

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., ET AL.,)	
)	
Plaintiffs,)	ECF Case
v.)	Civil No. 07-CV-2103 (LLS)
YOUTUBE, INC., ET AL.,)	
)	
Defendants.)	
THE FOOTBALL ASSOCIATION)	
PREMIER LEAGUE LIMITED, ET AL.,)	
on behalf of themselves and all others)	
similarly situated,)	ECF Case
)	
Plaintiffs,)	Civil No. 07-CV-3582 (LLS)
v.)	
YOUTUBE, INC., ET AL.,)	
)	
Defendants.)	

**SUPPLEMENT TO
THE DECLARATION OF ANDREW H. SCHAPIRO
IN SUPPORT OF DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTIONS FOR PARTIAL SUMMARY
JUDGMENT AND DEFENDANTS' OBJECTIONS TO
EVIDENCE AND MOTION TO STRIKE MATERIAL
FROM VIACOM'S SUMMARY JUDGMENT
SUBMISSIONS AND PUTATIVE CLASS PLAINTIFFS'
RULE 56.1 STATEMENT**

Schapiro Exhibit 374

UNITED STATES DISTRICT COURT
for the

Central District of California

VIACOM INTERNATIONAL, INC., ET AL.

Plaintiff

v.

YOUTUBE, INC., ET AL.

Defendant

)

)

) Civil Action No. 1:07-cv-02103 (LLS)(FM)

)

) (If the action is pending in another district, state where:

) Southern District of New York)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Motion Picture Association of America
c/o Kelly Klaus, Munger Tolles & Olson LLP, 355 S. Grand Ave # 35, Los Angeles, CA 90071-1592

Testimony: **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Attachment A.

Place: Offices of Mayer Brown LLP, 350 South Grand Avenue,
25th Floor, Los Angeles, CA 90071-1503

Date and Time:

12/17/2009 9:30 am

The deposition will be recorded by this method: Stenographically and videographically

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 11/20/2009

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) YouTube, Inc., who issues or requests this subpoena, are:

Bart Volkmer
Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, CA 94304-1050
(650) 493-9300 bvolkmer@wsgr.com

Civil Action No. 1:07-cv-02103 (LLS)(FM)

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

ATTACHMENT A

DEFINITIONS

1. “Class Plaintiffs” means The Football Association Premier League Limited, Bourne Co., Cal IV Entertainment, LLC, Cherry Lane Music Publishing Company, Inc., Robert Tur, National Music Publishers’ Association, The Rodgers & Hammerstein Organization, Stage Three Music, (US) Inc., Edward B. Marks Music Company, Freddy Bienstock Music Company, Alley Music Corporation, X-Ray Dog Music, Inc., Federation Francaise De Tennis, The Music Force Media Group LLC, The Music Force LLC, Sin-Drome Records, Ltd. and/or (i) all of their affiliates, divisions, units, predecessors-in-interest, successors-in-interest, subsidiaries, parent corporations, and assigns; (ii) all of their present and former officers, directors, agents, employees, representatives, accountants, investigators, and attorneys; (iii) any other person acting or purporting to act on their behalf; and (iv) any other person otherwise subject to their control, which controls them, or is under common control with them.

2. “Content Identification Technology” means any technology that is utilized to identify or recognize audio or video works, including but not limited to, watermarking, fingerprinting or hashing technology.

3. “Members” means any past or present company, organization, individual or other entity constituting a member of the MPAA, including, but not limited to, Metro-Goldwyn-Mayer., Inc., Paramount Pictures Corporation, Sony Pictures Entertainment, Inc., Twentieth Century Fox Film Corporation, Universal City Studios LLLP, Walt Disney Studios Motion Pictures, and Warner Brothers Entertainment, Inc.

4. “SDNY Actions” means the civil action filed by Viacom International Inc., et al. v. YouTube, Inc., et al., Case No. 1:07-cv-02103 (LLS) and The Football Association Premier League and Bourne Co., on behalf of themselves and all others

similarly situated, v. YouTube, Inc., et al., Case No. 1:07-cv-3582 (LLS), each pending in the United States District Court for the Southern District of New York.

5. "Viacom" means Viacom International Inc. and/or (i) all of its affiliates, divisions, units, predecessors-in-interest, successors-in-interest, subsidiaries, parent corporations, and assigns; (ii) all of its present and former officers, directors, agents, employees, representatives, accountants, investigators, and attorneys; and (iii) any other person acting or purporting to act on its behalf.

6. "You," "Your," or "MPAA" means the Motion Picture Association of America, and all predecessors, successors, subsidiaries, parents, affiliates, employees, and others acting on behalf of the Motion Picture Association of America who could reasonably be expected to have responsive information.

7. "YouTube" refers to YouTube, Inc., YouTube LLC, Google Inc., and www.youtube.com.

TOPICS FOR EXAMINATION

1. The organization, membership, mission and purpose of the MPAA.
2. Your relationship with Viacom, including but not limited to oral or written agreements and terms thereof between You and Viacom.
3. Your relationship with the Class Plaintiffs, including but not limited to oral or written agreements and terms thereof between You and the Class Plaintiffs.
4. Your communications with Viacom and/or the Class Plaintiffs concerning YouTube or the SDNY Actions.
5. The circumstances surrounding Your statement in a March 21, 2006 Hollywood Reporter article entitled "Biz not sure how to treat upstart YouTube" that "YouTube has been a good corporate citizen and taken off copyrighted material."

6. Content Identification Technology, including fingerprinting and filtering technology, used or evaluated by You to identify, locate, track, manage, or block video content on UGC video services.

