

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 JUDY McGRATH
New York, New York
Wednesday, July 29th, 2009

REPORTED BY:
ERICA RUGGIERI, CSR, RPR
JOB NO: 17161

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July 29, 2009
8:09 a.m.

VIDEOTAPED DEPOSITION OF JUDY
McGRATH, 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.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

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FOR THE DEFENDANTS

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A P P E A R A N C E S: (Cont'd)

ALSO PRESENT:

MICHELINA HALLEY, MTV Networks

ANDRA SHAPIRO, MTV Networks

CARLOS KING, Videographer

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IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties herein, that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be sworn to and signed before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the Court.

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09:35:32

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09:48:45

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09:48:55

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THE VIDEOGRAPHER: This is tape number one of the videotape deposition of Judy McGrath, in the matter of Viacom International, Inc., et al. versus YouTube, Inc., et al., the Football Association Premier League Limited, et al. vs YouTube, Inc., et al, in the United States District Court, for the Southern District of New York.

This deposition is being held at 1301 Avenue of the Americas, New York, New York, on July 29, 2009, at approximately 9:35 a.m.

Will counsel please introduce themselves.

MR. KRAMER: I'm Dave Kramer, from Wilson Sonsini Goodrich & Rosati for defendants. With me is Michael Rubin from my firm and John Mancini, from Mayer Brown, all representing the defendants.

MS. KOHLMANN: And I'm Susan Kohlmann from Jenner & Block, the

1 McGRATH

2 Viacom plaintiffs.

3 MS. HALLEY: Michelina Halley,
4 from MTV Networks.

09:49:04

5 MS. SHAPIRO: Andra Shapiro,
6 from MTV Networks.

7 THE VIDEOGRAPHER: Will the
8 court reporter please swear in the
9 witness.

10 J U D Y M c G R A T H , called as a
11 witness, having been duly sworn by a
12 Notary Public, was examined and testified
13 as follows:

14 EXAMINATION BY

15 MR. KRAMER:

16 Q. Ms. McGrath, as I just said, I'm
17 David Kramer. I'm from Wilson Sonsini
18 Goodrich & Rosati, representing Google and
19 YouTube. I'll be conducting the
20 deposition today.

09:49:24

21 Let me ask you at the start,
22 have you ever been deposed before?

23 A. Yes.

24 Q. In what matters were you
25 deposed?

09:49:29

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1 McGRATH

03:50:00

2 Q. You stated to the press in
3 mid-October 2006 that Viacom would
4 continue to permit YouTube users to upload
5 South Park clips to the YouTube service,
6 didn't you, Ms. McGrath?

7 A. This is not in quotes.

03:50:18

8 I don't recall this
9 conversation. And I do believe, if this
10 were during a period when we were trying
11 to do a deal to legitimately be
12 compensated for the use of our content on
13 YouTube, it was still on there. But I
14 don't know if this is that time.

03:50:35

15 Q. Ms. McGrath, you don't have any
16 reason to believe that the reporters of
17 this article inaccurately represented what
18 you told them, right?

03:50:44

19 A. A passing comment on the way
20 into the dinner, I have no recollection of
21 this.

22 Q. So you have no reason to doubt
23 that you said this, right?

24 MS. KOHLMANN: Objection.

03:50:49

25 A. I have no reason to believe I

1 McGRATH

2 suggest it's inaccurate, though, correct?

3 MS. KOHLMANN: Objection.

4 A. I don't recall this at all, so I
03:52:36 5 can't verify whether it's accurate or
6 inaccurate.

7 Q. At the time you are -- at the
8 time the article has you making these
9 statements, you did want users of YouTube
03:52:48 10 to continue uploading South Park clips to
11 the YouTube service, right?

12 A. I wanted to be -- I wanted us to
13 do a deal with YouTube so that our content
14 could be displayed there. That's what I
03:53:07 15 wanted. That's --

16 Q. I'm asking you --

17 A. That's what I ultimately wanted.

18 Q. Deal aside, at this point in
19 time you wanted users to continue
03:53:15 20 uploading South Park clips to YouTube,
21 right?

22 MS. KOHLMANN: Objection.

23 A. I don't remember.

24 Q. Ms. McGrath, did you not view
03:53:21 25 the presence of South Park clips on

1 McGRATH

2 YouTube, that we saw in Exhibit 28?

3 A. I don't recall that conversation
4 with those reporters.

04:02:33

5 Q. Ms. McGrath, were users who were
6 uploading those clips to the YouTube
7 service from the South Park show violating
8 Viacom's rights?

9 A. Let's see, in 2006?

04:03:32

10 Q. Yes.

11 A. We had no affiliation deal or
12 anything else with YouTube, so that would
13 be a violation.

04:03:44

14 Q. So assuming you made the
15 statements attributed to you in this
16 article, Exhibit 28 --

17 A. I'm not assuming that.

18 Q. I'm asking you to assume that.

19 A. Okay.

04:03:54

20 Q. -- you still believe that the
21 users who were uploading clips to the
22 YouTube service would be violating
23 Viacom's rights?

04:04:02

24 MS. KOHLMANN: Object to the
25 question.

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