

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

---oOo---

THE FOOTBALL ASSOCIATION)
PREMIER LEAGUE LIMITED AND)
BOURNE CO., ET AL., ON BEHALF)
OF THEMSELVES AND ALL OTHERS)
SIMILARLY SITUATED,,)
)
PLAINTIFFS,)
vs.) 07 CIV. 3582 (LLS)

)
YOUTUBE, INC., YOUTUBE, LLC)
AND GOOGLE, INC.,,)
)
DEFENDANTS.)

)

VIACOM INTERNATIONAL INC.,)
COMEDY PARTNERS, COUNTRY MUSIC)
TELEVISION, INC., PARAMOUNT)
PICTURES CORPORATION, AND)
BLACK ENTERTAINMENT)
TELEVISION, LLC,)
)
PLAINTIFFS,)
vs.) 07 CIV. 2103 (LLS)

)
YOUTUBE, INC., YOUTUBE, LLC)
AND GOOGLE, INC.,,)
)
DEFENDANTS.)

VIDEOTAPED DEPOSITION OF JIM PATTERSON
FRIDAY, DECEMBER 18, 2009
SAN FRANCISCO, CALIFORNIA
Job No. 18411

1 UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK

3 ---oOo---

4 THE FOOTBALL ASSOCIATION)
5 PREMIER LEAGUE LIMITED AND)
6 BOURNE CO., ET AL., ON BEHALF)
7 OF THEMSELVES AND ALL OTHERS)
8 SIMILARLY SITUATED,,)
9)
10 PLAINTIFFS,)
11 vs.) 07 CIV. 3582 (LLS)

12 YOUTUBE, INC., YOUTUBE, LLC)
13 AND GOOGLE, INC.,,)
14)
15 DEFENDANTS.)

16)
17 VIACOM INTERNATIONAL INC.,)
18 COMEDY PARTNERS, COUNTRY MUSIC)
19 TELEVISION, INC., PARAMOUNT)
20 PICTURES CORPORATION, AND)
21 BLACK ENTERTAINMENT)
22 TELEVISION, LLC,)
23)
24 PLAINTIFFS,)
25 vs.) 07 CIV. 2103 (LLS)

26 YOUTUBE, INC., YOUTUBE, LLC)
27 AND GOOGLE, INC.,,)
28)
29 DEFENDANTS.)
30)

31 VIDEOTAPED DEPOSITION OF JIM PATTERSON, TAKEN
32 ON BEHALF OF THE PLAINTIFFS, AT 9:05 A.M.,
33 WEDNESDAY, DECEMBER 16, 2009 AT 601 CALIFORNIA
34 STREET, SUITE 1400, SAN FRANCISCO, CALIFORNIA BEFORE
35 MARY JACKSON, CSR NO. 8688, PURSUANT TO NOTICE.

A P P E A R A N C E S

1
2 For the Plaintiff Viacom:

3 JENNER & BLOCK, LLP
4 1099 New York Avenue, NW, Suite 900
Washington, D.C. 20001
5 BY: LUKE PLATZER, ESQ.
SARAH MAGUIRE, ESQ.
6 (202) 637-6361
lplatzer@jenner.com
7 smaguire@jenner.com

8 For the Plaintiffs The Football Association Premier
9 League Limited:

10 BERNSTEIN, LITOWITZ, BERGER & GROSSMAN
11 12481 High Bluff Drive, Suite 300
San Diego, California 92130
12 BY: BENJAMIN GALDSTON, ESQ.
(858) 720-3188
beng@blbglaw.com

13
14 For the Defendants Google and YouTube:

15 WILSON, SONSINI, GOODRICH & ROSATI
650 Page Mill Road
16 Palo Alto, California 94304
BY: MAURA REES, ESQ.
17 (650) 493-9300
mrees@wsgr.com

