

# Schapiro Exhibit 13

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, )

CASE NO.  
07-CIV-02103

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, )

CASE NO.  
07-CV-3582

vs. )

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

DEFENDANTS. )

----- )  
VIDEOTAPED DEPOSITION OF JOHN EDDOW

TAKEN THURSDAY, NOVEMBER 12, 2009  
LOS ANGELES, CALIFORNIA

Job No. 18093

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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, )

CASE NO.  
07-CV-2103

vs. )

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

DEFENDANTS. )

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THE FOOTBALL ASSOCIATION PREMIER )  
LEAGUE LIMITED, BOURNE CO., ET AL., )  
ON BEHALF OF THEMSELVES AND ALL )  
OTHERS SIMILARLY SITUATED, )

PLAINTIFFS, )

CASE NO.  
07-CV-3582

vs. )

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

DEFENDANTS. )

----- )

VIDEOTAPED DEPOSITION OF JOHN EDDOW, TAKEN ON  
BEHALF OF THE DEFENDANTS, AT 9:31 A.M., THURSDAY,  
NOVEMBER 12, 2009 20, 2009, AT 350 SOUTH GRAND AVENUE,  
LOS ANGELES, CALIFORNIA, BEFORE AUDRA E. CRAMER,  
CSR NO. 9901, PURSUANT TO SUBPOENA.

1 APPEARANCES OF COUNSEL

2  
3 FOR VIACOM PLAINTIFFS:

4 JENNER BLOCK, LLP  
5 BY: SCOTT B. WILKENS, ESQUIRE  
6 1099 NEW YORK AVENUE, NW  
7 SUITE 900  
8 WASHINGTON, DC 20001  
9 (202) 639-6072  
10 swilkens@jenner.com

11 FOR PREMIER LEAGUE PLAINTIFFS:

12 PROSKAUER ROSE, LLP  
13 BY: GIL N. PELES, ESQUIRE  
14 2049 CENTURY PARK EAST  
15 SUITE 3200  
16 LOS ANGELES, CALIFORNIA 90067-3206  
17 (310) 284-5611  
18 gpeles@proskauer.com

19 FOR FANSCAPE:

20 TARKIAN & ASSOCIATES  
21 BY: ALEX TARKIAN, ESQUIRE  
22 1901 AVENUE OF THE STARS  
23 SECOND FLOOR  
24 LOS ANGELES, CALIFORNIA 90067  
25 (310) 461-1320  
atarkian@tarkianandassociates.com

FOR YOUTUBE DEFENDANTS:

WILSON SONSINI GOODRICH & ROSATI  
BY: MAURA L. REES, ESQUIRE  
650 PAGE MILL ROAD  
PALO ALTO, CALIFORNIA 94304-1050  
(650) 565-3508  
mrees@wsgr.com(202) 639-6072

ALSO PRESENT:

TOM CAVANAUGH, VIDEOGRAPHER

1 MR. TARKIAN: Is the poolside fight scene on 11:49  
2 Exhibit 29 reflected on Exhibit No. 30, which is the  
3 clip.

4 THE WITNESS: I don't know because I've never  
5 seen either clip. 11:49

6 BY MS. REES:

7 Q. Does it seem likely based on the date of the  
8 e-mail on Exhibit 29 and the date of the e-mail of the  
9 uploading in Exhibit 30?

10 MR. WILKENS: Objection calls for speculation. 11:50

11 MR. TARKIAN: Asked and answered. Go ahead.  
12 Is it likely?

13 THE WITNESS: The time frame seems likely.

14 BY MS. REES:

15 Q. Now, Gossip Girl 40 was a user name created on 11:50  
16 YouTube by Fanscape; right?

17 A. I'm not sure. Was that on the list?

18 Q. Well, for example, if you go back to exhibit --

19 MR. TARKIAN: The grids; right?

20 BY MS. REES: 11:50

21 Q. If you look on one of the grids, like maybe  
22 Exhibit 23. See if I can see a page here.

23 A. Okay. Exhibit 24.

24 Q. Right. It's tiny print in Exhibit 24, but it  
25 lists on the first page, A Shot of Love 2, Tila Tequila 11:51

1 Leak, Kristy's Ass and then Gossip Girl 40 and then A 11:51  
2 Shot of Love 2, Tila Tequila Leak, Lesbian Sandwich,  
3 Gossip Girl 40.  
4 A. Okay.  
5 Q. Based on reviewing Exhibit 24, is it your 11:51  
6 understanding that the -- first of all, that the  
7 Gossip Girl 40 YouTube user name was created by  
8 Fanscape?  
9 A. I think that's a leap. We're using the  
10 channel -- using the channel versus creating it is not 11:51  
11 necessarily the same thing so -- right?  
12 Q. Well, is it your understanding that YouTube  
13 people are allowed to use channels that they didn't  
14 create?  
15 A. Yes. 11:52  
16 Q. But you're not aware of any circumstances where  
17 Fanscape did that, use channels that it didn't create,  
18 are you?  
19 A. No.  
20 Q. And in fact, in Exhibit 26, My-lan Beauford 11:52  
21 references e-mailing gossip blocks with the fake e-mail  
22 address Gossip Girl 40. Does that indicate to you that  
23 My-lan created the Gossip Girl 40 YouTube account?  
24 A. Exhibit 26?  
25 MR. TARKIAN: Do you know whether or not My-lan 11:52

1 created Gossip Girl 40? 11:53

2 THE WITNESS: Based on this, yes.

3 BY MS. REES:

4 Q. Were all of the four videos listed on  
5 Exhibit 30 on the Gossip Girl 40 uploaded to YouTube by 11:53  
6 Fanscape on behalf of MTV?

7 A. All four? Say your question again.

8 Q. The question was, were all four of the videos  
9 listed on Exhibit 30 on the Gossip Girl Channel uploaded  
10 to YouTube on behalf of MTV? 11:53

11 A. The only one I would question would be the  
12 Perez Hilton freakout.

13 Q. Why would you question that?

14 A. I don't think that was provided by MTV. I  
15 don't think Perez Hilton is an MTV property. 11:54

16 Q. Again, if you look back at Exhibit 26 in  
17 My-lan's update for the Celebrity Wrap Superstar Show  
18 she references -- the first bullet point is "Perez  
19 Hilton threw a temper tantrum, and MTV wanted the world  
20 to know about it. 'Leaked' video clip uploaded to ifilm 11:54  
21 and YouTube."

22 A. Okay.

23 Q. So does that indicate to you that Perez Hilton  
24 Freaking Out clip is one of the clips that My-lan is  
25 referring to in Exhibit 26? 11:54





1 Q. These two first videos are called or have 11:57  
2 "Tila Tequila Leak" in the title, they are not really  
3 leaks in the sense of being unauthorized. MTV provided  
4 these videos to Fanscape with permission to upload them;  
5 correct? 11:57

6 MR. TARKIAN: Objection to form.

7 THE WITNESS: Fanscape only uses videos that  
8 they provided. We don't create videos, and we don't  
9 manufacture videos.

10 BY MS. REES: 11:57

11 Q. And it certainly doesn't steal videos?  
12 A. Yeah. Certainly doesn't steal videos.

13 MS. REES: Exhibit 31.

14 (Whereupon, Exhibit 31 was marked  
15 for identification.) 11:58

16 THE WITNESS: Okay.

17 BY MS. REES:

18 Q. Can you identify Exhibit 31?  
19 A. This is a copy of an e-mail.

20 Q. It's an e-mail string involving Christy Wise at 11:59  
21 Fanscape, Jessica Nicola at MTV, and the last one is  
22 forwarded to My-lan Beauford at Fanscape.

23 A. I don't see --

24 Q. At the very top.

25 A. Yes. Thank you. Getting tired already. 11:59

1 Q. So in the e-mail string at the beginning, 11:59  
2 Jessica Nicola says to Christy Wise, "Is this HG clip  
3 okay?" Then the response from Christy Wise is, "Let me  
4 know when you are ready for us to go out with this.  
5 Also, is it okay if we upload it to YouTube when it is 12:00  
6 ready?"

7 Then the response is "Good to go. Thanks, from  
8 Jessica Nicola."

9 Then Christy Wise on the first page writes  
10 back, "YouTube is okay to use." And Jessica Nicola's 12:00  
11 response is "Sir [sure], if you can do it in the  
12 incognito way," with a smiley face. Do you see that?

13 A. Yes.

14 Q. Do you have any understanding as to what  
15 Fanscape was supposed to understand by Ms. Nicola's 12:00  
16 phrase "the incognito way"?

17 A. I do not.

18 Q. So at various points there were times when  
19 Fanscape had uploaded a video to YouTube, and then  
20 Viacom issued a take-down notice for YouTube to take it 12:01  
21 down; is that right?

22 MR. WILKENS: Objection to form.

23 THE WITNESS: Viacom issued a take-down notice  
24 to YouTube?  
25

# **Schapiro Exhibit 14**



Joanna Ging &lt;jging@youtube.com&gt;

**Re: YouTube Account and Clip URL removed**

#257649695 | 17 messages

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**"Joanna Ging" <jging@youtube.com> to "Marni Harris" <marnih@google.com>, "Copyright Service" <copyright@youtube.com>** 3/27/2008 14:28

**Cc:** "Dickehut, Robb - Paramount" <Robb\_Dickehut@paramount.com>, "Arneson, Latham - Paramount" <Latham\_Arneson@paramount.com>, "Tiffany Bowers" <tbowers@google.com>

**Subject:** Re: YouTube Account and Clip URL removed

Thanks Marni!

Hi Copyright team, can you please look and see which videos under the account \*[http://www.youtube.com/profile\\_videos?user=tastefullymine](http://www.youtube.com/profile_videos?user=tastefullymine)\* <[http://www.youtube.com/profile\\_videos?user=tastefullymine](http://www.youtube.com/profile_videos?user=tastefullymine)>

have

been removed as indeed this is Paramount Picture's channel and they have the copyright to the video contents.

Please help, thanks!

