

# Schapiro Exhibit 135

## Aggregate number of works in the soundtrack database from inception

<u>Year</u>	<u>Month</u>	<u>Month Quantity</u>	<u>Total</u>
2006	12	9	9
2007	1	55	64
	2	436	500
	3	405	905
	4	19959	20864
	5	22216	43080
	6	2630	45710
	7	1718	47428
	8	2373	49801
	9	2822	52623
	10	720	53343
	11	382	53725
	12	1187	54912
2008	1	1889	56801
	2	7063	63864
	3	2118	65982
	4	6040	72022
	5	3677	75699
	6	1641	77340
	7	5018	82358
	8	2721	85079
	9	1654	86733
	10	1083	87816
	11	1538	89354
	12	881	90235
2009	1	786	91021
	2	9563	100584
	3	1214	101798
	4	1025	102823
	5	2064	104887
	6	2314	107201
	7	20477	127678
	8	602	128280
	9	891	129171



## Top 10 content owners from inception to present

Supplier	Total
MTVN	91100
Viacom FP	15074
Endemol	4695
NBCU	4368
Fox	4173
CanalPlus	3475
Viacom DVD	2750
Disney	1643
Fox DVD	1249
WB DVD	615
WB	29
Grand Total	129171

## Number of works by content owner by date since soundtrack inception

Supplier	Year	Month	Quantity
CanalPlus	2008	9	4
CanalPlus	2008	10	593
CanalPlus	2008	11	415
CanalPlus	2008	12	459
CanalPlus	2009	1	383
CanalPlus	2009	2	467
CanalPlus	2009	3	528
CanalPlus	2009	4	270
CanalPlus	2009	5	46
CanalPlus	2009	6	19
CanalPlus	2009	8	232
CanalPlus	2009	9	59
Disney	2007	4	24
Disney	2007	5	13
Disney	2007	6	87
Disney	2007	7	216
Disney	2007	8	279
Disney	2008	1	22
Disney	2008	2	73
Disney	2008	3	34
Disney	2008	4	12
Disney	2008	5	70
Disney	2008	6	240
Disney	2008	8	8
Disney	2008	9	30
Disney	2008	10	37
Disney	2008	11	74
Disney	2008	12	1
Disney	2009	1	119
Disney	2009	2	82
Disney	2009	3	44
Disney	2009	4	97
Disney	2009	5	30
Disney	2009	6	11
Disney	2009	7	27
Disney	2009	8	8
Disney	2009	9	5
Endemol	2009	5	1851
Endemol	2009	6	2145
Endemol	2009	7	699
Fox	2007	4	171
Fox	2007	5	192
Fox	2007	6	319
Fox	2007	7	305
Fox	2007	8	223
Fox	2007	9	201
Fox	2007	10	241
Fox	2007	11	174
Fox	2007	12	529

Fox	2008	1	105
Fox	2008	2	37
Fox	2008	3	86
Fox	2008	4	66
Fox	2008	5	57
Fox	2008	6	135
Fox	2008	7	95
Fox	2008	8	163
Fox	2008	9	30
Fox	2008	10	42
Fox	2008	11	99
Fox	2008	12	49
Fox	2009	1	51
Fox	2009	2	66
Fox	2009	3	90
Fox	2009	4	80
Fox	2009	5	76
Fox	2009	6	38
Fox	2009	7	320
Fox	2009	8	119
Fox	2009	9	14
Fox DVD	2007	12	447
Fox DVD	2008	2	757
Fox DVD	2008	5	45
MTVN	2007	2	1
MTVN	2007	4	16963
MTVN	2007	5	20778
MTVN	2007	6	2012
MTVN	2007	7	1036
MTVN	2007	8	1835
MTVN	2007	9	1148
MTVN	2007	11	97
MTVN	2007	12	2
MTVN	2008	1	982
MTVN	2008	2	3986
MTVN	2008	3	1422
MTVN	2008	4	3496
MTVN	2008	5	1785
MTVN	2008	6	665
MTVN	2008	7	4721
MTVN	2008	8	1163
MTVN	2008	9	826
MTVN	2009	2	7591
MTVN	2009	4	397
MTVN	2009	7	19365
MTVN	2009	8	31
MTVN	2009	9	798
NBCU	2006	12	9
NBCU	2007	1	55
NBCU	2007	2	435
NBCU	2007	3	405
NBCU	2007	4	225

