

# Schapiro Exhibit 19

**From:** Michelena.hallie@mtvn.com  
**Sent:** Thursday, November 16, 2006 2:57 AM  
**To:** Courtney Nieman  
**Cc:** Evelyn Espinosa; Deana Arizala; Mark M. Ishikawa; Sarah Cruz  
**Subject:** Re: Time Breakdown of Clips from yesterday.

I would like a call between 2:30 and 5:30 NY time tomorrow. It is essential that I have a thorough understanding of what is going on. Please let me know what time works for you.

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

From: Hallie, Michelena  
To: 'courtney@baytsp.com' <courtney@baytsp.com>  
CC: 'evelyn@baytsp.com' <evelyn@baytsp.com>; 'deana@baytsp.com' <deana@baytsp.com>; 'marki@baytsp.com' <marki@baytsp.com>; 'sarahc@baytsp.com' <sarahc@baytsp.com>  
Sent: Wed Nov 15 21:32:25 2006  
Subject: Re: Time Breakdown of Clips from yesterday.

Sorry. I should have hit Reply All. (I initially sent this only to Courtney)

First, what about Daily Show and Colbert that were longer than 2 1/2 minutes and shorter than 3 minutes? And does this mean there were only 36 clips passed over on youtube? I can't believe there were only 44 of our clips total on youtube since we didn't remove any clips last week. (My recollection is we took only 8 down under our criteria.). Is that right?

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

From: Courtney Nieman <courtney@baytsp.com>  
To: Hallie, Michelena  
CC: Evelyn Espinosa <evelyn@baytsp.com>; Deana Arizala <deana@baytsp.com>; Mark M. Ishikawa <marki@baytsp.com>; Courtney Nieman <courtney@baytsp.com>; Sarah Cruz <sarahc@baytsp.com>  
Sent: Wed Nov 15 21:20:53 2006  
Subject: Time Breakdown of Clips from yesterday.

Michelena,

Here is the break down of the "Passed On" clips from yesterday's report

Time Break Down of Video Clips

Length *	YouTube	MySpace	Google	Total	%
0-60	277	14	41	332	47%
61-90	150	12	33	195	28%
91-120	61	6	17	84	12%
121-150	52	4	6	62	9%
151-180	10	1	18	29	4%
	550		37	115	702

\*Clip length is reported in seconds.

Call me if you have any questions.

Courtney Nieman  
Manager Client Services  
Bay TSP, Inc.  
408-341-2314  
AIM: BayTSPCanne  
Have you checked out BayTSP's Piracy news web log? <http://www.baytsp.com/weblog> <<http://www.baytsp.com/weblog>>

The information contained in this email message may be confidential and is intended only for the parties to whom it is addressed. If you are not the intended recipient or an agent of same, please notify us of the mistake by telephone (408-341-2300) or email and delete the message from your system. Please do not copy the message or distribute it to anyone.

6/11/2008

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BAYTSP 001125759

# **Schapiro Exhibit 20**

**From:** Michelena.hallie@mtvn.com  
**Sent:** Wednesday, November 15, 2006 2:36 PM  
**To:** Sarah Cruz  
**Cc:** Evelyn Espinosa; Mark M. Ishikawa; Deana Arizala; Courtney Nieman; Cahan, Adam; Deana Arizala; Allen Chu; Chris Schmalz  
**Subject:** RE: Video Takedown 11/14/06

Could I get some more information on the clips that were passed on? I'm particularly surprised about the small number of videos taken down under and am curious as to the average size of the videos that apparently did not meet our criteria. I'd also like to discuss the take down procedure on Google Video. In conversations with Mark, I thought the agreement was that you would send notices to Google Video requesting that they remove the link to infringing material. Is that not the procedure? Is that something you have done for other clients?

**From:** Sarah Cruz [mailto:sarahc@baytsp.com]  
**Sent:** Tuesday, November 14, 2006 8:12 PM  
**To:** Hallie, Michelena  
**Cc:** Evelyn Espinosa; Mark M. Ishikawa; Deana Arizala; Courtney Nieman; Cahan, Adam; Deana Arizala; Allen Chu; Chris Schmalz; Sarah Cruz  
**Subject:** Video Takedown 11/14/06

### European Music Awards Tracking Update

For November 14, 2006 we have found and sent notices for 8 YouTube infringements. Please look below for a detailed report of :