---

**"Arneson, Latham - Paramount" <Latham\_Arneson@Paramount.com> to "Joanna Ging" <jging@youtube.com>, "Marni Harris" <marnih@google.com>, "Copyright Service" <copyright@youtube.com>** 3/28/2008 11:56

**Cc:** "Dickehut, Robb - Paramount" <Robb\_Dickehut@Paramount.com>, "Tiffany Bowers" <tbowers@google.com>

**Subject:** RE: YouTube Account and Clip URL removed

Hey all -

Any update here? We'd like to have up for this weekend. Also, assuming we figure out the issue, can we just reinstate the videos (views included) or will we have to re-upload the videos?

Thanks,

Latham

From: jging@google.com [mailto:jging@google.com] On Behalf Of Joanna Ging  
 Sent: Thursday, March 27, 2008 2:29 PM  
 To: Marni Harris; Copyright Service  
 Cc: Dickehut, Robb - Paramount; Arneson, Latham - Paramount; Tiffany Bowers  
 Subject: Re: YouTube Account and Clip URL removed

Thanks Marni!

Hi Copyright team, can you please look and see which videos under the account [http://www.youtube.com/profile\\_videos?user=tastefullymine](http://www.youtube.com/profile_videos?user=tastefullymine) <[http://www.youtube.com/profile\\_videos?user=tastefullymine](http://www.youtube.com/profile_videos?user=tastefullymine)> have been removed as indeed this is Paramount Picture's channel and they have the copyright to the video contents.

Please help, thanks!

---

**"Joanna Ging" <jging@youtube.com> to "Arneson, Latham - Paramount" <Latham\_Arneson@paramount.com>** 3/28/2008 13:01

**Cc:** "Marni Harris" <marnih@google.com>, "Copyright Service" <copyright@youtube.com>, "Dickehut, Robb - Paramount" <Robb\_Dickehut@paramount.com>, "Tiffany Bowers" <tbowers@google.com>  
**Subject:** Re: YouTube Account and Clip URL removed

Hi Latham,

Can we get an email confirmation from you stating that Paramount Pictures would like to retract the DMCA claims submitted on the videos below.

Once we get this, our copyright team will be able to reinstate the videos today.

Thanks!

On 3/28/08, Arneson, Latham - Paramount <Latham\_Arneson@paramount.com> wrote:

```
>
> Hey all -
>
>
> Any update here? We'd like to have up for this weekend. Also, assuming
> we figure out the issue, can we just reinstate the videos (views included)
> or will we have to re-upload the videos?
>
>
> Thanks,
>
> Latham
>
>
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>
```

>  
> -----  
>  
> \*From:\* jging@google.com [mailto:jging@google.com] \*On Behalf Of \*Joanna  
> Ging  
> \*Sent:\* Thursday, March 27, 2008 2:29 PM  
> \*To:\* Marni Harris; Copyright Service  
> \*Cc:\* Dickehut, Robb - Paramount; Arneson, Latham - Paramount; Tiffany  
> Bowers  
> \*Subject:\* Re: YouTube Account and Clip URL removed  
>  
>  
>  
> Thanks Marni!  
>  
>  
> Hi Copyright team, can you please look and see which videos under the  
> account [http://www.youtube.com/profile\\_videos?user=tastefullymine](http://www.youtube.com/profile_videos?user=tastefullymine) have  
> been removed as indeed this is Paramount Picture's channel and they have the  
> copyright to the video contents.  
>  
> Please help, thanks!  
>  
>  
>  
>

---

"Harry Smith" <[hsmith@google.com](mailto:hsmith@google.com)> to "Copyright Service" <[copyright@youtube.com](mailto:copyright@youtube.com)> 3/28/2008 13:06

**Subject:** Re: [#257649695] YouTube Account and Clip URL removed

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"Joanna Ging" <[jging@youtube.com](mailto:jging@youtube.com)> to "Arneson, Latham - Paramount"  
<[Latham\\_Arneson@paramount.com](mailto:Latham_Arneson@paramount.com)>

3/28/2008  
13:08

**Cc:** "Marni Harris" <[marnih@google.com](mailto:marnih@google.com)>, "Copyright Service" <[copyright@youtube.com](mailto:copyright@youtube.com)>, "Dickehut, Robb -  
Paramount" <[Robb\\_Dickehut@paramount.com](mailto:Robb_Dickehut@paramount.com)>, "Tiffany Bowers" <[tbowers@google.com](mailto:tbowers@google.com)>

**Subject:** Re: YouTube Account and Clip URL removed

Hey Latham,

Here are the 7 videos and would like you to state that you would like to  
retract the DMCA claims submitted for these videos. Thanks!

<http://www.youtube.com/watch?v=aWt-fduKFmo>  
<http://www.youtube.com/watch?v=SjKP6pT8eD>  
<http://www.youtube.com/watch?v=xLUPs8zZ-mA>  
<http://www.youtube.com/watch?v=t2x6N4qnGdM>  
<http://www.youtube.com/watch?v=rig59Nf9qRw>  
<http://www.youtube.com/watch?v=sxNuomEUGG0>  
[http://www.youtube.com/watch?v=AgGf\\_xs0HI](http://www.youtube.com/watch?v=AgGf_xs0HI)

---

"Harry Smith" <[hsmith@google.com](mailto:hsmith@google.com)> to "Copyright Service" <[copyright@youtube.com](mailto:copyright@youtube.com)> 3/28/2008 13:29

**Subject:** Re: [#257649695] YouTube Account and Clip URL removed

---

**"Arneson, Latham - Paramount" <Latham\_Arneson@Paramount.com> to "Joanna Ging" <jging@youtube.com>** 3/28/2008 14:02

**Cc:** "Marni Harris" <marnih@google.com>, "Copyright Service" <copyright@youtube.com>, "Dickehut, Robb - Paramount" <Robb\_Dickehut@Paramount.com>, "Tiffany Bowers" <tbowers@google.com>

**Subject:** RE: YouTube Account and Clip URL removed

Hi Joanna -

I can confirm the account "Tastefullymine" has authorization to post all of the videos regarding Drillbit Taylor it has posted to date. And we will not issue takedown orders for these videos.

Quick question as well - once the videos are reinstated, will they retain their view count?

Thanks!

Latham

---

From: jging@google.com [mailto:jging@google.com] On Behalf Of Joanna Ging  
Sent: Friday, March 28, 2008 1:01 PM  
To: Arneson, Latham - Paramount  
Cc: Marni Harris; Copyright Service; Dickehut, Robb - Paramount; Tiffany Bowers  
Subject: Re: YouTube Account and Clip URL removed

Hi Latham,

Can we get an email confirmation from you stating that Paramount Pictures would like to retract the DMCA claims submitted on the videos below.

Once we get this, our copyright team will be able to reinstate the videos today.

Thanks!

**"Copyright Service" <copyright@youtube.com> to "Arneson, Latham - Paramount" <Latham\_Arneson@Paramount.com>**

3/28/2008  
14:14

**Cc:** "Joanna Ging" <jging@youtube.com>  
**Subject:** Re: [#257649695] YouTube Account and Clip URL removed

Dear Latham,

Thank you for your email. If you wish to retract the DMCA claims filed by Paramount Pictures Corp. against the material below. We require a statement of retraction of the DMCA claims and the URL links to the material claimed by Paramount Picture Corp. Once we receive this retraction we will be able to reinstate the material with all statistics intact. Thank you for your patience and understanding.

Material Claimed by Paramount Pictures Corp. from the Tastefullymine account.

- <http://www.youtube.com/watch?v=aWt-fduKFmo>
- <http://www.youtube.com/watch?v=SjKP6pT8eD>
- <http://www.youtube.com/watch?v=xLUPs8zZ-mA>
- <http://www.youtube.com/watch?v=t2x6N4qnGdM>
- <http://www.youtube.com/watch?v=rig59Nf9qRw>
- <http://www.youtube.com/watch?v=sxNuomEUGG0>
- [http://www.youtube.com/watch?v=AgGf\\_xso0HI](http://www.youtube.com/watch?v=AgGf_xso0HI)

Sincerely,

Harry  
The YouTube Team

**"Arneson, Latham - Paramount" <Latham\_Arneson@Paramount.com> to "Copyright Service" <copyright@youtube.com>**

3/28/2008  
14:31

**Cc:** "Joanna Ging" <jging@youtube.com>  
**Subject:** RE: [#257649695] YouTube Account and Clip URL removed

Hi -

Paramount would like to retract the DMCA claims on the following videos. Please reinstate them and notify us when this has been completed.

- <http://www.youtube.com/watch?v=aWt-fduKFmo>
- <http://www.youtube.com/watch?v=SjKP6pT8eD>
- <http://www.youtube.com/watch?v=xLUPs8zZ-mA>
- <http://www.youtube.com/watch?v=t2x6N4qnGdM>
- <http://www.youtube.com/watch?v=rig59Nf9qRw>
- <http://www.youtube.com/watch?v=sxNuomEUGG0>
- [http://www.youtube.com/watch?v=AgGf\\_xso0HI](http://www.youtube.com/watch?v=AgGf_xso0HI)

Thanks!  
Latham

-----Original Message-----

From: Copyright Service [mailto:copyright@youtube.com]  
Sent: Friday, March 28, 2008 2:15 PM  
To: Arneson, Latham - Paramount  
Cc: Joanna Ging  
Subject: Re: [#257649695] YouTube Account and Clip URL removed



Dear Latham,

Thank you for your email. If you wish to retract the DMCA claims filed by Paramount Pictures Corp. against the material below. We require a statement of retraction of the DMCA claims and the URL links to the material claimed by Paramount Picture Corp. Once we receive this retraction we will be able to reinstate the material with all statistics intact. Thank you for your patience and understanding.

Material Claimed by Paramount Pictures Corp. from the Tastefullymine account.

