

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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VIACOM INTERNATIONAL, INC., COMEDY
PARTNERS, COUNTRY MUSIC TELEVISION,
INC., PARAMOUNT PICTURES CORPORATION,
and BLACK ENTERTAINMENT TELEVISION,
LLC,

Plaintiffs,

vs. NO. 07-CV-2103

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

Defendants.

_____x

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.

_____x

VIDEOTAPED DEPOSITION OF MICHAEL WOLF
NEW YORK, NEW YORK
FRIDAY, APRIL 17, 2009

JOB NO.: 16687

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APRIL 17, 2009
10:02 a.m.

VIDEOTAPED DEPOSITION OF MICHAEL
WOLF, held at the offices of CAHILL GORDON &
REINDEL, LLP, 80 Pine Street, New York, New
York, pursuant to subpoena, before JENNIFER
OCAMPO-GUZMAN, a Shorthand 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 VIACOM INTERNATIONAL,
INC.:

JENNER & BLOCK, LLP

BY: SUSAN J. KOHLMANN, ESQ.

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

WILSON SONSINI GOODRICH & ROSATI, PC

BY: BART E. VOLKMER, ESQ.

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APPEARANCES (Continued):

FOR THE DEPONENT:

CAHILL GORDON & REINDEL, LLP

BY: ADAM ZUROFSKY, ESQ.

BY: CHRISTOPHER A. GORMAN, ESQ.

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ALSO PRESENT:

CARLOS KING, Videographer

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10:04:14 2 THE VIDEOGRAPHER: This is tape
10:04:15 3 number 1 of the videotaped deposition of
10:04:17 4 Michael Wolf in the matter Viacom
10:04:23 5 International, Inc., the Football
10:04:25 6 Association Premiere League Limited, et
10:04:25 7 al., versus YouTube Inc., YouTube, LLC
10:04:28 8 and Google, Inc.

10:04:29 9 This deposition is being held at 80
10:04:34 10 Pine Street, New York, New York on
10:04:35 11 April 17, 2009, at approximately 10:02
10:04:38 12 a.m.

10:04:38 13 My name is Carlos King from the
10:04:41 14 firm of David Feldman Worldwide, and I
10:04:44 15 am the legal video specialist. The
10:04:46 16 court reporter is Jennifer Ocampo-Guzman
10:04:48 17 in association with David Feldman
10:04:50 18 Worldwide.

10:04:51 19 Will counsel please introduce
10:04:52 20 themselves.

10:04:52 21 MR. VOLKMER: Bart Volkmer from
10:04:54 22 Wilson Sonsini Goodrich & Rosati
10:04:54 23 representing defendants Google and
10:04:58 24 YouTube.

10:04:58 25 MR. ZUROFSKY: Adam Zurofsky from

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10:04:58 2 Cahill Gordon & Reindel, LLP, with my
10:05:00 3 associate Chris Gorman, representing the
10:05:01 4 witness.
10:05:02 5 MS. KOHLMANN: Susan Kohlmann from
10:05:06 6 Jenner & Block, LLP, representing
10:05:07 7 Viacom.
10:05:07 8 MR. VOLKMER: Good morning, Mr.
10:05:08 9 Wolf. Could you please state your name
10:05:10 10 and home address for the record, please?
10:05:14 11 THE WITNESS: Michael J. Wolf, 1010
10:05:14 12 Fifth Avenue.
10:05:17 13 MR. VOLKMER: I know that you've
10:05:17 14 been deposed before and I know you know
10:05:20 15 the routine, but I'd like to go over a
10:05:22 16 few of the ground rules today.
10:05:23 17 First, the court reporter is taking
10:05:25 18 down everything that we say, so please
10:05:27 19 answer audibly instead of nodding your
10:05:27 20 head or shaking your head.
10:05:31 21 THE WITNESS: Okay.
10:05:31 22 MR. VOLKMER: And your attorney may
10:05:32 23 be making objections throughout the
10:05:32 24 course of the deposition from time to
10:05:34 25 time, and even though he's making

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1 Wolf

11:48:18 2 foundation.

11:48:21 3 A. At the time I would have need --
11:48:28 4 needed to see -- I mean, again, I don't know
11:48:33 5 whether I agree. On one side I believed that
11:48:35 6 it was an acquisition that would be
11:48:37 7 important; on the other side I would have
11:48:40 8 needed to see much more financial information
11:48:44 9 and information about the business model
11:48:47 10 before I could have gone ahead, and, and
11:48:50 11 believed that this was an acquisition that
11:48:52 12 Viacom should complete.

