

# Schapiro Exhibit 69

**From:** Steve Chen <[REDACTED]>  
**Sent:** Tuesday, April 26, 2005 2:45 PM  
**To:** 'Chad Hurley' <[REDACTED]>; 'Jawed' <[REDACTED]>  
**Subject:** RE: latest flash checked in?

---

We should meet.

Hmm. I'm already going to be down there at 5. I didn't want to stick around for 4 hours in PA if I didn't have to.

But hey -- regarding the HorN vs Flickr. I thought we were all on the same page as of last night.

We are a Personal Video site. Drawing analogies to HorN and Flickr will not work because we embody qualities of both.

We are a site that features creative videos from personal users. It can be dating-oriented or creativity-oriented. We will not restrict. We want to create a community around connections made by users viewing one another's videos.

Do you guys agree?

-s

-----Original Message-----

From: Chad Hurley [mailto:[REDACTED]]  
Sent: Tuesday, April 26, 2005 3:30 PM  
To: Jawed  
Cc: Steve Chen  
Subject: Re: latest flash checked in?

lets all meet @ 9. where do you want to meet.

we need to sit down and talk. I still feel like the HorN idea and flickr idea are tearing our site apart. we really have to pick one.

-chad

On Apr 26, 2005, at 3:26 PM, Jawed wrote:

> I have dinner plans but I can do stuff after 9.

>

>

> Jawed

>

>

> 

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Jawed Karim <http://jawed.com/>

>

> On Tue, 26 Apr 2005, Chad Hurley wrote:

>

>> I keep playing with the flash and going back and forth between  
>> designs/layouts for this stuff. We need to have a meeting and discuss  
>> things. What time are you going to be in Palo Alto?

>>

>> -chad

>>

>>  
>>  
>> On Apr 26, 2005, at 3:16 PM, Jawed wrote:  
>>  
>>> Yes, see my email from yesterday. It's checked in.  
>>>  
>>>  
>>> Jawed  
>>>  
>>>  
>>> Jawed Karim <http://jawed.com/>  
>>>  
>>> On Tue, 26 Apr 2005, Steve Chen wrote:  
>>>  
>>>> Chad, are you still working on the Flash? If we want to solidify  
>>>> something to be pushable to Live tonight, I need to start cranking  
>>>> on the Flash stuff.  
>>>>  
>>>> Also, Jawed, are you sending back the video descriptions?  
>>>>  
>>>> -s  
>>>>  
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>>

# **Schapiro Exhibit 70**

**From:** Jawed <[REDACTED]>  
**Sent:** Sunday, June 26, 2005 11:46 AM  
**To:** Chad Hurley <chad@youtube.com>  
**Cc:** Chen Steve <[REDACTED]>  
**Subject:** Re: crappy videos

---

Yeha, screw it. Let's reject it.

Jawed

<http://www.jawed.com/>

On Sun, 26 Jun 2005, Chad Hurley wrote:

> Yo guys,  
>  
> This user, TheOCRox311, is uploading crappy videos... like the entire  
> season finale of "Charmed" in 5 parts.  
>  
> I really want to start rejecting copyrighted material now. I think  
> the key to our success is personal videos. If we are going to build  
> this service, I think we should do it right and start enforcing this  
> rule. We are not another "StupidVideos" or "Bittorrent".  
>  
> Viral videos are fine, like the airplane videos you found on the web  
> or funny commercials people upload. But when it blatantly comes from  
> a network or movie, we shouldn't mess around... we are going to be  
> big and will perhaps someday even offer premium content, so I don't  
> want to get sued or piss anyone off.  
>  
> What do you think? Do you care if I reject all of "TheOCRox311's"  
> crap right now?  
>  
> -Chad  
>  
>

# **Schapiro Exhibit 71**

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 HEATHER GILLETTE  
 SAN FRANCISCO, CALIFORNIA  
 TUESDAY, AUGUST 12, 2008

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CLR  
 CSR LICENSE NO. 9830  
 JOB NO. 15481

GILLETTE

AUGUST 12, 2008

9:14 a.m.

VIDEOTAPED DEPOSITION OF HEATHER GILLETTE,  
held at the offices of SHEARMAN & STERLING,  
525 Market Street, San Francisco, California,  
pursuant to notice, before ANDREA M. IGNACIO  
HOWARD, CLR, RPR, CSR License No. 9830.



1 GILLETTE

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

3  
4 FOR THE PLAINTIFFS VIACOM INTERNATIONAL, INC.:

5 JENNER & BLOCK

6 By: JAMES C. COX, Esq.

7 1099 New York Avenue, NW, Suite 900

8 Washington, D.C. 20001

9 (202) 639-6000 jamescox@jenner.com

10  
11 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

12 BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

13 By: JOHN C. BROWNE, Esq.

14 1285 Avenue Of The Americas

15 New York, New York 10019

16 (212) 554-1533 johnb@blbglaw.com

17  
18 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and  
19 GOOGLE, INC.:

20 MAYER BROWN

21 By: ANDREW H. SHAPIRO, Esq.

22 ERIC D. DOWELL, Esq.

23 1675 Broadway

24 New York, New York 10019-5820

25 (212) 506-2279 ashapiro@mayer.com

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GILLETTE

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

ALSO PRESENT:

GOOGLE

By: ADAM L. BAREA, Litigation Counsel  
1600 Amphitheater Parkway  
Mountain View, California 94043  
(650) 214-4879 adambarea@google.com

STUART PETTIGREW, Videographer.

---oOo---

GILLETTE

1  
2 10:12:32 Q Okay. Some other basic ground rules that  
3 10:12:36 lawyers typically say for witnesses who haven't been  
4 10:12:38 deposed before which might be useful, there's a  
5 10:12:42 natural inclination to nod or shake your head rather  
6 10:12:46 than vocalize a "yes" or "no" answer. But for the  
7 10:12:47 court reporter to pick up -- pick up the answer and  
8 10:12:50 record on the transcript, you actually have to say  
9 10:12:52 "yes" or "no"; is that okay?  
10 10:12:54 A I understand, yes.  
11 10:12:55 Q Okay. Great.  
12 10:12:58 Are you currently employed?  
13 10:13:00 A Yes, I am.  
14 10:13:00 Q Where at?  
15 10:13:01 A At YouTube, Incorporated/Google,  
16 10:13:04 Incorporated.  
17 10:13:04 Q And what is your title there?  
18 10:13:07 A Manager of YouTube User Ops.  
19 10:13:15 Q And how long have you been employed at  
20 10:13:18 YouTube?  
21 10:13:19 A Since November 15th of 2005.  
22 10:13:22 Q And at the time that you started at YouTube  
23 10:13:28 in November 2005, was your title manager of YouTube  
24 10:13:33 User Ops?  
25 10:13:34 A No, it was not.

1 GILLETTE

2 10:13:35 Q And what was your title at that time?

3 10:13:37 A Office manager.

4 10:13:39 Q And there came a time when that changed.

5 10:13:42 When did it change? When did your title change from

6 10:13:43 office manager?

7 10:13:47 A I don't recall the exact date. I could

8 10:13:53 estimate for you.

9 10:13:54 Q Okay. Could you do that, please?

10 10:13:56 A I believe three to four months after that.

11 10:14:00 Maybe shorter.

12 10:14:01 Q And what -- what did your title -- title

13 10:14:05 change to at that point?

14 10:14:07 A Director of customer support.

15 10:14:09 Q Was that a promotion?

16 10:14:19 A Yeah. I mean it -- yes.

17 10:14:21 Q And then I suppose your title changed again

18 10:14:26 at some point.

19 10:14:27 How long were you the director of customer

20 10:14:30 support?

21 10:14:31 A Until the Google acquisition.

22 10:14:32 Q And when was that, approximately?

23 10:14:37 A I actually believe it was middle of

24 10:14:46 November 2006; is that correct? I believe that's

25 10:14:49 correct. I may be wrong.

1 GILLETTE

2 10:14:51 Q Okay. And at the time of the Google

3 10:14:56 acquisition, what -- what did your title change to?

4 10:14:59 A It became manager of, at that time, Con Ops.

5 10:15:07 YouTube Con Ops. Excuse me.

6 10:15:11 Q Is that Con like C-O-N?

7 10:15:13 A Correct. C-O-N, O-P-S.

8 10:15:15 Q Okay. I suppose your title changed one more

9 10:15:22 time at least, and when -- when did your title change

10 10:15:24 from manager of YouTube Con Ops?

11 10:15:31 A Again, I'm not sure and, you know, I could --

12 10:15:40 I could give a guess in this instance, but I'm really

13 10:15:43 not sure.

14 10:15:43 Q Roughly, what is your best sense?

15 10:15:49 A Probably seven or eight months, maybe. After

16 10:15:53 that, the -- we -- our department moved from Con Ops

17 10:15:58 to the greater OSO organization.

18 10:16:06 Q Okay. And at that time, what did your title

19 10:16:08 change to?

20 10:16:09 A Manager of YouTube OSO.

21 10:16:11 Q Okay. Now, going back in time to when you

22 10:16:20 first started at YouTube and your title was office

23 10:16:23 manager, what were your job responsibilities in that

24 10:16:25 role?

25 10:16:27 A I can list many of the duties I had. It may

GILLETTE

1  
2 10:52:35 A Safety, Quality, and User Advocacy  
3 10:52:40 Department.  
4 10:52:40 Q And again, the time frame right around the  
5 10:52:44 Google acquisition, what -- what kinds of things did  
6 10:52:49 the SQUAD Team do?  
7 10:52:57 A Really more of the same that I described to  
8 10:52:59 you. We did copyright related activities, user  
9 10:53:09 support. And, I'm sorry, this was at the --  
10 10:53:14 pre-acquisition you said?  
11 10:53:14 Q Right around the time frame like right around  
12 10:53:17 it was happening.  
13 10:53:18 A So training then in that case and -- and  
14 10:53:33 populating of content, help content for our users.  
15 10:53:37 Q I'm just a little unclear on what you mean  
16 10:53:42 there by "populating of content."  
17 10:53:45 A At the -- at the time of the acquisition, so  
18 10:53:48 this is -- this didn't happen before the acquisition,  
19 10:53:52 we -- Google has a help center that they provide to  
20 10:53:56 all of their products, and in that help center, of  
21 10:54:00 course, we list useful information for our users to be  
22 10:54:05 able to use the site or any concerns really that we  
23 10:54:08 know are going to be facing our users we would put  
24 10:54:11 useful information in there, populate that. It's --  
25 10:54:15 it's almost like a separate website --

1 GILLETTE

2 10:54:21 Q And that's --

3 10:54:22 A -- of help.

4 10:54:22 Q And that's a website of the users the YouTube

5 10:54:25 users, can look at to possibly answer questions that

6 10:54:28 they may have about the site?

7 10:54:29 A Correct.

8 10:54:30 Q Okay. Did -- well, what copyright related

9 10:54:37 activities during this time frame did the SQUAD Team

10 10:54:41 deal with?

11 10:54:44 A Sure.

12 10:54:45 We responded and processed takedown requests.

13 10:54:56 We also answered just general questions and inquiries

14 10:55:00 with regard to either folks that had had their content

15 10:55:07 removed that didn't understand the process or even

16 10:55:13 content owners that didn't understand the process if

17 10:55:17 they wanted something removed that they felt was

18 10:55:19 unauthorized.

19 10:55:20 Q Anything else, again, with respect to

20 10:55:24 copyright related -- copyright related activities?

21 10:55:28 A We, of course, were involved with again

22 10:55:31 populating information in the help center with regard

23 10:55:34 to copyright information. We also helped to design

24 10:55:43 and also invite members and also make known and

25 10:55:50 prominent our content verification tool which I can

GILLETTE

1  
2 10:55:54 explain more.

3 10:56:00 Q Before we get to that, just tell me, is there  
4 10:56:02 anything else?

5 10:56:04 A There very well may have been much more than  
6 10:56:07 that. I'm -- I'm giving you a general bucket list of  
7 10:56:11 general gist.

8 10:56:12 Q Okay. Now, you said there were 23 members,  
9 10:56:16 approximately, of the SQUAD Team at this time. Did  
10 10:56:19 all of those people work on copyright -- copyright  
11 10:56:24 related activities?

12 10:56:25 A No.

13 10:56:25 Q Okay. How many worked on copyright related  
14 10:56:28 activities?

15 10:56:31 A Approximately, again, this is approximately  
16 10:56:32 that same three -- three or four number. Maybe five,  
17 10:56:39 if we're counting me. Again, I'm not sure. I believe  
18 10:56:43 approximately three is a better guess.

19 10:56:46 Q Okay. And the remaining number of -- of the  
20 10:56:51 SQUAD Team members worked on the other  
21 10:56:55 responsibilities of the SQUAD Team?

22 10:56:57 A Correct.

23 10:56:57 Q Okay.

24 10:56:59 A Did I -- it's okay.

25 10:57:01 Q Okay. Did there come a time when it changed,



GILLETTE

1  
2 10:57:08 when the number of people who worked just on the  
3 10:57:09 copyright -- copyright related activities changed  
4 10:57:13 moving forward?  
5 10:57:18 A Not really. I mean, there were additional  
6 10:57:23 duties that as time went on we would take on, but it  
7 10:57:28 was all really copyright related work.  
8 10:57:31 Q Yeah, I think we may have just been talking  
9 10:57:33 past each other, but -- or maybe not.  
10 10:57:36 But are there -- well, let me ask you: Are  
11 10:57:43 there now -- now, how many members -- strike all that.  
12 10:57:47 Does the SQUAD Team still exist now?  
13 10:57:49 A Yes, we do.  
14 10:57:51 Q Okay. And how many people are on it?  
15 10:57:53 A I think I'm -- to be clear, this, I'm talking  
16 10:57:56 about the San Bruno office. Approximately, I think  
17 10:58:06 we're at ■■■, maybe ■■■.  
18 10:58:10 Q And how many people now work on just  
19 10:58:17 copyright related activities?  
20 10:58:19 A At this time, we have ■■■.  
21 10:58:20 Q Okay. Was it ever more than ■■■?  
22 10:58:27 A I don't believe so.  
23 10:58:34 Q Do you work on all of the aspects of the  
24 10:58:40 SQUAD Team's duties or --  
25 10:58:42 A I do not, no.