NBCU	2007	5	151
NBCU	2007	6	179
NBCU	2007	7	123
NBCU	2007	8	32
NBCU	2007	9	81
NBCU	2007	10	224
NBCU	2007	11	34
NBCU	2007	12	66
NBCU	2008	1	92
NBCU	2008	2	105
NBCU	2008	3	366
NBCU	2008	4	98
NBCU	2008	5	211
NBCU	2008	6	191
NBCU	2008	7	146
NBCU	2008	8	113
NBCU	2008	9	32
NBCU	2008	10	94
NBCU	2008	11	60
NBCU	2008	12	70
NBCU	2009	1	40
NBCU	2009	2	114
NBCU	2009	3	129
NBCU	2009	4	181
NBCU	2009	5	61
NBCU	2009	6	101
NBCU	2009	7	66
NBCU	2009	8	64
NBCU	2009	9	15
Viacom DVD	2007	4	1032
Viacom DVD	2007	5	1082
Viacom DVD	2007	7	38
Viacom DVD	2007	8	4
Viacom DVD	2007	11	22
Viacom DVD	2008	4	17
Viacom DVD	2008	5	366
Viacom DVD	2009	2	41
Viacom DVD	2009	8	148
Viacom FP	2007	4	1544
Viacom FP	2007	6	33
Viacom FP	2007	9	1392
Viacom FP	2007	10	228
Viacom FP	2007	11	55
Viacom FP	2007	12	143
Viacom FP	2008	1	688
Viacom FP	2008	2	2105
Viacom FP	2008	3	210
Viacom FP	2008	4	1736
Viacom FP	2008	5	1141
Viacom FP	2008	6	410
Viacom FP	2008	7	56
Viacom FP	2008	8	1274

Viacom FP	2008	9	732
Viacom FP	2008	10	317
Viacom FP	2008	11	890
Viacom FP	2008	12	302
Viacom FP	2009	1	193
Viacom FP	2009	2	1202
Viacom FP	2009	3	423
WB	2007	10	27
WB	2008	5	2
WB DVD	2008	4	615

# **Schapiro Exhibit 136**



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, ) Case No.  
 Plaintiffs, ) 1:07CV02103  
 vs. )  
 YOUTUBE, INC., YOUTUBE, LLC, )  
 and GOOGLE, INC., )  
 Defendants. )  
 \_\_\_\_\_)

VIDEOTAPED DEPOSITION OF LEE L'ARCHEVESQUE  
NEW YORK, NEW YORK  
Thursday, February 18, 2010

REPORTED BY:  
ERICA RUGGIERI, CSR, RPR  
JOB NO: 18753

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February 18, 2010

9:22 a.m.

VIDEOTAPED DEPOSITION OF LEE

L'ARCHEVESQUE, held at the offices of  
Mayer Brown, 1675 Broadway, New York,  
New York, pursuant to notice, before Erica  
L. Ruggieri, Registered Professional  
Reporter and Notary Public of the State of  
New York.

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A P P E A R A N C E S

FOR THE LEAD PLAINTIFFS AND PROSPECTIVE  
CLASS:

JENNER & BLOCK, LLP

BY: LUKE C. PLATZER, ESQ.

1099 New York Avenue, NW

Suite 900

Washington, DC 20001-4412

(202) 639-6000

Lplatz@jenner.com

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

MAYER BROWN, LLP

BY: BRIAN WILLEN, ESQ.

JASON I. KIRSCHNER, ESQ.

1675 Broadway

New York, New York 10019

(212) 506-2500

Bwillen@mayerbrown.com

Jkirschner@mayerbrown.com

ALSO PRESENT:

MANUEL ABREU, Videographer

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number VIA02072896, marked for  
identification, as of this date.)

A. Okay.

11:07:15 Q. Do you know who Vance Ikezoye  
is?

A. No, I don't know.

Q. So this is an e-mail, the one  
I'm looking at is at the bottom of the  
11:07:24 first page. It's an e-mail from Chris  
Maxcy to Vanceikezoye@Audiblemagic.com,  
dated December 5th, 2006, cc'ing Adam  
Cahan. And the e-mail says, "Hi, Vance, I  
wanted to introduce you to Cahan at  
11:07:43 Viacom."

