

Schapiro Exhibit 319

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

Schapiro Exhibit 320

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

Schapiro Exhibit 321

To: Fricklas, Michael <Michael.Fricklas@viacom.com>; Fricklas, Michael <Michael.Fricklas@viacom.com>
From: Kent Walker <kwalker@google.com>
Cc:
Bcc:
Received Date: 2007-04-30 20:58:14 GMT
Subject: Re: Spidering issue

Mike --

Thanks for the note. I can understand why you want to be extra careful given the pending litigation, but we agree with you that this type of spidering and downloading seems to be a fair use justified under the law, notwithstanding the general provisions of our terms of service.

We would ask that you not use (your email says simply "not make available") the resulting material and information for any other purpose than giving us notice of potentially infringing content. Also, we do reserve the right to reevaluate this arrangement down the road, for example if your operations were to start putting a significant strain on our system.

If possible, let us know what technologies you are considering, as we'd be happy to look at using them more widely (or to suggest better alternatives based on our knowledge of our systems).

As we discussed in LA, we'll be in touch in the next few weeks on some additional technical work we're doing in this area, and will look forward to moving things forward.

-- Kent

On 4/26/07, Fricklas, Michael wrote:

>
> Kent, as you requested, here's a quick summary of our issue.
>
> Without rehashing the case, Google's contention is that we are obligated
> to identify our content on YouTube and send takedown notices when we find
> infringing material (that is, if we want the infringing material removed
> from the site). Of course, we vigorously disagree with that. However,
> until Google begins to identify and take down infringing material on its
> own, we have found ourselves with the need to police the site and send
> takedown notices.
>
> We have identified several technologies that can make this much more
> efficient and effective. The technologies are necessary because
> user-selected keyword searches provide a poor matching mechanism and because
> Google restricts the number of search results returned at YouTube. However,
> in order to implement these technologies we are required to spider and, in
> many cases, download or stream, all of the available content on your site.
>
> On the face of it, this is inconsistent with YouTube's terms of use.
> Although we would have various defenses to such a claim, the simplest way to
> proceed for us is simply to have your agreement to go ahead. The agreement
> is simply that this spidering, downloading, and similar access may occur for
> the purpose of identifying infringing content. We would not make the
> material available for any purpose not directly related to that.
>
> I don't see any feasible alternative so long as YouTube has not

> implemented an effective filtering system.
>
> I trust that our access for this limited purpose is acceptable, but if you
> have any concerns, please let me know as soon as possible.
>
> I appreciated meeting you at the DRM conference and hope we can work
> together to minimize areas of disagreement.
>
> Mike
>

Schapiro Exhibit 322

From: nseet@auditudo.com
Date: Mon, 14 Jan 2008 13:49:23 -0500 (EST)
To: steve@auditudo.com
Subject: FW: Whitelist - Updated 1/14/08

please add

--

Sent via Webmail Mobile
Powered by www.webmail.us

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

From: "Phong V. Dinh" <phongd@baytsp.com>
Sent: Mon, 14 Jan 2008 10:37:03 -0800
To: steve@auditudo.com
Subject: FW: Whitelist - Updated 1/14/08

New Additions:

Protocol: YouTube

Username: foxfutvolley
Minkmomo
Menghsitsai
AlvinDanceSteps

Protocol: Dailymotion

Username: daninreallife

Protocol: Google Video

Username: rosenbaum.daniel@gmail.com

Protocol: MetaCafe

Username: Rancid696@aol.com

Protocol: Veoh

Username: daninreallife

Protocol: MetaCafe

Username: joel@lsellc.com

Daniel.Rosenbaum@colorado.edu
<mailto:Daniel.Rosenbaum@colorado.edu>

Protocol: Yahoo Video

Username: branden.driggers@yahoo.com

Phong Dinh

Client Services Manager, BayTSP Inc.

408.341.2300 (Main)

408.341.2316 (Direct)

408.341.2399 (Fax)

Schapiro Exhibit 323

From: "Morril, Mark" <Mark.Morril@viacom.com>
Date: Thu, 21 Jun 2007 17:13:58 -0400
To: "Pierre-Louis, Stanley" <Stanley.Pierre-Louis@viacom.com>, "Bell
, Alan - Paramount" <Alan_Bell@Paramount.com>, "Simon, Joe" <Joe
.Simon@viacom.com>
Subject: FW: Viacom

From: David Estrada [mailto:destrada@google.com]
Sent: Friday, June 15, 2007 6:32 PM
To: Morril, Mark
Subject: Fwd: Viacom

Mark, here is the fully executed agreement. This is the final word doc you sent me + the countersigned sig page. Note that I changed the date and document version number in the footer of the final word doc to match the already-signed sig page. It was good working with you on this. Have a nice weekend.

David

----- Forwarded message -----
From: Rachel Clafin <rclafin@youtube.com>
Date: Jun 15, 2007 11:47 AM
Subject: Viacom
To: David Estrada <destrada@google.com>

Viacom

--
Rachel Clafin
Legal Assistant
YouTube, LLC
1000 Cherry Ave, Suite 2
San Bruno, CA 94066
(650) 827-6151

List of attachments:
Content Verification Test Agreement - Viacom.pdf



CONTENT VERIFICATION TEST AGREEMENT

This Content Verification Test Agreement ("Agreement") is entered into as of ~~June 13, 2007~~ ("Effective Date") by Google Inc., a Delaware corporation with offices at 1600 Amphitheatre Parkway, Mountain View, CA, 94043, for itself and its subsidiaries and affiliates ("Google"), and Viacom Inc., a Delaware corporation with offices at 1515 Broadway, New York, New York 10036 ("Participant") on behalf of itself and its Affiliates, each individually a "Party" and collectively the "Parties". "Affiliate" with respect to either Party means the Party and any entity controlled by such Party where "control" is defined as the ownership of at least 50% of the equity or beneficial interests of such entity or the right to vote for or appoint a majority of the board of directors or other governing body of such entity.

1. **Test Overview.** The Parties wish to exchange information and content in order to conduct a test (the "Test") to analyze and evaluate Google's content verification technology as applied to Participant's content (the "Purpose"). To accomplish the Purpose, Google shall make available to Participant a test account on YouTube.com ("Test Account"), which Participant and its Affiliates may use solely to test and evaluate Google's content verification technology. Participant may deliver to Google Reference Video and Test Video to be used solely by Google for the Purpose. "Reference Video" means audiovisual material owned or controlled by Participant consisting of television shows, motion pictures, or music videos. "Test Video" means audiovisual material owned or controlled by Participant consisting of clips of audiovisual works that range between thirty seconds and ten minutes, and that may or may not match a portion of any Reference Video. Participant may deliver to Google between ten and fifty total hours of Reference Video. Participant will deliver Reference Video using a manual upload process similar to the upload process available at http://www.youtube.com/my_videos_upload. Alternatively, subject to agreement between the parties during the Term, Participant may deliver Reference Video via electronic delivery using Google's electronic delivery specifications. Participant will deliver Test Video using a manual upload process similar to the upload process made available at http://www.youtube.com/my_videos_upload. Google may modify the testing protocol and methodologies as may be required to accomplish the Purpose during the Term, provided that no such changes will modify the Terms of this Agreement without the prior written approval of Participant. Participant shall associate an identification number with each Reference Video (a "Reference Video ID") and each Test Video (a "Test Video ID"). At the conclusion of the Test, Participant shall report to Google which Test Video IDs were intended to match which Reference Video IDs, and shall provide information regarding any variables tested by Participant for each Test Video such as video resolution, audio on/off, mashups, alternative codecs, or other variables. Google shall report to Participant the results of the Test, each Test Video ID that matched a Reference Video ID, and the Test-Video IDs that did not match any Reference Video ID. Google and Participant shall make their respective technical representatives available to consult regarding the design and operation of Google's content verification

technology provided, however, that all nonpublic information disclosed by either party's technology representatives shall be deemed "Confidential Information" pursuant to paragraph 4 of this Agreement.