7. Content Identification Technology, including fingerprinting and filtering technology, employed by UGC video services between February 14, 2005 and March 13, 2007.

8. Your monitoring of YouTube for allegedly infringing content.

9. Your use, testing or evaluation of YouTube's Content Verification Program.

10. Your use, testing or evaluation of YouTube's Content Identification Technology.

11. Your communications with YouTube regarding online copyright protection.

12. Your communications with Your Members regarding YouTube's Content Identification Technology.

13. The DMCA practices and copyright policies of UGC video services operated by Your Members.

14. Your evaluation or inquiry into the most popular videos on the YouTube service.

15. You or Your Members' use of YouTube for promotional, marketing or educational purposes.

16. Your uploading of video files to YouTube, including to the "MoviesEverywhere" YouTube account.

Schapiro Exhibit 375

UNITED STATES DISTRICT COURT

for the

Central District of California

VIACOM INTERNATIONAL, INC., ET AL.

Plaintiff

v.

YOUTUBE, INC., ET AL.

Defendant

) Civil Action No. 1:07-cv-02103 (LLS)(FM)

) (If the action is pending in another district, state where:

) Southern District of New York)

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To: Motion Picture Association of America
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Testimony: **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Attachment A.

Place: Offices of Mayer Brown LLP, 350 South Grand Avenue,
25th Floor, Los Angeles, CA 90071-1503

Date and Time:

01/15/2010 10:00 am

The deposition will be recorded by this method: Stenographically and videographically

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 01/10/2010

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* YouTube, Inc., who issues or requests this subpoena, are:

Bart Volkmer
Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, CA 94304-1050
(650) 493-9300 bvolkmer@wsgr.com

Civil Action No. 1:07-cv-02103 (LLS)(FM)

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named individual as follows: _____

on *(date)* _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____ *Server's signature*

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

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(iv) subjects a person to undue burden.

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(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

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(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

ATTACHMENT A

DEFINITIONS

1. "Class Plaintiffs" means The Football Association Premier League Limited, Bourne Co., Cal IV Entertainment, LLC, Cherry Lane Music Publishing Company, Inc., Robert Tur, National Music Publishers' Association, The Rodgers & Hammerstein Organization, Stage Three Music, (US) Inc., Edward B. Marks Music Company, Freddy Bienstock Music Company, Alley Music Corporation, X-Ray Dog Music, Inc., Federation Francaise De Tennis, The Music Force Media Group LLC, The Music Force LLC, Sin-Drome Records, Ltd. and/or (i) all of their affiliates, divisions, units, predecessors-in-interest, successors-in-interest, subsidiaries, parent corporations, and assigns; (ii) all of their present and former officers, directors, agents, employees, representatives, accountants, investigators, and attorneys; (iii) any other person acting or purporting to act on their behalf; and (iv) any other person otherwise subject to their control, which controls them, or is under common control with them.
2. "Content Identification Technology" means any technology that is utilized to identify or recognize audio or video works, including but not limited to, watermarking, fingerprinting or hashing technology.
3. "Members" means any past or present company, organization, individual or other entity constituting a member of the MPAA, including, but not limited to, Metro-Goldwyn-Mayer, Inc., Paramount Pictures Corporation, Sony Pictures Entertainment, Inc., Twentieth Century Fox Film Corporation, Universal City Studios LLLP, Walt Disney Studios Motion Pictures, and Warner Brothers Entertainment, Inc.
4. "SDNY Actions" means the civil action filed by Viacom International Inc., et al. v. YouTube, Inc., et al., Case No. 1:07-cv-02103 (LLS) and The Football Association Premier League and Bourne Co., on behalf of themselves and all others

similarly situated, v. YouTube, Inc., et al., Case No. 1:07-cv-3582 (LLS), each pending in the United States District Court for the Southern District of New York.

5. "Viacom" means Viacom International Inc. and/or (i) all of its affiliates, divisions, units, predecessors-in-interest, successors-in-interest, subsidiaries, parent corporations, and assigns; (ii) all of its present and former officers, directors, agents, employees, representatives, accountants, investigators, and attorneys; and (iii) any other person acting or purporting to act on its behalf.

6. "You," "Your," or "MPAA" means the Motion Picture Association of America, and all predecessors, successors, subsidiaries, parents, affiliates, employees, and others acting on behalf of the Motion Picture Association of America who could reasonably be expected to have responsive information.

7. "YouTube" refers to YouTube, Inc., YouTube LLC, Google Inc., and www.youtube.com.

TOPICS FOR EXAMINATION

1. The organization, membership, mission and purpose of the MPAA.
2. Your relationship with Viacom, including but not limited to oral or written agreements and terms thereof between You and Viacom.
3. Your relationship with the Class Plaintiffs, including but not limited to oral or written agreements and terms thereof between You and the Class Plaintiffs.
4. Your communications with Viacom and/or the Class Plaintiffs concerning YouTube or the SDNY Actions.
5. The circumstances surrounding Your statement in a March 21, 2006 Hollywood Reporter article entitled "Biz not sure how to treat upstart YouTube" that "YouTube has been a good corporate citizen and taken off copyrighted material."

6. Content Identification Technology, including fingerprinting and filtering technology, used or evaluated by You to identify, locate, track, manage, or block video content on UGC video services.

7. Content Identification Technology, including fingerprinting and filtering technology, employed by UGC video services between February 14, 2005 and March 13, 2007.