18
19 ALSO PRESENT: ADAM BAREA, Counsel for Google
20 ARMANDO CARRASCO, Videographer
21
22
23
24
25

INDEX

Examination By	Page
Mr. Platzner	6
Mr. Galdston	96

-----oOo-----

EXHIBITS

Number		Page
1	Notice of Deposition	9
2	Article from Wired.com	28
3	E-mail from Chris Maxcy to David Eun	49
4	E-mail	53
5	37-page document Bates Numbered Google 2392607 through 2392643	76
6	6-page document Bates Numbered Google 9529852 through 9529857	82
7	4-page document Bates Numbered Google 9529463 through 9529466	85
8	5-page document Bates Numbered Google 9529906 through 9529910	88
9	3-page document Bates Numbered Google 9529914 through 9529916	92

1 SAN FRANCISCO, CALIFORNIA;

2 FRIDAY, DECEMBER 18, 2009, 9:05 A.M.

3
4 8:26 THE VIDEOGRAPHER: Today's videotaped
5 deposition of Jim Patterson is taken on
6 December 18th, 2009 at Gurrard Gibbs LLP, 601
7 California Street Suite, 1400 San Francisco,
8 California in the matter Viacom International versus
9 YouTube, Incorporated. Case numbers are 07CV2103
10 and 07CV3582. In Court Southern District of New
11 York. My name is Armando Carrasco. I represent
12 David Feldman Worldwide located at 600 Anton
13 Boulevard, Suite 1100, Costa Mesa, California.

14 9:06 We are now commencing at 9:05 a.m. Will
15 all present please identify themselves beginning
16 with the witness?

17 9:06 THE WITNESS: My name is Jim Patterson.

18 9:06 MS. REES: Maura Rees from Wilson Sonsini
19 representing the YouTube defendants.

20 9:06 MR. BAREA: Adam Barea, Google, Inc.

21 9:06 MR. GALDSTON: Benjamin Galdston
22 Bernstein, Litowitz, Berger & Grossman on behalf of
23 the class plaintiffs.

24 9:06 MS. MAGUIRE: Sarah Maguire from Jenner &
25 Block on behalf of Viacom.

1 9:06 MR. PLATZER: Luke Platzer from Jenner &
2 Block on behalf of the plaintiffs in the Viacom
3 action.

4 9:06 THE VIDEOGRAPHER: Thank you. Will the
5 court reporter please swear in the witness.

6 9:06 JIM PATTERSON,

7 9:06 having been first duly sworn, was

8 9:06 examined and testified as follows:

9 9:06

10 9:06 EXAMINATION

11 9:06 MR. PLATZER: Q. Good morning. Can you
12 please state your full name and address for the
13 record please.

14 9:06 A. My name is Jim Patterson. I live at 88
15 Townsend in San Francisco.

16 9:07 Q. And you're employed by YouTube?

17 9:07 A. Yes.

18 9:07 Q. What is your position?

19 9:07 A. I am a group product manager is my title.

20 9:07 Q. And what are your responsibilities?

21 9:07 A. I coordinate product development
22 activities around a subset of YouTube.

23 9:07 Q. And what -- what subset of YouTube do you
24 coordinate product activities around?

25 9:07 A. At the moment, I am focused on ecommerce

1 it actually happens. You mentioned earlier that
2 partners access YouTube videos through the Internet;
3 is that correct?

4 9:55 A. Partners access the YouTube service
5 through the Internet, yes.

6 9:56 Q. So YouTube stores the videos on its own
7 servers and partners can then render those videos on
8 their services or devices?

9 9:56 A. Yes.

10 9:56 Q. Has that always been the case for all
11 partners?

12 9:56 A. Has which always been the case?

13 9:56 Q. That videos themselves remain posted on
14 YouTube's own servers?

15 9:56 A. I believe that has almost always been true
16 except for one very early case and then only on a
17 very small scale.

18 9:56 Q. Was that Verizon?

19 9:56 A. Yes.

