

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.)

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.)

YOUTUBE, INC., YOUTUBE, LLC, AND)
GOOGLE, INC.,)

DEFENDANTS.)

-----)

VIDEOTAPED DEPOSITION OF AMY POWELL
TAKEN ON TUESDAY, DECEMBER 15, 2009

JOB NO. 18310

CASE NO.
07-CV-2103

CASE NO.
07-CV-3582

DAVID FELDMAN WORLDWIDE, INC.
450 Seventh Avenue - Ste 2803, New York, NY 10123 (212) 705-8585

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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VS.)

YOUTUBE, INC., YOUTUBE, LLC, AND)
GOOGLE, INC.,)

DEFENDANTS.)

CASE NO.
07-CV-3582

Videotaped deposition of AMY HOWELL, taken on
behalf of the Defendants, at 350 South Grand Avenue,
Suite 2500, Los Angeles, California, on Tuesday,
December 15, 2009, at 9:25 a.m., before NIKKI ROY,
CSR. No. 3052.

1 APPEARANCES:

2

3 FOR THE PLAINTIFFS:

4

5 JENNER & BLOCK, LLP
6 BY: SUSAN J. KOHLMANN, ESQ.
7 919 Third Avenue
8 37th Floor
9 New York, New York 10022-3908
10 212.891.1600
11 skohlmann@jenner.com

9

10 FOR DEFENDANT GOOGLE:

11 WILSON SONSINI GOODRICH & ROSATI
12 BY: BART E. VOLKMER, ESQ.
13 650 Page Mill Road
14 Palo Alto, California 94304-1050
15 650.565.3508
16 bvolkmer@wsgr.com

14

15

16 ALSO PRESENT:

16

17 PAUL KOENIG, Paramount
18 REBECCA PRENTICE, General Counsel, Paramount
19 SCOTT McNAIR, Videographer

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I N D E X

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3

WITNESS

4

AMY POWELL

5

EXAMINATION

PAGE

6

BY MR. VOLKMER

8, 140

7

8

E X H I B I T S

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10

NO.

PAGE

DESCRIPTION

11

Exhibit 1

30

E-Mail Bates VIA 01987932

12

Exhibit 2

35

E-Mail Bates VIA 00366274
through VIA 00366287

13

Exhibit 3

65

E-Mail Bates VIA 003353643

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Exhibit 4

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E-Mail Bates VIA 00345822

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Exhibit 5

90

E-Mail Bates VIA 00373855
through VIA 00373859

16

17

Exhibit 6

106

E-Mail Bates VIA 00429987
through VIA 00429989

18

Exhibit 7

109

Screen shot

19

Exhibit 8

118

E-Mail Bates VIA 00434221
and VIA 00434222

20

21

Exhibit 9

124

E-Mail Bates VIA 00871835
and VIA 00861856

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Exhibit 10

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Screen shot

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Exhibit 11

135

E-Mail Bates VIA 00429320

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I N D E X (CONTINUED):

EXHIBITS (CONTINUED)

| NO. | PAGE | DESCRIPTION |
|------------|------|--|
| Exhibit 12 | 140 | E-Mail Bates VIA 01987927 and VIA 01987928 |
| Exhibit 13 | 146 | E-Mail Bates VIA 11918237 |
| Exhibit 14 | 158 | E-Mail Bates VIA 00353953 |
| Exhibit 15 | 163 | E-Mail Bates VIA 00374212 and VIA 00374213 |
| Exhibit 16 | 174 | E-Mail Bates BAYTSP 003724421 |
| Exhibit 17 | 179 | E-Mail Bates VIA 11562371 and VIA 11562372 |
| Exhibit 18 | 195 | E-Mail Bates BAYTSP 003742450 through BAYTSP 003742452 |
| Exhibit 19 | 203 | E-Mail Bates BAYTSP 004173643 |
| Exhibit 20 | 204 | E-Mail Bates VIA 00431656 |
| Exhibit 21 | 208 | E-Mail Bates VIA 11786487 |
| Exhibit 22 | 215 | E-Mail Bates VIA 11786486 |
| Exhibit 23 | 217 | E-Mail Bates BAYTSP 003715561 |
| Exhibit 24 | 218 | E-Mail Bates VIA 00374792 through VIA 00374796 |
| Exhibit 25 | 224 | E-Mail Bates VIA 11786564 and VIA 11786565 |
| Exhibit 26 | 227 | E-Mail Bates BAYTSP 003732680 and BAYTSP 003732681 |

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I N D E X (CONTINUED):

EXHIBITS (CONTINUED)

| | NO. | PAGE | DESCRIPTION |
|----|------------|------|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | Exhibit 27 | 239 | E-Mail Bates VIA 16074297 through VIA 16074300 |
| 6 | | | |
| 7 | Exhibit 28 | 250 | E-Mail Bates BAYTSP 003716491 |
| 8 | Exhibit 29 | 250 | Screen shot |
| 9 | Exhibit 30 | 255 | E-Mail Bates BAYTSP 003733247 |
| 10 | | | |
| 11 | Exhibit 31 | 258 | E-Mail Bates VIA 11788213 through VIA 11788227 |
| 12 | Exhibit 32 | 265 | E-Mail Bates BAYTSP 003718927 |
| 13 | | | |
| 14 | Exhibit 33 | 267 | E-Mail Bates VIA 00689157 |
| 15 | Exhibit 34 | 267 | Screen shot |
| 16 | Exhibit 35 | 269 | E-Mail Bates VIA 00608131 |
| 17 | Exhibit 36 | 273 | E-Mail Bates VIA 00372294 |
| 18 | Exhibit 37 | 279 | E-Mail Bates VIA 00430652 |
| 19 | Exhibit 38 | 284 | E-Mail Bates VIA 00433646 |
| 20 | Exhibit 39 | 284 | Screen shot |
| 21 | Exhibit 40 | 290 | CD |

UNANSWERED QUESTIONS

(None)

DAVID FELDMAN WORLDWIDE, INC.

