

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 FRANCK CHASTAGNOL
SAN FRANCISCO, CALIFORNIA
WEDNESDAY, DECEMBER 10, 2008

DAVID FELDMAN WORLDWIDE, INC.
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DECEMBER 10, 2008

9:57 a.m.

VIDEOTAPED DEPOSITION OF FRANCK CHASTAGNOL,
SHEARMAN & STERLING, 525 Market Street,
San Francisco, California, pursuant to notice,
before ANDREA M. IGNACIO HOWARD, CLR, CCRR, RPR,
CSR License No. 9830.

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

2

3 FOR THE PLAINTIFFS VIACOM INTERNATIONAL INC.:

4 JENNER & BLOCK

5 By: MICHAEL DESANCTIS, Esq.

6 SARAH A. MAGUIRE, Esq.

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12 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

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

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

5 MAYER BROWN LLP

6 By: MATTHEW D. INGBER, Esq.

7 BRIAN WILLEN, Esq.

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18

19 ALSO PRESENT:

20 ADAM L. BAREA, Litigation Counsel, Google

21 KELLY TRUELOVE, Consultant

22 KEN REESER, Videographer.

23

24 ---oOo---

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1 CHASTAGNOL

2 SAN FRANCISCO, CALIFORNIA

3 WEDNESDAY, DECEMBER 10, 2008, 9:57 A.M.

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THE VIDEOGRAPHER: Good morning. Today's videotaped deposition of Franck Chastagnol is taken on December 10th, 2008, at 525 Market Street, 15th Floor, San Francisco, California. In the matter of Viacom International, et al., vs. YouTube, Incorporated, et al., and The Football Association Premier League Limited, et al., vs. YouTube, Incorporated, et al.

Civil Action No. 07-CV-2103. In the U.S. District Court, Southern District of New York.

My name is Ken Reeser. I represent David Feldman Worldwide, located at 600 Anton Boulevard, Suite 1100, Costa Mesa, California.

We are now commencing at 9:57 a.m.

Will all present please identify themselves, beginning with the witness.

THE WITNESS: I'm Franck Chastagnol from YouTube.

MR. DESANCTIS: Michael DeSanctis of Jenner & Block.

MS. MAGUIRE: Sarah Maguire of Jenner &

1 CHASTAGNOL

09:57:44 2 Block.

09:57:44 3 MR. TRUELOVE: Kelly Truelove, consultant for
09:57:47 4 Viacom plaintiffs.

09:57:48 5 MR. GALDSTON: Benjamin Galdston of
09:57:50 6 Bernstein, Litowitz, Berger & Grossman.

09:57:51 7 MR. INGBER: Matthew Ingber, Mayer Brown, for
09:57:54 8 the defendants.

09:57:58 9 MR. WILLEN: Brian Willen, Mayer Brown, for
09:57:58 10 the defendants.

09:57:58 11 MR. RUBIN: Michael Rubin, Wilson Sonsini,
09:58:04 12 for the defendants.

09:58:04 13 MR. BAREA: Adam Barea, Google.

09:58:04 14 THE VIDEOGRAPHER: Thank you.

09:58:05 15 Please swear in the witness.

09:58:05 16

09:58:05 17 FRANCK CHASTAGNOL,

09:58:05 18 having been sworn as a witness, testified as follows:

09:58:05 19

09:58:16 20 EXAMINATION BY MR. DESANCTIS

09:58:16 21 MR. DESANCTIS: Q. Good morning,
09:58:19 22 Mr. Chastagnol.

09:58:20 23 A Good morning.

09:58:21 24 Q Just for clarity, could you please, again,
09:58:25 25 state your name and spell it for the record.

1 CHASTAGNOL

13:43:18 2 source code to deactivate the -- the feature. That's
13:43:22 3 one way.

13:43:22 4 MR. DESANCTIS: Okay. All right. Now, 55.
13:43:56 5 Okay.

13:43:57 6 MS. MAGUIRE: 55.

13:43:57 7 MR. DESANCTIS: 55.