20 9:56 Q. And in the case of Verizon, did YouTube
21 deliver copies of the videos to Verizon?

22 9:56 A. I believe, yes.

23 9:57 Q. During what time frame was that method of
24 syndication used?

25 9:57 A. I believe it was around 2006.

1 9:57 Q. And about how long did it last?

2 9:57 A. I don't know for sure. I believe it
3 was -- I don't know for sure. I can -- I can give
4 you my sense, but I can't say authoritatively.

5 9:57 Q. Give me your sense please.

6 9:57 A. My sense is it's probably about six
7 months.

8 9:57 Q. Okay. At that point -- at some point --
9 sorry strike that. At some point Verizon began
10 accessing videos hosted on YouTube servers?

11 9:57 A. Yes.

12 9:57 Q. And are there any partners other than
13 Verizon to whom YouTube delivered copies of the
14 video for syndication?

15 9:57 A. I don't believe so.

16 9:57 Q. That wasn't the procedure used for Helio?

17 9:58 A. I don't believe so.

18 9:58 Q. Roughly how many videos did YouTube
19 syndicate to Verizon?

20 9:58 MS. REES: Objection, vague as to time,
21 vague as to syndicate.

22 9:58 MR. PLATZER: That's a fair -- that's a
23 fair objection. Let me try to rephrase the
24 question.

25 9:58 MR. PLATZER: Q. During the period of

1 believe it was late 2007.

2 10:31 Q. You've used the term automated to describe
3 the process that was put into place after the manual
4 selection. Can you explain what you mean by
5 automated?

6 10:31 MS. REES: Objection, outside the scope to
7 the extent you're asking for technical details, but
8 again you can answer to your understanding.

9 10:31 THE WITNESS: When a partner provides or
10 user provides a video to YouTube, that video needs
11 to be stored by us in a combination of bits, and in
12 order to deliver the YouTube service to make the
13 YouTube service available to a number of different
14 devices and over different Internet connection
15 speeds, we transcode the video into multiple
16 formats. And we do that automatically for each
17 video.

18 10:32 Q. Okay. So at some point in time, YouTube
19 began automatically transcoding every video that was
20 uploaded to the YouTube service into a format that
21 was appropriate to be accessed by a wireless device?

22 10:32 A. All or nearly all, yes.

23 10:32 Q. What about videos that were uploaded by
24 users before YouTube began automatically transcoding
25 all or nearly all uploaded videos into a format that

1 was appropriate for wireless devices? Did YouTube
2 go back and transcode those as well?

3 10:33 A. I imagine -- my understanding is that now
4 we are transcoding all or nearly all of the videos
5 that have been uploaded to YouTube into multiple
6 formats. So I believe the answer is yes.

7 10:33 Q. Just to be clear, I'm not asking about
8 what happens when a user uploads a video.

9 10:33 A. Yes.

10 10:33 Q. I'm asking what happened to videos --

11 10:33 A. Yes.

12 10:33 Q. -- that users had previously uploaded.
13 YouTube went back and transcoded those?

14 10:33 A. That is my understanding.

15 10:33 Q. Okay. And the users who uploaded those
16 videos didn't prompt YouTube to do that?

17 10:33 MS. REES: Objection, calls for
18 speculation, vague.

19 10:33 THE WITNESS: My understanding is that
20 they were presented with a user interface that gave
21 them the ability to choose whether or not it would
22 also be available on mobile devices. So it's
23 reasonable that they would have understood that that
24 would be happening.

25 10:34 Q. Okay. But that interface, that was

1 presented to users who were up loading videos after
2 YouTube started automatically transcoding everything
3 that was uploaded, right?

4 10:34 MS. REES: Objection, vague.

5 10:34 THE WITNESS: Yeah, I don't know precisely
6 when that user interface was introduced?

7 10:34 MR. PLATZER: Q. But users who uploaded
8 videos before YouTube started automatically
9 transcoding everything, that interface wasn't
10 presented to them, right?

