

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.
) 1:07CV02103
YOUTUBE, INC., YOUTUBE, LLC,)
and GOOGLE, INC.,)
)
Defendants.)
_____)

VIDEOTAPED DEPOSITION OF MATTHEW WAITE

New York, New York

Thursday, October 8th, 2009

REPORTED BY:
ERICA RUGGIERI, CSR, RPR
JOB NO: 17844

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

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October 8, 2009
9:30 a.m.

VIDEOTAPED DEPOSITION OF MATTHEW
WAITE, held at the offices of Mayer Brown,
LLP, 1675 Broadway, New York, New York,
pursuant to notice, 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

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FOR THE PLAINTIFFS:

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JENNER & BLOCK, LLP

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1099 New York Avenue, NW

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Suite 900

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Washington, DC 20001-4412

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BY: SCOTT WILKENS, ESQ.

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Swilkens@jenner.com

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12

FOR THE DEFENDANTS

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MAYER BROWN, LLP

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BY: CHRISTINE M. HERNANDEZ, ESQ.

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1675 Broadway

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New York, New York 10019

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Chernandez@mayerbrown.com

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ALSO PRESENT:

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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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09:36:04

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09:36:30

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09:33:40

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THE VIDEOGRAPHER: This is tape number one of the videotape deposition of Matthew Waite, in the matter of Viacom International, Inc., et al. versus YouTube, Inc., et al., in the United States District Court, for the Southern District of New York, case number 07CV2103.

This deposition is being held at the offices of Mayer Brown, LLP, 1675 Broadway, New York, New York, on Wednesday, October 8th, 2009, at approximately 9:33 a.m.

My name is Carlos King from David Feldman Worldwide, and I am the legal video specialist. The court reporter is Erica Ruggieri, in association with David Feldman Worldwide.

Will counsel please introduce themselves.

MS. HERNANDEZ: Christine Hernandez, Mayer Brown LLP, for defendants.

1 WAITE

2 MR. WILKENS: Scoot Wilkens,
3 Jenner & Block LLP, for the Viacom
4 Plaintiffs.

09:33:49

5 THE VIDEOGRAPHER: Will the
6 court reporter please swear in the
7 witness.

8 M A T T H E W W A I T E , called as a
9 witness, having been first duly sworn
10 by a Notary Public, was examined and
11 testified as follows:

12 EXAMINATION BY

13 MS. HERNANDEZ:

14 Q. Good morning, Mr. Waite.

09:34:41

15 A. Good morning.

16 Q. Can you please state your full
17 name and address for the record.

18 A. My name is Matthew Waite,

19 W-A-I-T-E. And my address is [REDACTED]

09:34:53

20 [REDACTED]

21 Q. And how long have you lived in
22 London?

23 A. For approximately five years.

24 Q. Have you ever been deposed

09:35:11

25 before?

1 WAITE

2 A. There's a large list of websites
3 that I have worked with. I don't think I
4 could list every single one.

09:44:40

5 Q. Okay. Is one of the websites
6 YouTube.com?

7 A. I have delivered creative to
8 them before, yes.

9 Q. What about Ifilm.com?

09:44:55

10 A. I don't recall.

11 Q. And what advertising have you
12 delivered to YouTube.com?

13 A. I have delivered channels which
14 have been bought through our media agency.
15 So that's -- there would be a branded
16 channel within YouTube for a specific
17 film, and that would be a call to action
18 and some footage.

09:45:25

19 Q. So is your testimony that a
20 media agency purchased a channel on
21 YouTube?

09:45:41

22 A. Yes.

23 Q. And what's the basis for that
24 statement?

09:45:54

25 What's the basis for your

1 WAITE

2 A. I think so, yes.

3 Q. And what movie was that?

4 A. Strange Wilderness.

09:50:54 5 Q. who created the Strange
6 Wilderness YouTube channel?

7 A. It was a joint effort between
8 myself and the creative agency used to
9 deliver the media.

09:51:12 10 Q. And who was the creative agency?

11 A. I think, again, it was
12 Tea Creative.

13 Q. And do you know who actually
14 created the YouTube account associated
09:51:36 15 with Strange Wilderness?

16 A. I don't recall.

17 Q. Do you recall the name of that
18 account?

19 MR. WILKENS: Objection to the
09:51:44 20 form.

21 A. Not 100 percent I don't. I
22 could speculate.

23 Q. Do you have a -- do you have any
24 recollection as to what the user name
09:51:56 25 might have been?

1 WAITE

2 A. I think it's something similar
3 to Strange Wilderness UK.

09:52:12

4 Q. And were videos uploaded to this
5 Strange Wilderness account that we are
6 discussing?

7 A. Yes.

8 Q. About how many videos?

9 A. I don't recall the entire line.

09:52:22

10 Q. Who uploaded them?

11 A. Possibly myself and possibly the
12 creative agency.

13 Q. Do you specifically remember
14 uploading videos yourself to the Strange
15 Wilderness account?

09:52:40

16 A. Yes.

17 Q. Yes?

18 A. Yes, I do.

19 Q. Do you recall about how many
20 videos you uploaded?

09:52:47

21 A. No.

22 Q. And the videos that you uploaded
23 to Strange Wilderness were authorized to
24 be on YouTube by Paramount, right?

09:53:10

25 MR. WILKENS: Objection to the