

Schapiro Exhibit 424

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY)
 PARTNERS, COUNTRY MUSIC.)
 TELEVISION, INC., PARAMOUNT)
 PICTURES CORPORATION, and BLACK)
 ENTERTAINMENT TELEVISION, LLC,)
)
 Plaintiffs,)
)
 vs.) NO. 07-CV-2203
)
 YOUTUBE, INC., YOUTUBE, LLC,)
 and GOOGLE, INC.,)
)
 Defendants.)
 _____)

THE FOOTBALL ASSOCIATION PREMIER)
 LEAGUE LIMITED, BOURNE CO., et al.,)
 on behalf of themselves and all)
 others similarly situated,)
)
 Plaintiffs,)
 vs.) NO. 07-CV-3582
)
 YOUTUBE, INC., YOUTUBE, LLC, and)
 GOOGLE, INC.,)
)
 Defendants.)
 _____)

VIDEOTAPED DEPOSITION OF MICHAEL SOLOMON
PALO ALTO, CALIFORNIA
TUESDAY, SEPTEMBER 1, 2009

JOB NO. 17576

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

2
3 FOR THE PLAINTIFFS VIACOM INTERNATIONAL, INC.:

4 JENNER & BLOCK, LLP

5 By: MICHAEL DESANCTIS, Esq.

6 SARAH MAGUIRE, Esq.

7 1099 New York Avenue, NW, Suite 900

8 Washington, D.C. 20001

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10
11 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

12 BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

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

20 WILSON SONSINI GOODRICH & ROSATI, LLP

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25

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

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

MAYER BROWN, LLP

By: MATTHEW D. INGBER, Esq.

BRIAN WILLEN, Esq.

1675 Broadway

New York, New York 10019

(212) 506-2146 mingber@mayer.com

ALSO PRESENT: Kelly Truelove, Consultant

Stewart Pettigrew, Videographer.

---oOo---

1 SOLOMON, M.

2 15:42:05 element itself does not change.

3 15:42:07 Q You mean the video being watched?

4 15:42:13 A So in the context of the page, there's some

5 15:42:15 quantity of html.

6 15:42:17 Q Uh-huh.

7 15:42:18 A And then there is the -- the player element.

8 15:42:22 Q Uh-huh.

9 15:42:23 A The metadata and the display around the video

10 15:42:29 element does not change, even though the contents of

11 15:42:33 what the video element is displaying does.

12 15:42:38 Q Okay. Does the title change?

13 15:42:41 A I do not know, but it seems to suggest that

14 15:42:46 this person is actually playing video No. 2, not video

15 15:42:50 No. 1, because the video No. 2 is highlighted.

16 15:42:54 Q Uh-huh.

17 15:42:55 A So it looks like -- it looks like the

18 15:43:00 video -- that the message relates to the first video,

19 15:43:06 but you're actually watching the second video.

20 15:43:09 Q And when you say "the message," do you mean

21 15:43:12 the message "this video is no longer available due to

22 15:43:16 a copyright claim by Viacom"?

23 15:43:19 A Yes.

24 15:43:19 Q Okay. So you interpret this as the -- the

25 15:43:25 line "this video is no longer available due to a

1 SOLOMON, M.

2 15:43:28 copyright claim by Viacom," applies to the first

3 15:43:34 video. I see. Therefore, it is not being shown, and

4 15:43:37 what is being shown is the second video.

5 15:43:40 A That's correct.

6 15:43:40 Q Is that -- okay.

7 15:43:41 Below the play list box that you were just

8 15:43:57 looking at is a box called "Related Videos."

9 15:43:59 A Uh-huh.

10 15:43:59 Q Can you explain what Related Videos are in

11 15:44:02 this context of --

12 15:44:04 A At that time --

13 15:44:06 Q Uh-huh. This is April '09.

14 15:44:11 A April '09.

15 15:44:12 No, no, I can't comment about the

16 15:44:17 implementation of related videos then.

17 15:44:20 Q Okay. Do you know what -- in the term

18 15:44:24 "related videos," do you know what they are related

19 15:44:27 to?

20 15:44:29 MR. WILLEN: Objection to the form.

21 15:44:31 THE WITNESS: In general, you know, the

22 15:44:38 original implementation of related videos that I did

23 15:44:41 some years ago, related videos are related to the

24 15:44:49 video you are currently watching.

25 15:44:52 MR. DESANCTIS: Okay.

1 SOLOMON, M.

2 15:45:11 Q And are those served up by YouTube without

3 15:45:13 the user requesting to see related videos?

4 15:45:21 MR. WILLEN: Objection.

5 15:45:22 MR. DESANCTIS: Q. And I'm talking about the

6 15:45:24 thumbnails that appear right here on the right side of

7 15:45:28 what's been marked as Solomon Exhibit 20.

8 15:45:31 MR. WILLEN: So you're asking at the time

9 15:45:33 this document was created?