<http://www.youtube.com/watch?v=aWt-fduKFmo>  
<http://www.youtube.com/watch?v=SjKP6pT8eD>  
<http://www.youtube.com/watch?v=xLUPs8zZ-mA>  
<http://www.youtube.com/watch?v=t2x6N4qnGdM>  
<http://www.youtube.com/watch?v=rig59Nf9qRw>  
<http://www.youtube.com/watch?v=sxNuomEUGG0>  
[http://www.youtube.com/watch?v=AgGf\\_xso0HI](http://www.youtube.com/watch?v=AgGf_xso0HI)

Sincerely,

Harry  
The YouTube Team

---

**"Copyright Service" <copyright@youtube.com> to tastefullymine@tempinbox.com**

3/28/2008 14:43

**Subject: Re: [C#257649695] DMCA Claims Retracted**

Hi there,

Paramount Pictures Corp. has retracted its copyright claim with respect to the following videos:

<http://www.youtube.com/watch?v=aWt-fduKFmo>  
<http://www.youtube.com/watch?v=SjKP6pT8eD0>  
<http://www.youtube.com/watch?v=xLUPs8zZ-mA>  
<http://www.youtube.com/watch?v=t2x6N4qnGdM>  
<http://www.youtube.com/watch?v=rig59Nf9qRw>  
<http://www.youtube.com/watch?v=sxNuomEUGG0>  
[http://www.youtube.com/watch?v=AgGf\\_xso0HI](http://www.youtube.com/watch?v=AgGf_xso0HI)

This content has been restored and your account will not be penalized. For technical reasons, it may take a day for the video to be available again.

Sincerely,

Harry  
The YouTube Team

---

**"Copyright Service" <copyright@youtube.com> to "Arneson, Latham - Paramount" <Latham\_Arneson@Paramount.com>**

3/28/2008  
14:44

**Cc:** "Joanna Ging" <jging@youtube.com>

**Subject:** Re: [#257649695] YouTube Account and Clip URL removed

Dear Latham,

Thank you for the retraction. The material has been reinstated.

Sincerely,

Harry  
The YouTube Team

---

**"Mail Delivery Subsystem" <MAILER-DAEMON@google.com> to bounce-20-257649695@trakken.google.com**

3/28/2008  
14:48

**Subject:** Returned mail: see transcript for details

The original message was received at Fri, 28 Mar 2008 21:48:42 GMT  
from zps19.corp.google.com [172.25.146.19]

----- The following addresses had permanent fatal errors -----  
<tastefullymine@tempinbox.com>

----- Transcript of session follows -----  
550 5.1.2 <tastefullymine@tempinbox.com>... Host unknown (Name server: dev.null.: host  
not found)

From: "Copyright Service" <copyright@youtube.com>  
To: tastefullymine@tempinbox.com  
Date: Fri, 28 Mar 2008 21:43:06 -0000  
Subject: Re: [C#257649695] DMCA Claims Retracted  
Hi there,

Paramount Pictures Corp. has retracted its copyright claim with respect to  
the following videos:

<http://www.youtube.com/watch?v=aWt-fduKFmo>  
<http://www.youtube.com/watch?v=SjKP6pT8eD0>  
<http://www.youtube.com/watch?v=xLUPs8zZ-mA>  
<http://www.youtube.com/watch?v=t2x6N4qnGdM>  
<http://www.youtube.com/watch?v=rig59Nf9qRW>  
<http://www.youtube.com/watch?v=sxNuomEUGG0>  
[http://www.youtube.com/watch?v=AgGf\\_xso0HI](http://www.youtube.com/watch?v=AgGf_xso0HI)

This content has been restored and your account will not be penalized.  
For technical reasons, it may take a day for the video to be available  
again.

Sincerely,

Harry  
The YouTube Team

---

**"Harry Smith" <hsmith@google.com> to "Copyright Service" <copyright@youtube.com> 3/28/2008 15:01**

**Subject: Re: [#257649695] YouTube Account and Clip URL removed**

---

**"Joanna Ging" <jging@youtube.com> to "Arneson, Latham - Paramount" 3/31/2008  
<Latham\_Arneson@paramount.com>, "Copyright Service" <copyright@youtube.com> 14:00**

**Cc: "Marni Harris" <marnih@google.com>, "Dickehut, Robb - Paramount" <Robb\_Dickehut@paramount.com>,  
"Warman, Bryan - Paramount" <Bryan\_Warman@paramount.com>, "Lawson, Josh - Paramount"  
<Josh\_Lawson@paramount.com>**

**Subject: Re: [#257649695] YouTube Account and Clip URL removed**

Hi Latham,

Sorry about this but let me ask Harry to look into this for you again.

Copyright/Harry - can you please help and reinstate the videos below?

Thanks!

On 3/31/08, Arneson, Latham - Paramount <Latham\_Arneson@paramount.com> wrote:

>  
> Hi Joanna/Marni -  
>  
>  
>  
> It seems two of our promoted Drillbit Taylor videos have been removed  
> again. The specific URLs for these videos are:  
>  
>  
>  
> http://www.youtube.com/watch?v=AgGf\_xso0HI - Punch Me Harder  
>  
>  
>  
> http://www.youtube.com/watch?v=rig59Nf9qRw - Teacher's Lounge  
>  
>  
>  
> Both of these videos were included in the URLs we sent along to Copyright  
> Service. Is there something more we can do to make sure they do not get  
> taken down?

> For reference, here is one of the promoted videos that is still live.

> http://www.youtube.com/watch?v=sxNuomEUGG0 - Interviewing Bodyguards

> Thanks,

> Latham

> -----  
>  
> \*From:\* Arneson, Latham - Paramount  
> \*Sent:\* Friday, March 28, 2008 4:27 PM  
> \*To:\* 'Joanna Ging'  
> \*Cc:\* Dickehut, Robb - Paramount; Warman, Bryan - Paramount; Marni Harris;  
> Lawson, Josh - Paramount  
> \*Subject:\* RE: [#257649695] YouTube Account and Clip URL removed

> Thanks Joanna.

> -----  
>  
> \*From:\* jging@google.com [mailto:jging@google.com] \*On Behalf Of \*Joanna  
> Ging  
> \*Sent:\* Friday, March 28, 2008 4:26 PM  
> \*To:\* Arneson, Latham - Paramount  
> \*Cc:\* Dickehut, Robb - Paramount; Warman, Bryan - Paramount; Marni Harris;  
> Lawson, Josh - Paramount  
> \*Subject:\* Re: [#257649695] YouTube Account and Clip URL removed

>  
>  
>  
> Hi Latham,  
>  
>  
>  
> I'm not too familiar with the process you can take to prevent this from  
> happening in the future but let me find out from our copyright team to see  
> what you need to do :)  
>  
>  
>  
> Stay tuned...thanks!  
>  
>  
>  
> On 3/28/08, \*Arneson, Latham - Paramount\* <Latham\_Arneson@paramount.com>  
> wrote:  
>  
> Hi Joanna -  
>  
> Thanks for the help on this; the videos are all live again.  
>  
> I was also hoping you could let us know how we can avoid situations like  
> these in the future? I think we assumed on our side that since we were  
> promoting the videos the account would be "white listed" or the videos  
> tagged not to be removed. Is there some process we need to go through in  
> the future before we launch our videos?  
>  
> Thanks,  
> Latham  
>  
> -----Original Message-----  
> From: Copyright Service [mailto:copyright@youtube.com]  
> Sent: Friday, March 28, 2008 2:44 PM  
> To: Arneson, Latham - Paramount  
> Cc: Joanna Ging  
> Subject: Re: [#257649695] YouTube Account and Clip URL removed  
>  
> Dear Latham,  
>  
>  
> Thank you for the retraction. The material has been reinstated.  
>  
>  
> Sincerely,  
>  
> Harry  
> The YouTube Team  
>  
>  
>

---

**"Copyright Service" <copyright@youtube.com> to "Arneson, Latham - Paramount"**  
**<Latham\_Arneson@paramount.com>, "Dickehut, Robb - Paramount"**  
**<Robb\_Dickehut@paramount.com>, "Warman, Bryan - Paramount"**  
**<Bryan\_Warman@paramount.com>, "Lawson, Josh - Paramount"**  
**<Josh\_Lawson@paramount.com>**

3/31/2008  
14:47

**Cc:** jging@google.com, "Marni Harris" <marnih@google.com>  
**Subject:** Re: [#257649695] YouTube Account and Clip URL removed

Dear Latham,

The url links listed below were claimed by a third party agent, BayTSP, working on behalf of Paramount Pictures Corp. BayTSP can be contacted at [copyright-compliance@baytsp.com](mailto:copyright-compliance@baytsp.com). They may have an approved listed that your account can be added to avoid re-claiming this material again. If you would like the material below reinstated please forward a statement retracting the DMCA claims against the material. Thank you for your patience and understanding.

<http://www.youtube.com/watch?v=SjKP6pT8eD0>  
[http://www.youtube.com/watch?v=AgGf\\_xso0HI](http://www.youtube.com/watch?v=AgGf_xso0HI)  
<http://www.youtube.com/watch?v=rig59Nf9qRw>  
<http://www.youtube.com/watch?v=t2x6N4qnGdM>  
<http://www.youtube.com/watch?v=xLUPs8zZ-mA>

Sincerely,

Harry  
 The YouTube Team

---

"Arneson, Latham - Paramount" <[Latham\\_Arneson@Paramount.com](mailto:Latham_Arneson@Paramount.com)> to "Copyright Service" 3/31/2008  
 <[copyright@youtube.com](mailto:copyright@youtube.com)>, "Dickehut, Robb - Paramount" 17:04  
 <[Robb\\_Dickehut@Paramount.com](mailto:Robb_Dickehut@Paramount.com)>, "Warman, Bryan - Paramount"  
 <[Bryan\\_Warman@Paramount.com](mailto:Bryan_Warman@Paramount.com)>, "Lawson, Josh - Paramount"  
 <[Josh\\_Lawson@Paramount.com](mailto:Josh_Lawson@Paramount.com)>

Cc: [jging@google.com](mailto:jging@google.com), "Marni Harris" <[marnih@google.com](mailto:marnih@google.com)>  
 Subject: RE: [#257649695] YouTube Account and Clip URL removed

Hello Harry -

I contacted our people at BayTSP regarding these videos so hopefully they will no longer make claims against them.