2. **Test Account.** The Test Account will be protected by a username and password. Participant and all Affiliates will be able to access the Test Account from up to ten IP addresses specified by Participant. The Test Account, Reference Videos and Test Videos will not be accessible to anyone except Google and those using the Participant username and password from a specified IP address. Participant may remove Reference Videos and Test Videos from the Test and the Test Account at any time in its sole discretion, subject only to delays caused by the technical methods of delivery and removal used by the Parties, and Google may limit or discontinue the use of the Test Account at any time if Google reasonably believes the Test Account is being used by an unauthorized party or in any manner that breaches this Agreement.

3. **Grant and Limitation of Rights.** Participant grants to Google a non-exclusive, nontransferable limited right and license, with no right to sublicense, during the Term to store, copy (including the right to make temporary cache and storage copies), internally distribute, technically modify or reformat, excerpt, analyze, create algorithms based on, and otherwise use the Reference Video and/or Test Video solely for the Purpose. Google will not use the Reference Video and/or Test Video for any purpose not expressly authorized hereunder. No reproduction or other use of the Reference Video and/or Test Video may be made by Google, in whole or in part, except as described above. Participant reserves all rights not expressly granted hereunder. Google agrees to maintain Participant's Test Video and Reference Video in a secure manner, and shall use the same degree of care, but no less than a reasonable degree of care, as Google uses with respect to its own confidential information. In particular, and without limiting this general duty, Google will not make the copies of the Reference Videos or Test Videos provided hereunder publicly accessible.

4. **Confidentiality.** Neither party will disclose the existence or terms of this Agreement to any third party, or issue any public announcement regarding the existence or terms of this Agreement, without the other party's Prior written agreement. All nonpublic information disclosed by Google to Participant in connection with the Test, including, without limitation, all data, methods, business plans, software, systems, security techniques, technology, know-how and results, is "Confidential Information" of Google. The titles, durations, numbers of files and clips, and other details pertaining to the Reference Video and Test Video delivered by Participant or its Affiliates to Google and all other nonpublic information disclosed by Participant to Google hereunder for the Test is "Confidential Information" of Participant. Participant will make commercially reasonable efforts not to disclose to Google any other non-public information in connection with this Agreement. Participant and Google may use the other party's Confidential Information only for the Purpose, sharing it only with those of its employees who

need to know it to accomplish the Purpose. Google and Participant will protect the other Party's Confidential Information with the same degree of care, but no less than a reasonable degree of care, as it uses with respect to its own confidential information. ~~Neither Participant nor Google will communicate the other Party's Confidential Information to a third party or the public. Without Google's and Participant's prior written agreement, neither Google nor Participant will make copies of documents or electronic materials containing the other Party's Confidential Information; or reverse engineer, disassemble, decompile, translate, or attempt to discover any prototypes, software, algorithms, processes, or code that embody the other Party's Confidential Information. For the avoidance of doubt, Google is permitted to make server copies of Reference Videos and Test Videos as necessary to conduct the Test. Except with respect to the terms and existence of this Agreement, this Agreement imposes no obligation upon Google or Participant with respect to the other Party's Confidential Information that: (i) a Party knew before receiving it from the other Party pursuant to this Agreement or the Test ; (ii) becomes publicly available through no fault of the other Party; (iii) is rightfully received by the other Party from a third party without a duty of confidentiality; or (iv) is independently developed by a the other Party without reference to the Google Confidential Information. If this Agreement or the Confidential Information of either Party is required to be produced by law, the noticed Party shall promptly notify the other Party (unless such notification is barred by law) and cooperate to obtain an appropriate protective order prior to disclosing any Confidential Information. Notwithstanding the foregoing, this Section shall have no effect whatsoever on Google's and/or Participants' discovery rights and/or obligations in *Viacom International, Inc. et al v. Youtube, Inc. et al.*, Case No. 1:07-cv-02103-LLS, filed March 13, 2007, and currently pending in the United States District Court for the Southern District of New York, and any related litigation ("The Lawsuit"), and nothing herein shall be cited as a defense to production of any relevant material in discovery in the Lawsuit provided however that Google and Participants agree that Confidential Information received hereunder shall be designated as confidential pursuant to an appropriate protective order entered therein.~~

5. **Intellectual Property Rights.** Other than the limited licenses expressly set forth herein, Google shall not acquire any intellectual property rights from Participant in the Reference Video or the Test Video. Participant shall not acquire any intellectual property rights from Google in connection with this Agreement. Google shall not be limited, restricted or obligated in any way in its use of ideas or suggestions provided by Participant in connection with the Agreement.

6. **DISCLAIMER OF WARRANTIES.** ALL CONFIDENTIAL INFORMATION, CONTENT VERIFICATION TECHNOLOGY, REFERENCE VIDEO, AND TEST VIDEO PROVIDED HEREUNDER IS PROVIDED "AS IS". THE PARTIES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES AS TO THE QUALITY OR PERFORMANCE OF THE INFORMATION, TECHNOLOGY AND/OR CONTENT PROVIDED AND

WARRANTIES THAT INFORMATION PROVIDED WILL BE ACCURATE OR RELIABLE.

7. LIMITATION OF LIABILITY. EXCEPT WITH RESPECT TO ANY BREACH OF CONFIDENTIALITY UNDER SECTION 4, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, LIQUIDATED, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OR PENALTIES ARISING FROM THIS AGREEMENT OR ANY BREACH THEREOF. THIS SECTION SHALL HAVE NO EFFECT WHATSOEVER ON ANY LIABILITY ARISING FROM THE LAWSUIT.

8. Term. This Agreement will commence on the Effective Date and continue for six months, unless terminated earlier by either Party, or extended by mutual agreement (the "Term"). Either Party may terminate this Agreement at any time by providing not less than thirty days advance written notice to the other Party. Except as provided in the final sentence of this section, within fifteen days after any termination or expiration of this Agreement, Participant shall return to Google (if Google so requests) or destroy all Confidential Information of Google, and Google shall return to Participant or destroy (if Participant requests) all Reference Video, Test Video and Confidential Information of Participant. The provisions of Sections 4, 5, 6, 7, 8, and 9 shall survive the expiration or termination of this Agreement. This Section shall have no effect whatsoever on Google's and/or Participant's duty to preserve all evidence relevant to The Lawsuit.

