue to cut & paste the same unrelated response. I might have to make a video about you Harry. Why don't you just tell me you want to be in a video with me?

Please forward this email to your legal dep't so they can review the legal issues contained in our correspondence.

Thank you,

Ben Ligeri"

I ended up faxing ANOTHER DMCA counter-notification, of which I would be notified a week later of its receipt by Youtube. receipt

July 23, 2007,

Four days after my last email to Harry and I still haven't heard back from him yet. (I guess that could be called a mitigation.) But today I am treated to another generic email to my specific partner program requests, only this time signed by Evelyn, which stated in whole:

"Hi Ben,

Thanks for you interest. We're constantly evaluating the program and will be adding new partners to the program if and when appropriate. If you haven't received a response, there are no partnership opportunities available at this time. In the meantime, we encourage you to explore all that YouTube has to offer at www.youtube.com

Sincerely,

Evelyn"

So, instead of an actual response to my specific and detailed inquiries about the Partner Program and my plan to bring millions more people to Youtube, I get an *'interpretive'* email from Evelyn that doesn't tell me whether or not I've been denied for the Partner Program, but instead tells me to assume that no reply is a denial.

Now, for obvious reasons, it would be contrary to everything empirical to denote any form of meaning from a lack of a response from Youtube, as it's as regular of an event as sunrise and sunset.

Additionally, the fact that Evelyn gave me the link to Youtube.com to explore the endless possibilities proves that she has no idea what's going on, what planet we're all on, or, like Harry, she is bent on torturing me.

So not only is this not a response from Youtube at all, it's another slap in the face. In my mind, I picture Evelyn pretending to be one of those nice grandma's in the nursing home who doesn't recognize your face but still smiles.

I wasn't sure of Youtube's motivation at the time to send me incoherent and incomplete emails and promise future correspondence and answers that never came (though I now realize these incoherent emails were designed to keep me clinging so that they could continue to extort my content and advertising profits and build their company on my work by not ever officially saying "no" but rather continuing to lead me on).

July 25, 2007,

Today, I receive another email from the Joker -- I mean Harry in Youtube copyright.

*"Dear Benjamin,
Thank you for your counter-notification. It has been forwarded to the party who sent the takedown notification.
Sincerely,
Harry
The YouTube Team"*

It still hadn't sunk in for Harry that, despite my countless emails, this whole issue had been settled two months ago by Harry's department and that this was my second counter-notification on the same issue.

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