Does this e-mail suggest that  
Chris Maxcy from YouTube was introducing  
Adam Cahan at Viacom to Audible Magic?

A. It seems -- that's a personal  
11:08:03 introduction. That's, you know, Chris  
introducing Vance and Adam. I don't know  
if that's the introduction company to the  
company or it's a personal introduction.

Q. Do you know whether either  
11:08:15 Mr. Cahan or Joe Simon or Nick Rockwell

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had had any dealings with Audible Magic  
prior to December of 2006?

A. I don't know.

11:08:40 Q. In December 2006 Audible Magic's  
technology was fingerprint-based  
technology?

A. Yes.

11:08:55 Q. Was it Viacom's understanding,  
in December of 2006, that Audible Magic  
maintained a database that contained  
various fingerprints that had been  
provided by content owners?

A. It contained a fingerprint  
11:09:10 database, yes.

Q. In December of 2006, do you know  
what kinds of fingerprints were in Audible  
Magic's fingerprint databases?

A. It was primarily music at that  
11:09:28 point, I believe.

Q. Do you know, as of December of  
2006, whether there were any movie studios  
or television studios that had provided  
content to Audible Magic for  
11:09:44 fingerprinting?

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A. I don't know for sure, but I believe that they had started to create sound track database at that point.

11:09:50 Q. Can you identify any movie studio, television studio that had provided content to Audible Magic to be fingerprinted in December of 2006?

A. No.

11:10:01 MR. PLATZER: This is a standing objection here, but as I have expressed, we believe this whole line of questioning is outside the scope of the deposition topic.

11:10:12 MR. WILLEN: It's squarely within the deposition topic, but we will go on, and you can note your objection.

Q. So in December of 2006, was Viacom aware that there were any content owners, other than record labels or music publishers, that had provided content to Audible Magic for fingerprinting?

A. I don't know.

11:10:36 Q. You weren't affirmatively aware,

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in December of 2006, that content owners  
other than record labels and music  
publishers had provided fingerprints to  
11:10:47 Audible Magic, were you?

MR. PLATZER: Objection to the  
Form. Vague as to "you," as to  
whether you mean Mr. L'Archevesque.

MR. WILLEN: I mean Viacom.

11:10:54 MR. PLATZER: And repeat the  
objection. Outside the scope.

A. Sorry. The question again,  
please?

Q. You said you didn't know one way  
11:11:06 or another whether content owners other  
than record labels or music publishers had  
provided content to Audible Magic for  
fingerprinting in December of 2006?

A. I do not know if we knew, in  
11:11:18 December 2006, of that being the case or  
not.

Q. Okay. Do you know, sitting here  
today, either because of your preparation  
for the deposition or independently,  
11:11:31 whether, in December of 2006, any movie

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studios or television studios had provided content to Audible Magic for fingerprinting?

11:11:40 A. I don't know.

Q. As of December of 2006, had Viacom provided any content to Audible Magic for fingerprinting?

A. No.

11:11:58 Q. So in December 2006 there were no Viacom-related fingerprints in any of Audible Magic's databases?

A. That's correct.

Q. In December of 2006, were any of Viacom's own websites using Audible Magic to filter user-submitted content?

A. No.

Q. Did Viacom -- excuse me -- did Viacom test Audible Magic's technology?

11:12:30 A. Viacom, I believe there was an ongoing interaction with Audible Magic, as far as implementation options, installation options, configuration options, that did take place.

11:12:50 MR. WILLEN: Let's actually look



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at a document. This will be  
Exhibit 11.

(L'Archevesque Exhibit 11,  
11:13:15 Audible Magic test license  
agreement, Bates number AM 003811,  
marked for identification, as of  
this date.)

MR. WILLEN: This is a document  
11:13:05 produced by Audible Magic, bearing  
Bates number AM 003811. And it's  
described as an Audible Magic test  
license agreement.

A. Okay.

11:13:22 Q. Have you seen this before?

A. I don't recall seeing it, no.

Q. All right. Well, just take a  
quick look at it.

A. Okay.

11:13:40 Q. Are you aware of the existence  
of this test license agreement,  
independently of just seeing this  
document?

A. No, no.

11:13:49 Q. The date of this document is the

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quarter 2007?

A. It would have been in that second quarter time frame.

11:26:21 Q. Were there particular types of works that Viacom was providing to Audible Magic by means of the MRSS feeds?