8. Your monitoring of YouTube for allegedly infringing content.

9. Your use, testing or evaluation of YouTube's Content Verification Program.

10. Your use, testing or evaluation of YouTube's Content Identification Technology.

11. Your communications with YouTube regarding online copyright protection.

12. Your communications with Your Members regarding YouTube's Content Identification Technology.

13. The DMCA practices and copyright policies of UGC video services operated by Your Members.

14. Your evaluation or inquiry into the most popular videos on the YouTube service.

15. You or Your Members' use of YouTube for promotional, marketing or educational purposes.

16. Your uploading of video files to YouTube, including to the "MoviesEverywhere" YouTube account.

Schapiro Exhibit 376

Craparo, Therese

From: Volkmer, Bart [bvolkmer@wsgr.com]
Sent: Thursday, January 14, 2010 9:20 PM
To: Kelly.Klaus@mto.com
Subject: RE: Viacom v. YouTube: Amended MPAA Subpoena

Kelly --

In response to YouTube's deposition subpoena, the MPAA initially refused to provide a witness at all based on, among others, relevance objections, and threatened a motion to quash. I noted that the MPAA would surely not prevail if it took that extreme position.

We then engaged in negotiations, but YouTube never agreed that topics would be "dropped" or "narrowed." For a number of topics, the MPAA refused to put up a witness on the topics as drafted. We were able to come to an agreement regarding a protocol under which the deposition would proceed without the parties engaging in motion practice notwithstanding the MPAA's (in our view, unjustifiable) refusal to seat a witness. For other topics, I clarified my understanding of the language of the topic and we were able to agree that the parties did not have a dispute.

Here is my understanding of our agreements:

1. This topic was drafted, and always intended to cover, high-level, foundational information about the MPAA. The MPAA will provide testimony accordingly.
2. This topic was drafted, and always intended to cover, high-level, foundational information about Viacom's relationship with the MPAA. The MPAA will provide testimony accordingly.
3. This topic was drafted, and always intended to cover, high-level, foundational information about the Class Plaintiffs' relationship with the MPAA. The MPAA will provide testimony accordingly.
4. It is the case that YouTube and the MPAA disagree about whether the MPAA should have to produce a witness to testify regarding this topic. YouTube maintains its position that the MPAA's refusal to produce discovery called for by this topic is not justified and will have collateral consequences in the main litigation.
5. We have no dispute about this topic.
6. As part of our negotiation regarding Topic No. 7, YouTube has agreed to forego seeking testimony on this topic.
7. You have accurately summarized our agreement on Topic No. 7.
8. Your summary of our agreement on Topic No. 8 is inaccurate. We did not, to my recollection, discuss multi-entity communications. If the communications at issue between the MPAA and Viacom are not privileged in the first place, the MPAA needs to be prepared to testify without restriction. If the communications between the MPAA and Viacom included other entities (and are, in your view, putatively privileged), the MPAA witness should be prepared to testify consistently with the August 25, 2009 stipulation and order in the SDNY.
9. This topic is limited to authentication of documents based on your representation that individuals with percipient knowledge of the topic are no longer employed by the MPAA.

10. This topic is limited to authentication of documents based on your representation that individuals with percipient knowledge of the topic are no longer employed by the MPAA.

11. See Topic No. 4 above.

12. See Topic No. 4 above.

13. See Topic No. 4 above.

14. This topic is limited to authentication of documents based on your representation that individuals with percipient knowledge of the topic are no longer employed by the MPAA.

15. See Topic No. 4 above.

16. We have no dispute about this topic.

Please send along this evening the names of the people from the MPAA who will be attending the deposition tomorrow.

Regards,

Bart

From: Klaus, Kelly [mailto:Kelly.Klaus@mto.com]

Sent: Tuesday, January 12, 2010 7:46 PM

To: Volkmer, Bart

Subject: RE: Viacom v. YouTube: Amended MPAA Subpoena

Bart:

The amended subpoena continues to state the topics set forth in your November 20, 2009 subpoena that MPAA objected to as overly broad, burdensome and invasive of privilege. You and I agreed in early December that the topics would be narrowed and/or dropped as follows (with the numbers below corresponding to the topic paragraph numbers in the subpoena attachment):

1. MPAA's witness will be prepared to provide a very high-level description of non-privileged information concerning the MPAA's purpose and will identify MPAA's members. You said you expected this topic, as narrowed, would be very high-level, foundational information that would not take up more than a few minutes of the deposition.
2. MPAA's witness will be prepared to provide non-privileged information regarding that Paramount is a member of the MPAA; that Viacom is Paramount's corporate parent; and that MPAA performs anti-piracy work on their behalf.
3. MPAA's witness will be prepared to testify to non-privileged information regarding MPAA's lack of a relationship with any of the named class plaintiffs that is akin to MPAA's relationship with its member companies.
4. YouTube and MPAA disagree whether MPAA should have to produce a witness to testify regarding this topic. Without either side waiving their respective positions concerning this disagreement, MPAA will not be producing a witness to testify on this topic, and YouTube will not be filing a motion or seeking any relief of any kind concerning this topic.
5. MPAA's witness will be prepared to testify to non-privileged, responsive information, if any, that is reasonably available to MPAA on this topic.