11:48:53 13 Q. From a business perspective, the
11:49:07 14 individuals listed at the top of this e-mail
11:49:08 15 came to the conclusion that such an
11:49:10 16 acquisition would be viable though, right?

11:49:13 17 MR. ZUROFSKY: Objection to form,
11:49:14 18 foundation, vague.

11:49:15 19 MS. KOHLMANN: Objection.

11:49:16 20 MR. ZUROFSKY: The document speaks
11:49:17 21 for itself. Go on.

11:49:19 22 A. I don't see anywhere where it says
11:49:21 23 "viable."

11:49:21 24 Q. What was the function of the group
11:49:30 25 that was convened over the second weekend in

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1 Wolf

11:49:33 2 July of 2006, to look at the YouTube, at a
11:49:37 3 potential YouTube acquisition?

11:49:39 4 MR. ZUROFSKY: Objection to form,
11:49:40 5 asked and answered.

11:49:40 6 MS. KOHLMANN: Objection.

11:49:43 7 MR. ZUROFSKY: Yes, the last
11:49:44 8 document.

11:50:08 9 A. If you look at the previous
11:50:09 10 document, the document marked Wolf 6 ID 41709
11:50:17 11 it says, the fifth paragraph down, "The key
11:50:29 12 question we now need to consider, how could
11:50:33 13 we create a business model for YouTube?"

11:50:35 14 Q. Okay. And what was the answer from
11:50:41 15 that group that you convened?

11:50:46 16 A. Ultimately the answer was no.

11:50:48 17 Q. The group came back with the
11:50:51 18 answer, no, we can't create a business model
11:50:54 19 for YouTube?

11:50:56 20 A. To the best of my recollection, we
11:50:59 21 did not pursue the acquisition and so we did
11:51:04 22 not continue to have negotiations around the
11:51:07 23 acquisition, so the group did not say that we
11:51:13 24 should buy YouTube.

11:51:16 25 Q. You convened a group to come back

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1 Wolf

11:51:21 2 and answer the question of whether we, and
11:51:25 3 that's MTV Networks, could create a business
11:51:28 4 model for YouTube and they had a session over
11:51:30 5 the weekend and they reported back to you; is
11:51:32 6 that right?

11:51:32 7 A. That's correct.

11:51:32 8 Q. And you're saying that their
11:51:35 9 recommendation, after meeting over the
11:51:37 10 weekend, was that MTV Networks could not
11:51:40 11 build a business model --

11:51:42 12 MR. ZUROFSKY: Objection.

11:51:43 13 Q. -- around YouTube?

11:51:44 14 MR. ZUROFSKY: Objection,
11:51:45 15 misstates, foundation, form.

11:51:47 16 Go ahead.

11:51:48 17 MS. KOHLMANN: Objection.

11:51:54 18 THE WITNESS: Could you read me
11:51:55 19 back the question, please, it's just a
11:51:56 20 lot of questions so I'm having trouble
11:51:59 21 remembering which one I'm answering.

11:52:01 22 (A portion of the record was read.)

11:52:20 23 A. To the best, to the best of my
11:52:26 24 recollection, they did not believe that we
11:52:35 25 could build a sufficient business model that

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1 Wolf

11:52:39 2 would justify an acquisition.

11:52:41 3 Q. But doesn't Mr. Cahan state at the
11:52:54 4 conclusion of that weekend, after meeting
11:52:56 5 with the individuals that we've been
11:52:58 6 discussing, that we all believe this is a
11:53:01 7 transformative acquisition that we should
11:53:03 8 pursue?

11:53:05 9 MR. ZUROFSKY: Objection, the
11:53:05 10 document speaks for itself, asked and
11:53:07 11 answered.

11:53:07 12 MS. KOHLMANN: Objection.

11:53:09 13 MR. ZUROFSKY: Form.

11:53:09 14 A. I didn't write this memo, so I
11:53:12 15 don't know specifically what Mr. Cahan means.

11:53:15 16 Q. But he's reporting back to you the
11:53:19 17 results of a group consensus regarding an
11:53:25 18 acquisition of YouTube by Viacom, right?

11:53:28 19 MS. KOHLMANN: Objection.

11:53:29 20 MR. ZUROFSKY: Objection,
11:53:30 21 misstates, foundation.

11:53:31 22 A. I don't know if that was the
11:53:46 23 consensus. He is reporting back.

11:53:48 24 Q. And he's reporting back, "We all
11:53:51 25 believe this is a transformative acquisition

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