GILLETTE

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2 11:07:28 current knowledge or our current policies. I do not  
3 11:07:34 recall specifics necessarily.  
4 11:07:38 Q Do you recall any specifics?  
5 11:08:01 A I recall a specific e-mail where I requested  
6 11:08:14 a change because a statement in the -- I don't know if  
7 11:08:18 it was the help center yet or if it was the FAQ where  
8 11:08:29 it -- it -- the -- the statement in there made it  
9 11:08:35 sound as though we were reviewing all content for, I  
10 11:08:44 believe, copyright authorization which -- and again, I  
11 11:08:52 don't remember what the wording was. I remember that  
12 11:08:54 was important to me, and I don't know what -- I don't  
13 11:09:00 even recall if we changed it.  
14 11:09:02 Q Why did you want that -- why did you ask that  
15 11:09:24 that statement be changed?  
16 11:09:27 A Because I recall that we did not do that at  
17 11:09:29 the time that I was there. So again, it was -- it was  
18 11:09:34 not accurate, as far as I knew.  
19 11:09:36 Q So you wanted it changed because it was not  
20 11:09:42 accurate; right?  
21 11:09:44 A As far as I knew, it was -- at that time, it  
22 11:09:46 was not accurate.  
23 11:09:48 Q Was there any other reason that you wanted it  
24 11:09:50 changed?  
25 11:09:54 A I don't recall any other reason. I don't

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GILLETTE

11:09:59 recall -- I don't even recall really what the wording

11:10:04 I had issue with was.

11:10:05 Q Well, were you in a position to know at that

11:10:12 time whether a statement like that was accurate?

11:10:14 MR. SHAPIRO: Objection; foundation.

11:10:20 You may answer.

11:10:21 THE WITNESS: Again, if -- because it is -- I

11:10:26 remember my concern with that was with regard to

11:10:29 copyright. The only thing that I could know for sure

11:10:33 that I was accurate about was the operational portion

11:10:36 of this, and I -- I know at that time we were not

11:10:40 reviewing everything for that reason.

11:10:46 MR. BROWNE: Q. For what reason?

11:10:47 A For copyright.

11:10:49 Q Was there any time when you were reviewing

11:10:56 everything for copyright?

11:10:57 A Everything, no. As far as I know, no, while

11:10:59 I was there.

11:11:04 Q Were there times where -- where you were

11:11:06 reviewing some things for copyright?

11:11:08 A Yes.

11:11:08 Q What times were those?

11:11:17 A At various stages pre-acquisition, I believe,

11:11:36 yes. I'm -- I'm fairly sure that pre-acquisition we

GILLETTE

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2 11:11:42 did do -- we did scan portions of the site to try and  
3 11:11:48 locate what we thought might be unauthorized content.  
4 11:11:52 Q Who did that?  
5 11:12:00 A That changed over time. The people that were  
6 11:12:03 involved definitely changed over time.  
7 11:12:10 Q What people were involved at any point in  
8 11:12:18 time?  
9 11:12:20 A So I can -- I can start from the point where  
10 11:12:23 I joined the company. At that very early stage, I can  
11 11:12:33 recall a few people helping, and there may have  
12 11:12:35 definitely been more. Again, it was a small company,  
13 11:12:38 so everyone helped with a little bit of everything,  
14 11:12:40 but I helped. Brent Hurley helped.  
15 11:12:56 I -- I think -- you know, I definitely know  
16 11:13:09 that there were more people helping, but I think we  
17 11:13:11 were the key players.  
18 11:13:12 Q And how did you -- how did you scan the site  
19 11:13:20 to try to locate unauthorized conduct -- content?  
20 11:13:26 A I -- I believe at that time, again, very  
21 11:13:30 early stage, we were really -- the content that  
22 11:13:35 appeared to be most popular and shared at that stage  
23 11:13:40 that we suspected could be unauthorized was really  
24 11:13:43 just South Park.  
25 11:13:47 Q So again though how did you scan the site to

GILLETTE

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11:13:50 find that content?

11:13:52 A I'm sorry. A lot of it was if we happened to  
11:13:58 come across it, of course, and I believe there --  
11:14:07 there was key word searching to try to locate that  
11:14:13 content, and if -- if in the early stages there were  
11:14:22 other methods, I'm not aware. That's my firsthand  
11:14:26 knowledge.

11:14:27 Q Were there other methods at later stages?

11:14:33 A For South Park specifically, I don't think  
11:14:36 so. Again, I could be wrong. Things did change. Our  
11:14:42 approach and our attempt at trying to help with --  
11:14:45 with unauthorized content changed over time  
11:14:49 definitely. So as it pertains to South Park, I don't  
11:14:57 think so.

11:14:57 Q I didn't mean to confine it specifically to  
11:15:00 South Park though.

11:15:01 A Okay.

11:15:02 Q If at later stages there were other methods  
11:15:06 for searching the site for what you thought might be  
11:15:09 unauthorized conduct -- content, what were those  
11:15:12 methods?

11:15:13 A Yes. We had a -- at one time we had an  
11:15:19 ability to review videos that were over ten minutes  
11:15:22 long, and that lasted for a very short period of time.

GILLETTE

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2 11:15:30 We were not capable of keeping up with the volume, and  
3 11:15:37 at some point, and I don't remember when exactly, that  
4 11:15:41 queue, we basically just removed it.  
5 11:15:44 Also, I know that on occasion, again, because  
6 11:15:53 the sheer volume on the site was, of course, growing  
7 11:15:56 very quickly, on occasion we would ask engineering to  
8 11:16:00 do queries. Yeah, I mean, again we're talking about a  
9 11:16:07 large span of time, so....  
10 11:16:13 Q But within that large span of time, were  
11 11:16:15 there any other methods, other than the ones that  
12 11:16:19 you've named, that you remember that were used to --  
13 11:16:22 to scan the site to try and locate unauthorized  
14 11:16:25 content?  
15 11:16:31 A I mentioned key word searching. I'm not  
16 11:17:03 thinking of any other methods. Although, again, I  
17 11:17:07 could very well be forgetting something.  
18 11:17:08 Q Well, now when you said that at least  
19 11:17:12 sometimes engineering would -- would be asked to do  
20 11:17:14 queries --  
21 11:17:16 A Yes.  
22 11:17:16 Q -- what did you -- what did you mean by that?  
23 11:17:18 A One of the things that we noticed was content  
24 11:17:30 owners definitely were interested in -- in videos that  
25 11:17:36 where they had broken up something that was longer

GILLETTE

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2 11:20:36 would intend on, you know, going forward with  
3 11:20:39 something but, you know, the -- the numbers we're  
4 11:20:41 talking about, and I'm talking about beyond copyright,  
5 11:20:45 the numbers that we're talking about were big quickly.  
6 11:20:48 So I know on at least one occasion we  
7 11:20:53 attempted to look through those, and our intent was to  
8 11:20:55 try and find unauthorized content to help content  
9 11:21:01 owners. That was the bottom line.  
10 11:21:03 Q And then on that occasion, do you -- that  
11 11:21:07 you're thinking of, is that in reference to specific  
12 11:21:10 work or more than one work?  
13 11:21:11 A I don't recall a specific work, no.  
14 11:21:13 Q And again this occasion, at least this one  
15 11:21:16 occasion that you're thinking of, when was that,  
16 11:21:18 approximately?  
17 11:21:19 A I have no idea.  
18 11:21:20 Q And when you -- were you, in fact, successful  
19 11:21:30 in finding some things that you believe may have been  
20 11:21:32 unauthorized content?  
21 11:21:34 A We -- there's no way we could determine that.  
22 11:21:37 There was no feedback, and definitely one thing we  
23 11:21:40 were successful at was learning that we were not  
24 11:21:44 qualified to be making these calls, but as -- as to  
25 11:21:49 the success of actually locating unauthorized or

GILLETTE

1  
2 11:21:51 authorized content, no.  
3 11:21:55 Q Your -- your searches didn't locate any  
4 11:21:58 content?  
5 11:21:58 A Oh, of course they located --  
6 11:22:00 MR. SHAPIRO: Objection.  
7 11:22:01 THE WITNESS: -- content.  
8 11:22:03 MR. SHAPIRO: Objection; misstates the  
9 11:22:04 testimony.  
10 11:22:04 MR. BROWNE: Q. And of that content that  
11 11:22:07 they located -- that they located, did you, at least  
12 11:22:09 in certain instances, believe that some of it was  
13 11:22:12 unauthorized content?  
14 11:22:14 A We suspected it may be.  
15 11:22:15 Q And what did you do then?  
16 11:22:17 A We -- we removed what we suspected might be  
17 11:22:19 unauthorized, yes.  
18 11:22:21 Q And you said that you -- that you learned  
19 11:22:39 that you weren't qualified to make a decision as to  
20 11:22:44 what was -- what was authorized and what wasn't.  
21 11:22:46 A Yes.  
22 11:22:47 Q How did you learn that?  
23 11:22:49 A We -- we learned that over time and it  
24 11:22:53 basically -- as time went on, we became aware of the  
25 11:22:59 thousands of mistakes that we had made through



GILLETTE

1  
2 11:23:02 counterclaims. We also became aware of the thousands  
3 11:23:07 of mistakes we made for content producers where --  
4 11:23:17 where it was original content, but even mainstream  
5 11:23:20 media companies. There were -- there were many  
6 11:23:26 different points of feedback basically that came our  
7 11:23:29 way.  
8 11:23:29 Q And you -- you removed thousands of instances  
9 11:23:33 of stuff that you believe was unauthorized content?  
10 11:23:37 A I can estimate for you, and again it's really  
11 11:23:40 guessing. I do not have any record of the numbers. I  
12 11:23:46 mean, actually I don't -- I don't -- I don't even know  
13 11:23:48 a ballpark in this instance.  
14 11:23:50 Q But you believe that you -- that you became  
15 11:23:55 aware of thousands of mistakes that you made?  
16 11:23:58 A Mistakes, my estimate is definitely  
17 11:24:01 thousands. I mean, it's -- it's very likely many,  
18 11:24:05 many thousands.  
19 11:24:07 Q So then you would have had to remove -- maybe  
20 11:24:09 I'm not understanding something, but to have made  
21 11:24:12 thousands of mistakes, am I right that you would have  
22 11:24:15 had to remove thousands of videos?  
23 11:24:17 A Yes, I think that's a fair deduction.  
24 11:24:22 Q And how did you become aware of these  
25 11:24:28 mistakes? Actually, how were --

GILLETTE

1  
2 11:24:31 A I just answered that.  
3 11:24:32 Q I'm trying to ask it a little bit different.  
4 11:24:34 I think you answered who told you, but I'm just saying  
5 11:24:37 how, how did they tell you?  
6 11:24:38 A Feedback, newspaper articles, direct e-mails  
7 11:24:44 from content owners, telephone calls, reporters coming  
8 11:24:49 to us on behalf of a content owner that wanted their  
9 11:24:54 video to appear to be pirated and, in fact, it was a  
10 11:24:59 very large media company. They wanted to seed the  
11 11:25:01 site and make it look like it had been something that  
12 11:25:03 was unauthorized.  
13 11:25:08 Q What reporters came to you and said that?  
14 11:25:10 A I do not recall names of -- and it wasn't  
15 11:25:14 directly to me. Let me be very clear. This feedback  
16 11:25:19 came to others as well. I mean, this was feedback  
17 11:25:23 everyone was receiving.  
18 11:25:26 Q Did any reporters come directly to you?  
19 11:25:30 A No, I don't think so.  
20 11:25:35 Q Whether they came directly to you or not, can  
21 11:25:37 you remember the name or maybe the publication that --  
22 11:25:41 that any -- of any reporter that -- that said this?  
23 11:25:44 A That said specifically this, no, absolutely  
24 11:25:46 not. I believe there were multiple instances by the  
25 11:25:58 way. I don't think there was any one publication.

GILLETTE

1  
2 11:26:01 Q Now, but -- but you're testifying that the  
3 11:26:05 reporters came to you and said this, or are you saying  
4 11:26:08 that you read it in the newspaper, I just want to be  
5 11:26:10 clear, or a news publication?  
6 11:26:13 A Okay. Let me be clear in that I don't recall  
7 11:26:16 exactly how the reporter or the information from a  
8 11:26:19 reporter came to us. I don't know. It's my  
9 11:26:25 understanding that that took place, the details of  
10 11:26:27 which I do not know.  
11 11:26:28 Q How did you come to that understanding?  
12 11:26:32 A Honestly, I don't recall. Probably talking  
13 11:26:39 about it or hearing about it within the company or  
14 11:26:42 yeah. I don't truly recall.  
15 11:26:48 Q Do you know who at YouTube reporters  
16 11:26:52 contacted about this issue?  
17 11:26:54 A This issue, no, I do not.  
18 11:26:56 Q And I think you said you also had some direct  
19 11:27:04 contacts from media companies; is that right?  
20 11:27:08 A I had direct contact?  
21 11:27:10 Q Yeah.  
22 11:27:11 A Yeah, I mean, there was also contact with  
23 11:27:13 others, but yes. As it pertained to content that had  
24 11:27:19 been -- that had been removed that they, in fact,  
25 11:27:23 either through implied authorization or through an

GILLETTE

1  
2 11:27:26 agent or that they were well aware that it was up here  
3 11:27:30 even though they didn't upload it themselves --  
4 11:27:30 Q Right.  
5 11:27:32 A -- they would -- they would contact me, yes,  
6 11:27:35 and ask me to have things reinstated.  
7 11:27:38 Q And did you, in fact, have them restated at  
8 11:27:40 that time?  
9 11:27:40 A Yes, I did.  
10 11:27:41 Q Who contacted -- what -- what media company  
11 11:27:45 do you recall who specifically contacted you on this  
12 11:27:47 issue?  
13 11:27:48 A I mean almost any media company you could  
14 11:27:51 think of we've reinstated content for.  
15 11:27:55 Q But specifically on the issue of content that  
16 11:28:01 YouTube removed because YouTube believed it may have  
17 11:28:03 been unauthorized and then you had a media company  
18 11:28:06 contact you and say no, it's one of these thousands of  
19 11:28:09 mistakes --  
20 11:28:10 A Yeah.  
21 11:28:10 Q -- put it back up, can you remember any media  
22 11:28:13 companies on that issue?  
23 11:28:15 A I can't think of the specifics. I dealt with  
24 11:28:26 media companies all the time.  
25 11:28:30 Q Can you remember any of these thousands of

GILLETTE

1  
2 11:28:32 mistakes that -- that YouTube removed and were then  
3 11:28:37 notified that the content owner actually wanted it up  
4 11:28:41 there? Can you name for me any of those?  
5 11:28:44 A Any of the mistakes giving specifics? You  
6 11:28:48 mean on -- from a media company, or just private party  
7 11:28:51 or --  
8 11:28:51 Q Any.  
9 11:28:52 A I honestly do not recall the specifics. I  
10 11:28:55 mean, if I could sit here and think about it for a  
11 11:28:59 while, I -- nothing is coming to me at the front of  
12 11:29:02 my -- my mind.  
13 11:29:03 Q Are there any -- were there any reports  
14 11:29:05 prepared within YouTube documenting any of these  
15 11:29:10 instances of mistakes?  
16 11:29:11 A Again, I want to be very clear that you are  
17 11:29:14 talking -- you're asking me about one particular  
18 11:29:18 incident where we had, or maybe a couple of incidents,  
19 11:29:21 I'm not quite sure how many times it happened, where  
20 11:29:26 we had engineering do a query for us. This is what  
21 11:29:30 I'm speaking to, and to that, no, I do not recall the  
22 11:29:32 specifics.  
23 11:29:33 Q So let me -- let me be more clear myself.  
24 11:29:35 You testified that you became aware through  
25 11:29:38 various means of thousands of instances where YouTube

1 GILLETTE

2 11:29:42 had removed material that it believed was unauthorized

3 11:29:46 and later learned that that removal was done in

4 11:29:50 mistake -- by mistake because the content owner

5 11:29:52 actually wanted it up there; is that right?