A. That's the on-line content. That's content that we have gone onto our websites.

11:26:40 Q. So do you know the first date on which fingerprints of Viacom content actually appeared in any of Audible Magic's databases?

11:26:58 A. No, I don't know when the fingerprints, you know, would have been processed and added to that database officially.

11:27:10 Q. Was there some lag between when Viacom made the content available and when it actually appeared as a fingerprint in the Audible Magic system?

MR. PLATZER: Objection. Calls for speculation.

11:27:19 A. There would have been a minimal

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lag, minimum type lag. But we implemented a receipt system at some point after that, which, you know, gave us notification of when they were going in the database, when they were fingerprinted.

11:27:31 Q. So as of March of 2007, there were no Viacom fingerprints that were in any of Audible Magic's databases, correct?

11:27:49 MR. PLATZER: Objection, calls for speculation.

A. I understand that to be the case.

11:28:03 Q. When the Viacom fingerprints were included in Audible Magic's system, is it correct that they were included in something that Audible Magic called the sound track database?

A. Yes.

11:28:12 Q. Were there any other databases in Audible Magic that Viacom fingerprints were added to?

A. I believe at that time it was a music database and a sound track database, and our fingerprints were in the sound

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track database.

Q. All of the fingerprints at  
Viacom supplied to Audible Magic would  
11:28:40 have appeared in the sound track database?

A. Yes.

Q. Why was it not until the second  
quarter of 2007 that Viacom started  
providing access to its content to Audible  
11:29:05 Magic for fingerprinting?

A. There was -- that prior quarter  
was spent looking at the company, looking  
at, you know, how it was, its traction  
with other companies, talking to them. It  
11:29:27 was actually, you know, that was fairly  
timely closure to that.

Q. I'm sorry, I didn't hear the  
last thing you said.

A. I said that was fairly timely  
11:29:37 with how we felt about Audible Magic and  
got them fingerprints or access.

Q. I'm sorry, when was the first  
contact that Viacom had with Audible  
Magic?

11:29:48 MR. PLATZER: Objection. Asked

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and answered.

A. December 2006, I believe.

11:30:05 Q. So once Viacom started providing  
access to content to Audible Magic, how  
did Viacom decide what content to provide?

A. We would -- we determined it  
through several ways. One was rights, did  
we have rights to fingerprint that  
11:30:26 content. Another was popularity, how  
popular was the content.

What we didn't -- what we didn't  
provide was things we didn't have rights  
to.

11:30:39 Q. What kinds of content would fall  
into that bucket?

A. I can't say what types of  
content, specifically, but the general,  
I'm not a lawyer, but my general  
11:30:51 understanding of rights is you need a  
certain amount of rights in order to be  
able to fingerprint this content.

Q. I see. So these were works that  
Viacom owned in conjunction with some  
11:31:04 other entity?

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A. You know best of type shows, where you might have other licensing or limitations of what we can do. And you wouldn't -- I mean we wouldn't fingerprint trailers and things of that nature.

Q. Why not?

A. Aside from potential rights issues, it's just not something we fingerprinted. Really, if we had the rights and they were willing to fingerprint them, we let them fingerprint as I mumble some more. If we had the rights and it was fairly easy to give them access, they fingerprinted.

Q. Were there any cost issues associated with Audible Magic generating these fingerprints?

A. I don't believe so, no.

Q. So cost wasn't a reason that Viacom wouldn't have let audible fingerprint more of Viacom's content?

A. It wouldn't be a cost issue. It would be a, you know, are the cycles that we are spending fingerprinting being spent

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A F T E R N O O N   S E S S I O N

(Time noted: 1:13 p.m.)

THE VIDEOGRAPHER: The time is

01:12:53 1:13 p.m. We are back on the record.

L E E L ' A R C H E V E S Q U E ,

resumed and testified as follows:

EXAMINATION BY (Cont'd.)

MR. WILLEN:

01:12:56 Q. So I wanted to go back and just  
clarify something that you said earlier.  
I had asked you a question about the audit  
work that Viacom was doing to look at how  
Audible Magic was working. And you said  
01:13:09 there were initially some timing concerns  
as far as when the content was getting  
identified and/or blocked. I just was  
curious as to what, in particular, you  
were referring to.

