

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. ) Case No. 1:07CV02103

YOUTUBE, INC., YOUTUBE, LLC, )  
and GOOGLE, INC., )  
Defendants. )

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THE FOOTBALL ASSOCIATION PREMIER )  
LEAGUE LIMITED, BOURNE CO., et al., )  
on behalf of themselves and all )  
others similarly situated, )

Plaintiffs, )

vs. ) Case No. 07CV3582

YOUTUBE, INC., YOUTUBE, LLC, and )  
GOOGLE, INC., )  
Defendants. )

DEPOSITION OF PATRICK WALKER

SAN FRANCISCO, CALIFORNIA

TUESDAY, JULY 22, 2008

REPORTED BY:

YVONNE FENNELLY, CRP, CSR NO. 5495

JOB NO. 15375

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JULY 22, 2008

10:00 a.m.

VIDEOTAPED DEPOSITION OF PATRICK WALKER,  
held at the offices of SHEARMAN & STERLING,  
525 Market Street, San Francisco, California,  
pursuant to notice, before YVONNE FENNELLY, CRP,  
CSR License No. 5495.

## A P P E A R A N C E S

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ALSO PRESENT: Lou Meadows, Videographer

--oOo--

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2 10:10 a shake or a nod of the head, it will make for a clearer

3 10:10 record and help Ms. Fennelly out as she prepares the

4 10:10 transcript.

5 10:10 Does that all make sense to you?

6 10:10 A. Yes, it does.

7 10:10 Q. What is your present position of employment?

8 10:10 A. I'm the director of video partnerships for

9 10:10 Google and YouTube, based in London, England.

10 10:10 Q. And you say you're based in London, England.

11 10:10 Do your responsibilities as director of video

12 10:10 partnerships extend to a particular geographic area?

13 10:10 A. Yes. They extend to Europe, Middle East and

14 10:10 Africa.

15 10:10 Q. And how long have you had that position?

16 10:10 A. I'm been employed by Google since January of

17 10:10 2006 and took on responsibility for Google Video at the

18 10:11 time. At the time I was employed that extended to

19 10:11 YouTube after the acquisition at the end of 2006.

20 10:11 Q. That was Google's acquisition of YouTube?

21 10:11 A. That's correct.

22 10:11 Q. If you could briefly described your educational

23 10:11 background after high school, at least as that term, if

24 10:11 you're familiar, that is used in US jargon?

25 A. Yes. I went to the University of Southern

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11:07 Q. Do you know if it was eventually  
11:07 commercialized, VIIV?

11:07 A. Not that I'm aware of.

11:07 Q. And you left in 2005 to go to Google, you said?

11:07 A. No. It was -- I gave my notice at the end of  
11:07 2005. I began my role at Google in January -- I think  
11:07 January 16th, 2006.

11:07 Q. And I believe you testified that you were head  
11:08 of video content partnerships; is that right?

11:08 A. I was head of content partnerships here, in the  
11:08 Middle East, and Africa for Google when I was employed.

11:08 Q. You were at Middle East and Africa. I  
11:08 sometimes see the acronym EMEA; is that right?

11:08 A. That's correct.

11:08 Q. Were there other heads of content partnerships  
11:08 when you began in January 2006 for other geographic  
11:08 regions?

11:08 A. There was someone responsible for content  
11:08 partnerships in North America.

11:08 Q. Was that David Eun, E-u-n?

11:08 A. No; this was prior to Dave Eun joining Google.  
11:09 It was Jennifer Feiken.

11:09 Q. Did you report through -- up through the  
content, the head of content for North America or were

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2 12:00 BY MR. SHAFTEL:

3 12:00 Q. Now, I want to get back, when you write that,

4 12:00 "I'm sure this is the tip of the iceberg" --

5 12:00 A. Uh-huh.

6 12:00 Q. -- did you follow-up with anyone at Google

7 12:00 Video to try to determine whether there was more to the

8 12:01 iceberg than these six items?

9 12:01 A. I remember having conversations about how we

10 12:01 were to deal with content that might be unauthorized on

11 12:01 the surface.

12 12:01 Q. I'm referring specifically here to Channel 4.

13 12:01 A. Uh-huh.

14 12:01 Q. Channel 4 said that there is some unauthorized

15 12:01 material.

16 12:01 In your mind, at this point you're writing,

17 12:01 "I'm sure this is the tip of the iceberg." And you

18 12:01 testified you understand the importance of controlling

19 12:01 content rights to the content owner.

20 12:01 A. Right.

21 12:01 Q. So I want to know what you recall doing, if

22 12:01 anything, to investigate how much more of the iceberg

23 12:01 there was beyond these six items.

24 12:01 MR. INGBER: Asked and answered.