9. Miscellaneous. The Parties are independent contractors, and nothing in this Agreement shall create an agency, partnership, or joint venture. Neither Party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other Party. This Agreement sets forth the entire agreement between the Parties and supersedes any prior or collateral agreements with respect to its subject matter. This Agreement may be amended only in a writing signed by both Parties. Any notices made under this Agreement shall be in writing and sent to the other Party at the address listed in the first paragraph of this Agreement to the attention of the Legal Department. This Agreement shall be governed by the laws of the State of California (excluding California's choice of law rules) and applicable federal laws. Any litigation hereunder shall be brought in any state or federal court of competent jurisdiction in Santa Clara County, California; the Parties consent to the venue and exclusive personal jurisdiction of, such courts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. This Section shall have no effect whatsoever on the forum, venue, personal jurisdiction, or choice of law applicable in The Lawsuit.

10. Effect of Agreement on Lawsuit. The terms of this Agreement including Participant's participation in the Test and individual test results relating to

participant's Test Account, shall not be cited by any Party in the Lawsuit as an admission of or a waiver by the other Party.

Google Inc.

BY: Zahava Lev

NAME: Zahava Levine

TITLE: Associate General
counsel

Participant: Viacom Inc.

BY: Mark C. Morril

NAME: Mark C. Morril

TITLE: Senior Vice President

Schapiro Exhibit 324

To: 'PLines@fapl.co.uk' <PLines@fapl.co.uk>
From: Patrick Walker </O=GOOGLE/OU=FIRST ADMINISTRATIVE
GROUP/CN=RECIPIENTS/CN=PJWALKER>
Cc:
Bcc:
Received Date: 2007-07-13 16:56:30 GMT
Subject: YouTube and EPL

Hi Phil,

I'd like to re-open direct discussions with you again, particularly in relation to demonstration of our developing tools for content management on YouTube.

Would also be great to get your views on how we may work with those who have licensed the EPL PC and mobile rights, as well as re-open discussions regarding your deep archive.

Might you have some time on Monday or Tuesday of next week to discuss? We could also come in to show you a demo of some of our new tools.

Best,
Patrick

Patrick Walker
Head of Video Partnerships
Google/YouTube EMEA


Schapiro Exhibit 325

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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

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

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

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

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

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

---o0o---

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

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

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

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A P P E A R A N C E S

For the Plaintiff Viacom:

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

For the Plaintiffs The Football Association Premier
League Limited:

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

For the Defendants Google and YouTube:

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

ALSO PRESENT: ADAM BAREA, Counsel for Google
ARMANDO CARRASCO, Videographer

1 9:54 A. Maximum dollar amount.

2 9:54 Q. Okay. Do you know what the maximum dollar
3 amount to which YouTube has ever indemnified a
4 partner?

5 9:54 A. I don't.

6 9:54 Q. Do you know approximately order of
7 magnitude?

8 9:54 A. No, I don't.

9 9:54 Q. That's something we could find out if we
10 looked at the agreements themselves?

11 9:55 A. Yes, I imagine that's true.

12 9:55 Q. Do you know roughly how many of the
13 partnership agreements have indemnification
14 provisions of that nature?

15 9:55 MS. REES: Same objection, outside the
16 scope of the notice.

17 9:55 THE WITNESS: I believe it's a very small
18 number.

19 9:55 Q. Around five?

20 9:55 A. I don't know. It would be an exception.

21 9:55 Q. I'd like to change gears for a bit and ask
22 about a different topic.

23 9:55 A. Mm-hmm.

24 9:55 Q. I'd like to ask some questions about how
25 content gets syndicated to partners in terms of how

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

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

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

9 9:56 A. Yes.

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

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

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

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

18 9:56 Q. Was that Verizon?

19 9:56 A. Yes.

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

22 9:56 A. I believe, yes.

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

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

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

2 9:57 A. I don't know for sure. I believe it

3 was -- I don't know for sure. I can -- I can give

4 you my sense, but I can't say authoritatively.

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

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

7 months.

8 9:57 Q. Okay. At that point -- at some point --

9 sorry strike that. At some point Verizon began

10 accessing videos hosted on YouTube servers?

11 9:57 A. Yes.

12 9:57 Q. And are there any partners other than

13 Verizon to whom YouTube delivered copies of the

14 video for syndication?

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

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

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

18 9:58 Q. Roughly how many videos did YouTube

19 syndicate to Verizon?

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

21 vague as to syndicate.

22 9:58 MR. PLATZER: That's a fair -- that's a

23 fair objection. Let me try to rephrase the

24 question.

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

1 time during which YouTube syndicated videos to
2 Verizon by supplying Verizon with copies of the
3 videos, approximately how many videos did YouTube
4 provide to Verizon?

5 9:58 A. I would estimate the cumulative total at
6 about 2000.

7 9:59 Q. The standard procedure that you described
8 earlier which is that videos remain posted on
9 YouTube servers that are rendered by the partner,
10 that's a fair characterization of how it usually
11 works?

12 9:59 MS. REES: Objection, vague as to render.

13 9:59 THE WITNESS: Yes.

14 9:59 MR. PLATZER: Q. Does that procedure
15 require YouTube to make the videos available in
16 codecs other than flash?

17 9:59 A. Yeah. Flash isn't really a codec, but it
18 requires us to make the video available in multiple
19 formats.

20 10:00 Q. What formats has YouTube over time used to
21 make videos available for syndication partners?

22 10:00 A. The details get pretty technical, but in a
23 variety of different fidelities, different sizes,
24 different canvas sizes, so pixel dimensions, for
25 example, and a variety of different degrees of

1 compression for relatively faster or relatively
2 slower Internet connections.

3 10:01 Q. Let's unpath that and talk about those one
4 at a time. You mentioned first variety of different
5 fidelities.

6 10:01 A. Uh-huh.

7 10:01 Q. Can you explain what that means?

8 10:01 A. Yes. So some devices like a phone, have a
9 very, very small screen. So you need to deliver the
10 YouTube service in a way that it can be rendered on
11 that very small screen in relatively low fidelity.
12 Whereas in contrast, some PCs have a very large
13 screen and a very powerful CPU, so they are capable
14 of handling more data and rendering a video in
15 higher fidelity.

16 10:01 So in order to allow the YouTube service
17 to be accessed over the Internet by a number of
18 different devices, we make them available in
19 different fidelities.

20 10:01 Q. Okay. So YouTube makes multiple copies of
21 the videos that it syndicates each in a different
22 fidelity?

23 10:02 A. Yes.

24 10:02 Q. Okay. How many different fidelities has
25 YouTube used over time to make its videos available

Schapiro Exhibit 326

From: Mitchell, Sono <Sono.Mitchell@comedycentral.com>
Date: Tue, 17 Apr 2007 09:52:17 -0400
To: Moran, Catherine <Catherine.Moran@comedycentral.com>, Steele, Don <Don.Steele@comedycentral.com>
Cc: Marks, Neil <neil.marks@comedycentral.com>
Subject: FW: 'lil bush

Attached is the marketing recap from Amp'd.