#### Notice Sent

14-Nov	Total
8	8

#### Infringement Data

Asset	File Name	Protocol	URL	Username
EMA AWARDS 2006	Borat & Timberlake - MTV EMA 2006	YouTube	http://youtube.com/watch?v=VTBT0SmGRoQ	Viestarts
EMA AWARDS 2006	Rihanna - SOS performance - EMA 2006	YouTube	http://www.youtube.com/watch?v=jV2CXkesjdY	Riri69
EMA AWARDS 2006	Muse-sttarlight(live 2006)	YouTube	http://www.youtube.com/watch?v=rmbfXrPtIMs	nisuuno
EMA AWARDS 2006	LoveStoned	YouTube	http://www.youtube.com/watch?v=olkmn-_cgUA	l1v269
EMA AWARDS 2006	Snoop and Pharell - Drop It Like It's Hot (Live)	YouTube	http://youtube.com/watch?v=T_dxVTb6ZSI	jctthree
EMA AWARDS 2006	Nelly Furtado- Maneater in live	YouTube	http://www.youtube.com/watch?v=uWpl0O8EMNc	georgema
EMA AWARDS 2006	depeche mode EMA	YouTube	http://www.youtube.com/watch?v=p3amlHvI0gg	ClaudiaA
EMA AWARDS 2006	Outlandish	YouTube	http://www.youtube.com/watch?v=xDsEkODg9Gs	awayclos

#### MTV Networks Video Takedown Update

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Protocol	Episodes	Clips	Passed On
YouTube	22	36	555
MySpace	0	8	37
Yahoo Video	0	2	130
Google Video	17	3	115

Note: Yahoo Video is a reference site only, we have only foundlinks to other sites that is sharing the infringing material. For notice sending: we limited ourselves to only the three video sites we have authority to send notices to; YouTube, Google, and Myspace. We then applied the same rules for each link as if we were enforcing on the original site and as a result sent zero notices: YouTube: 0 , Google Video: 0, MySpace: 0.

P2P	Count
Gnutella	211
eDonkey	537
BitTorrent	7626

(Not sent, just for view.)

#### YouTube Results

Content Provider	Asset	Episodes	Clips	Passed On
Country Music Television	CMT Music Awards	0	0	0
	Country Fired Home Videos	0	0	1
	Crossroads	0	0	0
	Foxwothy's Big Night Out	0	0	0
	Trick My Truck	0	0	0

Comedy Central	South Park	0	1	315
	The Colbert Report	0	13	150
	The Daily Show	0	0	0

SpikeTV	Carpocalypes	0	0	0
	King of Vegas	0	0	0
	Most Xtreme Challenge	0	0	5
	Pros Vs Joes	0	0	0
	Total Nonstop Action	0	0	0
	Ultimate Fighting Championship	0	0	0

Viacom	Andy Milonakis	0	0	2
	Avatar the Last Airbender	0	1	2
	Backyardigans	0	0	0
	Beyond the Break	0	0	0
	Blue's Room	0	0	0
	Can't Get A Date	0	0	0
	Degrassi	0		
	Diego	0	0	1
	Dora The Explorer	0	0	1
	Drake & Josh	0	0	0
	Fairly Odd Parents	7	0	0
	GLAAD Media Awards	0	0	2
	Greatest TV Quotes and Catch Phrases	0	0	0
	Hi-Jinks	0	0	0
	I Pity the Fool	0	0	0
	Jack's Big Music Show	0	0	0
	Laguna Beach	0		

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Naked Brothers Band	0	0	7
Noah's Arc	0	0	16
Real World	0	0	2
Sit Down Comedy with David Steinberg	0	0	0
South of Nowhere	0	21	28
Spongebob Squarepants	0	0	0
Hogan Knows Best	0	0	0
TV Land Myths and Legends	0	0	0
TV Land Present the 100	0	0	0
VMA Awards	0	0	0
Wonder Pets	0	0	0
Zoey 101	15	0	23
<b>TOTAL</b>	<b>22</b>	<b>36</b>	<b>555</b>

#### MySpace Results

Content Provider	Asset	Episodes	Clips	Passed On
Country Music Television	CMT Music Awards	0	0	0
	Country Fired Home Videos	0	0	0
	Crossroads	0	0	0
	Foxwothy's Big Night Out	0	0	0
	Trick My Truck	0	0	0

Comedy Central	South Park	0	7	27
	The Colbert Report	0	0	0
	The Daily Show	0	0	0

SpikeTV	Carpocalypes	0	0	0
	King of Vegas	0	0	0
	Most Xtreme Challenge	0	0	0
	Pros Vs Joes	0	0	0
	Total Nonstop Action	0	0	0
	Ultimate Fighting Championship	0	1	1