6 11:29:55 A That's correct.

7 11:29:56 Q Okay. Out of those thousands of instances,

8 11:30:00 can you name for me -- how many of them can you -- can

9 11:30:05 you name for me with specificity?

10 11:30:08 A At this stage, I can't name any.

11 11:30:11 Q Out of --

12 11:30:12 MR. SHAPIRO: Sorry. Just to be clear, to

13 11:30:13 make sure, are you talking about the -- the fact that

14 11:30:22 engineering --

15 11:30:22 MR. BROWNE: No, we're not.

16 11:30:23 MR. SHAPIRO: -- or in the universe

17 11:30:25 generally?

18 11:30:25 MR. BROWNE: We're talking about the universe

19 11:30:28 generally.

20 11:30:28 THE WITNESS: I just said engineering.

21 11:30:28 MR. SHAPIRO: Okay. It seemed like you guys

22 11:30:30 might be missing each other.

23 11:30:30 THE WITNESS: Yeah, I think we're missing

24 11:30:32 each other.

25 11:30:32 MR. SHAPIRO: So his question is generally

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GILLETTE

11:30:34 can you think of instances of mistakes and takedowns  
11:30:39 such as that?

11:30:39 THE WITNESS: Sure.

11:30:40 MR. BROWNE: Q. I want to ask the question,  
11:30:41 and I do think it's clear, but in case it wasn't, let  
11:30:45 me ask it again.

11:30:46 There are -- you testified, right, that there  
11:30:51 were instances where YouTube would go and remove  
11:30:53 material because YouTube believed it may have been  
11:30:56 unauthorized, and you later learned that you had done  
11:31:01 that by mistake thousands of times because the content  
11:31:06 owner or someone else contacted you and said the  
11:31:09 content owner wanted that material on the site; is  
11:31:13 that fair to say you testified?

11:31:15 A That is -- that is fair to say. However,  
11:31:19 when I mentioned that, I thought we were speaking  
11:31:21 specifically about the engineering queries.

11:31:26 Now, if we're going to speak about that  
11:31:29 number "thousands," again, if you want to know more  
11:31:35 broadly the response to that beyond the engineering  
11:31:38 queries, again, I can -- I -- I -- I can only estimate  
11:31:42 the number, first of all. So I'd like to stop using  
11:31:45 that number, because now we're speaking more broadly,  
11:31:49 and I don't know what the number or even could

GILLETTE

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2 11:33:42 weren't happy about.

3 11:33:42 Q And -- and can you remember the names of any  
4 11:33:46 of those reporters?

5 11:33:48 A No.

6 11:33:49 Q Okay. Sorry to keep asking. I'm just not  
7 11:33:53 sure sometimes whether we talked about it.

8 11:33:55 A I really cannot remember the names.

9 11:33:58 Q Okay. You said you had heard though that  
10 11:34:00 reporters had done this.

11 11:34:02 A Yes.

12 11:34:02 Q How had you heard that?

13 11:34:04 MR. SHAPIRO: Objection; asked and answered.

14 11:34:05 THE WITNESS: Again, I -- yeah.

15 11:34:07 MR. BROWNE: Q. Can you answer it again for  
16 11:34:08 me?

17 11:34:09 A Sure. I -- I don't recall how I heard. I  
18 11:34:13 suspect and can only speculate, since I don't  
19 11:34:16 remember, but it may have just been people talking in  
20 11:34:18 the office.

21 11:34:21 Q Do you remember any of the people who were  
22 11:34:23 talking?

23 11:34:23 A No.

24 11:34:25 Q Okay.

25 11:34:26 A It's a small team.



1 GILLETTE

2 11:34:31 Q One second. Can I scan up a little bit?

3 11:34:34 MR. SHAPIRO: Should we take a break?

4 11:34:36 THE WITNESS: Yes, please. Thank you.

5 11:34:37 MR. SHAPIRO: Okay.

6 11:34:38 THE VIDEOGRAPHER: The time is 11:34. Off

7 11:34:41 the record.

8 11:34:42 (Recess taken.)

9 11:55:28 THE VIDEOGRAPHER: The time is 11:55. On the

10 11:55:31 record.

11 11:55:31 MR. BROWNE: Q. Ms. Gillette, still talking

12 11:55:38 about these many thousands of instances or mistakes

13 11:55:43 that came to your attention, can you recall any

14 11:55:45 specific media companies who informed you about these

15 11:55:50 mistakes?

16 11:55:50 A So we're talking the broad --

17 11:55:52 Q We are, yeah.

18 11:55:53 A Okay. So there were many media companies

19 11:56:04 that came forward and expressed that they were

20 11:56:07 actually happy about their content being on the site

21 11:56:10 even if it were not explicitly authorized, some of

22 11:56:16 which were, the removals were due to our proactive

23 11:56:22 scans.

24 11:56:25 I recall definitely specifics about media

25 11:56:29 companies in this -- in this -- you know, in this

GILLETTE

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2 11:56:33 realm. I'm not 100 percent positive it was a result  
3 11:56:37 of a proactive removal, although I believe in this  
4 11:56:40 case it was.  
5 11:56:42 There was a -- either a magazine or newspaper  
6 11:56:48 article, I believe it was a magazine, where NBC  
7 11:56:52 actually officially made a statement in there saying  
8 11:56:55 that they, in fact, were well-aware of a lot of -- of  
9 11:56:59 content that was up there that NBC owned that had not  
10 11:57:03 been uploaded by, you know, an agent authorized or by  
11 11:57:07 NBC, and that they were very pleased actually with --  
12 11:57:12 with that content being up there.  
13 11:57:13 And even though they hadn't given us an  
14 11:57:16 explicit authorization, basically they, you know,  
15 11:57:19 implied that it was authorized, that they were pleased  
16 11:57:22 with the content being up there.  
17 11:57:25 There are -- I recall, and again I'm not sure  
18 11:57:29 if this one was as a result of proactive, many times  
19 11:57:34 we had content owners take down their own content  
20 11:57:37 because they couldn't even recognize that it was  
21 11:57:39 professionally produced or part of -- of their  
22 11:57:42 repertoire. But I do recall an instance, whether it  
23 11:57:48 was proactive or not, where there was a movie. It  
24 11:57:51 looked like it was chunks of feature length, you know,  
25 11:57:58 two-hour movie broken into parts, and it looked like

GILLETTE

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2 11:58:00 there was a guy, his shadow, literally holding up the  
3 11:58:04 video camera in front of the movie the entire time.  
4 11:58:09 Again, I can't recall if it -- it was  
5 11:58:10 proactive or not. It may have been they themselves  
6 11:58:12 that took it down, but it ended up later that we found  
7 11:58:15 out that that was, in fact, uploaded intentionally by  
8 11:58:18 the creator of the true movie with the intent to make  
9 11:58:20 it look like it had been pirated to drive conversation  
10 11:58:24 and traffic and excitement around the movie and  
11 11:58:26 actually get them into the theater.  
12 11:58:29 There were multiple, multiple private  
13 11:58:31 parties, maybe not recognizable names, and I don't, in  
14 11:58:35 fact, remember the individuals' names, but I can give  
15 11:58:38 some examples.  
16 11:58:40 American Idol, for example, we did a lot of  
17 11:58:43 key word search in there, and we did a lot of  
18 11:58:45 proactive removal there in an attempt to create  
19 11:58:49 harmony with them and help them with unauthorized  
20 11:58:54 content. And American Idol, in particular, a lot of  
21 11:58:59 people would make their own homemade show, and they  
22 11:59:02 compete with their friends, and they would hold  
23 11:59:05 contests, and they videotape it, and they try to put  
24 11:59:08 things around it that made it just like the show  
25 11:59:10 itself, and there would be voting. The audience, the

GILLETTE

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2 11:59:15 community, would get involved as well.  
3 11:59:17 Numerous, numerous, numerous occasions of  
4 11:59:20 removals like that. I mean, the -- it's -- it's a --  
5 11:59:25 it's a very large number of instances that we're  
6 11:59:29 talking about. And again, dealing with media  
7 11:59:34 companies was a constant thing. So, you know, it's --  
8 11:59:38 it's -- if you were to name any media company, on  
9 11:59:41 occasion, I've probably dealt with them whether it was  
10 11:59:44 because we removed something and they actually wanted  
11 11:59:47 it up or not.  
12 11:59:48 So for me, it's a little difficult to come up  
13 11:59:51 with this complete list for you, and so I'm just  
14 11:59:53 giving you some examples.  
15 11:59:55 Q I appreciate that, but with respect to  
16 12:00:00 specific instances where YouTube proactively removed  
17 12:00:03 something and then there were many thousands of  
18 12:00:07 instances where you then learned that the content  
19 12:00:10 owner actually wanted that material on the site, can  
20 12:00:12 you name for me one, two, three, any specific  
21 12:00:16 instances, where a media company in that situation  
22 12:00:21 told you "You made a mistake. I want my stuff back  
23 12:00:25 up" ?  
24 12:00:25 MR. SHAPIRO: Objection; asked and answered.  
25 12:00:28 MR. BROWNE: Asked but not answered.

1 GILLETTE

2 12:00:30 MR. SHAPIRO: Objection to that -- to that

3 12:00:33 statement.

4 12:00:34 THE WITNESS: I thought --

5 12:00:35 MR. BROWNE: Q. Do you have an answer to

6 12:00:37 that question?

7 12:00:38 THE WITNESS: Do I continue to answer, Andy,

8 12:00:42 again?

9 12:00:42 MR. SHAPIRO: Yes, you're required to

10 12:00:44 continue to answer.

11 12:00:45 THE WITNESS: Okay. So I'll reiterate what I

12 12:00:47 just said, and that is that there are many examples.

13 12:00:53 I believe a very good example is, as far as I

14 12:00:57 remember, would be, in fact, NBC, as I mentioned.

15 12:01:01 Again, the major feature movie was another

16 12:01:08 example. I cannot think of the specifics there.

17 12:01:12 MR. BROWNE: Q. I don't -- I don't --

18 12:01:13 totally don't mean to interrupt, but I just don't want

19 12:01:16 to go down the same road again where you may be

20 12:01:19 answering a slightly different question that I asked.

21 12:01:22 But do you recall specifically that those

22 12:01:24 instances were as a result of material that YouTube

23 12:01:28 proactively removed and then the media company

24 12:01:34 contacted you after that removal and said that was a

25 12:01:38 mistake?

GILLETTE

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2 12:03:53 Q If NBC had contacted you directly and said,  
3 12:03:58 "Please put the material back up," would you have done  
4 12:04:01 that?  
5 12:04:03 A Yes, we would have.  
6 12:04:08 Q But you don't recall them doing that?  
7 12:04:09 A I don't recall whether we did or we did not.  
8 12:04:11 Q Just to be clear, you mentioned a movie where  
9 12:04:23 someone had a shadow in front of them, and what was  
10 12:04:26 that movie?  
11 12:04:27 A I don't recall.  
12 12:04:27 Q Do you know who -- who the content owner of  
13 12:04:32 that movie was?  
14 12:04:33 A I don't recall. I'm sorry.  
15 12:04:35 Q It's okay.  
16 12:04:36 Do you remember whether YouTube, in fact,  
17 12:04:40 proactively scanned for and removed that movie from  
18 12:04:44 its website?  
19 12:04:44 MR. SHAPIRO: Objection; compound.  
20 12:04:46 MR. BROWNE: Let me break it down.  
21 12:04:48 Q Do you remember whether YouTube proactively  
22 12:04:50 scanned for that movie?  
23 12:04:55 A I believe we did. I could be wrong. I  
24 12:04:59 believe we did.  
25 12:05:00 Q Do you know whether YouTube proactively

GILLETTE

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2 12:05:02 removed that movie from a -- a website?  
3 12:05:07 A Again, I -- I believe -- I believe we did as  
4 12:05:10 part of the scanning, yes.  
5 12:05:11 Q And did there come a time when you learned  
6 12:05:20 that the content owner for that movie actually wanted  
7 12:05:23 that material up on its website?  
8 12:05:26 A Yes, sorry, I did.  
9 12:05:26 Q And how did you -- how did you learn that?  
10 12:05:37 A They could have come directly to me. I may  
11 12:05:42 have been told from another person within the company,  
12 12:05:48 you know. These larger media companies were -- were  
13 12:05:57 definitely communicating with many others within  
14 12:05:59 our -- within YouTube. So it may have come to me  
15 12:06:02 through someone else or directly.  
16 12:06:05 Q Excuse me.  
17 12:06:06 But is it your understanding that the content  
18 12:06:08 owner for this movie we're talking about was a large  
19 12:06:10 media company?  
20 12:06:11 A That is my recollection, yes.  
21 12:06:12 Q But -- but you don't remember which company?  
22 12:06:14 A I don't. This -- frequency of these types of  
23 12:06:19 incidents were daily.  
24 12:06:21 Q Were you proactively scanning -- scanning for  
25 12:06:29 potentially unauthorized copyrighted material on a

1 GILLETTE

2 12:06:32 daily basis?