Thanks, Sono

From: Joanna Pitt [mailto:JPitt@ampdmobile.com]
Sent: Tuesday, April 17, 2007 1:54 AM
To: Mitchell, Sono
Cc: Rosenstein, Shira
Subject: RE: 'lil bush

Let me know if you have any questions or want to see examples of things.

Brand channel is live on the web (we'll be updating soon...)

<http://ampdlive.ampd.com/WhatsHot/AmpdOriginals/LilBush/lilbush.php>

all You Tube, Break stuff will remain live; all episodes will remain on the handset as well.

Thanks,

Joanna

From: Mitchell, Sono [mailto:Sono.Mitchell@comedycentral.com]
Sent: Friday, April 13, 2007 2:33 PM
To: Joanna Pitt
Cc: Rosenstein, Shira
Subject: RE: 'lil bush

Hi Joanna,

Thanks for the info, do you have a one sheet on what you guys did the first time around per our conference call last week?

Thanks, Sono

From: Joanna Pitt [mailto:JPitt@ampdmobile.com]
Sent: Wednesday, April 11, 2007 4:46 PM
To: Rosenstein, Shira
Cc: Mitchell, Sono
Subject: RE: 'lil bush

Am working on larger plan (and more formal doc..) but in the meantime –

Lil' Bush is featured in print collateral/retail signage for our brand campaign, I Saw It on Amp'd and our

main promotional campaign, End the Boredom. Refreshed materials will hit retail late May/early June.

Also at retail, Amp'd has a video loop that runs in the display fixture; next version is changing out for same timeframe (late May/early June) and we're working to get a new teaser promo edited in.

Online – banner campaign on Ampd.com and third-party sites, including ComedyCentral.com is in the works.

Lilbush.com – we're going to update the site w/new copy and new teaser promo. I don't know what the linking opps are but I'd like to put a Comedy Central logo and link back to the Lil' Bush page on your site – our builds are somewhat tricky so I'll get back to you on whether this is viable.

* Our Lil Bush episodes on YouTube link back to this microsite.

That is sort of it for the moment. I'll send more details as things move forward in the next couple of weeks.. Let me know if you have any questions.

Thanks.

Joanna

<mailto:shira.rosenstein@mtvn.com>

List of attachments:
Lil Bush 2006.ppt

Lil' Bush Season 1 Overview

April 16, 2007

OVERVIEW

- Lil' Bush: Resident of the United States launched on Amp'd Mobile on September 1, 2006
- 6 episodes and "Making of" video plus Ringtones and Wallpapers were created exclusively for Amp'd Mobile
- Initial marketing campaign began mid-August in advance of the show launch
 - Microsite
 - Teaser promos for the handset and website
- Since its launch in 2006, Lil' Bush continues to be an integral component of promotions and marketing of Amp'd Mobile Original Programming

Page 2

MARKETING SUPPORT

ONLINE

- Microsite **www.lilbush.com**
 - 2 Episodes, Teaser Promos, Behind the Scenes video, Donick Cary interviews
- Ampd.com banners
 - Home page and Amp'd Live
- 3rd Party online media
 - Content sites – Break.com, The Onion, Comedy Central, College Humor
 - Banners, video
- Viral
 - YouTube/Break.com - 3 episodes & "Making of" video
 - MySpace – seeded on friends of Amp'd Mobile personal pages

HANDSET

- Home, What's Hot Promos
- Ringtones
- Wallpapers

Page 3

MARKETING SUPPORT

NEWSLETTER

- September, October

MAGAZINE

- Fall '06 feature article
- Spring '07 inclusion

TEXT MESSAGE

- Blast to Amp'd customer base at launch

PR

- Press Release 9/1/06
- New York Times article 9/11/06
- Comedy Central release 12/06
- Lil' Bush T-shirts distributed to Amp'd team and Comedy Central

RETAIL (continuing in 2007)

- Video Loop
- I Saw it on Amp'd creative
- End the Boredom creative
- Amp'd Live brochure
- Handset Packaging

Page 4

Schapiro Exhibit 327

From: Joanna Pitt <JPitt@ampdmobile.com>
Date: Mon, 23 Apr 2007 10:30:52 -0700
To: Steele, Don <Don.Steele@comedycentral.com>
Subject: RE: Lil Bush

Great to meet you too! I was emailing Shira about setting up a call to talk about marketing; and I know our PR director wants to get in touch with the CC PR team too.. will try for tomorrow or Weds to get us all on the phone.

Regarding the episodes, in April, Matt Butler in our production department sent Digibetas of all the episodes to Debbie Kirsh/Val Boreland. They are in post-production dept at Comedy.

If you can't find the tapes, then let me know and we can send you a DVD.

Thanks,

Joanna

From: Steele, Don [mailto:Don.Steele@comedycentral.com]
Sent: Monday, April 23, 2007 9:33 AM
To: Joanna Pitt
Subject: Lil Bush

Hey Joanna,

Hope this finds you well. It was very nice meeting you at lunch a few weeks ago.

I have a question regarding the first episodes of Lil Bush, some of our creative people would like to see all of them if possible, not just the two that are on youtube and other viral players.

Are they anywhere we could watch them?

Please let me know.

Schapiro Exhibit 328

Subject: FW: Comedy Central's Lil' Bush
From: "Hallie, Michelena" <EX:/O=VIACOM/OU=CORPUSA/CN=RECIPIENTS/CN=HALLIEM>
To: West, Joella
Cc: Date: Tue, 19 Jun 2007 18:44:27 +0000

Do you know of any authorized uploads on youtube of this one? I assume the Amp'd one is authorized?

From: Sarah Cruz [mailto:sarac@baytsp.com]
Sent: Tuesday, June 19, 2007 2:37 PM
To: Hallie, Michelena
Cc: Solow, Warren; Sarah Cruz; Eric Antze
Subject: Comedy Central's Lil' Bush

Michelena,

We have enabled and are tracking Comedy Central's "Lil Bush" due to its premier on June 13, 2007.
Is there anyone authorized to post this content (such as Amp'd Mobile <http://www.youtube.com/watch?v=YYeJEFa-xCA>)?

Thank You,

Sarah

.....
Sarah Cruz
Client Services Manager
BayTSP, Inc.
sarahc@baytsp.com
AIM Handle: sarahfaithcruz
408.341.2300
.....

Schapiro Exhibit 329

From: Spander, Debbie <Debbie.Spander@comedycentral.com>
Date: Tue, 19 Jun 2007 18:12:52 -0700
To: Flannigan, Erik <Erik.Flannigan@mtvstaff.com>
Subject: FW: Comedy Central's Lil' Bush

Erik

Do you know if anyone in your department authorized the upload of Lil Bush episodes to You Tube?
Amp'd Mobile does not have the right to do so.