Is it possible for me to state now that we retract any DMCA claims against the material below (the URLs) and ask that you reinstate the videos in question?

Please let me know if there is anything more we need to do.

Thanks,  
 Latham

-----Original Message-----

From: Copyright Service [<mailto:copyright@youtube.com>]  
 Sent: Monday, March 31, 2008 2:47 PM  
 To: Arneson, Latham - Paramount; Dickehut, Robb - Paramount; Warman, Bryan - Paramount; Lawson, Josh - Paramount  
 Cc: [jging@google.com](mailto:jging@google.com); Marni Harris  
 Subject: Re: [#257649695] YouTube Account and Clip URL removed

Dear Latham,

The url links listed below were claimed by a third party agent, BayTSP, working on behalf of Paramount Pictures Corp. BayTSP can be contacted at [copyright-compliance@baytsp.com](mailto:copyright-compliance@baytsp.com). They may have an approved listed that your account can be added to avoid re-claiming this material again. If you would like the material below reinstated please forward a

statement retracting the DMCA claims against the material. Thank you for your patience and understanding.

<http://www.youtube.com/watch?v=SjKP6pT8eD0>  
[http://www.youtube.com/watch?v=AgGf\\_xso0HI](http://www.youtube.com/watch?v=AgGf_xso0HI)  
<http://www.youtube.com/watch?v=r1g59Nf9qRw>  
<http://www.youtube.com/watch?v=t2x6N4qnGdM>  
<http://www.youtube.com/watch?v=xLUPs8zZ-mA>

Sincerely,

Harry  
The YouTube Team

---

**"Copyright Service" <copyright@youtube.com> to "Arneson, Latham - Paramount"** 3/31/2008  
**<Latham\_Arneson@Paramount.com>** 19:41

**Cc:** "Dickehut, Robb - Paramount" <Robb\_Dickehut@Paramount.com>, "Warman, Bryan - Paramount" <Bryan\_Warman@Paramount.com>, "Lawson, Josh - Paramount" <Josh\_Lawson@Paramount.com>, jging@google.com, "Marni Harris" <marnih@google.com>  
**Subject:** Re: [#257649695] YouTube Account and Clip URL removed

Dear Latham,

Thank you for the retraction. The material has been reinstated. For technical reasons, it may take a day for the video to be available again.

Sincerely,

Harry  
The YouTube Team

# **Schapiro Exhibit 15**



Redacted at the request of Plaintiffs pending a meet and confer and,  
if applicable, further action of the Court.

# **Schapiro Exhibit 16**

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, ) Case No.  
 Plaintiffs, ) 1:07CV02103  
 vs. )  
 YOUTUBE, INC., YOUTUBE, LLC, )  
 and GOOGLE, INC., )  
 Defendants. )  
 \_\_\_\_\_ )

VIDEOTAPED DEPOSITION OF MARK HALL  
NEW YORK, NEW YORK  
Tuesday, February 23, 2010

REPORTED BY:  
ERICA RUGGIERI, CSR, RPR  
JOB NO: 18813

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February 23, 2010

9:04 a.m.

VIDEOTAPED DEPOSITION OF MARK HALL,  
held at the offices of Mayer Brown, 1675  
Broadway, New York, New York, pursuant to  
notice, before before Erica L. Ruggieri,  
Registered Professional Reporter and  
Notary Public of the State of New York.

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

3 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE

4 CLASS:

5 JENNER &amp; BLOCK, LLP

6 BY: LUKE C. PLATZER, ESQ.

7 1099 New York Avenue, NW

8 Suite 900

9 Washington, DC 20001-4412

10 (202) 639-6000

11 Lplatzer@jenner.com

12  
13 FOR THE DEFENDANTS YOUTUBE, INC.,

14 YOUTUBE, LLC and GOOGLE, INC.:

15 MAYER BROWN, LLP

16 BY: BRIAN WILLEN, ESQ.

17 JASON I. KIRSCHNER, ESQ.

18 1675 Broadway

19 New York, New York 10019

20 (212) 506-2500

21 Bwillen@mayerbrown.com

22 Jkirschner@mayerbrown.com

23  
24 ALSO PRESENT:

25 MARCELLO RIVERA, Videographer

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provided any other Paramount content to Audible Magic for fingerprinting?

A. No, they have not.

11:16:45 Q. Do you know whether the fingerprints that were created in May of 2007 are still in Audible Magic's system?

A. The 309?

Q. Yes.

11:16:45 A. They are.

Q. So other than those fingerprints are there any other fingerprints of Paramount content in Audible Magic's system that you are aware of?

11:16:45 A. No.

Q. So just again to be clear, with respect to the fingerprints that are in Audible Magic's system, does Paramount have any information about how often Audible Magic has made matches to those fingerprints on any website?

MR. PLATZER: Objection.

Outside the scope.

A. I have no knowledge of any reports.

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MR. WILLEN: I probably should have said this before but the scope objections you are making I obviously disagree with and we had this colloquy at the last version of this deposition which we need to --

MR. PLATZER: -- again --

MR. WILLEN: You understand our position.

MR. PLATZER: And you ours.

MR. WILLEN: In particular our position is that this falls within subtopic five in my February 3rd, 2010 letter.

Q. Does Paramount have any information about how effective Audible Magic's technology is in identifying Paramount content?

A. Not to my knowledge.

Q. Okay. Let's look back at this e-mail. I'm looking now at the first paragraph of Dr. Bell's message. He says, Audible Magic, or "AM has been widely used by the music industry to detect and issue

HALL

1  
2 take-down notices for unauthorized music  
3 content and other broadcast monitoring  
4 applications."

5 11:16:47 Do you agree with that  
6 statement?

7 A. I don't know that I would  
8 characterize it as widely used because I  
9 don't know the extent to which the c  
10 11:16:47 industry uses it.

11 Q. As -- excuse me. In May of  
12 2007, was Audible Magic being widely used  
13 by the movie industry?

14 A. What's the time frame?

15 11:16:47 Q. At the time this e-mail was  
16 written, May of 2007.

17 A. I don't know if it was widely  
18 used by the movie industry.

19 Q. Are you aware of any movie  
20 11:16:47 studios that had provided content to  
21 Audible Magic for fingerprinting in May of  
22 2007?

23 MR. PLATZER: Objection.

24 Outside the scope.

25 11:16:47 A. Repeat the question, please.



1 HALL

2 been removed. So it makes sense to have a  
3 tool besides just audio to find the  
4 content.

5 11:16:51 Q. Did Paramount ever contemplate  
6 using Audible Magic to help make Paramount  
7 -- let me back up. That was poorly  
8 phrased.

9 Did Paramount ever contemplate  
10 11:16:51 using Audible Magic to help Paramount  
11 determine whether certain Paramount  
12 content was promotional in nature?

13 MR. PLATZER: Objection to form.

14 Vague.

15 11:16:51 A. Yeah. Can you restate. I'm not  
16 sure I clearly understand.

17 Q. I think it may be easier to do  
18 this with a document so let's do that.

19 MR. WILLEN: This will be

20 11:16:51 Exhibit 6.

21 (Hall Exhibit 6, e-mail chain  
22 from January of 2007 partially  
23 redacted, Bates number VIA11787817,  
24 marked for identification, as of  
25 11:16:51 this date.)

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MR. WILLEN: Exhibit 6 is a document produced by Viacom with the Bates number VIA11787817. An e-mail chain from January of 2007 which has been at least partially redacted.

11:16:53

A. Okay.

Q. So who is Steve Kaufman?

A. I don't know.

11:16:53

Q. Who is Al Perry?

A. Al Perry is a lawyer in the content protection area.

Q. At Paramount?

A. Of Paramount, yeah.

11:16:53

Q. So drawing your attention to the e-mail the page ending in 18, which is written by Steve Kaufman to Alfred Perry January 26, 2007. The second paragraph --

11:16:53

I'll read the whole thing. "In follow-up to the Google/YouTube conversation I just wanted to mention that MTVN is in the initial stages of working with Audible Magic with content filtering. The Web Portal filtering application is in beta test at our iFilm site, and we are going

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to start evaluating the process of  
generating the content fingerprints in the  
next week or so.

11:16:54 "None of this speaks to Monday's  
challenge, but in the very-near-term we  
can possibly use the fingerprinting  
technology to help BayTSP identify 'legal'  
promotional content. Instead of sending  
11:16:54 DVDs and having operators try to visually  
identify content, we can fingerprint the  
promotional content, and Bay can install  
an Audible Magic fingerprint library  
system and use the system to automatically  
11:16:55 determine if it is promotional."

Do you see that?

A. Uh-hum.

Q. Do you understand what the  
problem here that Mr. Kaufman is  
11:16:55 describing?

A. Are you referring to "none of  
this speaks to Monday's challenge"?

Q. Yeah. In the second paragraph.

A. I don't know what that's  
11:16:55 referring to.

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Q. Are you aware of BayTSP having difficulty identifying what content was, quote, promotional legal content?

11:16:55 A. I'm not aware of that, no.

Q. Why would it be that fingerprinting promotional content using Audible Magic would help BayTSP identify what content was promotional?

11:16:55 A. I don't know.

Q. You have no idea?

A. No.

Q. Are you aware of any instances in which Paramount has fingerprinted promotional content?

A. Yes.

Q. What are those instances?

11:16:55 A. We very recently fingerprinted the Iron Man II Comcon trailer, which was shown only at Comcon post. There was a fingerprint made of an Iron Man II trailer that was similar that was distributed through the trailer and was distributed through iTunes. For that we fingerprinted that specific content.

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Q. For what purpose?