6. YouTube is dropping this topic.
7. MPAA's witness will be prepared to testify to non-privileged information, if any, about the following, to the extent that such information is reasonably available to the MPAA: (a) what fingerprinting or filtering technologies MPAA was aware had been deployed at UGC sites between February 14, 2005 and March 13, 2007; (b) which UGC sites MPAA was aware were using such technologies during that time; and (c) MPAA's high-level understanding, if any, at that time about the general efficacy of those technologies as deployed.
8. MPAA's witness will be prepared to testify to non-privileged information, if any, concerning communications with Viacom and Paramount only (i.e., not MPAA's communications with any other entity, including any multi-entity communications including Viacom and/or Paramount) regarding those matters within the scope of the August 25, 2009 Stipulation and Order Regarding Viacom's Copyright Monitoring Privilege Assertions in the Southern District of New York action.
9. MPAA's witness will be prepared only to authenticate any documents produced by MPAA within the scope of this topic, but there will be no questioning (and MPAA's witness will not be prepared to respond) regarding the substance of this topic.
10. MPAA's witness will be prepared only to authenticate any documents produced by MPAA within the scope of this topic, but there will be no questioning (and MPAA's witness will not be prepared to respond) regarding the substance of this topic.
11. YouTube and MPAA are proceeding on this topic as they are on Topic No. 4, as stated above.
12. YouTube and MPAA are proceeding on this topic as they are on Topic No. 4, as stated above.
13. YouTube and MPAA are proceeding on this topic as they are on Topic No. 4, as stated above.
14. MPAA's witness will be prepared only to authenticate any documents produced by MPAA within the scope of this topic, but there will be no questioning (and MPAA's witness will not be prepared to respond) regarding the substance of this topic.
15. YouTube and MPAA are proceeding on this topic as they are on Topic No. 4, as stated above.
16. MPAA's witness will be prepared to testify to non-privileged information, if any, reasonably available to MPAA, regarding the "Movies Everywhere" site on YouTube (<http://www.youtube.com/movieseverywhere>) and the single video posted to that site.

I will get you the names for MPAA's visitors for building security before the deposition. I will convey to Viacom's counsel your request that they get you the names they need for building security.

Regards,
Kelly

From: Volkmer, Bart [mailto:bvolkmer@wsgr.com]
Sent: Tuesday, January 12, 2010 11:04 AM
To: Klaus, Kelly
Subject: Viacom v. YouTube: Amended MPAA Subpoena

Kelly --

Please find attached an amended deposition subpoena reflecting the new date and time for the MPAA deposition: 1/15/2010 at 10:00 a.m.

For our building security list, could you please provide the names of the individuals who will be attending (including from Viacom if you know).

Regards,

Bart

Bart Volkmer

Wilson Sonsini Goodrich & Rosati

650 Page Mill Road

Palo Alto, CA 94304

Direct: 650.565.3508

Fax: 650.565.5100

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Schapiro Exhibit 377

**CUSTODIAL DOCUMENTS
PRODUCED FOR SUMNER REDSTONE**

Month/Year	Document Count
Jun-04	
Jul-04	
Aug-04	3
Sep-04	
Feb-05	
Mar-05	6
Apr-05	9
May-05	
Jul-05	
Aug-05	2
Sep-05	37
Oct-05	
Nov-05	
Dec-05	1
Jan-06	
Aug-06	
Sep-06	6
Oct-06	
Jul-07	
Aug-07	48
Sep-07	1
Oct-07	27
Nov-07	
Dec-07	
Jan-08	16
Feb-08	1
Mar-08	
Jun-08	
Jul-08	7
Aug-08	10
Sep-08	
Oct-08	
Nov-08	1
Dec-08	
Feb-09	
Mar-09	1
Apr-09	
May-09	

Schapiro Exhibit 378

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,) 07CV-2103
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) 07CV-3582
GOOGLE, INC.,)
)
Defendants.)
)

DEPOSITION OF KRISTINA TIPTON

NEW YORK, NEW YORK

Thursday, October 29, 2009

REPORTED BY:
ERICA RUGGIERI, CSR, RPR
JOB NO: 17863

October 29, 2009

9:36 a.m.

VIDEOTAPED DEPOSITION OF KRISTINA

TIPTON, held at the offices of Wilson Sonsini Goodrich & Rosati, 1301 Avenue of the Americas, New York, New York, pursuant to notice, before before Erica L. Ruggieri, Registered Professional Reporter and Notary Public of the State of New York.

1
2 APPAREANCES
34 FOR THE VIACOM PLAINTIFFS and THE WITNESS:
56 SHEARMAN & STERLING, LLP
78 BY: KIRSTEN NELSON CUNHA, ESQ.
910 599 Lexington Avenue
1112 New York, New York 10022
1314 Kirsten.cunha@shearman.com
1516 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE,
1718 LLC and GOOGLE, INC.:
1920 WILSON SONSINI GOODRICH & ROSATI
2122 BY: MAURA L. REES, ESQ.
2324 650 Page Mill Road
25Palo Alto, CA 94304
Mrees@wsgr.com26 ALSO PRESENT:
2728 CARLOS KING, Videographer
29

1 | TIPTON

2 stealth marketing campaigns, what kind of
3 marketing campaigns would you work on for
4 those?

5 10:14:18 A. There are a lot of elements. We
6 would try to maximize publicity by doing
7 exclusive clips, by setting up interviews
8 with the stars of the film, by
9 distributing the standard film assets,
10 10:14:33 including the elements on the EPK,
11 electronic press kit.

12 Q. And what would generally be
13 included in an electronic press kit?

17 Q. Are you familiar with the phrase
18 "seeding," as in seeding a clip online,
19 S-E-E-D?

20 | 10:15:37 A. It was used, yes.

21 0. What does seeding mean?

22 A. I think it varied sometimes, but
23 usually it just meant posting.

24 Q. Can you give me some examples of
25 10:15:56 the different websites where Paramount

1 TIPTON

2 would post clips, as part of its online
3 marketing?