Thanks very much

Best,

Debbie
Debbie Spander
Vice President
Business & Legal Affairs
Comedy Central
2049 Century Park East
Suite 4000
Los Angeles, CA 90067
310-407-4775
201-330-3870 fax
Debbie.Spander@Comedycentral.com

From: West, Joella
Sent: Tuesday, June 19, 2007 4:14 PM
To: [REDACTED]
Subject: Fw: Comedy Central's Lil' Bush

Can you please double check. Eric Flanagan would know if we did this (not likely). I can't remember if
Amp'd has the right to post our episodes.

Thanks

Joella

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

From: Hallie, Michelena
To: West, Joella
Sent: Tue Jun 19 11:44:27 2007
Subject: FW: Comedy Central's Lil' Bush

Do you know of any authorized uploads on youtube of this one? I assume the Amp'd one is authorized?

From: Sarah Cruz [mailto:sarac@baytsp.com]
Sent: Tuesday, June 19, 2007 2:37 PM
To: Hallie, Michelena
Cc: Solow, Warren; Sarah Cruz; Eric Antze
Subject: Comedy Central's Lil' Bush

Michelena,

We have enabled and are tracking Comedy Central's "Lil Bush" due to its premier on June 13, 2007.
Is there anyone authorized to post this content (such as Amp'd Mobile <http://www.youtube.com/watch?v=YYeJEFa-xCA>)?

Thank You,

Sarah

.....
Sarah Cruz
Client Services Manager
BayTSP, Inc.
sarahc@baytsp.com
AIM Handle: sarahfaithcruz
408.341.2300
.....

Schapiro Exhibit 330

From: Spander, Debbie [Debbie.Spander@comedycentral.com]
Sent: Wednesday, June 20, 2007 5:51 PM
To: Michelena.hallie@mtvn.com; Sarah Cruz
Cc: Solow, Warren; Eric Antze
Subject: [html] RE: Comedy Central's Lil' Bush

thanks

From: Hallie, Michelena
Sent: Wednesday, June 20, 2007 10:39 AM
To: Sarah Cruz
Cc: Solow, Warren; Eric Antze; Spander, Debbie
Subject: RE: Comedy Central's Lil' Bush

This was not authorized, and no other uploads of shows were authorized. I'm copying Debbie Spander of Comedy in case you have additional questions.

From: Sarah Cruz [mailto:sarac@baytsp.com]
Sent: Tuesday, June 19, 2007 2:37 PM
To: Hallie, Michelena
Cc: Solow, Warren; Sarah Cruz; Eric Antze
Subject: Comedy Central's Lil' Bush

Michelena,

We have enabled and are tracking Comedy Central's "Lil Bush" due to its premier on June 13, 2007.
Is there anyone authorized to post this content (such as Amp'd Mobile <http://www.youtube.com/watch?v=YYeJEFa-xCA>)?

Thank You,

Sarah

.....
Sarah Cruz
Client Services Manager
BayTSP, Inc.
sarahc@baytsp.com
AIM Handle: sarahfaithcruz
408.341.2300
.....

6/13/2008

HIGHLY CONFIDENTIAL

BAYTSP 004369131

Schapiro Exhibit 331

From: Grant Johmann <grant@wiredset.com>
Date: Wed, 28 Feb 2007 19:00:23 -0500
To: Lam, Cuong <Cuong.Lam@mtvstaff.com>
Cc: Jon Creech <jon@wiredset.com>, Mark Ghuneim <mark@wiredset.com>
Subject: Wiredset - Human Giant recap

Hi Cuong,

Please find attached our marketing recap for Human Giant. We were brought on the project on 2/8 and began seeding the Illusionators clip. Per Todd, we were instructed to seed clips to build up momentum until the premiere and then market the show week by week like we have on many others for his group.

Let's talk tomorrow when convenient to talk next steps on Giant.

Best,

Grant

Synopsis:

Initial Outreach

- * Syndicate Illusionators clip to top influencers and online video channels
- o Massive results – over 770,000 views
- * Stay clear of site list that Human Giant deals with directly

Online Marketing

* Placement has been achieved on some of the top destinations for music and lifestyle. While Human Giant is reaching out to some of the bigger destinations themselves, we also have great relationship with the same sites/blogs to help facilitate any placement.

- o Stereogum
- o MySpace
- o Brooklyn Vegan
- o Gothamist
- o Productshop NYC
- o Culture Bully
- o College Humor
- o Best Week Ever

Online Video Channels

- * Illusionators Clip - Total Views: 770,000+
- o Major drivers: YouTube, MySpace, MetaCafe, DailyMotion
- o Human Giant posted to YouTube, MySpace, and Daily Motion. Wiredset to stay clear.

o Total Views from non-Human Giant uploads: 24,460

--

Grant Johmann, VP of Marketing
Wiredset * 425 West 13th Street Suite 504

NY NY 10014

tel: 212.242.3400 * fax: 212.242.3464

W3: wiredset.com * e: grant@wiredset.com

LinkedIn: <http://www.linkedin.com/in/johmann>

R.S.V.P. to Help <<http://rsvptohelp.org/>>

The Hills <<http://thehills.mtv.com>>

Dropping <<http://myspace.com/droppingdaylight>> Daylight

Nozin <<http://nozin.com/>>

--

List of attachments:

human_giant_recap_2_28_07.pdf



425 W 13th St
Suite 504
NYC NY 10014

T 212 242 3400
F 212 242 3464

www.wiredset.com



MTV

Human Giant

Digital Marketing Recap: February 28, 2007

Wiredset Online Marketing Start Date: February 8, 2007

Account Executive: Jon Creech / Email: jon@wiredset.com / Phone: (212)-242-3400

Synopsis:

Initial Outreach

- Syndicate Illusionators clip to top influencers and online video channels
 - Massive results – over 770,000 views
- Stay clear of site list that Human Giant deals with directly

Online Marketing

- Placement has been achieved on some of the top destinations for music and lifestyle. While Human Giant is reaching out to some of the bigger destinations themselves, we also have great relationship with the same sites/blogs to help facilitate any placement.
 - Stereogum
 - MySpace
 - Brooklyn Vegan
 - Gothamist
 - Productshop NYC
 - Culture Bully
 - College Humor
 - Best Week Ever

Online Video Channels

- **Illusionators Clip - Total Views: 770,000+**
 - Major drivers: YouTube, MySpace, MetaCafe, DailyMotion
 - Human Giant posted to YouTube, MySpace, and Daily Motion. Wiredset to stay clear.
 - Total Views from non-Human Giant uploads: 24,460

Please see below for Wiredset's full update and next steps.