01:13:19 A. With some of the initial iFilm  
sampling, it looked like the -- it was  
taking longer for the content to kind of  
be removed from the staging area than  
other times. I believe it was measured in  
01:13:36 minutes, nothing more than that. So you

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would do an upload, and it would either kind of not automatically, but in a fairly timely fashion it would go away. I would say copyright infringement, I don't remember what the exact text was, but there was some times when that would take a little bit longer.

Q. I see.

01:13:57 So I want to switch gears now and talk about the YouTube fingerprinting technology.

A. Okay.

Q. So when did Viacom first become aware that YouTube was developing its own fingerprinting technology?

A. First -- second quarter of 2007.

Q. How did Viacom learn that?

A. I'm not sure exactly. I believe 01:14:22 it was learned through Mike Fricklas.

Q. And this was before the YouTube technology had actually launched, correct?

A. Yes.

Q. Did YouTube invite Viacom to participate in a pilot test of that 01:14:36



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technology?

A. Yes. We referred to it as a beta test, but yes.

01:14:47 Q. Do you know when YouTube, Google, made the invitation to Viacom to participate in the beta test?

A. I don't exactly, but I'm guessing it's in the same time frame, 01:15:03 second quarter 2007.

Q. And Viacom, in fact, did end up participating in that beta test?

A. We did.

Q. When was the testing that Viacom 01:15:17 did of the YouTube fingerprinting, when did that actually take place?

A. I don't know exactly, but it was, if I remember correctly, there was a little bit of a delay with getting the 01:15:30 test process and tools in place and the methodology in place. It was probably end of the second quarter, maybe beginning of the third quarter 2007.

Q. And you, yourself, were involved 01:15:41 in this testing, correct?

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A. Yes.

Q. What was your role?

A. My team's role was to work with,  
01:15:49 you know, Bane Hunter, who we talked about  
before, as well as our infrastructure  
people to work out kind of a useful  
approach or a doable approach to the  
testing, meaning getting the content and  
01:16:05 the correct type, getting the  
infrastructure in place to facilitate the  
testing. And, on the Bane side, also to  
test the fingerprinting tool that YouTube  
had, meaning how you could fingerprint  
01:16:21 your own, create your own fingerprint.

Q. I see.

A. It was a combination of things.

Q. So can you just describe, sort  
of at a high level of generality, what the  
01:16:32 testing methodology was?

A. There was, during the initial  
conversations, there was a lot of kind of  
exploratory questions around who should do  
the fingerprinting. Should we do it  
01:16:44 internally. Our standard work flow is,

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slightly in either the resolution of the screen or the rotation, some sound variables, things of that nature. Then they were uploaded to the system to see if the matching would take place.

Q. Were there multiple rounds of testing that Viacom did, as part of this process?

01:19:10 A. I think the test involved several rounds, yes. But I think it was part of the same test, if I recall correctly.

Q. And did you see different results, as the test went on?

A. Yeah. There were different results. Yes, there were.

Q. How were they different?

01:19:37 A. There was some anomalies in, you know, the minimum length of clip that was required in order to get a match. That seemed to change throughout the test. And because of that, the matching results also changed.

01:19:53 Q. Sorry, what do you mean, "the

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matching results also changed"?

01:20:08 A. Well, the feeling was that the tool might have changed a little during the testing. And while it may have been accepting, say, a 15-second clip, the bar seemed to move throughout the test and end up a little higher.

01:20:19 So the feeling was, I think it was, I don't remember the results specifically, but I think it ended up being set to 30 seconds, so a 30-second minimum in order to generate a match.

01:20:32 Q. Did you actually communicate with people at Google or YouTube about that issue?

01:20:42 A. We were communicating with folks at YouTube at the beginning, heavily. During the middle it was not a lot of communication. And to be honest with you, I don't know exactly what was communicated back to them. But there was interactions with them.

01:20:52 Q. Do you know for a fact, one way or another, whether the tool actually

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changed during the test process?

A. I can't say for sure, no.

Q. Now, at the end of the test you  
01:21:03 prepared a written report?

A. I did.

Q. Was it just the one report, or  
were there multiple reports that you  
prepared?

A. From my group there was one  
01:21:09 report.

Q. Okay. Let's just look at it, so  
we are talking about the same thing.

(L'Archevesque Exhibit 18,  
01:21:37 document produced by Viacom, Bates  
numbers VIA01922290, marked for  
identification, as of this date.)