4 A. We -- do you mean where we
5 10:16:08 personally would post clips or where we
6 would work with someone to have them post
7 a clip?

8 Q. Let's start with where Paramount
9 would itself post clips?

10 10:16:18 A. We posted on YouTube, Vimeo, we
11 worked with break.com, Vidilife, sometimes
12 Google Video, and a number of other
13 websites for video.

14 Q. And were there additional or
15 10:16:45 different websites where third parties
16 would post -- would post video clips
17 online, on Paramount's behalf?

18 A. Yes. We worked with a number of
19 websites.

20 10:16:54 Q. And what websites were those?

21 A. They included Yahoo movies, AOL
22 moviephone, iFilm, Movie Web,
23 Hollywood.com and a number of others.

24 Q. In your position as coordinator
25 10:17:20 of online publicity, who did you report

1 TIPTON

2 to?

3 A. Primarily Amy Powell.

4 Q. When you say "Primarily," was

5 10:17:26 there someone else that you secondarily
6 reported to?

7 A. I dotted line reported to Sarah
8 Bordo for part of the time I worked there.

9 Q. What was Amy Powell's position?

10 10:17:42 A. She was the SVP of online
11 marketing.

12 Q. What was Sarah Bordo's position?

13 A. She was the director of online
14 media. I think she may have been promoted
15 10:17:59 to VP right before I left.

16 Q. Was there a particular group
17 that you considered yourself to be working
18 in, when you were coordinator of online
19 publicity?

20 10:18:14 A. Yes. I was in the online
21 marketing group.

22 Q. Is that different from the
23 online media group?

24 A. No. That was within the online
25 10:18:24 marketing group.

1 | TIPTON

2 names on the cc line.

3 Do you see that?

4 A. Yes.

5 10:41:45 Q. Could you tell me, to the extent
6 you remember, who each of those people
7 are, other than yourself and Sarah Bordo,
8 who you've already mentioned?

12 Q. What does that mean, producers
13 of websites?

19 Q. So when you say a film website,
20 10:42:22 you mean an official website put up by
21 Paramount to promote the film?

22 A. Right.

23 Q. And then there's a Powerpoint
24 presentation attached to the e-mail.

25 10:42:41 Do you see that?

1 | TIPPTON

2 A. Yes.

3 Q. Did you assist in putting
4 together this Powerpoint presentation?

5 10:42:47 A. Yes, I believe so.

6 Q. So the e-mail to Amy Powell
7 starts out, "Kristina and I have reviewed
8 your list of video sites and have looked
9 into some others as well. Here are our
10 10:43:14 suggestions for incorporating these sites
11 into our marketing campaign."

12 Do you see that?

13 A. Yes.

14 Q. Do you recall that looking into
15 10:43:21 the video sites and making suggestions was
16 something that you participated in?

17 A. I believe so, yes.

18 Q. And then the sort of second
19 point down after that starts out, "We
20 10:43:35 recommend YouTube, Vimeo," V-I-M-E-O,
21 Vidilife," V-I-D-I-L-I-F-E, "as sites
22 post our content for viral distribution

23 Do you see that?

24 A. Yes.

25 10:43:52 Q. Do you recall that YouTube was

1 | TIPPTON

2 one of the sites that you and Megan
3 recommended to post content for viral
4 distribution?

5 10:43:59 A. Yes.

6 Q. Why was that?

12 Q. Then if you look a couple points
13 down below that, there is a point that
14 says, "Whenever possible, tagging our
15 10:44:39 content with related phrases to capture
16 search audiences."

17 Do you see that?

18 A. Uh-hum.

19 | 0. Is that something that

20 10:44:47 Paramount's interactive marketing team
21 eventually did, with respect to videos
22 that it posted to YouTube?

23 A. I don't recall.

24 Q. And then the last point that is
25 10:45:07 set off with dashes in the e-mail

1 TIPTON

2 references the NBC YouTube disaster. Sort

3 of in the last sentence before "Attached

4 you can also find," do you see that?

5 | 10:45:24 A. Yes.

6 Q. Do you recall what the NBC
7 YouTube disaster was that's being referred
8 to here?

9 A. It was the Lazy Sunday video

10 10:45:32 being taken down from the site and
11 eliciting negative comments and feed
12 from users.

13 Q. And in that same point it says,
14 "Once we have distributed content, we need
15 10:45:52 to continue free access from the source."

16 Do you see that part?

17 A. Yes.

18 Q. Do you have an understanding of
19 what that means?

20 10:46:00 A. I believe it means that we
21 needed to make sure that we were putting
22 up clips and such that have been approved
23 for online use or -- and that we wouldn't
24 have to take down.

25 | 10:46:57 MS. REES: Exhibit 5.

1 | TIPTON

2 Q. So does this mean that Scott
3 Hurwitz had uploaded to YouTube the Nacho
4 confessional trailer at the URL that's
5 10:51:11 listed here?

6 A. I don't recall.

7 Q. Did you understand that beyond
8 the Nacho confessional trailer, there were
9 other videos that Paramount wanted
10 10:51:25 Mr. Hurwitz to upload to YouTube at this
11 time?

12 A. I don't recall.

13 Q. Do you know what user name, if
14 any, Iced Media would use to upload videos
15 10:51:44 to YouTube?

18 Q. Do you know of any other user
19 names that Iced Media used to post
20 10:51:52 Paramount videos to YouTube?

21 A. I don't recall.

22 Q. Are you aware whether there were
23 additional user names that Iced Media used
24 to post videos to YouTube, or you just
25 10:52:17 can't recall what they were, or do you

1 TIPTON
2 have an understanding as to whether there
3 was only that one user name called That's
4 Funny?

5 10:52:24 MS. CUNHA: Objection to form.