Private and Confidential

- 1 -



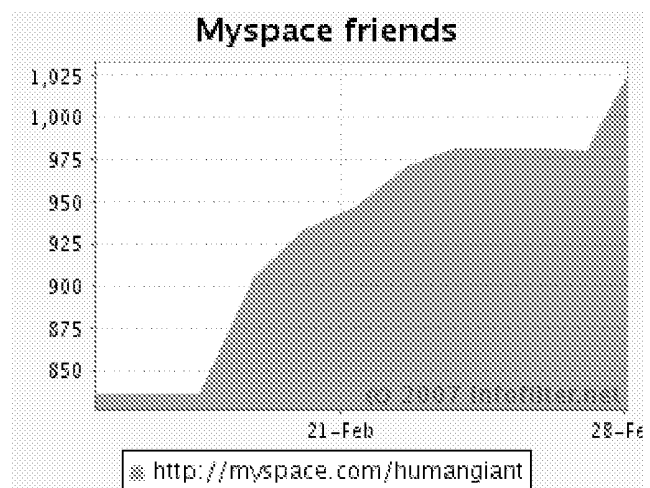
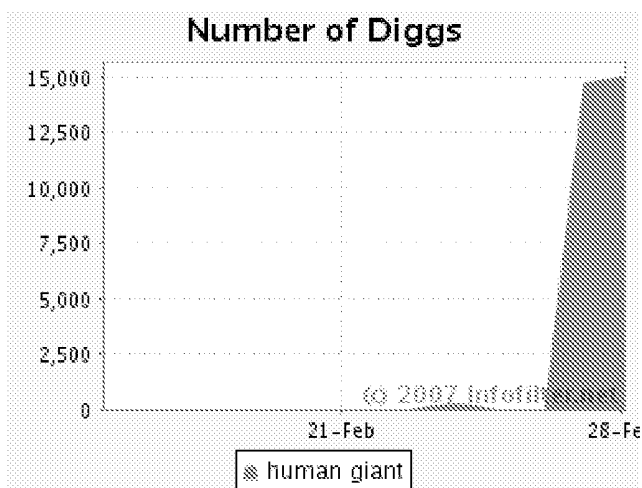
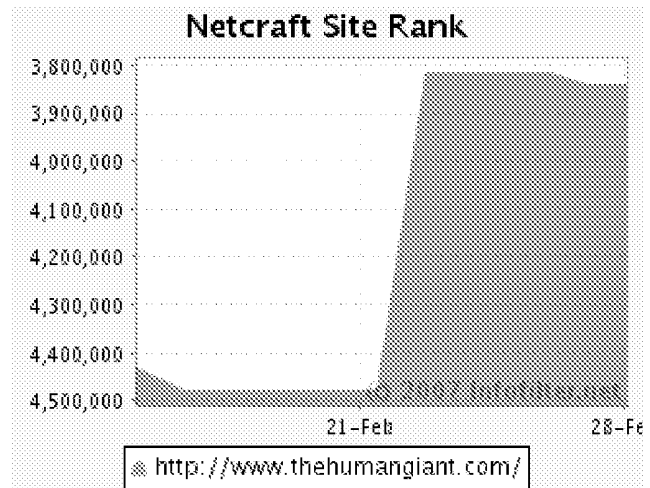
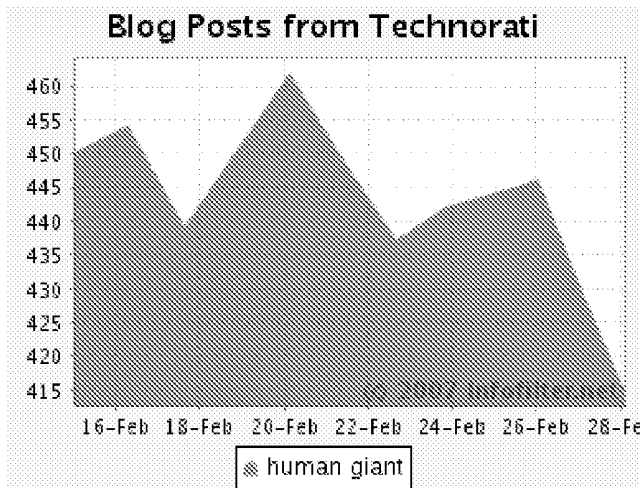
The report below is split into the following parts segmented by initiative:

- **InfoFilter™ Intelligence**
- **Third Party and Blog Marketing**
- **Online Video Channels**
- **Web 2.0 Marketing**

Digital Maketing Overview:

InfoFilter™ Intelligence

Note - InfoFilter™ is an intelligence tool we built that provides real time analytics for your artist. We have been tracking Human Giant in InfoFilter and below is a sampling.





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Third Party Sites and Blogs:

Sites Serviced/Communicating With	45
News Items (Live/Confirmed)	12

New Items Marked in Red

- Productshop NYC -- (http://www.productshopnyc.com/htdocs/index.php?option=com_content&task=view&id=2005&Itemid=9999)
 - Site Traffic -- 100K uniques/month
 - Live (News Item) -- Posted Illusionators clip
- Culture Bully -- (<http://www.culturebully.com/>)
 - Site Traffic -- 40K uniques/month
 - Live (News Item) -- Posted Camping Weekend clip (<http://www.culturebully.com/archives/2880>)
 - Live (News Item) -- Posted Illusionators clip (<http://www.culturebully.com/archives/2698>)
- The Test Pilot -- (<http://thetestpilot.blogspot.com/2007/02/human-giant.html>)
 - Site Traffic -- 35K uniques/month
 - Live (News Item) -- Posted Illusionators clip
- Synthesis -- (<http://www.synthesismagazine.net/2007/02/07/human-giant-on-some-shyt/>)
 - Live (News Item) -- Posted Illusionators clip
- Independentmusic -- (<http://independentmusic.blogspot.com/2007/02/press-releases-mayday-paradeshadows.html>)
 - Site Traffic -- 15K uniques/month
 - Live (News Item) -- Posted Illusionators clip
- Metro Distortion -- (<http://metrodistortion.blogspot.com/2007/02/too-great-not-to-share-illusionators.html>)
 - Live (News Item) -- Posted Illusionators clip
- Captain's Dead -- (<http://www.captainsdead.com/2007/02/27/you-ever-blop-your-balogna/>)
 - Live (News Item) -- Posted Illusionators clip

Placement Facilitated by Human Giant:

- College Humor -- (<http://www.collegehumor.com/video:1740560/>)
 - Live (News Item) -- Posted Illusionators clip
- Stereogum -- (<http://www.stereogum.com/archives/004542.html>)
 - Site Traffic -- 900K uniques/month
 - Live (News Item) -- Posted Illusionators clip



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- Brooklyn Vegan -- (http://www.brooklynvegan.com/archives/2007/02/klaus_kinskis_c_5.html)
 - Site Traffic -- 700K uniques/month
 - Live (News Item) -- Posted Illusionators clip
- Gothamist -- (http://www.gothamist.com/archives/2007/02/07/human_giant.php)
 - Live (News Item) -- Posted Illusionators clip

Online Video Channels:

Objective: Syndicate Human Giant clip across the online video channels to increase awareness.

