

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-2203

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

Defendants.

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VIDEOTAPED DEPOSITION OF
SCOTT HURWITZ
NEW YORK, NEW YORK
WEDNESDAY, SEPTEMBER 10, 2008

Reported By:
Jennifer Ocampo-Guzman
JOB NO.: 15778

DAVID FELDMAN WORLDWIDE, INC.
805 Third Avenue, New York, New York 10022 (212)705-8585

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September 10, 2008
10:09 a.m.

Videotaped Deposition of SCOTT
HURWITZ, held at the offices of Mayer
Brown, 1675 Broadway, New York, New
York, pursuant to subpoena, before
Jennifer Ocampo-Guzman, a Real-Time
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. :

SHEARMAN & STERLING, LLP

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2 A P P E A R A N C E S: (Continued)

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

6

7 WILSON SONSINI GOODRICH & ROSATI

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13 MAYER BROWN

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16 New York, New York 10019-5820

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19 BY: RICHARD BEN-VENISTE, ESQ.

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APPEARANCES (Continued):

ATTORNEY FOR THIRD-PARTY ICED MEDIA AND THE
DEPONENT:

DUNLOP & ASSOCIATES

BY: VICTOR ANTONIO DUNLOP, Esq.

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ALSO PRESENT:

MANUEL ABREU, Videographer

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10:08:21 2 THE VIDEOGRAPHER: This is tape

10:08:49 3 number 1 of the videotape deposition of

10:08:53 4 Scott Hurwitz in the matter of Viacom

10:08:55 5 International, Inc., Comedy Partners,

10:08:58 6 Country Music Television, Inc.,

10:09:00 7 Paramount Pictures Corporation and Black

10:09:03 8 Entertainment Partners, LLC, versus

10:09:05 9 YouTube, Inc., YouTube, LLC, and Google,

10:09:08 10 Inc.

10:09:08 11 This deposition is being held at

10:09:11 12 1675 Broadway, New York, New York, on

10:09:13 13 September 10, 2008, at approximately

10:09:16 14 10:09 a.m.

10:09:17 15 My name is Manuel Abreu, from the

10:09:20 16 firm of David Feldman Worldwide, and I'm

10:09:23 17 the legal video specialist. The court

10:09:25 18 reporter is Jennifer Ocampo-Guzman in

10:09:28 19 association with David Feldman

10:09:28 20 Worldwide.

10:09:28 21 Will counsel please introduce

10:09:31 22 themselves?

10:09:31 23 MR. RUBIN: Michael Rubin of Wilson

10:09:34 24 Sonsini Goodrich & Rosati on behalf of

10:09:34 25 the defendants and subpoena parties

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10:09:37 2 Google and YouTube.

10:09:38 3 MR. KIRSCHNER: Jason Kirschner

10:09:40 4 from Mayer Brown on behalf of the

10:09:41 5 defendants and subpoena parties Google

10:09:44 6 and YouTube.

10:09:47 7 MR. GOLDBERGER: Dan Goldberger on

10:09:48 8 behalf of Proskauer Rose and the class.

10:09:52 9 MS. MERINGOLO: Colleen Meringolo

10:09:53 10 on behalf of the plaintiffs, Viacom.

10:09:53 11 MR. GUELI: John Gueli with

10:09:53 12 Shearman & Sterling on behalf of the

10:09:57 13 Viacom plaintiffs.

10:09:57 14 MR. DUNLOP: Victor Dunlop on

10:10:00 15 behalf of Dunlop & Associates for

10:10:02 16 third-party ICED Media.

10:10:03 17 THE VIDEOGRAPHER: Will the court

10:10:04 18 reporter please swear in the witness?

19 S C O T T H U R W I T Z, called as a

20 witness, having been duly sworn by a Notary

21 Public, was examined and testified as

22 follows:

23 EXAMINATION BY

10:10:14 24 MR. RUBIN:

10:10:14 25 Q. Good morning, Mr. Hurwitz.

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1 Hurwitz

11:36:53 2 Comedy Central?

11:36:54 3 A. Yeah.

11:36:56 4 Q. With whom did you speak?

11:36:58 5 A. I don't recall.

11:37:03 6 Q. Did you speak with someone at

11:37:05 7 Paramount named Christina?

11:37:06 8 A. Yes.

11:37:06 9 Q. Who is Christina, what's her last

11:37:09 10 name?

11:37:09 11 A. Tipton.

11:37:10 12 Q. And what did -- what was the

11:37:12 13 substance of the conversation?

11:37:14 14 A. You have it right here; correct?

11:37:17 15 No?

11:37:17 16 Actually, I don't have the actual

11:37:19 17 e-mail.

11:37:23 18 "Our account has been shut down,

11:37:25 19 can you help us get it reinstated."

11:37:27 20 Q. And what was Christina's response?

11:37:30 21 A. Probably gave me kevin@youtube to

11:37:35 22 reach out to which is what I've done here.

11:37:37 23 Q. Because as you had understood the

11:37:41 24 video that you posted to YouTube, the Comedy

11:37:44 25 Central video that you had posted to YouTube

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1 Hurwitz

11:37:45 2 was posted with authorization?

11:37:47 3 A. Can you repeat that question?

11:37:48 4 Q. The -- yes.

11:37:52 5 The video that Comedy Central had
11:37:55 6 issued the notice to YouTube about that you
11:37:57 7 had posted, you had posted it with Comedy
11:38:00 8 Central's authorization; is that right?

11:38:02 9 A. Yes.

11:38:03 10 Q. In fact, every video that you
11:38:04 11 posted to YouTube was posted with the
11:38:07 12 authorization of the client?

11:38:08 13 A. Yes.

11:38:09 14 Q. So this was a mistake on behalf of
11:38:12 15 Comedy Central?

11:38:13 16 A. That's my understanding.

11:38:16 17 Q. And Christina at Paramount
11:38:19 18 confirmed that for you?

11:38:20 19 A. No.

11:38:21 20 Q. She did not confirm that it was a
11:38:23 21 mistake?

11:38:23 22 A. She said nothing about Comedy
11:38:26 23 Central.

11:38:26 24 Q. So what did Christina tell you?

11:38:28 25 A. Probably gave me kevin@youtube.

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1 Hurwitz

11:38:32 2 Q. And what did -- this was the sum
11:38:38 3 total of your conversation with YouTube?

11:38:41 4 A. Yeah.

11:38:45 5 MR. GUELI: The question was with
11:38:47 6 YouTube?

11:38:48 7 MR. RUBIN: Uh-huh.

11:38:49 8 MR. GUELI: What is the sum total
11:38:51 9 of what you're referring to?

11:38:51 10 MR. RUBIN: This document.

11:38:52 11 MR. GUELI: These e-mail chains?

11:38:54 12 MR. RUBIN: Yeah.

11:38:55 13 A. Sure.

11:38:55 14 Q. Was your account restored?

11:39:00 15 A. Yes.

11:39:02 16 Q. Were any videos other than the one
11:39:05 17 video referred to in this e-mail ever taken
11:39:08 18 down from your account?

11:39:09 19 A. I don't know.

11:39:09 20 Q. Did you ever receive any e-mails
11:39:14 21 other than the one referenced on the bottom
11:39:18 22 of the page bearing, ending Bates number 184
11:39:23 23 from YouTube notifying you that a video had
11:39:25 24 been taken down from your account?

11:39:27 25 A. I don't recall.

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