6 You can answer.

7 A. I believe there's at least one
8 other, but I think they tried to use the
9 form That's Funny with That's Funny 2 or
10 10:52:42 something like that.

10 10:52:42 something like that.

11 MS. REES: Exhibit 6.

12 (Tipton Exhibit 6, e-mail

13 | regarding clip for Mission

14 | Impossible 3, marked for

15 10:53:42 identification, as of this date.)

16 Q. Have you had a chance to review
17 Exhibit 6?

18 A. Yes.

19 Q. Can you identify Exhibit 6?

20 10:53:46 A. It appears to be an e-mail
21 between Amy Powell, Brian Moerman and
22 myself about a clip for Mission Impossible
23 3.

24 Q. And in the e-mail Ms. Powell

25 10:54:00 says, "This is great. Can you get on

1 | TIPPTON

2 YouTube, et cetera?"

3 Do you see that?

4 A. Yes.

5 10:54:04 Q. Did you understand that to mean
6 that Ms. Powell wanted the clip that's
7 referenced in the below e-mail to be
8 uploaded to YouTube?

9 A. Yes.

10 10:54:11 Q. Do you know whether it
11 eventually was?

12 A. I don't recall.

13 Q. Did Ms. Powell ever explain to
14 you why she wanted the clip uploaded to
15 10:54:24 YouTube as well as other sites?

15 10:54:24 YouTube, as well as other sites?

16 A. No.

17 MS. CUNHA: Objection to form.

18 MS. REES: Exhibit 7.

19 (Tipton Exhibit 7, e-mail

20 10:55:05 chain, marked for identification, as
21 of this date.)

22 (Witness reviews document.)

23 Q. Have you had a chance to review
24 Exhibit 7?

25 10:55:52 A. Yes.

1 TIPTON

2 Q. Can you identify Exhibit 7?

3 A. Appears to be an e-mail chain
4 with Amy Powell and other members of our
5 10:55:58 interactive team, regarding a video Jon
6 Favreau made and posted to YouTube.

7 Q. Your e-mail in the center of the
8 page to Ms. Tipton asks "Hi" -- your
9 e-mail in the center of the page to
10 10:56:19 Ms. Powell and others asks, "Hi, Amy, will
11 we be posting this on other video sites as
12 well or just having people drive to
13 YouTube to view?"

14 And then the response above that
15 10:56:33 from Ms. Powell is, "Drive to YouTube."

16 Do you see that?

17 A. Yes.

18 Q. What's your understanding, if
19 any, of what "drive to YouTube" means in
20 10:56:41 that context?

21 A. I don't really recall.

22 Q. Did Paramount ever make efforts
23 to increase traffic to videos that
24 Paramount or its agents had posted to
25 10:57:12 YouTube?

1 | TIPTON

4 Q. As a general matter, why was it
5 10:57:35 useful to have Paramount clips on YouTube?

6 MS. CUNHA: Objection to form.

9 Q. Is there some part of it that's
10 10:57:48 not clear or?

14 MS. CUNHA: Same objection.

15 10:57:57 A. YouTube had an audience of users
16 that we wanted to reach with our film
17 content.

18 Q. And how did that help market a
19 film, if it did?

20 10:58:15 A. Because we would select content
21 that we felt was right for the audience
22 and would drive box office.

23 Q. And by "drive box office," you
24 mean increase the amount of money, of
25 10:58:30 sales of tickets at the box office for a

1 | TIPTON

2 | particular film, right?

3 A. Yes. That was the hope.

4 MS. REES: Exhibit 8.

5 10:59:04 (Tipton Exhibit 8, e-mail chain

6 between Kristina Tipton and Kevin

7 Donahue at YouTube, marked for

8 identification, as of this date.)

9 (Witness reviews document.)

10 10:59:53 Q. Have you had a chance to review
11 Exhibit 8?

12 A. Yes.

13 Q. Can you identify Exhibit 8?

14 A. It was an e-mail chain between

15 11:00:01 myself and Kevin Donahue at YouTube and

16 cc'ing other members of the interactive
17 team.

18 Q. Who was Kevin Donahue at

19 YouTube, if you recall?

20 11:00:12 A. I don't recall his title, but he
21 was a contact there who helped us set up
22 our Paramount Pictures account on YouTube.

23 Q. Okay. So your e-mail on page,

24 | the first page of this exhibit starts out,

25 11:00:37 "Hi, Kevin, I finally got around to

1 | TIPTON

2 setting up an account. My user name and
3 password are below." And then for the
4 user name below, it lists Paraccount,

5 11:00:54 P-A-R-A-C-C-O-U-N-T?

9 A. Yes.

10 11:01:05 Q. How did you go about doing that?
11 Did you set it up online?

15 11:01:17 Q. When you signed up online, did
16 you have to agree in some fashion to
17 YouTube's terms of service?

18 A. I don't recall.

19 Q. Did you personally ever upload
20 11:01:42 videos to YouTube under the Paraccount
21 user name?

22 A. Yes.

23 0. Do you recall how many?

24 A. No.

25 | 11:01:47 Q. Was it more than 10?

1 | TIPTON

2 A. Probably.

3 Q. More than a hundred?

4 A. Probably not.

5 11:01:55 Q. Can you recall what any of the
6 videos were that you uploaded, under the
7 user name Paraccount on YouTube?