- iFilm - <http://www.ifilm.com/>
 - LIVE (Video) -- Total views = 91
 - * Season Trailer -- 91 views
 - **Tagging (Complete)** - Attached "tags" or keywords for search
- Metacafe - <http://www.metacafe.com/>
 - LIVE (Video) -- Total views = 20,194
 - * Season Trailer -- 20,194 views
 - **Tagging (Complete)** - Attached "tags" or keywords for search
- MySpace - <http://www.myspace.com/>
 - LIVE (Video) -- Total views = 185
 - * Season Trailer -- 185 views
 - **Tagging (Complete)** - Attached "tags" or keywords for search
- Google Video - <http://www.video.google.com/>
 - LIVE (Video) -- Total views = 174
 - * Season Trailer -- 174 views
 - **Tagging (Complete)** - Attached "tags" or keywords for search
- Yahoo Video - <http://www.video.yahoo.com/>
 - LIVE (Video) -- Total views = 18
 - * Season Trailer -- 18 views
 - **Tagging (Complete)** - Attached "tags" or keywords for search
- VSocial - <http://www.vsocial.com/>
 - LIVE (Video) -- Total views = 138
 - * Season Trailer -- 138 views
 - **Tagging (Complete)** - Attached "tags" or keywords for search
- Revver - <http://www.revver.com/>
 - LIVE (Video) -- Total views = 13
 - * Season Trailer -- 13 views
 - **Tagging (Complete)** - Attached "tags" or keywords for search
- Grouper - <http://www.grouper.com/>
 - LIVE (Video) -- Total views = 130
 - * Season Trailer -- 130 views
 - **Tagging (Complete)** - Attached "tags" or keywords for search



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- **Livevideo** - <http://www.grouper.com/>
 - LIVE (Video) – Total views = 36
 - * Season Trailer – 36 views**Tagging (Complete)** - Attached “tags” or keywords for search

- **Clipshack** - <http://www.clipshack.com/>
 - LIVE (Video) – Total views = 3
 - * Season Trailer – 3 views**Tagging (Complete)** - Attached “tags” or keywords for search

- **Bolt** - <http://www.bolt.com/>
 - LIVE (Video) – Total views = 130
 - * Season Trailer – 130 views**Tagging (Complete)** - Attached “tags” or keywords for search

- **Broadcaster** - <http://www.broadcaster.com/>
 - LIVE (Video) – Total views = 130
 - * Season Trailer – 130 views**Tagging (Complete)** - Attached “tags” or keywords for search

- **Sharkle** - <http://www.sharkle.com/>
 - LIVE (Video) – Total views = 72
 - * Season Trailer – 72 views**Tagging (Complete)** - Attached “tags” or keywords for search

- **Vidilife** - <http://www.vidilife.com/>
 - LIVE (Video) – Total views = 82
 - * Season Trailer – 82 views**Tagging (Complete)** - Attached “tags” or keywords for search

- **AOL Video** - <http://www.video.aol.com/>
 - LIVE (Video) – Total views = 39
 - * Season Trailer – 39 views**Tagging (Complete)** - Attached “tags” or keywords for search

- **LiveLeak** - <http://www.liveleak.com/>
 - LIVE (Video) – Total views = 2,098
 - * Season Trailer – 2,098 views**Tagging (Complete)** - Attached “tags” or keywords for search

- **Break** - <http://www.break.com/>
 - LIVE (Video) – Total views = 927
 - * Season Trailer – 927 views**Tagging (Complete)** - Attached “tags” or keywords for search

Web 2.0 Marketing:

Objective: Make Human Giant assets and web links accessible on Flickr and Delicious to maximize visibility in Web. 2.0 search and their respective sites.

- **Flickr** - <http://www.flickr.com>

- **Delicious** – <http://del.icio.us>



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Digital Marketing Next Steps:

- Service the new clip of "Camping Weekend" and all future ones to our contacts
- Increase awareness of series premiere on April 5th
- Achieve featured placement for the Human Giant series on video channels, websites, and blogs
- Set up creative features on appropriate destinations – contests, interviews, etc

Schapiro Exhibit 332

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

Schapiro Exhibit 333

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

Schapiro Exhibit 334

0230

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
- - - - -x
VIACOM INTERNATIONAL INC., COMEDY
PARTNERS, COUNTRY MUSIC TELEVISION, INC.,
PARAMOUNT PICTURES CORPORATION, and BLACK
ENTERTAINMENT TELEVISION, LLC,

Plaintiffs,

v. Case No.

07 CV 2103

YOUTUBE, INC., YOUTUBE, LLC, and
GOOGLE INC.,

Defendants.
- - - - -x

CONTINUED DEPOSITION of WARREN SOLOW,
taken by the Defendants, on Wednesday,
September 19, 2007 at 9:33 a.m., pursuant
to Notice, at the offices of Wilson,
Sonsini, Goodrich & Rosati, 1301 Avenue of
the Americas, New York, New York, before
Marie Foley, a Registered Professional
Reporter, Certified Realtime Reporter and
Notary Public within and for the State of
New York.

9/19/2007 Solow, Warren (ESI Day 2)

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

3 JENNER & BLOCK

4 Attorneys for Plaintiffs

5 919 Third Avenue

6 37th Floor

7 New York, New York 10022-3908

8 (212) 891-1600

9 F: (212) 891-1699

10 skohlmann@jenner.com

11 BY: SUSAN J. KOHLMANN, ESQ.
12
13

14 FAEGRE & BENSON, LLP

15 Attorneys for Defendants

16 2200 Wells Fargo Center

17 90 South Seventh Street

18 Minneapolis, Minnesota 55402-3901

19 (612) 766-7000

20 F: (612) 766-1600

21 jhinderaker@faegre.com

22 BY: JOHN H. HINDERAKER, ESQ.
23
24
25

9/19/2007 Solow, Warren (ESI Day 2)

1 BERNSTEIN, LITOWITZ, BERGER & GROSSMAN, LLP
2 Attorneys for Premier League and
3 Bourne Music
4 1285 Avenue of the Americas
5 New York, New York 10019
6 (212) 554-1467
7 F: (212) 554-1444
8 erick@blbglaw.com
9 BY: ERIC T. KANEFSKY, ESQ.

10
11

Also Present:

12
13 DAVID N. YERICH, ESQ., Faegre & Benson
14 STANLEY PIERRE-LOUIS, ESQ., Viacom

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1 issues?

2 A. Other than human moderation and the
3 AM filter, I don't believe so.

4 Q. Can you think of any other data
5 fields in the database that contains
6 information about these user uploaded videos?

7 A. No.

8 MR. HINDERAKER: This would
9 probably be a good time to take a
10 break and take a minute to organize my
11 next.

12 (Recess was taken.)

13 BY MR. HINDERAKER:

14 Q. Let's take a look at question 22,
15 please, in the notice, topic 22. It says,
16 "Any databases or similar systems used by
17 Viacom to store, index or maintain
18 information, including date, titles, honors,
19 responses, tags, description, duration,
20 rating, view count, comments, et cetera about
21 videos, including, but not limited to,
22 content, available or previously available
23 through any Viacom online properties." Then
24 some specifications about that database.

25 Now, with respect to the database

1 associated with Spike TV, which we've been
2 talking about before the break, is there any
3 additional information that you could offer
4 that would be responsive to that topic number
5 22?

6 A. Not that I can recall.

7 Q. Another Web site that I believe is
8 operated by Viacom is Atom something.

9 Do you know what the name of that
10 site is?

11 A. Atom Entertainment has two sites.

12 Q. What are the two sites?

13 A. I believe one is called Atom Films
14 and one is called Atom Uploads.

15 Q. Are they part of MTVN?

16 A. Yes.

17 Q. I'm looking here at Atom Uploads,
18 and as you can see, that's another site.

19 It's a different format and has some
20 different features, but it's another site
21 where users can upload videos, and they
22 appear on the Atom Uploads sites; is that
23 right?

