

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BENJAMIN LIGERI,

Plaintiff,

v.

YOUTUBE, INC., *et al.*,

Defendants.

Case No.: 08 CA 11394 DPW

**DECLARATION OF MICHAEL BERTA IN SUPPORT OF DEFENDANTS'  
MOTION TO DISMISS OR TRANSFER**

I, Michael A. Berta, declare as follows:

1. I am an attorney at law duly licensed to practice in the State of California. I am a partner at the law firm of Wilson Sonsini Goodrich & Rosati, and counsel to YouTube, LLC and Google Inc., defendants in the above-captioned matter. I make this Declaration in support of Defendants' Motion to Dismiss or Transfer. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. Before filing this action in any court of law, Defendants received a letter from plaintiff Benjamin Ligeri, dated July 22, 2008, attached hereto as Exhibit A, with a copy of a document that he identified as a Complaint against Defendants and others.

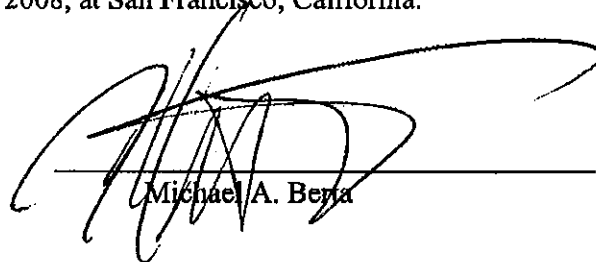
3. I received a copy of the letter in early August and telephoned Mr. Ligeri on August 6, 2008.

4. In the discussion with Mr. Ligeri on August 6, 2008, I specifically informed Mr. Ligeri that the YouTube Terms of Use, to which he agreed by submitting material to YouTube,

prohibited him from filing the attached Complaint in Massachusetts, but instead required that the Complaint be filed in California.

5. On September 22, 2008, I spoke with Mr. Ligeri again and confirmed that Google Inc. and YouTube LLC would agree to accept service of the complaint as of September 23, 2008, and Mr. Ligeri agreed to an additional 20 days for those parties to respond to the Complaint. Attached hereto as Exhibit B is a true and correct copy of a letter I sent Mr. Ligeri on September 23, 2008 confirming this discussion.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed the 31st day of October, 2008, at San Francisco, California.



Michael A. Berta