8 A. Not specifically, no.

9 Q. Do you remember any of the

10 11:02:12 movies that the videos that you uploaded
11 to the Paraccount account on YouTube were
12 associated with?

13 A. Not specifically.

14 Q. Other than yourself, did other

15 11:02:26 people in Paramount's interactive
16 marketing group upload videos to YouTube,
17 under the Paraccount user name?

18 A. Yes.

19 Q. Who else besides you?

20 11:02:37 A. I remember Kyle Ninicci did. I
21 don't remember any others besides that.

22 Q. The second page of the e-mail at
23 the very bottom references a meeting
24 between you and Kevin Donahue.

25 11:02:59 Do you recall having a meeting

1 | TIPTON

2 with Kevin Donahue?

3 A. I recall meeting him.

4 Q. Do you recall what was discussed
5 11:03:05 during that meeting?

6 A. No.

7 Q. In the e-mail above that, where
8 Kevin Donahue replies, he says, "We can
9 then follow up with more specific
10 11:03:19 discussions re promotional plans and
11 specific content."

12 Do you see that?

13 A. Yes.

14 Q. Do you recall whether you ever
15 11:03:26 had additional discussions with Kevin
16 about promotional plans and specific
17 content?

20 11:03:37 Q. What discussions did you have
21 with him about that?

22 A. I don't recall.

23 Q. Prior to the establishment of
24 this Paraccount account in June of 2006 or
25 11:04:12 in or about May or June of 2006, Paramount

1 TIPTON

2 the first page is for Bee Movie?

3 A. Yes, I believe it was for Bee
4 Movie.

5 01:49:51 Q. In the e-mail you say, "Perhaps
6 we can give AOL the official exclusive,
7 but help seed the teaser unofficially on
8 viral video sites."

9 Do you see that?

10 01:50:03 A. Yes.

11 Q. And what do you mean by "seed
12 the teaser unofficially on viral video
13 sites"?

14 A. I don't recall in this
15 01:50:14 particular case. I can glean that we were
16 posting the video on video sites.

17 MS. REES: Exhibit 28.

18 (Tipton Exhibit 28, e-mail
19 regarding the Freedom Writers
20 01:52:54 proposal from Iced Media, marked for
21 identification, as of this date.)

22 (Witness reviews document.)

23 Q. Can you identify Exhibit 28?

24 A. Yes. It's an e-mail from myself
25 01:52:47 to Amy Powell, Megan Wahtera, Stephanie

1 TIPTON

2 Simard, Sara Bordo and Kristina Griswold
3 about the Freedom Writers proposal from
4 Iced Media.

5 01:52:56 Q. And the proposal relates to the
6 Be Heard campaign?

7 A. Yes.

8 Q. What was the Be Heard campaign?

9 A. Be Heard campaign primarily took
10 01:53:12 place on YouTube, and it was a hub of
11 videos that were specially produced for
12 this YouTube.com\Be Heard that were a
13 little more youthful and gritty than the
14 rest of the film assets.

15 01:53:35 Q. Who produced the videos that you
16 just mentioned that were specially
17 produced?

18 A. Megan Wahtera and Stephanie
19 Simard oversaw a team that did the
20 01:53:52 editing, but I don't remember. It was an
21 outside editing, video editing company.

22 Q. Were the videos that were
23 specially produced, were they created by
24 Paramount?

25 01:54:13 A. Yes, I would say they were.

1 TIPTON

2 Q. What types of content was in the
3 videos that were specially produced?

8 Mario was one of them. He just
9 talked about his background, and like we
10 01:54:42 edited it in with some of the film music
11 and possibly some shots from the film.
12 But we tried to make it a little, like
13 feel more like something that they had
14 made themselves, the stars.

15 01:55:06 Q. And was Iced Media ultimately
16 engaged to assist in the Be Heard
17 campaign?

18 A. You know, I don't recall.

19 Q. In the middle of the first page
20 01:55:38 of Exhibit 28, which looks to be -- it's
21 underneath an e-mail and looks to be taken
22 from Iced Media's proposal.

23 A. Yes.

24 Q. And in the first paragraph,
25 01:55:51 second sentence, it says, "First, we will

1 TIPTON

2 execute an extensive viral video campaign
3 using the key featurettes and other video
4 materials to drive to the YouTube
5 01:56:03 campaign."

6 Do you see that?

7 A. Yes.

8 Q. Was that something that was
9 ultimately done, was there a viral video
10 01:56:08 campaign to drive to the YouTube campaign?

11 A. I don't recall if there was -- I
12 don't entirely recall what this viral
13 video campaign entailed, but the YouTube
14 campaign, the Be Heard, was a major
15 01:56:29 centerpiece of this online film campaign,
16 including the media buy and everything.

17 MS. REES: Exhibit 29.

18 (Tipton Exhibit 29, e-mail
19 thread regarding the Be Heard
20 01:58:04 Freedom Writers YouTube campaign,
21 marked for identification, as of
22 this date.)

23 (Witness reviews document.)

24 Q. Can you identify Exhibit 29?

25 01:57:52 A. It's an e-mail thread between

1 | TIPTON

2 Amy Powell, myself, Megan Wahtera,
3 Stephanie Simard and Sara Bordo, regarding
4 the Be Heard Freedom Writers YouTube
5 01:58:06 campaign.

6 Q. On the second page of the
7 exhibit, that ends in 322 in the numbering
8 in the lower right-hand corner, it starts
9 with an e-mail from Amy Powell, saying, "I
10 01:58:20 am assuming we have the LAPD videos
11 linking to ours and on our profile."