10 15:45:35 MR. DESANCTIS: Yeah, in April '09. I'm

11 15:45:41 asking questions about this document.

12 15:45:45 MR. WILLEN: The witness was talking

13 15:45:47 generally about something that happened previously, so

14 15:45:50 there was some ambiguity on the transcript.

15 15:45:54 THE WITNESS: In terms of the page makeup,

16 15:45:59 when a user requests a Watch Page, what they see is,

17 15:46:07 you know, an amalgamation of -- of properties. We --

18 15:46:12 we put that together on the back-end and send it to

19 15:46:16 the user.

20 15:46:17 MR. DESANCTIS: Okay.

21 15:46:33 Q I'd like to go back to a topic that -- that

22 15:46:35 you and I discussed before the last break, which was

23 15:46:38 the Suggested Search feature. Do you remember that

24 15:46:43 conversation we had?

25 15:46:44 A I do.

Schapiro Exhibit 425

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

RE: Proposal from MPAA on Content Identification and Filtering

From Kelly Liang **Date** Monday, October 23, 2006 6:45 PM

To Garfield, Dean

Cc

Subject RE: Proposal from MPAA on Content Identification and Filtering

Hi Dean –

It was good to speak with you, Chad and Craig on Thursday. We look forward to launching a content filtering pilot with the MPAA sometime towards the end of the year. Please don't hesitate to let me know if there is any further info that I can provide to you on our development efforts with Audible Magic. I plan to be in LA within the next couple of weeks and will definitely schedule a time to stop by for a visit if you are available.

Regards,
Kelly

From: Kelly Liang [mailto:kel@youtube.com]

Sent: Tuesday, October 17, 2006 10:53 AM

To: 'Dean_Garfield@mpaa.org'; 'chris@youtube.com'

Subject: RE: Proposal from MPAA on Content Identification and Filtering

Hi Dean –

I'll coordinate with Chris on our end but why don't we tentatively plan for a call late Thursday afternoon, say 4pm? Look forward to speaking with you.

Regards,
Kelly

From: Dean_Garfield@mpaa.org [mailto:Dean_Garfield@mpaa.org]

Sent: Tuesday, October 17, 2006 10:24 AM

To: chris@youtube.com

Cc: kel@youtube.com

Subject: RE: Proposal from MPAA on Content Identification and Filtering

Hi Chris and Kelly. Thanks for the email. Good to hear things are going well. I am actually heading to NY at the end of the week. Thursday late in the day or early Friday works best for me for a call. The system you are developing sounds very strong. Based on your comments, I think over time we can help in speeding the automation of the manual process of reviewing the thumbnails. We actually have a similar process in place for our notices to ISP and have a few people in India that are being used to review the images and then cataloging the hash. We are also looking at ways of associating the hash with useful metadata information that may also help in the long term.

Kelly, I look forward to meeting you when we next chat.

From: Chris Maxcy [mailto:chris@youtube.com]

Sent: Tuesday, October 17, 2006 7:15 AM

To: Garfield, Dean

Cc: 'Kelly Liang'

Subject: FW: Proposal from MPAA on Content Identification and Filtering

Hi Dean,

Things are good here but seem to be busier than ever. We are all excited to be a part of Google (though things have not closed yet – and even if/when they do I have many years of work ahead ☺). Thanks for sending over the attached proposal and for working with us on a pilot test. A couple quick comments:

For the audio fingerprinting... uploaded files are “processed” on our site meaning that they do go live for a short period of time (generally measured in seconds) before the filter kicks in. This is more of a latency issue than anything else and we are working with Vance at Audible to ensure that the system responds quickly.

The other very important element beyond audio fingerprinting is the enhanced text search tool currently being built. This tool will enable content owners to define searches on YouTube using key words or phrases. The search terms can be sent to YouTube via an xml feed or can be input manually. Once YouTube has the search terms, we will automatically run searches on behalf of the content owners. Searches can be saved, narrowed or broadened at the content owners’ discretion. Content owners will get an admin tool to see the search results (consisting of a url link and thumbnail images of the videos in question). At this point the content owner will need to review the search results and can mark individual videos at either blocked or licensed for use on YouTube. In either case, once a file is identified as owned or controlled by a content owner it is fed back through the audio fingerprinting system so the entire process gets smarter over time.

Our development team is still working out the implementation details with Vance but we are expecting to get all of the audio fingerprinting and text search tools in place by year end. I’ll touch base with Vance to see how we can get the MPAA test up and running as we start to test his system. In the meantime, I also wanted to introduce Kelly Liang who is one of the senior members of our BD team. Kelly will be leading the charge on our studio initiatives going forward. I’m in NYC until later this week but would love to catch up Thurs/Friday if you are available. Look forward to catching up soon.

Best,

Chris

From: Dean_Garfield@mpaa.org [mailto:Dean_Garfield@mpaa.org]
Sent: Thursday, October 12, 2006 7:12 PM
To: chris@youtube.com
Subject: Proposal from MPAA on Content Identification and Filtering

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

Dean