

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY))
PARTNERS, COUNTRY MUSIC.))
TELEVISION, INC., PARAMOUNT))
PICTURES CORPORATION, and BLACK))
ENTERTAINMENT TELEVISION, LLC,))
))
Plaintiffs,))
))
vs.)	NO. 07-CV-2203
))
YOUTUBE, INC., YOUTUBE, LLC,))
and GOOGLE, INC.,))
))
Defendants.))
_____))
))
THE FOOTBALL ASSOCIATION PREMIER))
LEAGUE LIMITED, BOURNE CO., et al.,))
on behalf of themselves and all))
others similarly situated,))
))
Plaintiffs,))
))
vs.)	NO. 07-CV-3582
))
YOUTUBE, INC., YOUTUBE, LLC, and))
GOOGLE, INC.,))
))
Defendants.))
_____))

VIDEOTAPED DEPOSITION OF KEVIN DONAHUE
SAN FRANCISCO, CALIFORNIA
WEDNESDAY, OCTOBER 15, 2008

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CLR
CSR LICENSE NO. 9830
JOB NO. 15912

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OCTOBER 15, 2008

9:07 a.m.

VIDEOTAPED DEPOSITION OF KEVIN DONAHUE,
SHEARMAN & STERLING, 525 Market Street,
San Francisco, California, pursuant to notice,
before ANDREA M. IGNACIO HOWARD, CLR, RPR, CSR
License No. 9830.

1 A P P E A R A N C E S:

2

3 FOR THE PLAINTIFFS VIACOM INTERNATIONAL INC.:

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1 A P P E A R A N C E S (Continued.)

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3 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and
4 GOOGLE, INC.:

5 MAYER BROWN LLP

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13 ALSO PRESENT:

14 GOOGLE

15 By: ADAM L. BAREA, Litigation Counsel

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19

20 LOU MEADOWS, Videographer.

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DONAHUE

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- 2 09:23:47 A I would -- I would speak with various media
- 3 09:23:53 companies, providers of video content, and we would
- 4 09:23:57 negotiate terms of an agreement which we would sign
- 5 09:24:03 regarding the licensing of their programming for the
- 6 09:24:06 service.
- 7 09:24:06 Q And did Akimbo pay for the licenses?
- 8 09:24:25 A It was primarily revenue-share oriented.
- 9 09:24:28 Q And --
- 10 09:24:29 A I think in some cases we did pay guarantees
- 11 09:24:32 or some sort of license fees.
- 12 09:24:34 Q And when you say revenue sharing, are you
- 13 09:24:37 referring to revenue sharing of advertising revenue?
- 14 09:24:40 A Akimbo's model was a combination of a few
- 15 09:24:44 different things. It's probably why it didn't work.
- 16 09:24:47 They had a pay-per-view and a subscription model and
- 17 09:24:50 then I think they were hoping to have an advertising
- 18 09:24:54 model at some point, but they never did, to my
- 19 09:24:57 knowledge.
- 20 09:24:57 Q And you were at Akimbo until January of 2006;
- 21 09:25:07 is that correct?
- 22 09:25:08 A Yeah, that's right.
- 23 09:25:08 Q And in January of 2006, you joined YouTube?
- 24 09:25:11 A Yeah.
- 25 09:25:11 Q And in what capacity did you join YouTube?

DONAHUE

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2 09:25:15 A I joined as the VP of marketing and
3 09:25:17 programming.
4 09:25:18 Q And who did you report to in the January '06
5 09:25:24 time period?
6 09:25:25 A Chad Hurley.
7 09:25:26 Q Did you have any direct reports to you?
8 09:25:34 A Yeah, Julie Supan reported to me, and then
9 09:25:40 later, for a short period of time, Micah Schaffer
10 09:25:44 reported to me. I'd say a few weeks later, after I
11 09:25:47 started, I believe.
12 09:25:48 Q And what were you hired to do as the VP of
13 09:25:52 marketing and programming?
14 09:25:54 A I was to manage PR, which Julie was sort of
15 09:25:59 handling on a more day-to-day level. I was to look
16 09:26:06 for ways to, you know, market YouTube in various ways.
17 09:26:14 We were just looking at, you know, how -- how
18 09:26:20 would we -- how would we, you know, grow the business,
19 09:26:23 and -- and -- and then the programming piece of what I
20 09:26:27 was doing was -- it was -- the initial idea was to
21 09:26:35 kind of redesign the site to some degree and go out
22 09:26:39 and license programming from providers of content,
23 09:26:44 similar to what I did at Akimbo, and create areas on
24 09:26:48 the site where we could really, you know, promote that
25 09:26:53 content we had licensed from these providers of

DONAHUE

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2 09:26:56 content.

3 09:26:59 Q And how did you come to leave Akimbo and go

4 09:27:02 work for YouTube?

5 09:27:04 A What do you mean exactly by that?

6 09:27:06 Q How did you hear about an opportunity at

7 09:27:07 YouTube?