MR. WILLEN: This is 18. This  
is a document produced by Viacom with  
01:21:39 the Bates numbers VIA01922290.

A. Okay.

Q. So this is the report that your  
group prepared?

A. Yes.

Q. Other than this report, or  
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A. Yes. That's where we fingerprint internally, outside of our standard work flows, and provide those fingerprints, yes.

Q. I see. Okay.  
So when did Viacom first start providing YouTube with access to Viacom content, for purposes of fingerprinting?

A. Early 2000 -- early Q2, 2008.

Q. So has Viacom provided YouTube with access to all Viacom content in existence for fingerprinting or only a subset of Viacom content?

A. Not all the content in existence, no.

Q. What are the categories of Viacom content that Viacom has made available to YouTube for fingerprinting?

A. Primarily, the DTO library.

Q. When you say "the DTO library," what exactly are you referring to?

A. Download to own library. It's a library of content made up of, you know, more recent type content, the more popular

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content that we use for, you know, with other companies that we distribute our content to.

01:38:29 Q. Does that DTO library include every Viacom television show that's aired since Q2, 2008?

A. I don't know for sure.

01:38:46 Q. But is there any content in that library, that sort of older content?

A. There is some, yes.

Q. Now, are you familiar with the term work-in-suit or WorksInSuit?

A. Yes.

01:39:07 Q. What is your understanding of what that term means?

01:39:31 A. It's my understanding that WorksInSuit are the pieces of content that are noted as part of this case. Pardon my legal ineptitude.

Q. So has Viacom provided every one of the WorksInSuit to YouTube, for purposes of allowing YouTube to create fingerprints?

01:39:45 A. No. They are separate work

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flows. I think we are between 75 and 80 percent of the WorksInSuit being fingerprinted. Those are separate kind of -- those are separate work flows. We have the work flow that kind of drives our day-to-day fingerprinting, then we have this other work flow which -- related to this litigation in general, I guess. So there's not complete overlap at this point.

Q. So just to understand the testimony, there's a specific, separate work flow that relates to creating or having fingerprints created of the WorksInSuit in particular?

MR. PLATZER: Objection.

Mischaracterizes the witness's testimony.

MR. WILLEN: I'm really not characterizing. I'm trying to understand.

A. No. There's our standard day-to-day production work flows for fingerprinting carry on that are in place



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today. There's this other work flow that is related to this litigation that populates the WorksInSuit list. And that overlap is where the fingerprinting would exist.

Q. So I'm not sure I understand.

A. We have 80 percent coverage on the fingerprints through our standard fingerprinting work flow.

Q. So the testimony is that 80 percent, something like 75 to 80 --

A. 75 to 80.

Q. -- of the WorksInSuit have been provided to YouTube for fingerprinting?

A. To our fingerprinting vendors, yes.

MR. PLATZER: And as I stated before, there's some written discovery on its way. Once that's complete, we will sort of have actual numbers on this.

At this point he's testifying general categories and his general awareness.

# **Schapiro Exhibit 137**

**Message: Proposal from MPAA on Content Identification and Filtering**


**Proposal from MPAA on Content Identification and Filtering**

**From** Garfield, Dean **Date** Thursday, October 12, 2006 7:12 PM

**To** 'chris@youtube.com'

**Cc**

**Subject** Proposal from MPAA on Content Identification and Filtering

 **YouTube - - Proposed Pilot Filtering Project.doc** (37 Kb )

Hi Chris. I trust that things are well. Congrats on the Google deal. How does it feel to be rich? Hopefully, you are still working - - at least for now. In that regard, I have attached a proposal for moving forward on our last discussion. As you may imagine, all the studios are getting calls every day to comment on the Google deal and so there is a lot of focus on this issue. Please let me know when it would be a good time to continue our conversation. Thanks.

*Dean*

**MPAA/YouTube**

**Copyright Identification and Filtering Pilot Test**

Proposal October 13, 2006

**Overview:** YouTube and the MPAA member studios have an interest in working cooperatively to develop a process and systems to identify, and filter (if not otherwise licensed) any on-going infringing content available on YouTube. In order to expedite this effort, a pilot test is proposed to identify and filter a subset of the MPAA's members' content. Leveraging the technology and processes currently being put into place, the MPAA proposes to create a quick to implementation test in cooperation with YouTube.