3 12:06:34 MR. SHAPIRO: Objection; time frame.

4 12:06:36 THE WITNESS: Yeah.

5 12:06:36 MR. BROWNE: Q. During any time frame?

6 12:06:40 A Yes. As I stated earlier, we did do

7 12:06:43 proactive scanning at various stages, yes.

8 12:06:46 Q And you did that on a daily basis?

9 12:06:48 A Not necessarily, no. I'm not quite sure.

10 12:06:52 Are you asking me if we did consecutive days?

11 12:06:56 Q I'm just asking you basically if every day,

12 12:06:59 was there any point in time that every day YouTube

13 12:07:03 would proactively scan for potentially unauthorized

14 12:07:06 material on its website?

15 12:07:09 A There were definitely days where people

16 12:07:12 were -- were tasked with that. Whether they were able

17 12:07:15 to get to that or not in that day, that was not always

18 12:07:19 the case, but -- but yes, there -- yes, that -- they

19 12:07:24 were tasked with it.

20 12:07:25 Q And during what time frame were they tasked

21 12:07:27 with that?

22 12:07:29 A I do not recall actually the -- the periods

23 12:07:31 where we did proactive scanning when -- when exactly

24 12:07:34 they were.

25 12:07:35 Q Do you recall when it -- well, did it ever



GILLETTE

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2 12:07:39 stop?  
3 12:07:40 A Yes, it did.  
4 12:07:41 Q Okay. Do you recall when?  
5 12:07:48 A I recall that it was pre-acquisition. I'm  
6 12:07:54 fairly sure. I do not recall how early on we actually  
7 12:08:03 decided to stop doing that.  
8 12:08:06 Q Who at YouTube made that decision to stop  
9 12:08:09 doing that?  
10 12:08:10 A I believe legal. It was a legal decision.  
11 12:08:13 Q And how did you come to learn of that  
12 12:08:22 decision?  
13 12:08:22 MR. SHAPIRO: Don't recount any conversations  
14 12:08:24 with counsel.  
15 12:08:25 THE WITNESS: Yeah, and I -- so this is  
16 12:08:28 privileged.  
17 12:08:28 MR. BROWNE: Okay. Let me just add a couple  
18 12:08:30 of questions.  
19 12:08:31 Q Did you learn of it from -- from YouTube's  
20 12:08:33 lawyers?  
21 12:08:34 A Yes.  
22 12:08:35 Q Okay. Did you learn of it in -- in any way  
23 12:08:39 outside of coming from YouTube's lawyers?  
24 12:08:45 A I do not believe so, no.  
25 12:08:47 Q What lawyer or lawyers told you about this?

GILLETTE

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13:17:28 Q Okay.

13:17:28 A I think I sent it to her because I wanted to  
13:17:31 show her examples of why we can't block anything  
13:17:36 tagged with the words "Torino 2006 Olympic Games,"  
13:17:44 because these most likely that I'm referencing here  
13:17:46 probably came up with those same tags in the metadata.

13:17:53 Q But whether or not you could block them,  
13:17:55 would that have prevented you from going out and  
13:17:58 proactively screening for them?

13:17:59 A For unauthorized?

13:18:00 Q Yes.

13:18:02 A I don't know. Again, I don't know if we were  
13:18:04 doing that at this time, and I don't know if we did  
13:18:09 anything in reference to this specific incident  
13:18:12 either.

13:18:20 Q Should we take a lunch break?

13:18:22 MR. SHAPIRO: Sounds good.

13:18:23 THE VIDEOGRAPHER: The time is 1:18.

13:18:25 Off the record.

13:18:26 (Lunch break taken.)

---oOo---

GILLETTE

A F T E R N O O N     S E S S I O N

(Document marked Gillette Exhibit 4

14:10:52                    for identification.)

14:10:52                    THE VIDEOGRAPHER:    The time is 2:10.

14:10:54                    On the record.

14:10:55                    MR. BROWNE:    Q.    Ms. Gillette, in front of

14:10:59                    you now, I think, is Exhibit 4.    Have you had a chance

14:11:04                    to review that?

14:11:06                    A    Let me look at it completely one moment.

14:11:08                    Q    Okay.

14:11:39                    A    Okay.

14:11:40                    Q    Okay.    Do you recognize that?

14:11:46                    A    No.

14:11:46                    Q    It appears to be an e-mail from you to Micha

14:11:51                    Schaffer dated April 13, 2006; do you agree with that?

14:11:56                    A    It appears to be that, yes.

14:11:57                    Q    In this e-mail which appears to be from you,

14:12:00                    you say "Joe has a list of all of the earlier

14:12:03                    infringement notifications that we have received, and

14:12:05                    I would like you to cycle through this once a day and

14:12:08                    search for their content on our site"; do you see

14:12:12                    that?

14:12:12                    A    Yes, I do.

GILLETTE

1  
2 14:12:12 Q Who is Joe?  
3 14:12:13 A I presume that Joe is Joe Smith who used to  
4 14:12:18 be on my team.  
5 14:12:20 Q And when you say "my team," what team are you  
6 14:12:23 referring to?  
7 14:12:24 A SQUAD.  
8 14:12:24 Q The content SQUAD?  
9 14:12:27 A He was more Live Site duties actually for the  
10 14:12:30 majority of his time, so yes, Live Site.  
11 14:12:34 Q And -- and the list of all the earlier  
12 14:12:37 infringement notifications that we have received, what  
13 14:12:40 list is that referring to?  
14 14:12:44 A I believe what that is referring to is, in  
15 14:12:51 fact, an initial list that we started. Like an Excel  
16 14:13:01 spreadsheet that we started where we were, at one  
17 14:13:04 time, keeping track via that method.  
18 14:13:07 Q Keeping track of what?  
19 14:13:09 A Notifications that we had received.  
20 14:13:13 Q Do you mean DMCA notifications?  
21 14:13:17 A Yes. I mean some of them may not have been  
22 14:13:20 complete, so takedown notifications.  
23 14:13:23 Q Relating to copyright?  
24 14:13:25 A Yes, I believe that's what this is referring  
25 14:13:27 to.

GILLETTE

- 1
- 2 14:13:28 Q Why -- why were you keeping that list?
- 3 14:13:40 A I think I wanted to have record of -- of
- 4 14:13:45 these notifications. I mean, I wanted to be able to
- 5 14:13:48 speak to how many we were receiving, et cetera. It's
- 6 14:13:54 just an -- important thing to have record.
- 7 14:13:55 Q And did there come a time when you or your
- 8 14:13:58 team stopped maintaining this list?
- 9 14:14:01 A Yes.
- 10 14:14:01 Q When was that?
- 11 14:14:04 A I do not know for sure.
- 12 14:14:06 Q Why did you stop maintaining that list?
- 13 14:14:12 A The scale. It was incredibly manual to
- 14 14:14:18 manual input -- manually input the information for
- 15 14:14:21 each notification.
- 16 14:14:22 Q During the time that you were maintaining the
- 17 14:14:26 list, who -- who manually inputted the information
- 18 14:14:30 relating -- relating to each notification?
- 19 14:14:33 A I -- I definitely added to it. I -- I
- 20 14:14:36 believe other members of the Copyright Team would add
- 21 14:14:39 to it. I, at one point, also had Shannon Hermes, the
- 22 14:14:48 office manager, as well, help us. So she would, at
- 23 14:14:52 the end of the day, go through and do data entry for
- 24 14:14:54 us.
- 25 14:14:55 Q Now, excuse me, you say there in Exhibit 4,

GILLETTE

1  
2 14:15:03 you say to Joe, "I would like you to cycle through --"  
3 14:15:09 I'm sorry -- you say to Micah, I believe, "I would  
4 14:15:12 like you to cycle through this once a day and search  
5 14:15:15 through for their content on our site"; do you see  
6 14:15:15 that?  
7 14:15:20 A Yes.  
8 14:15:20 Q What did you mean by that?  
9 14:15:21 A As I -- as I read it today, again, I don't  
10 14:15:23 recall this e-mail, I -- I believe what I was doing  
11 14:15:25 here was to try to figure out those content owners  
12 14:15:29 that had concerns about potentially unauthorized  
13 14:15:32 content on our sites and really help them to locate  
14 14:15:37 that unauthorized content.  
15 14:15:38 Q Did the content owners ask you to do this?  
16 14:15:43 A No, I don't believe so.  
17 14:15:44 Q What would happen if -- if Micah or anyone  
18 14:15:52 was able to locate additional content from these  
19 14:15:56 content owners on the site? What happened then?  
20 14:16:01 A As with all of our proactive scanning, we  
21 14:16:04 would make an attempt at determining if something was  
22 14:16:06 unauthorized or not and remove it.  
23 14:16:08 Q And how would you make that attempt?  
24 14:16:13 A By looking at it.  
25 14:16:14 Q By reviewing the -- the video?

GILLETTE

1  
2 14:16:18 A Yes, or I don't know if it -- yes. I'm  
3 14:16:21 not....  
4 14:16:22 Q And who -- who would review those videos?  
5 14:16:31 A Over the course of all of our proactive  
6 14:16:33 scanning are you referring to? Because there were  
7 14:16:36 many people that would be involved.  
8 14:16:38 Q Well, about this time frame in April of 2006,  
9 14:16:42 who was there? I don't need a person, if it was a  
10 14:16:47 team --  
11 14:16:47 A Yeah.  
12 14:16:47 Q -- but maybe there wasn't. I don't know.  
13 14:16:51 A I have -- I don't know if it was this same  
14 14:16:54 time frame, but I did -- I definitely did rely on both  
15 14:16:58 the copyright folks as well as the Live Site Team to  
16 14:17:01 help with proactive scanning.  
17 14:17:02 Q In those instances where you did determine  
18 14:17:06 that something was unauthorized and you removed it,  
19 14:17:09 did you do anything else?  
20 14:17:11 MR. SHAPIRO: Objection; vague; ambiguous.  
21 14:17:14 MR. BROWNE: Q. With respect to that  
22 14:17:16 content?  
23 14:17:23 A An -- I believe in the early stages we were  
24 14:17:27 manually sending e-mails to folks that had had their  
25 14:17:31 content -- alerting them to their removal.

GILLETTE

1  
2 14:17:35 Q Do you character -- would you characterize  
3 14:17:37 April 2006 as an early stage?  
4 14:17:40 A Yeah, I -- yes.  
5 14:17:43 Q And at what stage did you stop sending  
6 14:17:45 e-mails to the folks that had their content removed?  
7 14:17:51 A I don't think we ever stopped. It's just  
8 14:17:52 that we went from manual to automatic e-mails from the  
9 14:17:56 system.  
10 14:17:58 Q But speaking in case there was any confusion  
11 14:18:01 specifically and only with respect to material that  
12 14:18:05 YouTube proactively scanned for and removed?  
13 14:18:10 A No, not specific to that. In general, our  
14 14:18:12 notifications went from manual e-mails to automated  
15 14:18:17 e-mails.  
16 14:18:17 Q But in those cases where YouTube did  
17 14:18:19 proactively scan for and remove content, did you also  
18 14:18:23 send an e-mail to the content owner alerting them to  
19 14:18:30 that?  
20 14:18:31 A To the uploader you mean? We would send  
21 14:18:36 e-mails to the uploader.  
22 14:18:37 Q Oh, got you. Okay. Thank you for that.  
23 14:18:41 Did you -- did you also contact the content  
24 14:18:50 owner?  
25 14:18:53 A In a proactive scan, no, we did not.



GILLETTE

1  
2 14:18:56 Q And then the next sentence in this e-mail, it  
3 14:19:11 says "If you see a lot -- a lot for any of the content  
4 14:19:14 owners, you could also ask whoever is working that day  
5 14:19:18 in support to help you fair it out more"; do you see  
6 14:19:22 that?  
7 14:19:23 A Yes, I do.  
8 14:19:23 Q What did you mean by that?  
9 14:19:25 A In that --  
10 14:19:27 MR. SHAPIRO: Objection; she says she doesn't  
11 14:19:29 remember the e-mail.  
12 14:19:30 THE WITNESS: But I will continue to answer  
13 14:19:35 as speculation.  
14 14:19:36 MR. SHAPIRO: I'm not instructing not to  
15 14:19:38 answer. He can reformulate his question if he wants,  
16 14:19:40 or he can ask you to ask the question -- answer the  
17 14:19:43 question he's asked --  
18 14:19:44 THE WITNESS: Thanks.  
19 14:19:46 MR. SHAPIRO: -- but you should answer his  
20 14:19:48 question, a question from him.  
21 14:19:48 MR. BROWNE: Q. Well, I'm going to stand on  
22 14:19:50 that question.  
23 14:19:51 A Right. So I can speculate what I meant by  
24 14:19:54 this, as I read it today, is that this -- I'm talking  
25 14:19:57 about shear volume -- if something -- if a lot of

GILLETTE

1  
2 14:20:00 search results came up, you could ask for help.  
3 14:20:03 Q Help from who?  
4 14:20:07 A From support I say here. I don't know  
5 14:20:09 exactly what I mean there.  
6 14:20:11 Q During this time frame, April 2006, if you  
7 14:20:22 remember, was -- was this, and by "this," I mean going  
8 14:20:27 through the list of the earlier infringement  
9 14:20:29 notifications and conducting a proactive scan, was  
10 14:20:31 this being done on a daily basis?  
11 14:20:33 A You said starting in -- in --  
12 14:20:35 Q Around the April time frame of this e-mail.  
13 14:20:38 A Oh, again, I -- I don't remember.  
14 14:20:52 Q Whose idea was it to do this?  
15 14:20:56 A I don't remember.  
16 14:21:00 Q Did you have any concerns -- strike that.  
17 14:21:02 I'm gonna mark -- actually, I'm gonna -- it's  
18 14:21:06 an exhibit that's already been marked. I'm going to  
19 14:21:24 hand it out. It was Schaffer Exhibit 8. Rather than  
20 14:21:28 mark the same thing over and over again, I thought I'd  
21 14:21:30 mark the one with the exhibit sticker on it.  
22 14:21:33 MR. SHAPIRO: Okay.  
23 14:21:39 MR. BROWNE: Q. And in front of you,  
24 14:21:42 Ms. Gillette, is Exhibit 8, and it appears to be an  
25 14:21:54 e-mail from someone named Lee Gunby to an e-mail list

GILLETTE

1  
2 14:21:59 called [REDACTED]; do you see that?  
3 14:22:07 A Yeah, I'd like to take a look at it.  
4 14:22:09 Q Oh, sure. Let me know when you're ready.  
5 14:22:32 You know, I should -- I'm going to refer to this as  
6 14:22:38 Schaffer Exhibit 8, I guess.  
7 14:23:14 Who is -- who is, if you know, Lee Gunby?  
8 14:23:18 A Lee Gunby was an employee on my team.  
9 14:23:25 Q Was he a part of the Live Site Team or was he  
10 14:23:28 something else?  
11 14:23:28 A Yes, he was a part of Live Site.  
12 14:23:32 Q Did Mr. Gunby, at this time of August 2006,  
13 14:23:38 did he report to you?  
14 14:23:38 A Yes.  
15 14:23:38 Q Were you responsible for assigning him work?  
16 14:23:46 A Yes.  
17 14:23:46 Q Was anyone else responsible for assigning  
18 14:23:48 Mr. Gunby work in this August 2006 time frame?  
19 14:23:56 A No.  
20 14:23:57 Q Do you have a recollection of seeing Schaffer  
21 14:24:06 Exhibit 8 before?  
22 14:24:07 A No.  
23 14:24:07 Q Do you know -- are you familiar with the  
24 14:24:11 e-mail list [REDACTED]?  
25 14:24:18 A Yes.