8 09:27:10 A I noticed YouTube in the blogs and saw that

9 09:27:14 it had been commented on a few times as being

10 09:27:18 something that was interesting, and so I went to the

11 09:27:20 site. It looked very interesting to me, and so I was

12 09:27:26 asking people I knew about the company.

13 09:27:30 I spoke to my brother about it, whose name is

14 09:27:35 Ryan Donahue, and Ryan used to work at PayPal with

15 09:27:40 Chad Hurley. So Ryan mentioned to me that Chad was

16 09:27:44 the CEO of the company, and that really kind of gave

17 09:27:47 me the motivation to contact Chad and to say to him,

18 09:27:53 you know, I'd be interested in speaking to you about,

19 09:27:56 you know, working with you. Does that make sense?

20 09:28:03 Q And after you contacted Chad Hurley, at some

21 09:28:09 point you were hired; correct?

22 09:28:11 A That's correct.

23 09:28:12 Q The rest, as they say, is history?

24 09:28:15 A I guess so.

25 09:28:25 MS. CUNHA: Let's mark this as the first

1 DONAHUE

2 10:45:06 MR. MANCINI: Objection to form.

3 10:45:10 THE WITNESS: I don't think so. I don't

4 10:45:11 remember.

5 10:45:11 MS. CUNHA: Q. You never had any

6 10:45:12 communications like that with him?

7 10:45:14 A Could have been, but I -- I don't recall.

8 10:45:16 Q How about with Maryrose Dunton?

9 10:45:19 MR. MANCINI: Same objection.

10 10:45:20 THE WITNESS: I don't think so.

11 10:45:21 MS. CUNHA: Q. Was your position

12 10:45:26 restructured at some point after you joined?

13 10:45:28 A Yes, it was.

14 10:45:28 MR. MANCINI: Objection to form.

15 10:45:29 MS. CUNHA: Q. And when was that?

16 10:45:34 A By "restructured," I'm assuming you mean did

17 10:45:37 I change my position? Was -- was I put into a

18 10:45:39 different position from what I started as? Is that

19 10:45:41 what you mean?

20 10:45:42 Q Sure.

21 10:45:46 A And -- and you're saying when was that? When

22 10:45:48 did that change?

23 10:45:49 Q When did that occur?

24 10:45:50 A A few months into the position.

25 10:45:53 Q And how did your position change?

DONAHUE

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2 10:45:55 A I started as VP of marketing and programing,
3 10:45:58 and I became VP of content. And rather than reporting
4 10:46:02 to Chad Hurley, I reported to Chris Maxcy.

5 10:46:06 Q And what is your understanding as to why your
6 10:46:08 position changed?

7 10:46:11 A I don't know.

8 10:46:14 Q No one told you?

9 10:46:17 A It -- as I recall, it just seemed to make
10 10:46:21 more sense that my focus should be on the content
11 10:46:26 partnerships, and that was my experience and
12 10:46:32 expertise. I was happy to pursue that as my -- as my
13 10:46:37 focus, as opposed to the marketing and programming
14 10:46:41 role.

15 10:46:42 Q Who communicated this change to you?

16 10:46:44 A Chad Hurley.

17 10:46:44 Q And what did he say when he communicated it
18 10:46:46 to you?

19 10:46:51 A I don't recall specific words he said, but
20 10:46:53 something to the effect of what I just told you.

21 10:46:56 Q Did he express any -- strike that.

22 10:47:05 Did he -- did he express to you that there
23 10:47:10 was any dissatisfaction with the way you had been
24 10:47:11 performing your job up to that point?

25 10:47:14 A No, he didn't.

1 DONAHUE

13:17:43 2 environment we're in, things are fast-moving, and
13:17:48 3 we're very busy, and you're in a startup environment
13:17:52 4 where things are coming together and ideas are being
13:17:59 5 sent around in e-mail constantly. You don't always
13:18:02 6 follow up on -- on e-mails that you are CCed on.

13:18:07 7 MS. CUNHA: Q. You see it refers to "We
13:18:09 8 should probably de-feature this," and then it has a
13:18:13 9 link?

13:18:13 10 A I see that.

13:18:14 11 Q Do you know what it means to "de-feature"
13:18:18 12 something on YouTube?

13:18:20 13 A I'm assuming he -- he may have been talking
13:18:23 14 about we had one area where we would feature videos,
13:18:27 15 which is the Homepage. So I'm assuming he means
13:18:30 16 removing it from being a featured video on the
13:18:32 17 Homepage.

13:18:33 18 Q How did something become a featured video?

13:18:36 19 A Someone would feature it with a tool that we
13:18:39 20 would use.

13:18:42 21 Q And in the 2006 time frame, who would do the
13:18:47 22 featuring?

13:18:48 23 A Originally it was Steve who did it, and then
13:18:51 24 it was my job to do it, and after that, I believe,
13:18:57 25 Maryrose did it, and now other people do it.

DAVID FELDMAN WORLDWIDE, INC.

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