**Objectives**

- Demonstrate the ability to automatically identify and filter studio content.
- Fast implementation of a prototype system that proves the process.
- Minimize the out of pocket costs.

**Proposal**

- **Current YouTube Process:** Based on previous discussions it is our understanding that currently the process at YouTube occurs as follows: 1) Users upload video files to the YouTube site. 2) Files are checked using an MD5 hash to filter previously taken down content. 3) YouTube transcodes the video files into flash. 4) The encoded files are published on the YouTube site.
- **Music Filtering Process:** Based on public reports and the MPAA's familiarity with Audible Magic's general processes, we would estimate that the new identification and filtering process currently being implemented involves: 1) Users upload video files to YouTube site. 2) Files are checked using an MD5 hash to filter previously taken down content. 3) Using Audible Magic tools, soundtrack on files is fingerprinted and sent to Audible Magic servers for identification. 4) YouTube transcodes the video

files into flash. 5) Audible Magic sends identification and business rules for usage to YouTube. 6) If approved, the encoded files are published on the YouTube site.

- **MPAA Test:** Proposed is a test using a modified version of Audible Magic's music filtering service. We propose that:
  - The MPAA provides Audible Magic with the information necessary to identify segments/scenes of films or TV shows.
  - Audible Magic will provide its fingerprint generation tools to the studios. Studios will provide fingerprints for its works to Audible Magic.
  - MPAA and YouTube develop a test involving approximately 1,000 works.
  - Defined and limited reporting capabilities (Special or custom reports asked for by individual studios will be charged at time and materials)
- **Test Parameters:** Test will operate for 30 days. After which the parties will agree on a plan for further deployment.
- The development and test occur after the current soundtrack identification process is put into production.

# **Schapiro Exhibit 138**

**Message: Re: Proposal from MPAA on Content Identification and Filtering**

**Re: Proposal from MPAA on Content Identification and Filtering**

**From** Garfield, Dean **Date** Saturday, November 11, 2006 7:54 AM  
**To** 'kel@youtube.com'  
**Cc** 'chris@youtube.com'  
**Subject** Re: Proposal from MPAA on Content Identification and Filtering

Thanks Kelly. Wednesday at 2pm pacific works for me. I will confirm on Monday.

-----  
Sent from my BlackBerry Wireless Handheld

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

From: Kelly Liang <kel@youtube.com>  
To: Garfield, Dean <Dean\_Garfield@mpaa.org>  
CC: chris@youtube.com <chris@youtube.com>  
Sent: Thu Nov 09 11:34:13 2006  
Subject: RE: Proposal from MPAA on Content Identification and Filtering

Dean -

Thanks for sending along the pilot proposal. I am also out on travels but will be back in the office mid next week if you are free to catch up then. Shall we plan to touch base on Wednesday afternoon (after 2pm)?

Additionally, the RFI you mentioned in the email below didn't come through... would you mind re-sending it when you get a chance?

Thanks and I look forward to speaking with you next week.

Regards,

Kelly

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From: Dean\_Garfield@mpaa.org [[mailto:Dean\\_Garfield@mpaa.org](mailto:Dean_Garfield@mpaa.org)]  
Sent: Wednesday, November 08, 2006 7:59 PM  
To: kel@youtube.com  
Cc: chris@youtube.com  
Subject: Proposal from MPAA on Content Identification and Filtering

Hi Kelly, I hope that life is well. I am attaching below a revised proposal based on our last discussion as well as the RFI we discussed. I am traveling over the next two days, but would like to catch up and move things forward next week. Let me know what works best for you. Thanks and take care.

# **Schapiro Exhibit 139**

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From: "Rockwell, Nick" <Nick.Rockwell@mtvn.com>  
Date: Tue, 5 Dec 2006 15:19:26 -0500  
To: <v\_ikezoye@audiblemagic.com>, "Cahan, Adam" <Adam.Cahan@mtvn.com>, "Simon, Joe" <Joe.Simon@viacom.com>  
Cc: "Jim Schrempp \ (Jim Schrempp)" <j\_schrempp@audiblemagic.com>, "Jeremy Stern" <j\_stern@audiblemagic.com>, <chris@youtube.com>  
Subject: RE: Introduction

Hi Vance – would 3PM EST (12 PST) tomorrow work for you?