GILLETTE

- 1
- 2 14:24:18 Q Who is a member of that group?
- 3 14:24:20 A That, it would have been anyone on the SQUAD
- 4 14:24:22 Team at this date.
- 5 14:24:26 Q And that would include yourself?
- 6 14:24:28 A Yes.
- 7 14:24:28 Q Okay. You see there it appears that
- 8 14:24:39 Mr. Gunby is e-mailing the support rep group. He says
- 9 14:24:39 "I just thought I'd pass along a form that I use
- 10 14:24:43 nightly to help me keep track of tasks"; do you see
- 11 14:24:47 that?
- 12 14:24:47 A Yes, I do.
- 13 14:24:48 Q And then if you go -- and actually I'll just
- 14 14:24:52 finish it. The next sentence says "Just delete my
- 15 14:24:55 proactive scans and input your own and you're ready to
- 16 14:24:58 go"; do you see that?
- 17 14:24:59 A Yes, I do.
- 18 14:24:59 Q And then there's an attachment or something
- 19 14:25:02 to this e-mail. Do you recognize the format in that
- 20 14:25:09 attachment?
- 21 14:25:10 A No.
- 22 14:25:12 Q Have you ever seen, during your time at
- 23 14:25:15 YouTube, documents similar to this?
- 24 14:25:25 A No.
- 25 14:25:25 Q Do you have any reason to believe that --

GILLETTE

1  
2 14:25:26 that you didn't get this e-mail?  
3 14:25:31 A No.  
4 14:25:31 Q Did you ever instruct Mr. Gunby to -- to  
5 14:25:35 conduct proactive scans?  
6 14:25:37 A Yes.  
7 14:25:37 Q If you look on -- I'm sorry -- if you look on  
8 14:25:49 the second page of Schaffer Exhibit 8 on this form,  
9 14:25:52 you see about halfway down some -- some -- what appear  
10 14:25:57 to be content listed, American Idol, U.S.A., Simpsons,  
11 14:26:03 Family Guy, Lazy Sunday, Carson Daly. Do you see  
12 14:26:06 that, and then it goes on and on?  
13 14:26:08 A Yes, I do.  
14 14:26:09 Q Okay. Did you ever instruct Mr. Gunby to  
15 14:26:14 conduct proactive scans on any of the content that you  
16 14:26:19 see --  
17 14:26:19 A Yes.  
18 14:26:19 Q -- listed there? Okay.  
19 14:26:22 And why did you do that?  
20 14:26:24 A Again, this proactive scanning is something  
21 14:26:26 that we were trying to do to assist content owners  
22 14:26:29 in -- in removing what we thought might be  
23 14:26:31 unauthorized content. It's the same situation.  
24 14:26:36 Q Now, Mr. Gunby, on the front page he says to  
25 14:26:39 the support group "Just delete your pro -- delete my

GILLETTE

1  
2 14:26:41 proactive scans and then put your own."  
3 14:26:44 Did -- did other members of the support  
4 14:26:47 group -- let me see if I can ask this differently --  
5 14:26:50 did different members of the support group -- were  
6 14:26:53 different members of the support group responsible for  
7 14:26:56 different proactive scans?  
8 14:26:58 A Yes, at one time they were.  
9 14:26:59 Q And would that time include approximately  
10 14:27:02 August 2006?  
11 14:27:02 A It would appear so.  
12 14:27:03 Q How did the -- how did the different members  
13 14:27:05 of the support group learn which proactive scans they  
14 14:27:12 were responsible for?  
15 14:27:17 A I can only recall one method which we used.  
16 14:27:26 The -- those users, and the caveat being or the  
17 14:27:31 exception to this being American Idol, but those users  
18 14:27:36 who signed up for our Content Verification Program as  
19 14:27:40 a good faith effort and not something we communicated  
20 14:27:44 to them, we chose also to try to help them in removing  
21 14:27:47 what we thought might be unauthorized content.  
22 14:27:52 Q And you say you didn't tell the users that  
23 14:27:55 you were conducting these proactive scans; is that  
24 14:27:58 right?  
25 14:27:59 A Not necessarily. In the case of American

GILLETTE

1  
2 14:28:00 Idol, we did definitively.  
3 14:28:03 Q Are you aware of any other users that you --  
4 14:28:06 that you did say this to?  
5 14:28:08 A I don't remember.  
6 14:28:11 Q Was there a policy against saying it, telling  
7 14:28:13 the user that?  
8 14:28:14 A No.  
9 14:28:14 Q Oh.  
10 14:28:19 But how did each particular member of the  
11 14:28:21 support group find out his or her area of  
12 14:28:25 responsibility for proactive scanning at any given  
13 14:28:28 time?  
14 14:28:31 A There were forms that members/content owners  
15 14:28:36 would fill out when they wanted to enroll in the CVP  
16 14:28:40 program, and that existed in a binder, and the team  
17 14:28:43 would go through those and divvy them up themselves.  
18 14:28:48 Q How -- who chose which content owners got put  
19 14:28:54 into the binder?  
20 14:28:58 A They were anyone who had signed up for the  
21 14:29:01 CVP account. They chose themselves.  
22 14:29:02 Q They didn't necessarily know that they were  
23 14:29:05 choosing themselves for this though?  
24 14:29:07 A You're right.  
25 14:29:08 Q Okay. Okay. I'm going to introduce another

# **Schapiro Exhibit 72**





YEAR: [1998](#) : [1999](#) : [2000](#) : [2001](#) : [2002](#) : [2003](#) : [2004](#) : [2005](#) : [2006](#) : [2007](#) : [2008](#) : [2009](#)  
 MONTH: [Jan](#) : [Feb](#) : [Mar](#) : [Apr](#) : [May](#) : [Jun](#) : [Jul](#) : [Aug](#) : [Sep](#) : [Oct](#) : [Nov](#) : [Dec](#)

FRIDAY, AUGUST 1, 2003

Will this website ever have complete episodes to download  
 No it wont. Comedy Central wants you to actually tune in to see the shows, that's why we only give clips. There are plenty of other fine places where you can download episodes in full. Kazza.com, Limewire.com, or Morpheus.com

FRIDAY, AUGUST 1, 2003

At the end of "Here Comes the Neighborhood", they pull Kenny's dead body on a sled. Is it supposed to be an unexplained death, or did something actually happen? That is an unexplained death. When Matt and Trey were making that episode they didn't want to deal with coming up with a Kenny death, so they just threw him on a sled, dead. I was told that the scene was one of the last scenes made because Trey was avoiding it so much. When it came time to do the scene, all Trey said was "Just put a dead Kenny on the sled that the kids are carrying, and lets not say why!"

MONDAY, AUGUST 4, 2003

I was surprised that in the last FAQ you recommended downloading episodes on KaZaa and other file sharers. What are Matt and Trey's official stances on South Park episode piracy?  
 Matt and Trey do not mind when fans download their episodes off the Internet; they feel that it's good when people watch the show no matter how they do it.

TUESDAY, AUGUST 5, 2003

UR stupid! seeling south park iz da lamest think eva!!!! UR running it! F\*CK U!!  
 ... I'm sure I can just leave this one as is, what a douche!

TUESDAY, AUGUST 5, 2003

I would like to know why Cartmans voice is different from the first couple of seasons? Was it changed on purpose?  
 Cartman's voice has changed not on purpose, but just because the show has evolved. If you pay attention, all the boys' voices have changed (except perhaps, Kenny's). Things like this happen all the time with cartoon show like this. For example, Hank Hill's voice from "King of the Hill" has changed over the years from a sort of low grumble, to something more understandable.

TUESDAY, AUGUST 5, 2003

Has there been any news on the air date/release date for the project that Matt and Trey are working on (Team America)?  
 There is still no news about the dates of Team America. We'll keep you posted.

TUESDAY, AUGUST 5, 2003

Hello, I am one of the Canadian's that you were making fun of for getting so angry at your comments. I just wanted to say that the last comment you made to me made me laugh so hard, that I realized that all you're doing is messing with people in good humor. I apologize if I seemed out of order, I hadn't had my snack time. :) Thanks again!  
 No problem, it's good to know that you Canadians have a sense of humor after all. :)

MONDAY, AUGUST 11, 2003

Some of the fire effects are really realistic, how do you do that in a cartoon like South Park?  
 South Park is made in a really awesome program called MAYA. It is created by a company named Alias/Wavefront. The program is responsible for movies like Final Fantasy: The Spirits Within, and most Final Fantasy movie clips from the SquareSoft video game series. It's capable of doing super cool things, and obviously, pretty crappy things. When things like fire and portholes to hell need to be created and look cool, it's really easy for it to be made in MAYA.

MONDAY, AUGUST 11, 2003

Does Trey or Matt ever look at the BBS and read what their crazy fans are saying about them?  
 I know for sure that Matt reads the BBS a lot. I'm almost positive that Trey has too. One of the biggest users from the office (besides me) is Eric Stough, Director of Animation. He always checks the BBS after premiers!

MONDAY, AUGUST 11, 2003

When are the South Park Episodes going to be out on VHS?  
 Most of the South Park seasons have already been released on VHS volumes. Please check amazon.com for more information, or comedycentral.com/store

THURSDAY, AUGUST 14, 2003

Someone offered me a South Park DVD today called South Park Winterland. I was told it is a new south park film. Were they just trying to con me or is there really a new film out that I don't know about?  
 They're just trying to con you. "Winter Wonderland" is a collection of A Very Crappy Christmas, Are you there God? It's me Jesus, Cartman's silly hate crime 2000 and Something you can do with your finger. [http://www.amazon.com/exec/obidos/tg/detail/-/B00005O5DN/qid=1060896200/sr=8-5/ref=sr\\_8\\_5/102-7668703-2481705?v=glance&s=dvd&n=507846](http://www.amazon.com/exec/obidos/tg/detail/-/B00005O5DN/qid=1060896200/sr=8-5/ref=sr_8_5/102-7668703-2481705?v=glance&s=dvd&n=507846)

MONDAY, AUGUST 18, 2003



What is the name of the song Cartman sings when he's in congress?  
"Heat of the Moment" by Asia

MONDAY, AUGUST 18, 2003  
Who owns the rights to Southpark?  
All episodes of South park are Copyrighted © 1997 - 2003 by Comedy Partners/Comedy Central

MONDAY, AUGUST 18, 2003  
How do you pick which episodes are re-run ?  
Comedy Central picks all the re-runs during the down season.

WEDNESDAY, AUGUST 20, 2003  
Do they make South Park bedspreads?  
The best way to find items like these are in online auctions. Check out ebay.com for more news.

WEDNESDAY, AUGUST 20, 2003  
I heard that South Park Season 3 will be on DVD soon. Will Trey and Matt be doing Audio Commentary for the episodes?  
We still do not know when season three will be coming out. I am sure there will be no commentary on the discs as well. If there is any news to confirm this, I will post it; everything else is up in the air.

WEDNESDAY, AUGUST 20, 2003  
Have you ever "got it on" with Matt or Trey?  
No, Matt and Trey are too busy getting it on with the thousands and thousands of hot young women who come to the office every day to serve them up a hot cup of love. (I'm kidding for those of you going WHOA!)

WEDNESDAY, AUGUST 20, 2003  
Was that really George Clooney in the Big Gay AI episode? How did you get him to do the show when still pretty new?  
Actually, Matt and Trey kind of owe the success of South Park to George. When their first short movie "The Spirit of Christmas: Jesus Vs. Frosty" was being passed around the Internet, George had gotten a copy of it, called them up, and paid them to make a new one. "The Spirit of Christmas: Jesus Vs. Santa" was born.

WEDNESDAY, AUGUST 20, 2003  
Are Matt and Trey going to make fun of the up and coming election with AHHHHHHNOLD? Those of you who don't vote for him... big mistake!  
Matt and Trey have been out of the office working on "Team America" for the time being, I haven't heard any gripes or jokes aimed at Ahhnold, or any other candidate in the ReCallifornia.

THURSDAY, AUGUST 21, 2003  
Why do you perpetuate false truths such as this? Q: Was that really George Clooney in the Big Gay AI episode? How did you get him to do the show when still pretty new?  
A: Actually, Matt and Trey kind of owe the success of South Park to George. When their first short movie "The Spirit of Christmas: Jesus Vs. Frosty" was being passed around the Internet, George had gotten a copy of it, called them up, and paid them to make a new one. "The Spirit of Christmas: Jesus Vs. Santa" was born. This is a true story. It is not a so called "false truth." Oh, and by the way... how can something be a false truth anyhow? Can we say oxymoron? I think this person has his/her panties in a bunch. God, I love it when people waste their energy on hating me ((evil grin #432))!