12 Do you see that?

13 A. Yes.

14 Q. Do you have an understanding as
15 01:58:29 to what's being referred to there as the
16 LAPD videos?

17 A. No.

18 Q. And in the e-mail that's above
19 that from you, it says, "Yes, we have the
20 01:58:45 LAPD video on our group, and I'll leave a
21 post in the comments for the LAPD video,
22 linking it back to our group."

1 TIPTON

2 of that video was?

3 A. I believe it was a viral video
4 that Bacardi made. I'm not positive about
5 04:07:07 that.

6 Q. Upon watching that video, did
7 you come to any conclusions about whether
8 that video was authorized or not
9 authorized to be on YouTube?

10 04:07:21 A. I believe I had actually read
11 about it in the Wall Street Journal,
12 before I had seen the video, so I already
13 knew that it had been authorized.

14 Q. When you say that you "knew it
15 04:07:32 had been authorized," is that because the
16 Wall Street Journal article had mentioned
17 that it was?

18 A. Yes.

19 Q. Had you seen the video before
20 04:07:43 this person sent it to you?

21 A. I don't believe so.

22 Q. Are you familiar with a YouTube
23 user name called Dreamworks fan site?

24 A. I don't recall it.

25 04:07:57 Q. Do you know if that was a user

1 TIPTON

2 name that Paramount used to upload videos
3 to YouTube?

4 A. I don't recall.

5 04:08:05 Q. When you were working in
6 Paramount interactive marketing, as of the
7 time you left Paramount, what kind of
8 computer were you using?

9 I don't mean like, you know, the
10 04:08:22 model number or anything. I mean was it a
11 laptop, a desktop?

12 A. It was a desktop PC.

13 Q. Did you ever work from home on a
14 different computer?

15 04:08:33 A. Maybe once or twice while I was
16 sick, but it was --

17 Q. Did you have remote access to
18 your work materials at Paramount from
19 home?

20 04:08:42 A. I was able to access e-mail, but
21 not shared drive materials.

22 Q. How much e-mail did you receive,
23 generally speaking, when you were working
24 at Paramount?

25 04:09:04 A. A lot. It was probably in the

1 TIPTON

2 order of a couple hundred e-mails a today.

3 Q. Again, on a very general level,
4 approximately how much e-mail would you
5 04:09:17 say that you sent while you were working
6 at Paramount?

7 A. Probably -- I think I looked at
8 it once. I think I sent about 20,000
9 e-mails over the three years that I was
10 04:09:30 there.

11 Q. Did you have a BlackBerry or any
12 type of remote e-mail device?

13 A. No.

14 Q. Other than your official
15 04:09:39 Paramount e-mail address, did you have any
16 other e-mail addresses that you used for
17 work purposes?

18 A. No.

19 Q. When you left Paramount, what
20 04:09:49 did you do with your computer?

21 Did you just leave it sitting
22 there?

23 A. Yes. It was Paramount property.

24 Q. You didn't take it with you?

25 04:09:57 A. No.

1 TIPTON

2 Q. Do you have any knowledge about
3 what happened to it after you left?

4 A. No idea.

5 04:10:06 Q. Did you have to like physically
6 turn it in to someone, or did you just
7 leave it on your desk?

8 A. I just left it on my desk.

9 Q. Before leaving Paramount, did
10 04:10:16 you delete any of your e-mails?

11 A. No.

12 Q. Did you delete any other types
13 of documents?

14 A. No.

15 04:10:24 Q. When you were working at
16 Paramount, did you ever take handwritten
17 notes, like in a notebook?

18 A. Yes.

19 Q. Did you leave the notebook at
20 04:10:33 Paramount?

21 A. Probably, yes.

22 Q. When you left Paramount, did you
23 take any documents with you, like hard
24 copy printouts, anything like that?

25 04:10:48 A. No.

1 TIPTON

2 Q. Did you use instant messaging
3 when you were at Paramount?

4 A. Yes.

5 04:10:52 Q. What IM client did you use?

6 A. AIM.

7 Q. What was your screen name?

8 A. [REDACTED] . N, as in Nicole.

9 Q. Did you use the IP account for
10 04:11:11 IM'ing with people at work about
work-related issues?

12 A. Yes.

13 Q. Did your IM client save all your
14 IM's? Like at some point, if you wanted
15 04:11:24 to look and see what you said in an IM
earlier, were you able to go back and do
16 that?

18 A. I don't think mine was set to do
19 that.

20 04:11:31 Q. Before you left Paramount, were
21 you ever told that you had an obligation
22 to preserve documents relating to this
23 lawsuit?

24 A. No.

25 04:11:39 Q. What was your general practice

1 TIPTON

2 with regard to deleting e-mails, when you
3 were working at Paramount?

4 A. Can you be more specific?

5 04:11:58 Q. Sure. Like are you someone who
6 keeps every single e-mail you ever sent or
7 received? Are you someone who never has
8 more than three e-mails in your in box,
9 and you delete everything else?

10 04:12:10 Can you characterize your
11 deletion practices?

12 A. I'm a filer. I usually file
13 almost everything. Sometimes, if there
14 was many e-mails in a strand, I would just
15 04:12:20 keep the most recent, something like that.
16 But for the most part, I'm a keeper.

17 Q. Was there a way, when you were
18 working at Paramount, of searching through
19 your e-mails? Like if you had to find an
20 04:12:31 old e-mail, would you just use -- did you
21 have Outlook or was it a different e-mail
22 client?

23 A. We had a different e-mail client
24 when I started there, but we switched to
25 04:12:40 Outlook. So it was Outlook by the end.