11 10:34 MS. REES: Objection. This is outside the
12 scope and it's, again, vague.

13 10:34 THE WITNESS: I don't know. That would
14 have been in the very early days of YouTube. And if
15 YouTube had intended to make a mobile version
16 available, if that had always been part of the plan
17 and the vision, then that may very well have been
18 part of the very early user interface.

19 10:35 MR. PLATZER: Q. Okay. So you just
20 don't know either way --

21 10:35 A. Right.

22 10:35 Q. -- when that user interface became
23 available?

24 10:35 A. Yeah.

25 10:35 Q. When YouTube started transcoding its back

1 catalog, were the videos prioritized in any way so
2 that some category of videos were transcoded first?

3 10:35 MS. REES: Objection, outside the scope.

4 10:35 THE WITNESS: I imagine that they were.
5 And this -- this Exhibit 3 that you've provided
6 suggests they were.

7 10:35 MR. PLATZER: Q. But do yourself have
8 any knowledge --

9 10:35 A. No.

10 10:35 Q. -- of -- do you know by when -- by what
11 point in time was the entire YouTube library made
12 available in several formats?

13 10:36 A. I don't know authoritatively when we
14 launched the mobile website with a full catalog. So
15 I estimate that that was true or approximately true
16 by late 2007.

17 10:36 Q. Okay. And do you know when YouTube
18 started the process of transcoding its back catalog?

19 10:37 A. No.

20 10:37 Q. And we been talking so far about
21 transcoding of the library into format for wireless
22 carriers. Was a different format used for set top
23 device boxes that -- to whom YouTube syndicated
24 videos?

25 10:37 A. Videos were transcoded into multiple

1 formats. Most formats are used or accessible by
2 different categories of devices. So I'm not quite
3 sure how to answer your question. I don't know of
4 any formats that were created, or any specific
5 transcodes that were made specifically for
6 televisions or set top boxes.

7 10:38 MR. PLATZER: This is another logical
8 break in the questioning. Another good time to take
9 a break?

10 10:38 MS. REES: Sure.

11 10:38 THE VIDEOGRAPHER: Now going off the
12 record. The time is 10:38 a.m.

13 10:45 (Whereupon a recess was taken.)

14 10:46 THE VIDEOGRAPHER: We are now back on the
15 record. The time is 10:45 a.m.

16 10:46 MR. PLATZER: Q. Do want to do a little
17 bit of followup on the last topic before we move on
18 to the next subject area.

19 10:46 But to recap, at some point in time, you
20 manually selected all the videos that it made
21 available on its mobile site.

22 10:46 MS. REES: Objection, vague and misstates
23 testimony.

24 10:46 THE WITNESS: Yes, very small number of
25 videos, yes.

1 10:46 MR. PLATZER: Q. Those videos were also
2 syndicated to YouTube wireless partners at the time?

3 10:46 MS. REES: Objection, misstates testimony.

4 10:46 THE WITNESS: One partner at least, yes.

5 10:46 MR. PLATZER: Q. That partner was
6 Verizon?

7 10:46 A. Yes.

8 10:46 Q. And at some point thereafter, YouTube made
9 its entire library available to mobile carriers,
10 correct?

11 10:47 A. Technically, YouTube has always made its
12 entire library available to mobile carriers through
13 the youtube.com website. So any mobile phone that
14 has a sufficiently powerful browser can today and
15 has always been able to visit youtube.com and see
16 the full catalog.

17 10:47 Q. Okay. But maybe to ask the question more
18 clearly, at some point after the manual carrier,
19 YouTube made its entire catalog available to
20 wireless carriers in a format that was deemed more
21 appropriate for wireless phones?

22 10:47 A. Yes, that is correct.

23 10:47 Q. But you don't know when the manual
24 selection period ended and the automatic period
25 began?