THURSDAY, AUGUST 21, 2003  
Since Matt & Trey thinks it's cool with people being able to download episodes through the internet, does that make it legal to put them up on my own server?  
No, putting up episodes on your server is not legal, unless of course you have the express written consent of Comedy Central.

THURSDAY, AUGUST 21, 2003  
When does the new season come out?  
New episodes of South Park will air October 22nd 2003 with eight new episodes.

THURSDAY, AUGUST 21, 2003  
What does the side of Officer Barbrady's patrol car say?  
"To patronize and annoy."

FRIDAY, AUGUST 22, 2003  
Why isn't there any video downloads for "chickenpox?" That's the best episode!  
When Southparkstudios.com first launched, we had taken various files for South Park from many sites, mainly Comedycentral.com and beef-cake.com (beef-cake.com was the largest fan ran South Park site on the net at the time, when SPS.com launched the owner of beef-cake and Matt Stone decided to take it down). Over the years I've been trying to get those downloads updated to at least five per episode, but it's been difficult due to program changes, and production.

MONDAY, AUGUST 25, 2003  
Why does your banner say "All New Episodes Coming in October?" Dude, they're not that new anymore they just havn't been on tv yet...I downloaded them all in like...May.  
WOW! You must have downloaded them from the magical psychic server because the episodes airing in October haven't even been scripted yet... can I have the URL?

MONDAY, AUGUST 25, 2003  
Is there any place to get Beers jerseys or those cool beer mug helmets in BASEketball?  
Many items from the movie BASEketball are being sold on ebay.com auctions as I type.

MONDAY, AUGUST 25, 2003  
Have you thought about a second movie of South Park?  
Trey and Matt have thought of making another South Park movie once before. All they had to do was remember how much of a pain in the ass the last one was to make and they stop thinking about it! They hope to make another one some day, but so far there are no plans to do so.

MONDAY, AUGUST 25, 2003  
Do yo buy or accept story ideas?  
No, Matt and Trey used to read them but so many people sent in such huge numbers it got too hard to read them all. Then there are the legal issues of accepting outside material. Since the very beginning Matt and Trey have written their own episodes without fan interaction.

MONDAY, AUGUST 25, 2003  
When will the "Bart of War" be replayed? I cannot find that episode listed or available for download anywhere.

Perhaps it's because you're searching for a Simpsons Site, this is a South Park site, and "The Bart of War" is an episode of the Simpsons. :)

THURSDAY, AUGUST 28, 2003

I think your show is funny, but how did you attract such a stupid audience?

Many people think that South Park is just funny because the boys curse, and say naughty things. They don't understand it's more than just curse words. South Park is both crude and insightful, unfortunately when they're 13 and stoned most of the time, they just don't get it.

THURSDAY, AUGUST 28, 2003

Why do I have to download the top ten FAQs? What if I don't have Adobe PDF?

We decided to make the top ten FAQs downloadable because many people wrote in asking why I haven't changed the FAQs in forever, turns out they were just reading the top ten and not looking further down. Removing them from the header and making them downloadable cleaned up the FAQ board. If you don't have Adobe PDF just click the link at the top of this page and get it. The program is free, and many people use PDFs.

THURSDAY, AUGUST 28, 2003

Why was Chris (Satan's EX) sent to Hell?

We have no idea, they never talked about that in the episode. Many things that aren't explained in the show are usually left unexplained. Matt and Trey's goal usually is to totally confuse it's audience.

THURSDAY, AUGUST 28, 2003

Why can't I use the BBS as a chatroom? Isn't that what it's for, to chat?

No, the BBS is not a chatroom. The BBS is a discussion board where topics have some sort of conversation going on. Threads like "I want to talk to User2343" are lame, and annoy the users. Keep it off the board, that is what our chatroom is for, and why we enabled the Private Message (PM) system on it.

Email

Question



Ask It!

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# **Schapiro Exhibit 73**

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# YouTube removing Comedy Central clips

## Video-sharing site being purchased by Google reportedly taking down copyrighted material after notice from Viacom unit.

October 30 2006: 5:53 PM EST

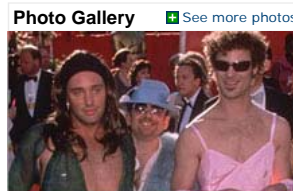
NEW YORK (CNNMoney.com) -- Oh my God, they purged Kenny!

The *New York Times* reported Monday that video sharing site YouTube is removing copyrighted material from cable network Comedy Central, including episodes of "South Park" (whose character Kenny is killed in every episode) as well as "The Daily Show" and "The Colbert Report."

### South Park's crude road to success

Comedy Central, a unit of [Viacom \(Charts\)](#), has clips of the shows on its own Web site, but YouTube has become a popular destination for those wanting to watch "South Park," especially past episodes that can't be found on the Comedy Central site.

Jeff Reifman, who the *Times* reported broke the news on the news-sharing blog NewsCloud, received a notice from YouTube that a number of clips he had posted to the site were being taken down as a result "of a third-party notification by Comedy Central claiming that this material is infringing."



The notice, which Reifman also posted on his blog, further warned, "Repeat incidents of copyright infringement will result in the deletion of your account and all videos uploaded to that account. In order to avoid future strikes against your account, please delete any videos to which you do not own the rights, and refrain from uploading additional videos that infringe on the copyrights of others."

Internet search engine [Google \(Charts\)](#), which has its own exclusive deals to present some copyrighted video clips over the Web, agreed to buy YouTube last month for \$1.65 billion.

The *Times* reports that YouTube did not respond to repeated messages left over the weekend.

Some media executives have speculated that YouTube would face copyright lawsuits once it was owned by a deep-pocketed media company that it did not face when it had relatively little in the way of assets. In September, billionaire Internet mogul Mark Cuban said at a forum in New York that anyone who bought YouTube would be a "moron" because of the litigation risks associated with the company since some videos posted on the site could violate copyright infringements.

The official Web site of "South Park" included a frequently asked question segment that appeared to give fans the go-ahead to download episodes onto video-sharing sites.

"Matt and Trey do not mind when fans download their episodes off the Internet; they feel that it's good when people watch the show no matter how they do it," said the site's August 2003 posting, referring to the show's creators, [Matt Stone and Trey Parker](#).

Reifman questioned whether the push to remove copyrighted material now that Google is buying the site will hurt its value, and will also hurt Comedy Central, which saw the popularity of its shows grow as people shared clips of favorite episodes.

"Apparently, all good things come to an end when there [are] money and attorneys involved," Reifman wrote. "With Google purchasing YouTube, ComedyCentral figured there was now an opportunity aka profit center to target. And they've [presumably] made these ... requests to YouTube."

Google is not the only company buying online video-sharing sites. [Sony \(Charts\)](#) bought online video firm Groupm for \$65 million in August. NBC Universal, a unit of [General Electric \(Charts\)](#), paid \$600 million for iVillage, a network of sites that focuses on women, in March. [Time Warner \(Charts\)](#), which also owns CNNMoney.com, bought three firms with social networking or online video ties this year. And [News Corp. \(Charts\)](#) paid \$590 million last year for Interim, parent of the social networking phenomenon MySpace.

[How Trey and Matt made 'South Park' a success](#)

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# **Schapiro Exhibit 74**

To: "DMCA Complaints" <copyright\_counternotice@youtube.com>  
From: "Cord Frederic Romberg" <[REDACTED]>  
Cc:  
Bcc:  
Received Date: 2006-11-10 10:46:49 GMT  
Subject: Re: Video Rejected: Copyright Infringement

---

i thought comedy central said it's ok to youtube south park stuff???  
what is correct now? they want it or not???? you guys are confusing...

cfr

On Nov 10, 2006, at 4:22 PM, DMCA Complaints wrote:

> YouTube  
>  
> Dear Member:  
>  
> This is to notify you that we have removed or disabled access to  
> the following material as a result of a third-party notification by => Comedy Central claiming that this material  
is infringing:  
>  
> South Park 1011 1st 10min: <http://www.youtube.com/watch?v=YQVVIArbr4Q>  
>  
> Please Note: Repeat incidents of copyright infringement will result => in the deletion of your account and all  
videos uploaded to that  
> account. In order to avoid future strikes against your account,  
> please delete any videos to which you do not own the rights, and  
> refrain from uploading additional videos that infringe on the  
> copyrights of others. For more information about YouTube's  
> copyright policy, please read the Copyright Tips guide.  
>  
> If you elect to send us a counter notice, to be effective it must  
> be a written communication provided to our designated agent that  
> includes substantially the following (please consult your legal  
> counsel or see 17 U.S.C. Section 512(g)(3) to confirm these  
> requirements):  
>  
> (A) A physical or electronic signature of the subscriber.  
>  
> (B) Identification of the material that has been removed or to  
> which access has been disabled and the location at which the  
> material appeared before it was removed or access to it was disabled.  
>  
> (C) A statement under penalty of perjury that the subscriber has a  
> good faith belief that the material was removed or disabled as a  
> result of mistake or misidentification of the material to be  
> removed or disabled.  
>  
> (D) The subscriber's name, address, and telephone number, and a  
> statement that the subscriber consents to the jurisdiction of  
> Federal District Court for the judicial district in which the  
> address is located, or if the subscriber's address is outside of  
> the United States, for any judicial district in which the service  
> provider may be found, and that the subscriber will accept service  
> of process from the person who provided notification under



- > subsection (c)(1)(C) or an agent of such person.
  - >
  - > Such written notice should be sent to our designated agent as follows:
  - >
  - > DMCA Complaints
  - > YouTube, Inc.
  - > 1000 Cherry Ave.
  - > Second Floor
  - > San Bruno, CA 94066
  - > Email: copyright@youtube.com
  - >
  - > Please note that under Section 512(f) of the Copyright Act, any
  - > person who knowingly materially misrepresents that material or
  - > activity was removed or disabled by mistake or misidentification
  - > may be subject to liability.
  - >
  - > Sincerely,
  - > YouTube, Inc.
  - >
  - > Copyright © 2006 YouTube, Inc.
  - >
  - >
-

# **Schapiro Exhibit 75**

**From:** Steve Chen <[REDACTED]>  
**Sent:** Wednesday, June 15, 2005 5:19 PM  
**To:** Chad Hurley <chad@youtube.com>  
**Cc:** Karim Jawed <[REDACTED]>  
**Subject:** Re: user moderation flagging  
**Attach:** Message Text.txt

---

wait. read my other email. they're complaining about that spam place that was using our IP address.  
not about our content.

-s

On Jun 15, 2005, at 4:54 PM, Chad Hurley wrote:

so, a way to avoid the copyright bastards might be to remove the "No copyrighted or obscene material." line and let the users moderate the videos themselves. legally, this will probably be better for us, as we'll make the case we can review all videos and tell them if they're concerned they have the tools to do it themselves.... like craigslist on top of the page...

<http://www.craigslist.org/pen/off/79065159.html>

please flag with care : [miscategorized] [prohibited] [spam] [discussion] [best of]

or hotornot under the pictures...

Please help keep this site **FUN, CLEAN, and REAL.**  
[Click here](#) if the picture above is broken, copyrighted, or inappropriate.

# **Schapiro Exhibit 76**

**From:** Chad Hurley <chad@youtube.com>  
**Sent:** Wednesday, June 15, 2005 1:48 PM  
**To:** Steve Chen <[REDACTED]>  
**Cc:** Karim Jawed <[REDACTED]>  
**Subject:** Re: committed rss feed icons and links

---

we need to figure this out soon... this could be very CRITICAL!

On Jun 15, 2005, at 2:33 PM, Steve Chen wrote:

> yes. i can change that.  
>  
> btw check out -- <http://www.serverbeach.com/catalog/aup.php>  
>  
> we got a complaint from someone that we were violating their user  
> agreement. i \*think\* it may be because we're hosting copyrighted  
> content. instead of taking it down -- i'm not about to take down  
> content because our ISP is giving us shit -- we should just  
> investigate moving www.youtube.com.

> -s

> On Jun 15, 2005, at 2:28 PM, Chad Hurley wrote:

>> check and update these pages:  
>>  
>> results.php  
>> watch.php  
>> profile.php  
>>  
>> make sure it all works right and that the results page can handle  
>> multiple tags for the rss.

>> and steve can we change the user's rss feed title to User //

>> username, just like the tag rss Tag // tag

>> -chad

>>

>>

>

>

>

# **Schapiro Exhibit 77**

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 JAWED KARIM  
PALO ALTO, CALIFORNIA  
TUESDAY, JUNE 9, 2009

JOB NO. 16798

1 KARIM, JAWED

2 JUNE 9, 2009

3 10:11 a.m.

4

5 VIDEOTAPED DEPOSITION OF JAWED KARIM,  
6 held at the offices of WILSON, SONSINI,  
7 GOODRICH & ROSATI, 601 California Avenue,  
8 Palo Alto, California, pursuant to notice,  
9 before R. CHAYO AYON, CLR, CSR License  
10 No. 12372.

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25



1 KARIM, JAWED

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

3

4 FOR THE PLAINTIFFS VIACOM INTERNATIONAL, INC.:

5 SHEARMAN & STERLING, LLP

6 BY: STUART J. BASKIN, ESQ.

7 599 Lexington Avenue

8 New York, New York 10022-6069

9 (212) 848-4000 stuart.baskin@shearman.com

10

11 FOR THE PLAINTIFFS VIACOM INTERNATIONAL INC.:

12 JENNER & BLOCK, LLP

13 BY: SUSAN J. KOHLMANN, ESQ.

14 SCOTT B. WILKENS, ESQ.

15 1099 New York Avenue NW

16 Suite 900

17 Washington, D.C. 20001

18 (202) 639-6000 skohlmann@jenner.com

19

20 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

21 BERNSTEIN, LITOWITZ, BERGER & GROSSMAN, LLP

22 BY: JOHN BROWNE, ESQ.

23 1285 Avenue of the Americas

24 New York, New York 10019

25 (800) 380-8496 johnb@blbglaw.com

DAVID FELDMAN WORLDWIDE, INC.

805 Third Avenue, New York, New York 10022 (212)705-8585

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KARIM, JAWED

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

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

MAYER BROWN, LLP

BY: MATTHEW D. INGBER, ESQ.

BRIAN WILLEN, ESQ.