13:44:00 8 (Document marked Chastagnol Exhibit 5
13:44:02 9 for identification.)

13:44:02 10 MR. DESANCTIS: Let me show you what's been
13:44:04 11 marked as Chastagnol deposition Exhibit 5.

13:44:07 12 THE WITNESS: Thank you.

13:44:10 13 MR. DESANCTIS: Q. I specifically want to
13:44:12 14 direct your attention to the middle of the first page
13:44:16 15 where it has your name, Franck Chastagnol, wrote.

13:44:21 16 A Yeah.

13:44:21 17 Q And this is you responding to an e-mail from
13:44:25 18 Ken Montoya which appears right below. Ken Montoya
13:44:31 19 writes an e-mail to you that starts, "Hi, Franck," and
13:44:35 20 if you go down to the very bottom of the page, number
13:44:42 21 two, "How are strikes --" Ken Montoya -- Ken
13:44:47 22 Montoyama, I'm sorry, asks "How are strikes accounted
13:44:50 23 for? If we pull the embraced content down, will the
13:44:54 24 user automatically receive a strike against them or is
13:44:58 25 this controlled by the squad team?"

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1 CHASTAGNOL

13:45:06 2 And how did you answer in this e-mail?

13:45:09 3 MR. INGBER: First of all, take your time to

13:45:11 4 read --

13:45:11 5 THE WITNESS: Okay.

13:45:11 6 MR. INGBER: -- that e-mail and the other

13:45:13 7 e-mails of the chain before you answer.

13:45:16 8 And objection on the ground that the document

13:45:17 9 speaks for itself.

13:45:45 10 MR. DESANCTIS: Q. Have you had a chance to

13:46:36 11 look over that portion of the e-mail, Mr. Chastagnol?

13:46:43 12 A I -- I did look at -- I did read this portion

13:46:49 13 of the documents, yes.

13:46:50 14 Q Okay. So after the question -- and this is,

13:46:55 15 I should say, this is an e-mail dated March 2007,

13:47:00 16 correct, from the -- the top e-mail on page one,

13:47:05 17 anyway, is from David King to you; is that correct?

13:47:10 18 A That's correct.

13:47:11 19 Q Okay. So you are asked how accounts -- how

13:47:17 20 strikes -- "How are strikes accounted for, and will

13:47:24 21 the user automatically receive a strike against them

13:47:26 22 or is this controlled by the squad team?" That's at

13:47:29 23 the bottom of page one of your exhibit.

13:47:31 24 And you answered, "No, currently we do not

13:47:34 25 give the user a strike if content is taken down versus

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1 CHASTAGNOL

13:47:37 2 CY -- via CYC."

13:47:41 3 So as we're trying to figure out the date on
13:47:44 4 which uploaders were first given strikes on account of
13:47:50 5 content taken down via CYC, this evidences that on
13:47:56 6 March -- in March of 2007, strikes were not given;
13:48:00 7 correct?

13:48:01 8 MR. INGBER: Objection to form; document
13:48:03 9 speaks for itself.

13:48:04 10 THE WITNESS: So, I mean, I don't remember
13:48:07 11 this particular e-mail, and reading it today it was my
13:48:14 12 interpretation when -- my understanding, when I
13:48:18 13 replied back to Ken, that no strikes were given to --
13:48:26 14 to a user at that time. I might have discussed it
13:48:29 15 with David, the product manager at that time.

13:48:34 16 MR. DESANCTIS: Yeah. Okay.

13:48:39 17 Q You could put that aside. I'm now going to
13:48:43 18 show you what's being marked as Chastagnol Exhibit 6.

13:48:48 19 A Okay.

13:48:51 20 (Document marked Exhibit Chastagnol 6
13:48:53 21 for identification.)

13:48:53 22 MR. DESANCTIS: Q. This is another e-mail
13:48:54 23 from David King to you, but this one is dated
13:48:58 24 August 2nd, 2007. Subject line is "Strikes against
13:49:04 25 user accounts." It begin with Bates No. G00001-35137.

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