25 THE WITNESS: I was interested in understanding

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2 12:02 at this early time in particular how we were screening

3 12:02 for and then responding to content that might be

4 12:02 considered unauthorized.

5 12:02 BY MR. SHAFTEL:

6 12:02 Q. Tell me in, I guess, January of 2006, what

7 12:02 measures Google Video implemented to protect against

8 12:02 unauthorized copyrighted material appearing on the site?

9 12:02 MR. INGBER: Object to form; lacks foundation.

10 12:02 THE WITNESS: Can you rephrase that?

11 12:02 BY MR. SHAFTEL:

12 12:02 Q. Sure.

13 12:02 When you began at Google Video in the January

14 12:02 time period, a period when you wrote Exhibit 1 about

15 12:02 Channel 4's complaints, what did you understand Google

16 12:03 Video was doing to protect against unauthorized content

17 12:03 appearing on the Google Video site?

18 12:03 A. It was still quite early to my beginnings

19 12:03 there, and I had not spent time yet back in Mountain

20 12:03 View, but it was my understanding that for a variety of

21 12:03 reasons, including screening for adult material, violent

22 12:03 material, potentially unauthorized material, there was a

23 12:03 team that did review content before it was made live on

24 12:03 the site.

25 Q. Okay. So before content was available for



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2 12:03 access on the Google Video site, human beings were

3 12:04 reviewing the content?

4 12:04 A. Human beings had a -- my understanding is they

5 12:04 had a view through thumbnail images of content that was

6 12:04 submitted that they would approve or reject prior to its

7 12:04 going live.

8 12:04 Q. Where were the individuals based?

9 12:04 A. At the time they were based in Mountain View,

10 12:04 California.

11 12:04 Q. You say, "at the time."

12 12:04 Did that change at any point in time?

13 12:04 A. At a later point in time there were people

14 12:04 employed in Dublin to also provide some review of

15 12:04 material.

16 12:04 Q. Do you know how many people in Mountain View --

17 12:04 Mountain View is the headquarters for Google; is that

18 12:04 right?

19 12:04 A. Correct.

20 12:04 Q. Do you know how many people were employed to

21 12:05 review thumbnail contents before it went live on the

22 12:05 site?

23 12:05 A. No, I don't know how many.

24 12:05 Q. Any rough magnitude? Fewer than 20, more than

25 20?

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2 12:05 A. I think there were fewer than 20.

3 12:05 Q. Do you know how many hours a day content was  
4 12:05 being reviewed as part of that process?

5 12:05 A. I recall it was a certain number of people's  
6 12:05 full-time job to review the content, and that was  
7 12:05 primarily done during working hours.

8 12:05 Q. And the number of those individuals you're not  
9 12:05 sure about?

10 12:05 A. I'm not sure how many there were.

11 12:05 Q. And you testified that that team was expanded  
12 12:05 to include individuals in Dublin; is that right?

13 12:05 A. Correct.

14 12:05 Q. Dublin, Ireland; is that right?

15 12:06 A. That's right.

16 12:06 Q. And when and why is that?

17 12:06 A. I don't remember the exact date, but it was  
18 12:06 done in anticipation of our localization of Google Video  
19 12:06 to Europe.

20 12:06 Q. Meaning there would be sites in Europe that  
21 12:06 would have content specific for the given geographic  
22 12:06 location?

23 12:06 A. We had a plan, and one of my responsibilities  
24 12:06 was to help develop this plan, to localize Google Video  
25 in several European countries. And my responsibility

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2 12:06 was specifically to make sure that we were engaging with  
3 12:06 content partners in all of these markets. And as part  
4 12:06 of that, we employed people, or I would say maybe  
5 12:06 reassigned people, because there was already a large  
6 12:06 team of people in Dublin for Google operations, to be  
7 12:06 trained on the tools in languages that were specific to  
8 12:06 the countries in which we would launch.

9 12:07 Q. And, in fact, in the spring of '06 you --

10 12:07 "you," meaning Google Video -- hired three individuals  
11 12:07 to work in Dublin; is that right?

12 12:07 A. I don't know how many were hired. I was not  
13 12:07 responsible for operations. I know that people were  
14 12:07 employed.

15 12:07 Q. Would these individuals in Dublin be known as  
16 12:07 the Dublin vidiots?

17 12:07 A. That was the term we used, vidiots.

18 12:07 Q. Who was the team in the US? Do you know who  
19 12:07 was in charge of supervising and overseeing that team?

20 12:07 A. I believe it was Bhanu.

21 12:07 Q. Do you know how long -- do you know -- did you  
22 12:07 ask about any statistics, how many videos they -- and  
23 12:07 let's focus on '06 up through the YouTube acquisition.