1675 Broadway

New York, New York 10019-5820

(212) 506-2279 mingber@mayerbrownrowe.com

FOR THE WITNESS:

DURIE, TANGRI, PAGE, LEMLEY, ROBERTS &  
KENT, LLP

BY: MICHAEL H. PAGE, ESQ.

332 Pine Street, Suite 200

San Francisco, California 94104

(415) 362-6666 mpage@durietangri.com

ALSO PRESENT:

KELLY TRUELOVE, Ph.D,

TRUELOVE RESEARCH, CONSULTANT FOR VIACOM

LOU MEADOWS, VIDEOGRAPHER

1 KARIM, JAWED

10:29:23 2 Trepia with you?

10:29:24 3 A. It was Cuong Do.

10:29:26 4 Q. Okay. And when you began YouTube with the  
10:29:37 5 two other founders, did you have a formal title?

10:29:40 6 A. I don't think -- I don't think any of us  
10:29:54 7 had formal titles when we started.

10:29:56 8 Q. And up until the time when you signed the  
10:30:01 9 consulting agreement, did you ever have a formal  
10:30:04 10 title at YouTube?

10:30:05 11 MR. PAGE: Objection, foundation.

10:30:08 12 THE WITNESS: I don't think I had a formal  
10:30:14 13 title.

10:30:14 14 BY MR. BASKIN:

10:30:15 15 Q. Did Mr. Hurley?

10:30:19 16 MR. PAGE: Objection, vague as to time.

10:30:21 17 BY MR. BASKIN:

10:30:21 18 Q. Well, up until the time when you signed the  
10:30:23 19 consulting agreement, did Mr. Hurley have a formal  
10:30:28 20 title?

10:30:29 21 A. I think that -- I think the first time he  
10:30:39 22 had a formal title was when the company received its  
10:30:45 23 first investment. But I don't think before that it  
10:30:48 24 was formalized.

10:30:49 25 Q. When Sequoia first invested money, he

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1 KARIM, JAWED

10:30:54 2 procured a formal title?

10:30:56 3 A. I think so.

10:30:58 4 Q. And what was the formal title? Do you  
10:30:59 5 remember?

10:30:59 6 A. I think it was probably CEO.

10:31:01 7 Q. And at that point in time, did you get a  
10:31:03 8 formal title?

10:31:04 9 A. No, I did not have a title.

10:31:11 10 Q. Now, you signed a consulting contract in  
10:31:14 11 and around 2005; is that correct?

10:31:14 12 A. I don't remember the date when I signed it.

10:31:17 13 Q. And what caused you to become a consultant  
10:31:20 14 of -- of YouTube? How did that come about?

10:31:23 15 MR. PAGE: Objection, vague and ambiguous.

10:31:24 16 THE WITNESS: So -- when the project was  
10:31:28 17 started, I had sort of already determined I was  
10:31:32 18 going to go to school, to graduate school. And so  
10:31:40 19 I -- but you know, I thought it was a cool project,  
10:31:43 20 and so I wanted to stay involved in it. But I had  
10:31:48 21 already, you know, determined that I wasn't going to  
10:31:51 22 join the company, YouTube.

10:31:53 23 So as sort of a way for me to remain  
10:32:00 24 involved as a consultant, I basically signed a  
10:32:06 25 consulting agreement.

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1 KARIM, JAWED

10:32:07 2 BY MR. BASKIN:

10:32:08 3 Q. And was it your idea that you would become  
10:32:10 4 a consultant?

10:32:11 5 A. It was my idea, I would say, to -- to  
10:32:18 6 remain involved part-time in the company. But you  
10:32:27 7 know, whether that took the shape of a consulting  
10:32:32 8 agreement in the legal sense, that was not my idea.

10:32:37 9 Q. By the way, then when you were involved  
10:32:39 10 with Trepia, did Trepia ever receive any external  
10:32:45 11 funding?

10:32:49 12 MR. PAGE: Objection. It's vague and  
10:32:51 13 ambiguous.

10:32:51 14 THE WITNESS: I don't remember it receiving  
10:32:56 15 any external funding.

10:32:59 16 BY MR. BASKIN:

10:33:00 17 Q. And no venture capital firm invested in  
10:33:04 18 Trepia?

10:33:05 19 A. No, I don't think so, no.

10:33:06 20 Q. Just you and the cofounder?

10:33:08 21 A. Uh-huh, yeah.

10:33:09 22 MR. BASKIN: Now, let me -- let's mark as  
10:33:15 23 Exhibit 2 a document that is entitled Consulting  
10:33:33 24 Agreement.

10:33:33 25 (Plaintiffs' Exhibit No. 2 was marked for

1 KARIM, JAWED

15:38:41 2 here by, "In other news, Jawed, please stop putting  
15:38:46 3 stolen videos on the site"?

15:38:48 4 MR. PAGE: Objection, calls for  
15:38:49 5 speculation.

15:38:49 6 THE WITNESS: I don't know which videos  
15:38:51 7 he's referring to.

15:38:52 8 BY MR. BASKIN:

15:38:53 9 Q. Well, how many stolen videos were you  
15:38:56 10 putting on the site?

15:38:57 11 MR. PAGE: Objection, assumes facts.

15:39:01 12 MR. INGBER: Argumentative.

15:39:02 13 THE WITNESS: I didn't steal any videos.  
15:39:04 14 Initially -- this is very early in the history of  
15:39:07 15 the Web site, and we needed to seed the Web site  
15:39:10 16 with videos.

15:39:11 17 And so the earliest videos that were  
15:39:16 18 uploaded, I uploaded videos of airplanes, like  
15:39:21 19 aviation videos. So these were videos of airplanes  
15:39:26 20 taking off, landing, flying, landing at airports.

15:39:30 21 And so I uploaded a lot of those types of  
15:39:33 22 videos. And I remember Steve and Chad occasionally  
15:39:40 23 would complain that the site's turning into an  
15:39:43 24 airplane site, and I -- I think he might have been  
15:39:46 25 referring to those videos.

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1 KARIM, JAWED

15:39:47 2 BY MR. BASKIN:

15:39:47 3 Q. And from which site were you stealing those  
15:39:50 4 videos?

15:39:52 5 MR. INGBER: Objection, assumes facts,  
15:39:55 6 argumentative, mischaracterizes, misstates the  
15:39:58 7 witness's testimony.

15:39:59 8 THE WITNESS: They're not stolen. They  
15:40:00 9 were not stolen videos. I would -- would browse on  
15:40:03 10 the Web for airplane-related videos on aviation  
15:40:08 11 community Web sites, and these were user-generated  
15:40:14 12 videos created by aviation enthusiasts.

15:40:23 13 So, for example, this would be like a  
15:40:26 14 10-second shaky video camera clip of a 747 taking  
15:40:31 15 off, and these clips were usually already on  
15:40:34 16 multiple aviation Web sites.

15:40:37 17 And so I decided just to take a lot of  
15:40:39 18 those clips and copy them to our site as well.

15:40:42 19 BY MR. BASKIN:

15:40:47 20 Q. And apart from that you -- that possible  
15:40:52 21 explanation, you don't know what Mr. Chen is  
15:40:54 22 referring to here?

15:41:00 23 MR. INGBER: Objection to the -- to the  
15:41:02 24 term "possible explanation," to the extent it  
15:41:04 25 misstates his testimony.

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1 KARIM, JAWED

15:41:05 2 THE WITNESS: Um, I think he was referring  
15:41:08 3 to those probably, because that's what I initially  
15:41:10 4 used to populate the Web site.

15:41:13 5 BY MR. BASKIN:

15:41:13 6 Q. Let me hand what you we'll mark as  
15:41:17 7 Exhibit 41.

15:41:17 8 (Plaintiffs' Exhibit No. 41 was marked for  
15:41:43 9 identification.)

15:41:43 10 THE WITNESS: (Document review.)

15:42:05 11 BY MR. BASKIN:

15:42:06 12 Q. Do you recall, sir, sending Exhibit 41 on  
15:42:11 13 July 19, 2005?

15:42:12 14 A. No.

15:42:13 15 Q. That is you who wrote -- who -- who sent --  
15:42:15 16 sent this e-mail; correct?

15:42:16 17 MR. PAGE: Objection, calls for  
15:42:18 18 speculation, asked and answered.

15:42:21 19 THE WITNESS: I'm on the sender list.

15:42:25 20 BY MR. BASKIN:

15:42:25 21 Q. Now -- and I take it there is no other  
15:42:27 22 person at the company -- no other person you know  
15:42:30 23 that has the same Web site as you, Jawed? Mailing  
15:42:35 24 address as you; correct?

15:42:35 25 MR. PAGE: Objection, calls for



1 KARIM, JAWED

15:42:40 2 speculation.

15:42:40 3 THE WITNESS: Who has that same Web site?

15:42:43 4 BY MR. BASKIN:

15:42:43 5 Q. The -- the same mailing address as you?

15:42:45 6 A. E-mail address?

15:42:47 7 MR. INGBER: Calls for speculation.

15:42:48 8 THE WITNESS: I mean -- no, I don't think  
15:42:50 9 so.

15:42:50 10 BY MR. BASKIN:

15:42:51 11 Q. Now, in this e-mail, Mr. Chen said: "You  
15:43:02 12 posted ten StupidVideos last night," and proceeds to  
15:43:09 13 complain about your doing so.

15:43:11 14 Do you know what ten e-mail -- what ten  
15:43:13 15 videos he was referencing here?

15:43:15 16 MR. INGBER: Objection to the extent it  
15:43:19 17 mischaracterizes the document and calls for  
15:43:23 18 speculation.

15:43:23 19 THE WITNESS: I don't know which videos  
15:43:25 20 he's referring to.

15:43:26 21 BY MR. BASKIN:

15:43:27 22 Q. Do you recall -- strike that.

15:43:28 23 Am I correct that you and Mr. Chen and  
15:43:31 24 Mr. Hurley used the phrase "StupidVideos" to connote  
15:43:35 25 the type of videos found on stupidvideo.com?

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1 KARIM, JAWED

15:43:41 2 MR. INGBER: Objection, calls for  
15:43:42 3 speculation.

15:43:42 4 THE WITNESS: I don't -- I don't know. I  
15:43:47 5 think probably -- I -- I don't know. It could  
15:43:54 6 mean -- I think it probably means silly videos.

15:43:57 7 BY MR. BASKIN:

15:43:57 8 Q. Am I correct that the three founders used  
15:44:02 9 the phrase "StupidVideos" as a code for  
15:44:06 10 copyright-violated videos?

15:44:08 11 MR. INGBER: Objection.

15:44:09 12 MR. PAGE: Misstates his prior testimony  
15:44:12 13 and calls for speculation.

15:44:13 14 THE WITNESS: Absolutely not. We didn't  
15:44:16 15 have any codes for any types of videos.

15:44:19 16 BY MR. BASKIN:

15:44:19 17 Q. What ten videos, stupid or otherwise, do  
15:44:24 18 you think Mr. Chen is referencing here?

15:44:26 19 MR. PAGE: Objection, asked and answered.

15:44:27 20 MR. INGBER: And calls for speculation.

15:44:28 21 THE WITNESS: I don't know.

15:44:29 22 BY MR. BASKIN:

15:44:30 23 Q. You don't recall what ten -- you don't  
15:44:36 24 recall -- strike that -- posting ten videos on the  
15:44:39 25 site the night before receiving this e-mail from

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1 KARIM, JAWED

15:44:42 2 Mr. Chen?

15:44:44 3 MR. INGBER: Objection, asked and answered.

15:44:46 4 THE WITNESS: Well, this is July 19, 2005.

15:44:49 5 There's no way I could recall uploading specific

15:44:52 6 videos on this. It's four years ago.

15:44:52 7 BY MR. BASKIN:

15:45:29 8 Q. I'll show you what we'll mark as

15:45:31 9 Exhibit 42.

15:45:31 10 (Plaintiffs' Exhibit No. 42 was marked for  
15:46:00 11 identification.)

15:46:00 12 BY MR. BASKIN:

15:46:00 13 Q. Sir, I have no reason to believe you

15:46:03 14 received this e-mail, but who is Professor Smile?

15:46:07 15 MR. PAGE: Objection, calls for

15:46:09 16 speculation, no foundation.

15:46:10 17 THE WITNESS: That's a YouTube user name.

15:46:12 18 BY MR. BASKIN:

15:46:12 19 Q. And apparently, based on this, am I correct

15:46:15 20 that Professor Smile had his account disabled at

15:46:20 21 YouTube?

15:46:20 22 MR. INGBER: Objection, lacks foundation.

15:46:26 23 THE WITNESS: I don't know, but the e-mail

15:46:28 24 says his account was disabled.

15:46:31 25 BY MR. BASKIN:

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1 KARIM, JAWED

16:09:41 2 MR. INGBER: Objection, vague and  
16:09:43 3 ambiguous.

16:09:43 4 MR. PAGE: Misstates the document.

16:09:45 5 THE WITNESS: What's --

16:09:46 6 BY MR. BASKIN:

16:09:46 7 Q. Excuse me. The -- the "to" line, the  
16:09:49 8 YouTube Group, [REDACTED], you would  
16:09:54 9 be a recipient of such an e-mail; correct?

16:09:57 10 A. Until at some point when I was no longer  
16:10:00 11 involved.

16:10:00 12 Q. But July 22, 2005, you were very much  
16:10:05 13 involved; correct?

16:10:05 14 A. Yes.

16:10:06 15 MR. PAGE: Objection.

16:10:08 16 BY MR. BASKIN:

16:10:08 17 Q. Now, this e-mail purports to pass along  
16:10:13 18 a -- a marketing document. And you see it makes  
16:10:21 19 reference on the top of Exhibit 46 to Charles  
16:10:24 20 Chariya, C-h-a-r-i-y-a. And -- which is the -- the  
16:10:31 21 author of the marketing analysis set forth in -- in  
16:10:35 22 Exhibit 45. Do you see that, sir?

16:10:37 23 MR. PAGE: Objection, compound.

16:10:41 24 BY MR. BASKIN:

16:10:42 25 Q. Do you see that?

1 KARIM, JAWED

16:10:44 2 A. I see Exhibit 45.

16:10:47 3 Q. Who is Charles Chariya?

16:10:49 4 A. I think he's an acquaintance of Steve, but  
16:10:52 5 I have not met him.