24 A. Yes.

25 Q. Are you generally familiar with the

1 Atom Uploads site?

2 A. In a very basic sense.

3 Q. In preparation for your testimony
4 here today, did you go out and try to gather
5 any information about the Atom Uploads site
6 and thousand works?

7 A. Yes.

8 Q. How did you do that?

9 A. I spoke to counsel. I reflected on
10 my previous interactions with Atom
11 Entertainment personnel. I spoke to
12 personnel at Atom, and I caused others to
13 speak to people at Atom.

14 Q. What did you learn from that
15 investigation?

16 A. That my previous understanding of
17 Atom was accurate.

18 Q. In what respects?

19 A. That information that I previously
20 held was confirmed.

21 Q. What sort of information?

22 A. Information concerning the function
23 of Atom Entertainment's Web sites.

24 Q. How they function, you mean?

25 A. Yes.

Schapiro Exhibit 335

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., COMEDY)
 PARTNERS, COUNTRY MUSIC)
 TELEVISION, INC., PARAMOUNT)
 PICTURES CORPORATION, and BLACK)
 ENTERTAINMENT TELEVISION LLC,)
)
 Plaintiffs,)
 vs.) Case No.
 YOUTUBE, INC., YOUTUBE, LLC,) 1:07CV02103
 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.) Case No.
 YOUTUBE, INC., YOUTUBE, LLC, and) 07CV3582
 GOOGLE, INC.,)
)
 Defendants.)
 -----)

VIDEOTAPED DEPOSITION OF WADE DAVIS
New York, New York
Thursday, August 6th, 2009

REPORTED BY:
ERICA RUGGIERI, CSR, RPR
JOB NO: 17410

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August 6, 2009

10:08 a.m.

VIDEOTAPED DEPOSITION OF WADE DAVIS,
held at the offices of Mayer Brown, 1675
Broadway, New York, New York, pursuant to
notice, before 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 PLAINTIFFS:

JENNER & BLOCK, LLP
BY: SUSAN KOHLMANN, ESQ.
919 Third Avenue 37th Floor
New York, NY 10022-3908

FOR THE DEFENDANTS

MAYER BROWN, LLP
BY: ANDREW SCHAPIRO, ESQ.
1675 Broadway
New York, New York 10019
(212) 506-2146
@mayerbrown.com

ALSO PRESENT:

CARLOS KING, Videographer

1 DAVIS

2 Do you have a general
3 recollection that Bob thought that YouTube
4 was worth less than a billion dollars?

5 02:27:17 A. I honestly don't have a
6 recollection of what Bob thought the value
7 was.

8 Q. Do you have a recollection of
9 what anyone thought the value was?

10 02:27:23 MS. KOHLMANN: Objection.

11 You can answer.

12 A. Other than -- other than the
13 author of this blog, no.

14 Q. Did Viacom, by the way, make an
15 02:27:43 acquisition of an on-line property in the
16 summer of 2006?

17 I'll give you a hint. I'm
18 thinking about AtomFilms.

19 A. Yeah. I was trying to recall if
20 02:27:58 it was in the summer.

21 I don't recall exactly when that
22 acquisition closed.

23 Q. It was sometime after you had
24 arrived at the company, you were working
25 02:28:08 there?

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DAVIS

A. Yes, yes.

Q. If I suggested that the
announcement was August 10th, 2006, would
02:28:18 that seem about right?

A. Again, I just don't recall when
the announcement might have been made
versus when we might have actually closed
the transaction.

02:28:27 Q. What is AtomFilms?

A. Again, the company we acquired
is Atom Entertainment.

Q. I'm sorry. What is Atom
Entertainment?

02:28:35 A. Atom Entertainment was a
collection of Internet properties that
included AddictingGames, Shockwave,
AtomFilms, AddictingClips and other
Internet properties.

02:28:53 Q. And would Viacom have performed
due diligence before an acquisition of
that size?

MS. KOHLMANN: Objection.

You can answer.

02:29:04 A. Yes.

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Q. And would Viacom have inquired about the legal risks associated with acquiring AtomFilms?

02:29:13 A. Yes.

Q. And did Viacom look at potential legal exposure related to copyright infringement that AtomFilms faced, before acquiring the company?

02:29:25 MS. KOHLMANN: I'm going to just caution the witness, to the extent it comes up in the answer, I'm sure Mr. Schapiro is not asking you for attorney-client privilege; but just to be careful in your answer not to discuss anything that might be attorney-client privilege.

02:29:37 THE WITNESS: I guess I'm not aware of exactly what would be attorney-client privileged information.

Does it make sense to take a break so you can describe that to me?

02:30:09 MS. KOHLMANN: Well, why don't -- you want to reread the

1 DAVIS

2 question, and maybe there's a way to
3 answer the question, and then we can
4 have a discussion.

5 02:30:15 Q. Without telling me anything
6 about the results of such inquiries.

7 MR. SCHAPIRO: Although while
8 not conceding, given the current state
9 of motion practice, that that is or is
10 02:30:31 not privileged. But I'm happy -- I'm
11 not interested right now in what the
12 result of any legal inquiries were.

13 Q. Can you tell just tell me, I
14 think your counsel and I will both agree
15 02:30:42 that --

16 MS. KOHLMANN: The general
17 subject matter.

18 Q. -- it is not -- that you are
19 fine answering whether there actually was
20 02:30:49 some examination of legal exposure,
21 without telling me what conclusions were
22 reached.

23 A. So is the question -- can you
24 repeat the exact question?

25 02:30:57 Q. Sure. It has now scrolled up,

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but I'll repeat the question, which is:

Did Viacom look at potential legal exposure related to the copyright infringement that Atom's Film -- that AtomFilms might have faced, before acquiring the company?

02:31:08 A. I don't recall specific discussion -- specific evaluation of copyright exposure.

02:31:20 Q. I think you mentioned earlier a service called AddictingClips?

A. Yes.

02:31:36 Q. That was part of Atom Entertainment?

A. Yes.

Q. And do you have an understanding of what the AddictingClips site was, or what it did?

02:31:44 A. Yes. It was predominantly user-generated content.

Q. And do you know whether Viacom concluded that AddictingClips was covered by the protections of the Digital Millennium Copyright Act?

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MS. KOHLMANN: Objection, calls
for a legal conclusion.

You can answer.

02:32:15 A. I don't recall. I mean what do
you recall -- I mean the primary reason we
acquired that business was not for any of
the video properties, it was for the
casual gaming properties. And in fact,
02:32:28 we've shut down, I think we have shut down
all of the video properties.

Q. Do you know why you shut them
down?

A. I don't.

02:32:37 Q. What is TagWorld?

A. TagWorld was a social networking
company.

Q. And was that acquired when you
were at Viacom?

02:32:47 A. Yes.

Q. And do you know if due diligence
was done, in connection with the TagWorld
acquisition?

A. Yes.

02:32:57 Q. And do you know if that