450 Seventh Avenue - Ste 2803, New York, NY 10123 (212)705-8585

1 LOS ANGELES, CALIFORNIA, TUESDAY, DECEMBER 15, 2009

2 9:25 a.m.

3

09:21:28 4 THE VIDEOGRAPHER: Good morning. Today's
09:24:47 5 videotaped deposition of Amy Powell is being taken on
09:24:51 6 December 15th, 2009 at 350 South Grand Avenue on the
09:24:58 7 24th floor in Los Angeles, California in the matter
09:25:01 8 of Viacom International, Incorporated, et al. versus
09:25:06 9 YouTube, Incorporated, et al., case number which is
09:25:10 10 07-CV-2203.

09:25:16 11 This case is before the United States
09:25:19 12 District Court for the Southern District of New York.

09:25:21 13 My name is Scott McNair. I represent David
09:25:25 14 Feldman Worldwide located at 600 Anton Boulevard in
09:25:29 15 Costa Mesa, California.

09:25:31 16 We're now commencing at 9:25 a.m.

09:25:34 17 Would counsel please identify yourselves for
09:25:37 18 the record.

09:25:37 19 MR. VOLKMER: Bart Volkmer from Wilson
09:25:40 20 Sonsini Goodrich & Ross representing Google and
09:25:44 21 YouTube.

09:25:44 22 MS. KOHLMANN: Susan Kohlmann from Jenner &
09:25:47 23 Block representing the Viacom plaintiffs. And I'm
09:25:48 24 here today with Rebecca Prentice and Paul Koenig of
09:25:52 25 Paramount.

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09:25:53 1 THE VIDEOGRAPHER: And would the court
09:25:54 2 reporter please swear in the witness.

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4

AMY POWELL,

5

called as a deponent and sworn in by

6

the deposition officer, was examined

7

and testified as follows:

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EXAMINATION

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BY MR. VOLKMER:

09:26:09 11 Q. Morning, Ms. Powell. Could you please state
09:26:13 12 your name and address for the record.

09:26:14 13 A. My name is Amy Powell, [REDACTED]

09:26:19 14 [REDACTED]

09:26:20 15 Q. And you understand that you're testifying
09:26:22 16 under oath today the same as if you were in a
09:26:25 17 courtroom?

09:26:25 18 A. Yes.

09:26:25 19 Q. And do you have any health problems that
09:26:27 20 would impair your ability to testify today?

09:26:29 21 A. No.

09:26:29 22 Q. Are you on any medications that would impair
09:26:32 23 your ability to testify today?

09:26:33 24 A. No.

09:26:33 25 Q. I'm sure you know the drill but -- from your

10:17:12 1 A. I truly don't remember the specifics.

10:17:16 2 Q. Do you know what time frame that campaign
10:17:21 3 occurred in?

10:17:22 4 A. I don't recall.

10:17:28 5 Q. Do you remember when the film Stop Loss was
10:17:30 6 released?

10:17:31 7 A. No.

10:17:31 8 Q. Do you remember the quarter in which it was
10:17:35 9 released?

10:17:36 10 A. No.

10:17:36 11 Q. What about Iron Man, the first Iron Man, did
10:17:44 12 Paramount use YouTube to promote that film?

10:17:46 13 MS. KOHLMANN: Objection as to form.

10:17:48 14 You can answer.

10:17:48 15 THE WITNESS: We would have uploaded the
10:17:50 16 approved materials, yes.

10:17:51 17 BY MR. VOLKMER:

10:17:56 18 Q. How about Indiana Jones and The Kingdom of
10:18:01 19 the Crystal Skull?

10:18:01 20 MS. KOHLMANN: Objection.

10:18:01 21 You can answer.

10:18:01 22 THE WITNESS: I don't recall.

10:18:03 23 BY MR. VOLKMER:

10:18:08 24 Q. The Love Guru, did Paramount use YouTube to
10:18:12 25 promote that film?

DAVID FELDMAN WORLDWIDE, INC.

450 Seventh Avenue - Ste 2803, New York, NY 10123 (212) 705-8585

10:18:13 1 MS. KOHLMANN: Objection.

10:18:14 2 You can answer.

10:18:14 3 THE WITNESS: Yes, we had a paid advertising
10:18:16 4 campaign in place.

10:18:17 5 BY MR. VOLKMER:

10:18:19 6 Q. Aside from the paid advertising campaign,
10:18:21 7 did Paramount upload clips or trailers from The Love
10:18:26 8 Guru to YouTube?

10:18:28 9 MS. KOHLMANN: Objection as to form.

10:18:30 10 You can answer.

10:18:30 11 THE WITNESS: Our paid advertising campaign
10:18:34 12 encapsulated an area where our approved materials
10:18:38 13 were unloaded.

10:18:40 14 BY MR. VOLKMER:

10:18:40 15 Q. Right. But was there any uploading that
10:18:42 16 occurred outside of the context of the paid
10:18:47 17 advertising campaign?

10:18:48 18 MS. KOHLMANN: Objection.

10:18:49 19 You can answer.

10:18:49 20 THE WITNESS: The paid advertising campaign
10:18:53 21 included a -- again a channel, if you will, where our
10:18:57 22 paid -- where our approved materials were uploaded.

10:19:02 23 BY MR. VOLKMER:

10:19:02 24 Q. Right. And I want you to set that to one
10:19:04 25 side.