16:10:54 6 Q. Was he involved at -- at -- at Yahoo, do  
16:10:59 7 you know?

16:10:59 8 A. I know that he worked at Yahoo. That's all  
16:11:05 9 I know, though.

16:11:06 10 Q. Do you recall reviewing Exhibit 45?

16:11:10 11 A. I actually do not remember seeing this  
16:11:13 12 before.

16:11:14 13 Q. Okay. Finally, let me hand you what we'll  
16:11:31 14 mark as Exhibit -- sorry -- 47.

16:11:31 15 (Plaintiffs' Exhibit No. 47 was marked for  
16:11:54 16 identification.)

16:11:54 17 THE WITNESS: (Document review.)

16:12:15 18 BY MR. BASKIN:

16:12:16 19 Q. Can you identify for us, sir, what is  
16:12:19 20 Exhibit 47?

16:12:19 21 A. It's a document I wrote.

16:12:24 22 Q. And did you write it on or about the date  
16:12:28 23 set forth on the document?

16:12:29 24 A. Yes.

16:12:30 25 Q. And for what purpose did you write this

1 KARIM, JAWED

16:12:36 2 document?

16:12:37 3 A. I just wrote this to communicate some  
16:12:49 4 ideas.

16:12:50 5 Q. And to whom did you communicate these  
16:12:53 6 ideas?

16:12:53 7 MR. PAGE: Objection, assumes facts.

16:12:57 8 THE WITNESS: This was handed out by me at  
16:13:01 9 a board meeting and -- but it was only handed out.  
16:13:07 10 It was not discussed. So I don't know if anyone  
16:13:09 11 other than me actually ever read this.

16:13:11 12 BY MR. BASKIN:

16:13:11 13 Q. You -- you were at a board meeting that  
16:13:13 14 occurred on the day after you wrote this memo;  
16:13:16 15 correct?

16:13:16 16 A. Yes.

16:13:17 17 Q. And you distributed Exhibit 47 to the  
16:13:23 18 members of the board?

16:13:24 19 A. Yes.

16:13:25 20 Q. And -- but there was no discussion taken at  
16:13:31 21 the meeting at the time?

16:13:31 22 A. No.

16:13:32 23 Q. Was there -- was there scheduled to be a  
16:13:53 24 discussion of Exhibit 47 at the board meeting?

16:13:56 25 MR. PAGE: Objection, calls for

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1 KARIM, JAWED

16:14:00 2 speculation.

16:14:00 3 THE WITNESS: I remember handing it out at  
16:14:04 4 the board meeting, and -- I -- I was just an  
16:14:10 5 observer on the board. I was not -- never a member  
16:14:12 6 of the board.

16:14:13 7 And I remember, you know, the members,  
16:14:16 8 they're saying, you know, "Thanks. We'll check it  
16:14:18 9 out."

16:14:19 10 BY MR. BASKIN:

16:14:20 11 Q. And going into the board meeting, was a  
16:14:27 12 discussion of your memo a scheduled item for the  
16:14:30 13 board meeting?

16:14:31 14 A. No, it was not.

16:14:32 15 Q. What caused you to hand it out at the board  
16:14:35 16 meeting?

16:14:35 17 A. So between board meetings, I would  
16:14:45 18 sometimes, you know, have some ideas. And then I  
16:14:50 19 thought it would be better organized to assemble  
16:14:56 20 them into one document that I could then hand out at  
16:14:59 21 the board meeting.

16:15:00 22 Q. So was it your practice to hand out  
16:15:05 23 memoranda from time to time at the board meeting?

16:15:07 24 MR. INGBER: Objection, mischaracterizes  
16:15:11 25 his testimony.

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1 KARIM, JAWED

16:15:11 2 THE WITNESS: I think it was the only time  
16:15:13 3 I did that, but I would verbally discuss things at  
16:15:14 4 board meetings that I had developed over the  
16:15:16 5 previous month.

16:15:18 6 BY MR. BASKIN:

16:15:18 7 Q. And was there a reason you recall why you  
16:15:21 8 decided to communicate to the board in writing on  
16:15:28 9 March 23, 2006, rather than orally?

16:15:32 10 A. Because I had accumulated a lot of  
16:15:35 11 different things.

16:15:36 12 Q. Did you propose at the board meeting that  
16:15:44 13 the board discuss the -- the items set forth in  
16:15:48 14 Exhibit 47?

16:15:48 15 A. I remember saying, you know, "Here are some  
16:15:52 16 things that I wanted to talk about."

16:15:57 17 Q. And did someone make the decision not to  
16:15:59 18 discuss Exhibit 47 at the board meeting?

16:16:02 19 MR. INGBER: Objection, calls for  
16:16:03 20 speculation.

16:16:03 21 MR. PAGE: Join.

16:16:06 22 THE WITNESS: It was -- I handed it out,  
16:16:10 23 and Steve said, "Thanks, I will -- I will look at  
16:16:16 24 it," and then the meeting proceeded, but not with  
16:16:22 25 this.

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1 KARIM, JAWED

16:16:23 2 BY MR. BASKIN:

16:16:24 3 Q. And did there come a time in a subsequent  
16:16:28 4 board meeting when you had occasion to discuss  
16:16:31 5 Exhibit 47 with the board members?

16:16:33 6 A. No. This was never discussed.

16:16:39 7 Q. Did there come a time when any member of  
16:16:42 8 the board contacted you to discuss any of the topics  
16:16:46 9 set forth in Exhibit 47?

16:16:47 10 A. No.

16:16:48 11 Q. Did there come a time when Mr. Hurley  
16:16:50 12 discussed with you the matters set forth in  
16:16:54 13 Exhibit 47?

16:16:54 14 MR. PAGE: Objection, asked and answered.

16:16:56 15 MR. INGBER: Objection, asked and answered.

16:16:58 16 MR. PAGE: Stop doing that.

16:16:59 17 THE WITNESS: This was never brought up by  
16:17:03 18 anyone again after I handed it out.

16:17:05 19 BY MR. BASKIN:

16:17:05 20 Q. So if I understand, after you handed it out  
16:17:09 21 at the board meeting, no human being associated with  
16:17:13 22 YouTube talked to you about this exhibit; is that  
16:17:15 23 correct?

16:17:15 24 A. That's correct.

16:17:16 25 Q. And did any human being associated with

1 KARIM, JAWED

16:17:20 2 YouTube ever e-mail you in connection with this  
16:17:22 3 exhibit?

16:17:23 4 A. Not that I remember.

16:17:24 5 Q. Um, in subsequent board meetings, did you  
16:17:30 6 attempt orally to raise any of the items set forth  
16:17:34 7 in Exhibit 47?

16:17:37 8 MR. PAGE: Objection, assumes facts.

16:17:40 9 THE WITNESS: No, I did not.

16:17:41 10 BY MR. BASKIN:

16:17:42 11 Q. And at any prior board meeting, did you  
16:17:46 12 discuss the topics set forth in Exhibit 47 orally?

16:17:50 13 MR. PAGE: Objection, compound.

16:17:51 14 THE WITNESS: I didn't.

16:17:53 15 BY MR. BASKIN:

16:18:27 16 Q. I have one more document to show you, sir.

16:18:31 17 MR. WILLEN: You said that last time.

18 MR. BASKIN: Yeah, I know. I made a  
19 mistake last time.

20 (Discussion held off the record.)

21 (Plaintiffs' Exhibit No. 48 was marked for  
22 identification.)

23 BY MR. BASKIN:

16:20:09 24 Q. Let me hand out Exhibit 48.

16:20:31 25 A. (Document review.)

1 KARIM, JAWED

16:20:53 2 Q. Mr. Karim, did you prepare an e-mail out,  
16:21:02 3 Exhibit 48?

16:21:03 4 A. It looks like I did.

16:21:05 5 Q. Do you know whether -- was there any  
16:21:08 6 follow-up discussion with anyone as to your idea of  
16:21:13 7 preventing a user from removing a video from the  
16:21:16 8 site?

16:21:17 9 MR. INGBER: Objection to the extent it  
16:21:20 10 mischaracterizes the document.

16:21:22 11 THE WITNESS: I'm sorry. What was the  
16:21:24 12 question?

16:21:24 13 BY MR. BASKIN:

16:21:24 14 Q. Did you ever discuss this with anyone, your  
16:21:25 15 idea set forth in this e-mail with anyone? Discuss  
16:21:29 16 with them orally.

16:21:29 17 A. Not that I remember.

16:21:31 18 Q. Do you know whether YouTube, in fact, ever  
16:21:33 19 adopted the policy of trying to prevent,  
16:21:36 20 temporarily, users from removing their videos from  
16:21:42 21 the site?

16:21:42 22 MR. INGBER: Objection to the extent it  
16:21:44 23 mischaracterizes the document.

16:21:46 24 THE WITNESS: I don't know.

16:21:46 25 BY MR. BASKIN:

1 KARIM, JAWED

16:37:17 2 BY MR. BROWNE:

16:37:18 3 Q. Do you draw any conclusions from that, that  
16:37:22 4 you haven't been contacted, that you are authorized  
16:37:22 5 to upload their stuff?

16:37:24 6 MR. INGBER: Objection, argumentative, and  
16:37:27 7 appears to call for a legal conclusion.

16:37:27 8 THE WITNESS: I don't make any conclusion  
16:37:29 9 from not being contacted.

16:37:32 10 BY MR. BROWNE:

16:37:32 11 Q. Did you ever receive an e-mail during your  
16:37:34 12 time at YouTube where someone contended that videos  
16:37:40 13 that you had uploaded from CNN were unauthorized?

16:37:46 14 A. I remember Steve e-mailing me and asking  
16:37:52 15 why I had uploaded CNN videos, I think.

16:37:57 16 Q. And what did you -- what did you say to  
16:38:00 17 him?

16:38:00 18 MR. PAGE: Objection, assumes facts.

16:38:06 19 THE WITNESS: Well, I remember having  
16:38:09 20 uploaded short historical video clips that CNN had  
16:38:14 21 on their Web site.

16:38:15 22 So this was -- these were like 20-second  
16:38:19 23 clips of the Challenger space shuttle explosion or  
16:38:25 24 the moon landing and the OJ Simpson verdict.

16:38:31 25 And I remember uploading a couple of those

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1 KARIM, JAWED

16:38:34 2 types of historical short news clips to -- to  
16:38:39 3 YouTube.

16:38:39 4 BY MR. BROWNE:

16:38:39 5 Q. And why did you do that?

16:38:41 6 A. I thought they were interesting, that  
16:38:44 7 people might be interested in watching them.

16:38:47 8 Q. I'm going to get this wrong. Did Mr. Chen  
16:38:57 9 or Mr. Hurley contact you about that? I just forget  
16:39:01 10 what you said.

16:39:01 11 A. I think it was Steve.

16:39:03 12 Q. Okay, Steve. After Mr. Chen contacted you  
16:39:05 13 about that, did -- did you or anyone else then  
16:39:07 14 remove those videos from the YouTube site?

16:39:09 15 A. I don't think I removed them after that. I  
16:39:13 16 may have removed them a long time later.

16:39:16 17 Q. Why did you remove them -- why do you  
16:39:20 18 believe you may have removed them a long time later?

16:39:23 19 A. I don't know.

16:39:25 20 Q. Do you have any recollection as -- as -- as  
16:39:28 21 to why -- why you removed them?

16:39:31 22 A. I removed a lot of videos at various  
16:39:36 23 points, things that I thought were no longer  
16:39:38 24 relevant or interesting or too personal.

16:39:45 25 Q. Did you remove the CNN videos because you

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1 KARIM, JAWED

16:39:49 2 thought they were no longer relevant?

16:39:51 3 MR. INGBER: Objection, assumes facts.

16:39:54 4 THE WITNESS: I -- there was sufficient  
16:40:00 5 other content covering a lot of those topics.

16:40:04 6 When I initially uploaded those videos, the  
16:40:07 7 site was pretty -- pretty bare. So if you searched,  
16:40:10 8 for, say, you know, "moon landing," you would get  
16:40:13 9 nothing.

16:40:15 10 And so I wanted, you know, to have some,  
16:40:18 11 you know, representative short, kind of fair-use  
16:40:21 12 interesting clips. But at a later point, now, if  
16:40:25 13 you search for any of those topics, there is such a  
16:40:28 14 huge amount of information that some of the videos I  
16:40:32 15 had uploaded earlier, in general, not just CNN  
16:40:38 16 videos, I didn't think were adding much value.

16:40:41 17 BY MR. BROWNE:

16:40:41 18 Q. But you uploaded them because you thought  
16:40:44 19 users might like to come to YouTube and watch them?

16:40:47 20 MR. INGBER: Objection, asked and answered,  
16:40:49 21 gives an incomplete characterization of his  
16:40:53 22 testimony.

16:40:53 23 THE WITNESS: What I had said earlier is  
16:40:54 24 that I thought they would be interesting videos.

16:41:03 25 MR. BROWNE: Are we up to 46?

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1 KARIM, JAWED

16:41:05 2 MR. PAGE: 49.

16:41:05 3 MR. BROWNE: All right. So let me just  
16:41:05 4 introduce document 49.

16:41:05 5 (Plaintiffs' Exhibit No. 49 was marked for  
16:41:23 6 identification.)

16:41:23 7 BY MR. BROWNE:

16:41:24 8 Q. Mr. Karim, the court reporter is about to  
16:41:28 9 put in front of you a -- Exhibit 49, which is a  
16:41:39 10 Bates stamp JK ending in 989.

16:41:39 11 A. (Document review.)

16:41:42 12 Q. And do you -- have you -- do you recognize  
16:41:43 13 that document?

16:41:46 14 A. I don't remember -- I don't remember  
16:41:48 15 getting this e-mail.

16:41:49 16 Q. Excluding anything that your lawyers might  
16:41:54 17 have shown you in preparation for this deposition,  
16:41:57 18 whether or not you got the e-mail, do you remember  
16:41:57 19 seeing the e-mail?

16:42:01 20 Again, excluding anything your lawyers  
16:42:05 21 showed you.

16:42:05 22 A. I do not remember seeing this e-mail.

16:42:07 23 Q. Do you know who Jill Valentine is?

16:42:13 24 A. I have no idea who that is.

16:42:15 25 Q. Oh, I'm sorry. In -- but you see there on

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