A. To restrict its use.

Q. So fingerprinting would give  
11:16:55 Paramount greater control over how the  
content appears on the Internet?

A. So -- yes, yes.

Q. How would that work?

A. How would providing a  
11:16:56 fingerprint?

Q. So for what -- to what vendor  
was the fingerprint of the trailers you  
just spoke about provided?

A. It was provided to BayTSP and it  
11:16:56 was provided to YouTube.

Q. Was the idea that if that  
trailer was identified on certain websites  
it would be taken down?

A. Correct.

Q. Because Paramount only wanted it  
11:16:56 to appear on other websites?

A. Correct.

Q. So other than the particular  
instance that you just described, does  
11:16:56 Paramount have a regular practice of

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fingerprinting trailers or other promotional materials?

A. Those are the only instances that I'm aware of.

Q. Why doesn't Paramount generally fingerprint trailers or promotional content?

A. Because the promotional content is what it is. It's promotional. It's meant to be viewed. The idea is that the content is available for people to get them interested in a film. So we traditionally wouldn't want to limit the scope of the audience that sees it.

Q. And at least in the content of this communication from Mr. Kaufman and Mr. Perry there was some difficulty that BayTSP seemed to have in identifying which content was the legal promotional content?

MR. PLATZER: Objection.

Foundation.

A. Can you rephrase.

Q. Sure. In the context of the e-mail that Mr. Kaufman sent to Mr. Perry,

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he seems to be identifying an issue with BayTSP being able to identify what content was the legal promotional content.

11:16:57 MR. PLATZER: Same objection.

Q. Is that right?

A. That's what this e-mail seems to state, yes.

11:16:57 Q. So I want to talk briefly about Auditude. You said earlier that Auditude is not a technology that Paramount has used?

A. Uh-hum.

Q. Is that right?

11:16:58 A. I did say that.

Q. Okay. You are aware that Viacom signed a contract with Auditude in 2007?

A. I'm not aware of that contract.

11:16:58 Q. Are you aware that Viacom is using Auditude's technology set aside Paramount?

A. Yeah. Just let me refresh my memory from notes.

Q. Sure.

11:16:58 A. No, I'm not aware of any use of

1 HALL

2 Auditude.

3 Q. By Paramount?

4 A. By --

5 11:16:58 Q. By Paramount.

6 A. By Viacom.

7 Q. Okay. Why is it that Paramount

8 has decided not to use Auditude's

9 technology?

10 11:16:59 A. Because we have chosen to use a

11 specific vendor for our content

12 identification and take-down notices

13 on-line. The strategy, if you will, is to

14 use that vendor and to, where we can, use

15 11:16:59 blocking technology to keep it from

16 getting on-line in the first place, such

17 as the YouTube algorithm.

18 Q. Now the --

19 A. Go ahead.

20 11:16:59 Q. No, please.

21 A. And then thirdly, we use Vobile

22 as kind of a tertiary as part of the

23 Viacom agreement, as a third layer of

24 protection. And we fill with those we

25 11:16:59 have with BayTSP we have sufficient



# **Schapiro Exhibit 17**

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-2103

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 WARREN SOLOW  
NEW YORK, NEW YORK  
JANUARY 14TH, 2010

JOB NO. 18509

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VIDEOTAPED DEPOSITION OF WARREN  
SOLOW, held at the offices of Wilson,  
Sonsini, Goodrich & Rosati, PC, 1301  
Avenue of the Americas, New York, New  
York, pursuant to notice, before  
Maureen Ratto, Registered Professional  
Reporter and Notary Public of the State  
of New York on January 14, 2010, at  
10:13 a.m.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

JENNER & BLOCK, LLP

BY: SUSAN J. KOHLMANN, ESQ.

919 Third Avenue, New York, NY 10022

(212)891-1690

skohlmann@jenner.com

FOR THE DEFENDANTS:

WILSON, SONSINI, GOODRICH & ROSATI, LLP

BY: MICHAEL H. RUBIN, ESQ.

650 Page Mill Road, Palo Alto, CA 94304

650-849-3311

MRUBIN@wsgr.com

1 A. May 5th, 2000.

2 Q. Very precise recollection.

3 A. I believe the day the CBS merger  
4 closed, so it's a day of note.

5 10:28:56 Q. What was your position on the  
6 day you began working for Viacom?

7 A. I was the director of litigation  
8 support.

9 Q. Do you hold that position today?

10 10:29:09 A. No.

11 Q. Who holds that position today?

12 A. Well, I suppose functionally I  
13 hold that position but not with that  
14 title.

15 10:29:19 Q. So your title has changed but  
16 your job responsibility still includes  
17 the responsibility for which you were  
18 initially hired?

19 A. Yes.

20 10:29:28 Q. Has your job responsibility  
21 expanded?

22 A. Yes.

23 Q. Did you have oversight  
24 responsibility for other Viacom  
25 10:29:39 employees when you were hired?

1 A. Yes.

2 Q. Do you have oversight  
3 responsibility for a greater number of  
4 Viacom employees today than the day you  
5 10:29:47 were hired?

6 A. Yes.

7 Q. What is your current position  
8 with Viacom?

9 A. I'm the vice president of  
10 10:29:56 information and knowledge management.

11 Q. Can you please describe your  
12 duties and responsibilities as vice  
13 president of information and knowledge  
14 management of Viacom?

15 10:30:08 A. I play a role in the records  
16 management space, the data lifecycle of  
17 information within the organization.

18 In that regard I help to promulgate  
19 procedure as it relates to the records

20 10:30:43 management function. I lead a  
21 department that provides both general,  
22 legal support functions to Viacom and  
23 its divisions, which would also include  
24 providing litigation support for the

25 10:31:09 enterprise.

1 I also act as the copyright  
2 administrator, serving a variety of  
3 functions in that regard. I would say  
4 those are the highlights.

5 10:31:32 Q. Does your job in anyway involve  
6 interacting with BayTSP?

7 A. Yes.

8 Q. Do you have supervisory or  
9 management responsibility with respect  
10 10:31:51 to Viacom's relationship with BayTSP?

11 MS. KOHLMANN: Objection as to  
12 form. You can answer.

13 A. I have at times.

14 Q. Do you today?

15 10:31:58 A. Yes, to some extent.

16 Q. When did you begin to have  
17 supervisory or management  
18 responsibility with respect to Viacom's  
19 relationship with BayTSP?

20 10:32:15 A. I believe that officially began  
21 in February of 2007.

22 Q. Has there been a period of time  
23 between February of 2007 and the  
24 present during which you did not have  
25 10:32:43 management or supervisory

1 responsibility with respect to Viacom's  
2 relationship with BayTSP?

3 MS. KOHLMANN: Objection as to  
4 form. You can answer.

5 10:32:50 A. The level of practical  
6 supervisory involvement has varied over  
7 time, but I would say officially it has  
8 not.

9 Q. The buck stops with you?

10 10:33:14 MS. KOHLMANN: Objection.

11 A. Many would say that, including  
12 those who I would think the buck stops  
13 with.

14 Q. You indicated that you have  
15 10:33:30 copyright administration  
16 responsibilities.

17 A. Yes.

18 Q. What do you mean by that?

19 A. In a practical sense, I became  
20 10:33:41 the, or my department had the -- played  
21 the point of contact role with the  
22 outside world, outside of Viacom, the  
23 public facing point of contact.

24 Q. Can you explain that in greater  
25 10:34:04 detail?



1           A.     My department had responsibility  
2           for the intake of most communications  
3           from the public that were targeted  
4           towards copyright issues.

5     10:34:25       Q.     Is your department responsible  
6           for registering copyrights for Viacom  
7           with the Copyright Office?

8                   MS. KOHLMANN:  Objection as to  
9           form.  You can answer.

10    10:34:35       A.     No, sir.  I apologize.

11           Q.     Your department is not  
12           responsible for all areas of copyright  
13           administration, is that right?

14           A.     That is correct.

15    10:34:46       MS. KOHLMANN:  Objection.  You  
16           can answer.  Go ahead.

17           A.     Correct.

18           Q.     So when you say that your office  
19           is the public face for copyright issues  
20    10:35:01       for Viacom, what types of copyright

21           issues are you referring to, Mr. Solow?

22           A.     Whatever issues the -- the  
23           extent of the issues are controlled by  
24           those who choose to interact with the  
25    10:35:23       mechanism for communication.  So that's

1 controlled by -- I read whatever  
2 anybody sends to the communication node  
3 that I am responsible for.

4 Q. What communication node are you  
5 10:35:41 responsible for?

6 A. There are a number of e-mail  
7 addresses that are publicly  
8 disseminated for the public to use if  
9 they have an issue relating to IP  
10 10:36:04 issues with our websites.

11 Q. You're the designated agent for  
12 allegations of alleged infringement  
13 occurring on various of Viacom's  
14 websites. Is that right?

15 10:36:18 A. Yes.

16 MS. KOHLMANN: Objection as to  
17 form.

18 Q. Is that what you are referring  
19 to, Mr. Solow?

20 10:36:22 A. Yes.

21 Q. Are there other communication  
22 nodes that you are referring to that  
23 form the capacity that you've been  
24 referring to as copyright  
25 10:36:35 administration?

1 MS. KOHLMANN: Objection. You  
2 can answer.

3 A. Some communications have come in  
4 the form of traditional mail, snail  
5 10:36:50 mail.

6 Q. And by communications, are you  
7 referring to takedown notices for  
8 containing allegations of alleged  
9 infringement or other types of  
10 10:37:03 communications?

11 MS. KOHLMANN: Objection as to  
12 form. You can answer.

13 A. It would include both takedown  
14 notices in the minority and the vast  
15 10:37:14 majority of those communications are --  
16 are -- I don't believe refer to what  
17 you are calling a takedown notice.

18 Q. What would the other types of  
19 communications include?

20 10:37:27 A. Requests to license Viacom's  
21 intellectual property, tips about  
22 infringements that take place in other  
23 forms other than online, significant  
24 amount of Nigerian bankers trying to  
25 10:37:58 get in touch with me to help my

1 through 63. Do you recognize this  
2 document?