24 12:07 A. Okay.

25 Q. Did you ask about any statistics, how many

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2 12:07 videos those individuals would review, how long it would  
3 12:07 take between uploading and the review process?

4 12:08 MR. INGBER: Objection.

5 12:08 THE WITNESS: I remember having that

6 12:08 conversation. I have no idea what the actual numbers

7 12:08 were at this time. I do know there was quite a lag,

8 12:08 though, between upload and going live, which was due to

9 12:08 this review process.

10 12:08 BY MR. SHAFTEL:

11 12:08 Q. And when you say a lag, what magnitude of time

12 12:08 period are you talking about? A couple hours, couple of

13 12:08 days?

14 12:08 A. I think depending on the time of the week, it

15 12:08 could be a couple hours, it could be a couple days.

16 12:08 After the weekend it would take -- I think things would

17 12:08 build up on the weekend and they would have to then

18 12:08 review a larger collection of videos prior to them being

19 12:08 made live. This was a constant complaint for users,

20 12:08 actually, that there was a large lag.

21 12:08 You would upload something and it would go into

22 12:08 this, from their perspective, kind of silent period of

23 12:08 is it going live or not, and then it would appear or

24 12:08 not.

25 Q. You testified that you didn't know the number

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2 12:09 of individuals in Dublin that were reviewing videos

3 12:09 beginning in the spring of '06; is that right?

4 12:09 A. I don't know exactly how many people were

5 12:09 employed.

6 12:09 Q. I had suggested three.

7 12:09 Does that number seem incorrect to you?

8 12:09 A. It seems to be in the range.

9 12:09 Remember, I mean, Google was growing very

10 12:09 quickly. When I was employed, there were 4,000

11 12:09 employees. Now there is probably 20,000 employees. So

12 12:09 even if I were to pinpoint a specific time, you know, it

13 12:09 might have been different the week after. But I think

14 12:09 that number is in the range.

15 12:09 Q. Now, you said you weren't in charge of

16 12:09 operations. Who was in charge of the Dublin operations?

17 12:09 A. There was someone named William Kipp who was

18 12:09 overseeing a number of the operations there, and he had

19 12:09 someone on his team named Toffi Dawson who was

20 12:09 specifically working with that team.

21 12:09 Q. Do you know the training that -- do you know

22 12:10 the training that either the reviewers in Mountain View

23 12:10 or the reviewers in Dublin received with respect to

24 12:10 copyright issues?

25 A. I don't know the training specifically. I know

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2 12:10 they did receive training.

3 12:10           It was -- it was, in my understanding, part of

4 12:10 a broader training as to things to look out for in

5 12:10 looking at thumbnails that might be against our

6 12:10 policies, violent, pornographic, or potentially -- to

7 12:10 some extent, potentially unauthorized content.

8 12:10       Q.     And what do you understand the reviewers to

9 12:10 have relied on -- or strike that.

10 12:11           How do you understand the reviewers would go

11 12:11 about determining whether certain content appeared to

12 12:11 violate copyright or not?

13 12:11           MR. INGBER:   Object to form.

14 12:11           THE WITNESS:   Can you rephrase that, please?

15 12:11 BY MR. SHAFTEL:

16 12:11       Q.     Sure.

17 12:11           You said that they reviewed thumbnails of

18 12:11 content?

19 12:11       A.     Yes.

20 12:11       Q.     What do you mean by "thumbnails," just to have

21 12:11 it on the record.

22 12:11       A.     I went to have a look one time, and what I

23 12:11 recall is that on a screen there would be a series of

24 12:11 thumbnails that would be representative of the video.

25           They wouldn't actually watch the video; they would see a

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2 12:11 series of thumbnails that would be representative of  
3 12:11 videos across the length of that video. The number of  
4 12:11 thumbnails, I think, was the same regardless of whether  
5 12:11 the video was a minute long or ten minutes long or  
6 12:11 however long, and they would, from my understanding, be  
7 12:11 trained to look out for things that were obviously very  
8 12:11 easy to identify such as, you know, pornographic  
9 12:11 material or scenes of violence.

10 12:11           If there was a question as to whether or not it  
11 12:11 was against our policies, then it would be passed to  
12 12:11 another bucket for review.

13 12:12           With regard to potentially unauthorized  
14 12:12 content, it was very spotty. It was interesting. One  
15 12:12 of my concerns at the beginning was that it was quite US  
16 12:12 centric, and I understand that they were looking for  
17 12:12 certain things that were popular programs from US  
18 12:12 broadcasters.

19 12:12           MR. SHAFTEL: We'll mark the next document as  
20 12:12 Exhibit 2, Walker exhibit that starts at G154578.