Nick

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From: Vance Ikezoye [mailto:v\_ikezoye@audiblemagic.com]  
Sent: Tuesday, December 05, 2006 2:42 PM  
To: Cahan, Adam; Simon, Joe; Rockwell, Nick  
Cc: Jim Schrempp (Jim Schrempp); Jeremy Stern; chris@youtube.com  
Subject: RE: Introduction

Adam,

Nice to meet you. I'll also be getting my VP of Engineering, Jim Schrempp, involved as well. I've also copied my VP of Bus Dev, Jeremy Stern.

Let us know what times work for you. We look forward to working with you.

Vance

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From: Cahan, Adam [mailto:Adam.Cahan@mtvn.com]  
Sent: Tuesday, December 05, 2006 11:09 AM  
To: chris@youtube.com; Ikezoye, Vance; Simon, Joe; Rockwell, Nick  
Subject: RE: Introduction

Chris - thanks for the intro.

Vance I've added Joe Simon our CTO and Nick Rockwell who heads our tech for digital media to the distribution.

Joe/Nick can I ask you to take the lead in setting up a call with Vance. I would like to join, so let's make it West Coast friendly if we can:)

Thanks - Adam

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From: Chris Maxcy [mailto:chris@youtube.com]  
Sent: Tue 12/5/2006 11:06 AM  
To: v\_ikezoye@audiblemagic.com; Cahan, Adam  
Subject: Introduction

Hi Vance,

I wanted to introduce you to Adam Cahan at Viacom. We are confidentially talking to Adam and his team about a partnership and wanted to get the two of you connected. Adam has a number of



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questions regarding how Viacom can get its content into the AM database. I'll let the two of you take it from here but please let me know if you'd like me to be involved in the conversations.

Best,

Chris

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Chris Maxcy

VP, Business Development

YouTube, Inc.

chris@youtube.com <mailto:chris@youtube.com>



[www.youtube.com](http://www.youtube.com)

# **Schapiro Exhibit 140**

**Matt Friese**

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**From:** Chris Maxcy [chris@youtube.com]  
**Sent:** Tuesday, April 04, 2006 1:47 PM  
**To:** 'Michael McTeigue'  
**Cc:** 'Jim Schrempp'; 'Vance Ikezoye'  
**Subject:** RE: YouTube Introduction

Hi Michael,

Good speaking with you too. I checked with the team here and we are available from 4-5pm on Thursday. If that time works for you, our offices are located at 71 E 3<sup>rd</sup> Ave, San Mateo (directly above Amicci's Pizza). Look forward to seeing you.

Best Regards,

Chris

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Chris Maxcy  
VP, Business Development  
YouTube, Inc.  
[chris@youtube.com](mailto:chris@youtube.com)

[www.youtube.com](http://www.youtube.com)

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**From:** Michael McTeigue [mailto:m\_mcteigue@audiblemagic.com]  
**Sent:** Tuesday, April 04, 2006 11:50 AM  
**To:** chris@youtube.com  
**Cc:** Jim Schrempp; Vance Ikezoye  
**Subject:** FW: YouTube Introduction

Hi Chris,

Good talking with you just now. Jim Schrempp, our VP of Engineering, and I can meet with you at your place on Thursday afternoon anytime after 2:30, and Friday is good all day.

Thanks,

Mike

Michael McTeigue  
Vice President, Business Development  
Audible Magic Corporation

[m\\_mcteigue@audiblemagic.com](mailto:m_mcteigue@audiblemagic.com)

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**From:** Chris Maxcy [mailto:chris@youtube.com]  
**Sent:** Tuesday, April 04, 2006 10:38 AM

7/21/2008

**To:** 'Vance Ikezoye'  
**Subject:** YouTube Introduction

Hi Vance,

George White at Warner Music forwarded your contact information to me. I head up business development for YouTube and would be interested in speaking with you or someone on your team about partnership opportunities between AudibleMagic and YouTube. More specifically, I'd like to explore whether your technology could help YouTube filter video content. I look forward to hearing from you.

Best Regards,

Chris

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Chris Maxcy  
VP, Business Development  
YouTube, Inc.  
[chris@youtube.com](mailto:chris@youtube.com)  
[REDACTED]

[www.youtube.com](http://www.youtube.com)

7/21/2008

# **Schapiro Exhibit 141**

Redacted at the request of Defendants pending a meet and confer and,  
if applicable, further action of the Court.