3 A. Not specifically. I do  
4 recognize it as a notice of  
5 13:28:56 infringement to Veoh.

6 Q. Notice of infringement to Veoh?

7 A. Correct.

8 Q. How did you learn that VH1  
9 rockDocs, the content identified in the  
10 13:29:16 takedown notice at Exhibit 6, was  
11 present on Veoh service?

12 MS. KOHLMANN: Objection as to  
13 form.

14 A. I don't have a specific  
15 13:29:29 recollection how I came to know it --  
16 know how this particular clip was on  
17 the Veoh website.

18 Q. Are you familiar with the VH1  
19 program, VH1 Rock Docs?

20 13:29:55 A. I have heard of it. I have some  
21 level of familiarity.

22 Q. Have you ever watched it?

23 A. I have not watched VH1 Rock  
24 Docs.

25 13:30:09 Q. Would you have been able to

1 recognize it as you encountered a clip  
2 from that show on the Veoh website?

3 MS. KOHLMANN: Objection.

4 A. I may have.

5 13:30:23 Q. You might not have?

6 A. I may not have.

7 Q. Do you think simply recognizing  
8 it on the Veoh website provides enough  
9 information to know whether or not a  
10 13:30:43 takedown notice should be issued?

11 MS. KOHLMANN: Objection as to  
12 form.

13 A. Could you repeat that question?

14 Q. Sure. Do you think simply  
15 13:30:53 recognizing the content as Viacom owned  
16 content on the Veoh website, assuming  
17 one was able to do that, would provide  
18 enough information to be able to send a  
19 takedown notice to the Veoh service  
20 13:31:09 requesting that the content be removed?

21 MS. KOHLMANN: I repeat the  
22 objection. You can answer.

23 A. In some cases. In many cases  
24 possibly yes.

25 13:31:27 Q. But in some cases merely knowing

1                   that Viacom owned the content, if one  
2                   was capable of making that  
3                   determination, that alone wouldn't be  
4                   enough?

5       13:31:38                   MS. KOHLMANN:  Objection.  Go  
6                   ahead.

7                   A.       It depends on the nature of the  
8                   clip.

9                   Q.       You're not personally familiar  
10       13:31:58                  with all of Viacom content, are you?

11                  A.       I'm not personally familiar with  
12                  all of Viacom content.

13                  Q.       And you haven't watched all of  
14                  the content Viacom owns, has produced  
15       13:32:10                  or has licensed, have you?

16                  A.       No.  I have not.

17                  Q.       Do you think you could recognize  
18                  every clip from every piece of all of  
19                  Viacom's content?

20       13:32:30                  MS. KOHLMANN:  Objection as to  
21                  form.

22                  A.       No.

23                  Q.       Do you know how many motion  
24                  pictures Paramount has released?

25       13:32:40                  A.       That question is very general

1 and there are multiple answers to that  
2 question. I would need clarification  
3 of your -- the question to adequately  
4 respond to the question.

5 13:33:13 Q. What don't you understand about  
6 the question, Mr. Solow?

7 A. Paramount Pictures has released  
8 thousands of motion pictures,  
9 potentially thousands of motion  
10 13:33:34 pictures in the last one hundred years  
11 or nearly hundred years. Many of those  
12 pictures are not currently Paramount  
13 Pictures' property. So you get a  
14 different answer depending on what it  
15 13:33:53 is you're really seeking.

16 Q. I'm just seeking an answer to my  
17 question, Mr. Solow.

18 A. Okay. Paramount Pictures has  
19 generated somewhat -- no. I do not  
20 13:34:06 know the exact number of pictures that  
21 Paramount Pictures has released.

22 Q. But you believe it to be in the  
23 order of thousands?

24 A. In the history of Paramount  
25 13:34:15 Pictures over the last hundred years,

1                   they have probably produced in the  
2                   thousands of assets.

3                   Q.       And you understand that they  
4                   don't presently own all of those films.  
5                   13:34:32       Isn't that right?

6                   A.       That's correct.

7                   Q.       Can you tell whether Paramount  
8                   owns a film today merely by watching  
9                   the film?

10                  13:34:45                   MS. KOHLMANN:  Objection.

11                  A.       In the absence of all other  
12                  information, at times it might be  
13                  difficult.  Other times it may not be.

14                  Q.       Can you recognize each one of  
15                  13:35:19       those films based on five minute  
16                  segments of the film?

17                  MS. KOHLMANN:  Objection as to  
18                  form.  You can answer.

19                  A.       Certainly not every time.

20                  13:35:34       Q.       Can you identify each of those  
21                  films as a Paramount film based on  
22                  those small segments?

23                  MS. KOHLMANN:  Again, Objection  
24                  as to form.

25                  13:35:42       A.       At times, yes.  At times, no.



1 Depends on the nature of the clip.

2 Q. And when you can identify a  
3 small clip from a Paramount film as  
4 being a Paramount film, can you always  
5 13:35:55 determine whether or not that clip is  
6 from a film that Paramount currently  
7 owns or not?

8 MS. KOHLMANN: Objection as to  
9 form.

10 13:36:06 A. I suspect I could be stumped and  
11 say not 100 percent of the time.

12 Q. Even if you could recognize that  
13 the small clip was a Paramount film and  
14 was a clip from a Paramount film that  
15 13:36:26 Paramount currently owned, could you  
16 always tell whether or not the clip was  
17 authorized by Paramount to be on  
18 YouTube or unauthorized by --  
19 unauthorized by Paramount to be on  
20 13:36:42 YouTube?

21 MS. KOHLMANN: Objection as to  
22 form.

23 A. It would depend on the nature of  
24 the clip.

25 13:36:59 Q. How many television shows, by

1 episode, have all of the MTVN  
2 television networks released combined?

3 A. I don't know.

4 Q. Is the number greater or lesser  
5 13:37:21 than the number of films that Paramount  
6 has released, do you think?

7 A. It's greater.

8 Q. Significantly greater?

9 MS. KOHLMANN: Objection as to  
10 13:37:32 form.

11 A. I'm not aware of what you  
12 consider significant.

13 Q. Do you consider it significantly  
14 greater, Mr. Solow?

15 13:37:43 A. Yes.

16 Q. Have you watched all of those  
17 episodes, Mr. Solow?

18 A. No.

19 Q. Can you recognize every minute  
20 13:37:55 of every one of those episodes?

21 A. No.

22 Q. Does Viacom still own the rights  
23 to everyone of those episodes today?

24 MS. KOHLMANN: Objection as to  
25 13:38:08 form.

1 A. I don't know.

2 Q. Would you be able to tell  
3 whether or not Viacom owned the rights  
4 to those episodes merely by viewing a  
5 13:38:19 small clip, assuming you could tell the  
6 clip was from one of those episodes to  
7 begin with?

8 MS. KOHLMANN: Objection as to  
9 form.

10 13:38:25 A. No.

11 Q. Assuming you could recognize  
12 that one of those clips was from a  
13 Viacom owned MTVN episode, could you  
14 tell merely by looking at the clip  
15 13:38:46 whether or not the clip was authorized  
16 to be on the YouTube service?

17 MS. KOHLMANN: Objection on.

18 A. If it were an unedited clip my  
19 assumption would be that it was  
20 13:38:59 unauthorized.

21 Q. But that assumption wouldn't  
22 always be right, would it?

23 MS. KOHLMANN: Objection as to  
24 form.

25 13:39:07 A. Right. In the same manner that

1                   when I cross the street, and there's a  
2                   red light I make an assumption that the  
3                   cars will stop and I am right a  
4                   dramatic amount of the time. As I said  
5 13:39:21       earlier, there are few absolutes in the  
6                   world.

7                   Q.     Are you familiar with all the  
8                   content produced by bet?

9                                 MS. KOHLMANN:  Objection as to  
10 13:39:46       form.

11                   A.     No.

12                   Q.     Have you watched all the content  
13                   produced by BET?

14                   A.     No.

15 13:39:50       Q.     Would you be able to recognize  
16                   it on site?

17                                 MS. KOHLMANN:  Objection as to  
18                   form.  Sorry.

19                   A.     I apologize.  Unlikely.

20 13:39:59       Q.     Would you be able to recognize  
21                   small segments of any given piece of  
22                   BET content on site?

23                                 MS. KOHLMANN:  Objection as to  
24                   form.

25 13:40:08       A.     Sometimes.  Sometimes not.

1 right?

2 MS. KOHLMANN: Objection.

3 Misstates the record. You can answer.

4 A. Importance is a subjective word  
5 14:40:10 but that certainly is information that  
6 I'd like to have.

7 Q. What value does that information  
8 provide to you in the execution of your  
9 responsibilities at Viacom?

10 14:40:17 A. It adds an increased level of  
11 precision.

12 Q. In what sense?

13 A. It helps mitigate the removal of  
14 clips that some parts of the  
15 14:40:38 organization would prefer to stay in  
16 place.

17 Q. It prevents Viacom from  
18 mistakenly removing content that it  
19 itself has authorized to be on the  
20 14:40:50 service. Isn't that right?

21 MS. KOHLMANN: Objection as to  
22 form.

23 A. Those are your words. I  
24 answered that using my words a moment  
25 14:40:57 ago.

1 Q. Is there anything inaccurate  
2 about what I said?

3 A. I prefer to speak with my own  
4 words and not another person's words.  
5 14:41:05 So I'll stick with the answer I used  
6 originally.

7 Q. Is there anything inaccurate  
8 about what I said?

9 A. I have no idea. I'd prefer my  
10 14:41:12 words and not yours.

11 Q. I'm just trying to get some  
12 clarity here, Mr. Solow.

13 A. I think the best way to get  
14 clarity is to accept the words that I  
15 14:41:21 use.

16 Q. But do you see a difference  
17 between the version of your statement  
18 and mine?

19 A. I don't know how you define the  
20 14:41:32 words that you use. I know how I  
21 define the words that I use. So I'm  
22 more comfortable using the words that  
23 come out of my mouth.

24 Q. Viacom hires third parties to  
25 14:41:59 upload content to YouTube from time to

1 time. Isn't that right?