21 12:12           (Document marked Exhibit No. 2  
22 12:12 for identification.)

23 12:13           THE WITNESS: Thank you.

24 12:13 BY MR. SHAFTEL:

25           Q. I'd ask, Mr. Walker, if you could review that

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12:32 Bates No. 313442.

12:32 (Document marked Exhibit No. 3

12:33 for identification.)

12:33 BY MR. SHAFTEL:

12:33 Q. I'd ask, Mr. Walker, for you to review this

12:33 document, and I have a few questions about it. It's

12:33 actually two e-mails that appear on this page.

12:34 Mr. Anderson writes to you on Sunday,

12:34 March 5th, 2006 -- first off, who is Ethan Anderson?

12:34 A. International business product manager. So he

12:34 was the international product manager on Google Video.

12:34 Q. What in essence does the international product

12:34 manager do? What areas fall within that person's

12:34 responsibilities?

12:34 A. The international products manager was

12:34 responsible for the development of the product for the

12:34 purposes of localization, in this case, in Europe. But

12:34 he was also looking after the international development

12:34 plan of the product as a whole.

12:34 Q. And as head of content partnership, you were

12:35 trying to -- your responsibilities involved finding

12:35 counterparty content holders to provide content for

12:35 these local sites, European sites?

A. Right. The content, when it was submitted,



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2 03:08 quite -- it's a description that's quite technical. I

3 03:08 don't know at the time what that was specifically

4 03:08 referring to.

5 03:08 We were looking for ways to create a more

6 03:08 automated process by which we could detect content that

7 03:09 would help in the review process.

8 03:09 Q. And did anything happen in this respect over

9 03:09 the next one to three months that you're aware of,

10 03:09 April, May, June or thereabouts in 2006?

11 03:09 A. I don't recall.

12 03:09 (Document marked Exhibit No. 9

13 03:09 for identification.)

14 03:09 BY MR. SHAFTEL:

15 03:10 Q. Exhibit 9, Document 313463, the bottom portion

16 03:10 of which, Mr. Walker, is an e-mail from you to Hunter

17 03:10 Walk.

18 03:10 A. Uh-huh.

19 03:10 Q. In what position did Mr. Walk have at this

20 03:10 point, March 11, 2006?

21 03:10 A. He was one of the product managers at Google

22 03:10 Video.

23 03:10 Q. What responsibilities did he have?

24 03:10 A. He was responsible for a number of developments

25 on the product, including the tools for review of

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2 03:10 content.

3 03:10 Q. Do you know whether he reported to Mr. Anderson

4 03:10 or vice versa?

5 03:11 A. No, he did not report to Mr. Anderson or vice

6 03:11 versa.

7 03:11 Q. Do you know who Mr. Walk reported to?

8 03:11 A. I don't know who he reported to at the time.

9 03:11 Q. Where was he based?

10 03:11 A. Mountain View.

11 03:11 Q. And you're providing Mr. Walk here a list of

12 03:11 certain sports-related information, including e-mail

13 03:11 addresses; is that right?

14 03:11 A. I'm sorry?

15 03:11 Q. You're providing Mr. Walk certain

16 03:11 sports-related information concerning the names, the

17 03:11 e-mail, the websites for various sports entities; is

18 03:11 that right?

19 03:11 A. This is a list of various sports names and

20 03:11 website URL's.

21 03:11 Q. How come you're providing it to Mr. Walk?

22 03:12 MR. INGBER: Take your time to review the

23 03:12 document.

24 03:12 THE WITNESS: This was part of a process when

25 we were looking to provide a means of matching based on

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2 06:20 competitor of Google Video?

3 06:20 MR. INGBER: Object to form to the extent it

4 06:20 mischaracterizes Mr. Walker's testimony.

5 06:20 BY MS. MAGUIRE:

6 06:20 Q. Was YouTube a primary competitor?

7 06:20 A. YouTube --

8 06:20 MR. INGBER: Object to form. The word

9 06:20 "primary" is vague.

10 06:20 THE WITNESS: I never said YouTube was a

11 06:20 primary competitor.

12 06:20 I thought certain aspects of what YouTube did

13 06:20 was competitive to our platform particularly as a place

14 06:20 for people to submit and share video content.

15 06:20 BY MS. MAGUIRE:

16 06:20 Q. Okay.

17 06:20 Given that, that YouTube was a competitor of

18 06:20 Google Video --

19 06:20 MR. INGBER: Objection.

20 06:20 Hold on. That mischaracterizes the witness'

21 06:21 testimony.

22 06:21 BY MS. MAGUIRE:

23 06:21 Q. Was YouTube a competitor of Google Video?

24 06:21 A. I think I just answered that. There were

25 aspects of what they did that were competitive.