2 A. I believe that to be so.

3 Q. Is information related to that  
4 activity also provided to your  
5 14:42:13 department?

6 MS. KOHLMANN: Objection as to  
7 form.

8 A. Information of that variety has  
9 been provided to my department.

10 14:42:21 Q. Do you also instruct Mr. Housley  
11 to maintain information related to that  
12 activity?

13 A. Yes.

14 Q. Have you ever heard the term,  
15 14:43:14 Mr. Solow, white list?

16 A. Yes.

17 Q. What do you understand the term  
18 white list to mean?

19 A. In what context?

20 14:43:28 Q. In the context in which you  
21 heard it in your employment capacity at  
22 Viacom.

23 A. I've heard our approved outside  
24 counsel list referred to in that list,  
25 14:43:47 preferred vendor lists, I've heard

1 lists of video content that we would  
2 like, that has been authorized for  
3 placement in various locations on the  
4 internet referred to in that regard  
5 14:44:10 also.

6 Q. Have you also heard lists of  
7 authorized user names from whom  
8 postings to websites such as YouTube  
9 should not be removed referred to as a  
10 14:44:25 white list?

11 MS. KOHLMANN: Objection as to  
12 form.

13 A. I've heard of -- not lists of  
14 user names but that user name -- user  
15 14:44:39 names have been a component of such  
16 white lists, yes.

17 Q. Is the information that  
18 Mr. Housley compiles, that we were just  
19 referring to a moment ago, referred to  
20 14:44:53 as a white list?

21 A. By some people.

22 Q. By you, Mr. Solow?

23 A. Generally not.

24 Q. Have you ever referred to that  
25 14:45:02 as a white list?



1           A.     I may have been on  
2           communications where the term is used  
3           but I generally try to avoid it because  
4           I find it offensive.

5   14:45:15        Q.     What do you find offensive about  
6           that term?

7           A.     I see a racial component in the  
8           entomology of that phrase that I find  
9           offensive.

10   14:45:29       Q.     Interesting.  It is a term that  
11           is used at Viacom to describe, as you  
12           explained, content that's been  
13           authorized to be on the YouTube service  
14           and should not be removed, though,  
15   14:45:43        right?

16                   MS. KOHLMANN:  Objection as to  
17           form.

18           A.     I have noted the use of the term  
19           white list and various usages at  
20   14:45:55        Viacom.  I often make my objections  
21           known then also.

22           Q.     Well, to be clear, going forward  
23           in the line of questioning that I'm  
24           going to ask you about, I may refer to  
25   14:46:13        that phrase from time to time,

1                   certainly not meant to relay any racial  
2                   overtone whatsoever. I'm simply  
3                   referring to it because it is the way  
4                   Viacom has referred to it in documents  
5                   14:46:22       produced to us and we want to make sure  
6                   we are consistent with the internal  
7                   terminology, to the extent there are  
8                   other ways of referring to it in-house,  
9                   I understand that it may be done that  
10                  14:46:32       way, for ease of reference in the  
11                  deposition.

12                  A.       I completely understand that.

13                  Q.       Your content based objection is  
14                  duly noted and I can see the basis for  
15                  14:46:42       it.

16                  A.       I understand.

17                  Q.       Please take no offense of the  
18                  use of the term today.

19                  A.       I won't.

20                  14:46:49       Q.       But do you understand what I  
21                  mean when I refer to white list in the  
22                  context of the uploading activity that  
23                  Viacom and its agents have done and are  
24                  doing on the YouTube website?

25                  14:47:01               MS. KOHLMANN:  Objection as to

1 form.

2 A. I -- I am familiar and -- with  
3 the use of that term in some quarters  
4 around the company for purposes,  
5 14:47:19 including online posting of clips.

6 Q. And it won't lead to any  
7 ambiguity if I use that term in  
8 connection with the YouTube website in  
9 question?

10 14:47:31 MS. KOHLMANN: Objection.

11 A. The use of the term itself  
12 won't. The context may --

13 Q. Of course. Of course.

14 A. -- may be different.

15 14:47:38 Q. I want to make sure we have the  
16 use of the term itself grounded.

17 A. Yes. I got you.

18 Q. Now that we got that out of the  
19 way. You indicated a moment ago that  
20 14:47:56 Michael Housley, at your direction,  
21 maintains a set of information related  
22 to the uploading activity of Viacom and  
23 its agents on the internet including on  
24 the YouTube website. Is that right?

25 14:48:13 A. That's correct.

1 Q. Do you know if that information  
2 is provided to BayTSP?

3 A. Yes.

4 Q. Is that information provided to  
5 14:48:25 BayTSP?

6 A. Yes.

7 Q. How is that information provided  
8 to BayTSP?

9 A. I'm not sure.

10 14:48:39 Q. Have you ever received that  
11 information via e-mail?

12 A. Can you rephrase the question?  
13 I'm not sure what information you're  
14 referring to.

15 14:48:53 Q. How does Michael Housley store  
16 that information?

17 MS. KOHLMANN: Objection as to  
18 form.

19 A. I believe he stores it  
20 14:49:02 electronically.

21 Q. In what form does Michael  
22 Housley store that information  
23 electronically?

24 A. I'm not sure.

25 14:49:07 Q. Is it maintained in a database?

1 A. I'm not sure.

2 Q. Is it maintained in an Excel  
3 spread sheet?

4 A. It could be but I'm not sure.

5 14:49:19 Q. Have you ever requested that  
6 Mr. Housley provide you with that  
7 information?

8 A. I have no recollection of asking  
9 for it.

10 14:49:31 Q. And you have no idea, as you sit  
11 here today, whether he ever sent it to  
12 you?

13 A. I have no recollection of  
14 Michael sending it to me. He sits so  
15 14:49:47 close to me that if I wanted to see  
16 something, I have a habit of going and  
17 invading his personal space and looking  
18 over his shoulder and things.

19 Q. Other than BayTSP do you know if  
20 14:50:01 there is any other third parties or  
21 Viacom agents to whom that information  
22 has been provided?

23 A. I don't have specific knowledge  
24 of that but I wouldn't be surprised.

25 14:50:18 Q. Can you identify any third

1 parties or Viacom agents to whom that  
2 information has been provided as you  
3 sit here today?

4 A. I believe it would be provided  
5 14:50:31 to Global.

6 Q. Other than Viacom's agents who  
7 are involved with identifying Viacom  
8 content on the internet, do you know if  
9 it's ever been provided to any other  
10 14:50:49 Viacom agents or any other third  
11 parties?

12 A. As a list? What -- I don't  
13 understand the object of the sentence,  
14 what have I provided? What is it that  
15 14:51:09 we're providing?

16 Q. The information contained in  
17 what Michael Housley aggregates at your  
18 direction regarding the uploading  
19 activity of Viacom and its agents on  
20 14:51:21 the YouTube website and on the internet  
21 generally.

22 MS. KOHLMANN: Objection as to  
23 form.

24 A. For clarity, are we talking  
25 14:51:30 dissemination of a list that Michael

1                   Housley has created or are we talking  
2                   about the upstream from that? Down  
3                   stream of that? I'm still not  
4                   understanding what it is that you're  
5                   14:51:42       asking is being disseminated.

6                   Q.       Let's focus first on the  
7                   information being disseminated as  
8                   aggregated by Mr. Housley.

9                   MS. KOHLMANN:  Objection.

10                  14:51:52       A.       Can you -- now, can you repose  
11                  the question?

12                  Q.       Sure.  In the form as aggregated  
13                  by Mr. Housley at your direction, do  
14                  you know if the data regarding Viacom  
15                  14:52:11       and its agents uploading activity of  
16                  Viacom content on the internet  
17                  including YouTube has been provided to  
18                  any Viacom agent or other third party,  
19                  other than those that are involved in  
20                  14:52:24       monitoring the internet for Viacom  
21                  content?

22                  MS. KOHLMANN:  Objection as to  
23                  form.

24                  A.       Yes.

25                  14:52:48       Q.       Please identify them?

1           A.     I believe that it has been  
2           provided to Jenner & Block and Sherman  
3           & Sterling.

4           Q.     Do you know when that  
5           14:53:04   information was provided to your  
6           counsel in this action?

7           A.     Not specifically, no.

8           MR. RUBIN:   Susan, I'll ask  
9           right now that information be produced  
10          14:53:28   in the case.  If you want to meet and  
11          confer about it I'm happy to do so.  
12          It's plainly responsive.

13          Q.     Other than the partners you've  
14          identified thus far, and setting aside  
15          14:53:46   those that are involved in monitoring  
16          the internet for Viacom content, can  
17          you identify any others to whom that  
18          data has been provided?

19          A.     No.

20          14:54:44   Q.     Do you believe that set of data  
21          is comprehensive, Mr. Solow?

22          MS. KOHLMANN:  Objection as to  
23          form.

24          A.     I don't know.

25          14:55:02   Q.     What leads you to be unable to



1 conclude that the data provided to you  
2 from Viacom subsidiaries and Viacom  
3 agents regarding their upload activity  
4 with respect to Viacom content on the  
5 14:55:16 internet and on YouTube might not be  
6 comprehensive?

7 MS. KOHLMANN: Objection.

8 Misstates the record. You can answer.

9 A. When one doesn't know the extent  
10 14:55:30 of the universe of a data set it's hard  
11 to make a determination that something  
12 is missing.

13 Q. Have you had any experience that  
14 leads you to conclude that data has  
15 14:55:46 been, from time to time, been missing  
16 from that data set?

17 MS. KOHLMANN: Objection as to  
18 form.

19 A. I can't recall an instance where  
20 14:56:10 an instance or event that played out  
21 which led me to believe that.

22 Q. Is this data set checked prior  
23 to the sending of a takedown notice for  
24 a given piece of content to insure that  
25 14:56:35 that content is not authorized to be on

1 action bearing Bates number BayTSP  
2 00433298. Do you recognize this  
3 document?

4 A. No.

5 17:14:04 Q. For the record, it is an e-mail  
6 sent by Courtney Nieman to you and  
7 Michelena Hallie among others on  
8 February 17, 2007 with the subject line  
9 review. Do you see that?

10 17:14:19 A. Yes.

11 Q. Ms. Nieman writes to you,  
12 "Please disregard previous request...  
13 this video belongs to Wiredset, a  
14 previous account." Do you see that?

15 17:14:41 A. Yes.

16 Q. Based on testimony earlier today  
17 it's my understanding that you're aware  
18 that Wiredset was hired to upload  
19 authorized content on behalf of Viacom  
20 17:15:04 to YouTube. Isn't that right?

21 MS. KOHLMANN: Objection as to  
22 form.

23 A. I'm aware that Wiredset has been  
24 authorized to upload videos from time  
25 17:15:15 to time, yes.

1 Q. So how is it you were unable to  
2 identify that the video in Exhibit 21,  
3 page ending 966 was an authorized video  
4 uploaded by Wiredset?

5 17:15:34 MS. KOHLMANN: Objection.  
6 Misstates the record.

7 A. I don't see any reference to  
8 Wiredset in the piece of information  
9 that you asked me to look at.

10 17:16:03 Q. So the set of metadata provided  
11 and set forth in Exhibit 21, page 966  
12 which you're looking at now for the  
13 video at issue, video title video  
14 length, time stamp, last seen date, URL  
15 17:16:22 and user name, is insufficient for you  
16 to make the determination whether or  
17 not the video is authorized?

18 MS. KOHLMANN: Objection.

19 A. I've never been asked to make an  
20 17:16:36 identification based on items on a  
21 report before, so I don't know. This  
22 is not -- this bears no relevance to  
23 any duty I've ever been asked to  
24 perform.

25 17:16:53 Q. I'm asking you right now, here

1 now today whether based on the  
2 information set forth in this document  
3 for this video it's sufficient for you  
4 to make a determination whether or not  
5 17:17:04 the video is authorized?

6 MS. KOHLMANN: Objection. Asked  
7 and answered.

8 A. From this I can't even determine  
9 if there is a video. It says video  
10 17:17:11 title but I don't have a clip in front  
11 of me. I don't even understand your  
12 question, frankly. I have almost none  
13 of the -- I don't have the most  
14 important information that would be  
15 17:17:25 available to us to even begin making a  
16 determination, the clip.

17 So no, I've never attempted to  
18 make a determination of -- on a clip  
19 based on metadata alone on a clip. I  
20 17:17:47 don't have the tools to do that, no.

21 Q. Do you believe that text  
22 metadata alone is insufficient to make  
23 a determination whether or not a video  
24 is authorized to be on the YouTube  
25 17:17:56 service?

1 MS. KOHLMANN: Objection as to  
2 form.

3 A. It would be sub optimal to make  
4 a decision on a clip without any --  
5 17:18:14 without access to somebody who has seen  
6 a clip or having the clip available to  
7 somebody who has had some involvement.  
8 I don't know. I've not tried. So I  
9 don't know.

10 17:18:28 Q. What additional --

11 A. Seems difficult.

12 Q. What additional information  
13 would you need, Mr. Solow?

14 A. I'd like to see the clip.

15 17:18:34 Q. A thumbnail of the clip?

16 A. I'd like to see the clip.

17 Q. When you say see the clip, I'm  
18 trying to understand what you mean, you  
19 mean watch the entire clip?

20 17:18:44 MS. KOHLMANN: Objection.

21 A. I would like more than I have  
22 here.

23 Q. What more than you have here at  
24 the page ending in 966 on Exhibit 21  
25 17:18:51 would you like to have?

1           A.     Well, I would like to have the  
2           clip. I would like to have the creator  
3           of the asset I think it belongs to and  
4           person who uploaded it sitting next to  
5     17:19:03     me too but the clip is a good place to  
6           start. This is not enough information,  
7           generally speaking, to make a  
8           determination.

9           Q.     Would you want to watch the clip  
10    17:19:14     if you had it?

11                   MS. KOHLMANN: Objection. Calls  
12           for speculation.

13           A.     Well, if I had the clip I think  
14           that I would watch it, yes. I wouldn't  
15    17:19:24     make a sandwich out of it. I mean I'd  
16           watch it.

17           Q.     You'd watch it all the way  
18           through, right?

19                   MS. KOHLMANN: Same objection.

20    17:19:30     A.     I don't know what I'd do. I  
21           think I would make those -- I'd make  
22           those decisions as I was viewing the  
23           clip. I don't think that I'd need to  
24           make that decision before I started the  
25    17:19:41     investigation. I'd let the

1 investigation lead me.

2 Q. Do you think a thumbnail of the  
3 clip would be sufficient?

4 MS. KOHLMANN: Objection. Asked  
5 17:19:49 and answered.

6 A. I don't know. Depends on the  
7 clip.

8 Q. If you turn your attention back  
9 to Exhibit 22?

10 17:20:00 A. Yes.

11 Q. Do you see that Ms. Nieman seems  
12 to know that this video belongs to  
13 Wiredset, which is an approved account  
14 according to her. Do you see that?

15 17:20:12 MS. KOHLMANN: Objection as to  
16 form.

17 A. It appears that she believes  
18 that the video that we're discussing  
19 here is -- belongs -- well, is  
20 17:20:23 connected in some way to Wiredset. I'm  
21 not sure she believes it belongs to  
22 them. I don't know what "belongs"  
23 means there.

24 Q. Do you think she's being  
25 17:20:32 colloquial when she says "belong"?

1 A. I think that is what she means.

2 Q. Do you think she means that it  
3 was uploaded by Wiredset?

4 MS. KOHLMANN: Objection as to  
5 17:20:41 form.

6 A. At the risk of angering counsel  
7 I'll make that.

8 Q. I think that's fair. Do you see  
9 the video ID at the bottom of 966 is  
10 17:20:50 the same video ID on Exhibit 21 --  
11 rather is the same as in Exhibit 22,  
12 that Ms. Nieman is referring to?

13 A. That is correct.

14 MR. RUBIN: I'd like to  
15 17:21:29 introduce Exhibit 23.

16 (SolowP-23 is received and  
17 marked for identification.)

18 Q. Mr. Solow, Exhibit 23 is a  
19 document produced by Viacom in this  
20 17:22:13 action.

21 MS. KOHLMANN: Appears to be by  
22 Google.

23 MR. RUBIN: You're correct.  
24 Strike that.

25 17:22:21 Q. It's a document produced by



1 A. Okay.

2 Q. If you can pull up Exhibit 28 in  
3 front of you.

4 A. Yes.

5 18:17:09 Q. And turn to the second page.

6 A. Yes.

7 Q. Do you see that video ID  
8 enclosed in the takedown notice in the  
9 first in time e-mail?

10 18:17:20 A. The one that ends in W8.

11 Q. Exactly, the one that ends in W8  
12 on the page that ends in Bates number  
13 951.

14 A. Yes.

15 18:17:29 Q. If I can turn your attention now  
16 to Exhibit 29.

17 A. Yes.

18 Q. Do you see there's a long list  
19 of URLs that end in video IDs?

20 18:17:40 A. Yes.

21 Q. If I can bring your attention to  
22 the eighth from the bottom?

23 A. Yes.

24 Q. Do you see that that's the same  
25 18:17:49 video ID that's identified in the

1 second page of Exhibit 28?

2 A. Yes.

3 Q. Rather than repeating this  
4 exercise for every one of them, would  
5 18:18:02 you agree that Exhibit 29 is at least a  
6 retraction notice for some or at least  
7 one of the videos represented in the  
8 takedown notices attached to Exhibit  
9 28?

10 18:18:14 A. Yes.

11 Q. And you have no reason to  
12 believe that the rest of the videos  
13 identified in Exhibit 28 weren't also  
14 contained in retraction notices issued  
15 18:18:25 by BayTSP on Viacom behalf to YouTube,  
16 do you?

17 MS. KOHLMANN: Objection.

18 A. No.

19 Q. But I believe you testified that  
20 18:18:36 it's your understanding that these  
21 videos aren't live on the service  
22 today?

23 MS. KOHLMANN: Objection.

24 Q. Is that right?

25 18:18:43 A. I have not checked that recently

1 but I believe that that is the case.

2 Q. Why would that be the case?

3 A. Because we ultimately determined  
4 that the rights to these clips were not  
5 18:19:08 -- were not those -- were not the  
6 rights of the person who complained  
7 about the -- that was an inarticulate  
8 way of saying that.

9 We believed that the person  
10 18:19:21 filing the or complaining about the  
11 takedown was not the actual rights  
12 owner.

13 MR. RUBIN: I'd like to  
14 introduce Exhibit 30.

15 18:19:39 (SolowP-30 is received and  
16 marked for identification.)

17 Q. When you say "we", Mr. Solow,  
18 who is the "we" that made that decision  
19 or reached that conclusion?

20 18:20:00 A. That was the communal Viacom  
21 legal community, we, the people  
22 involved in this type of work, a  
23 collaborative investigation.

24 Q. Exhibit 30 is a document  
25 18:20:32 produced by BayTSP in this action,

1 bearing Bates number BayTSP 003733804.

2 Do you recognize this document?

3 A. Yes.

4 Q. This is the document that  
5 18:20:55 reflects the communication from Viacom  
6 to BayTSP of the conclusion that you  
7 just described regarding authorization  
8 of the BullRun videos, isn't it?

9 MS. KOHLMANN: Objection as to  
10 18:21:13 form.

11 A. Yes.

12 Q. And this came on May 7th, 2007  
13 isn't that right?

14 MS. KOHLMANN: Objection.

15 18:21:26 A. Yes.

16 Q. In Exhibit 28 we were looking at  
17 a moment ago on May 1st, 2007, the  
18 Tuesday before is when you sent your  
19 urgent e-mail asking that these videos  
20 18:21:38 be restored to the service. Isn't that  
21 right?

22 A. Yes.

23 Q. Mr. Solow, have you ever used  
24 the YouTube service before?

25 18:22:19 A. Yes.