Viacom	Andy Milonakis	0	0	0
	Avatar the Last Airbender	0	0	0
	Backyardigans	0	0	1
	Beyond the Break	0	0	0
	Blue's Room	0	0	0
	Can't Get A Date	0	0	0
	Degrassi	0	0	1
	Diego	0	0	0
	Dora The Explorer	0	0	1
	Drake & Josh	0	0	0
	Fairly Odd Parents	0	0	0
	GLAAD Media Awards	0	0	0
	Greatest TV Quotes and Catch Phrases	0	0	0
	Hi-Jinks	0	0	0
	I Pity the Fool	0	0	1
	Jack's Big Music Show	0	0	0
	Laguna Beach	0	0	1
	Naked Brothers Band	0	0	0
	Noah's Arc	0	0	0
	Real World	0	0	0
	Sit Down Comedy with David			

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	<b>Steinberg</b>	0	0	0
	<b>South of Nowhere</b>	0	0	2
	<b>Spongebob Squarepants</b>	0	0	2
	<b>Hogan Knows Best</b>	0	0	0
	<b>TV Land Myths and Legends</b>	0	0	0
	<b>TV Land Present the 100</b>	0	0	0
	<b>VMA Awards</b>	0	0	0
	<b>Wonder Pets</b>	0	0	0
	<b>Zoey 101</b>	0	0	0
	<b>TOTAL</b>	0	8	37

**Google Video Results**

Content Provider	Asset	Episodes	Clips	Passed On
<b>Country Music Television</b>	<b>CMT Music Awards</b>	0	0	0
	<b>Country Fired Home Videos</b>	0	0	0
	<b>Crossroads</b>	0	0	0
	<b>Foxwothy's Big Night Out</b>	0	0	0
	<b>Trick My Truck</b>	0	0	0

<b>Comedy Central</b>	<b>South Park</b>	0	1	34
	<b>The Colbert Report</b>	0	1	41
	<b>The Daily Show</b>	0	1	19

<b>SpikeTV</b>	<b>Carpocalypes</b>	0	0	0
	<b>King of Vegas</b>	0	0	0
	<b>Most Xtreme Challenge</b>	0	0	0
	<b>Pros Vs Joes</b>	0	0	0
	<b>Total Nonstop Action</b>	0	0	8
	<b>Ultimate Fighting Championship</b>	0	0	0

<b>Viacom</b>	<b>Andy Milonakis</b>	0	0	0
	<b>Avatar the Last Airbender</b>	16	0	0
	<b>Backyardigans</b>	0	0	2
	<b>Beyond the Break</b>	0	0	0
	<b>Blue's Room</b>	0	0	0
	<b>Can't Get A Date</b>	0	0	0
	<b>Degrassi</b>	0	0	0
	<b>Diego</b>	0	0	0
	<b>Dora The Explorer</b>	0	0	10
	<b>Drake &amp; Josh</b>	0	0	0
	<b>Fairly Odd Parents</b>	1	0	0
	<b>GLAAD Media Awards</b>	0	0	0
	<b>Greatest TV Quotes and Catch Phrases</b>	0	0	0
	<b>Hi-Jinks</b>	0	0	0
	<b>I Pity the Fool</b>	0	0	0
	<b>Jack's Big Music Show</b>	0	0	0
	<b>Laguna Beach</b>	0	0	0
	<b>Naked Brothers Band</b>	0	0	0
	<b>Noah's Arc</b>	0	0	0
	<b>Real World</b>	0	0	0
	<b>Sit Down Comedy with David Steinberg</b>	0	0	0
	<b>South of Nowhere</b>	0	0	0
	<b>Spongebob Squarepants</b>	0	0	1
	<b>Hogan Knows Best</b>	0	0	0

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VMA Awards	0	2	2
Wonder Pets	0	0	0
Zoey 101	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>2</b>	<b>130</b>

P2P (Not sent)

Content Provider	Asset	Gnutella	eDonkey	BitTorrent
Country Music Television	CMT Music Awards	0	3	0
	Country Fired Home Videos	0	0	0
	Crossroads	0	5	0
	Foxwothy's Big Night Out	0	0	0
	Trick My Truck	0	2	0

Comedy Central	South Park	72	0	6472
	The Colbert Report	0	0	287
	The Daily Show	6	0	230

SpikeTV	Carpocalypes	11	0	0
	King of Vegas	0	0	0
	Most Xtreme Challenge	0	3	0
	Pros Vs Joes	0	0	0
	Total Nonstop Action	0	0	0
	Ultimate Fighting Championship	3	282	0

Viacom	Andy Milonakis	0	18	0
	Avatar the Last Airbender	4	0	74
	Backyardigans	2	0	0
	Beyond the Break	0	6	0
	Blue's Room	0	0	0
	Can't Get A Date	0	0	0
	Degrassi	4	0	0
	Diego	0	0	0
	Dora The Explorer	10	0	468
	Drake & Josh	0	2	0
	Fairly Odd Parents	23	0	0
	GLAAD Media Awards	0	0	0
	Greatest TV Quotes and Catch Phrases	0	0	0
	Hi-Jinks	0	0	0
	I Pity the Fool	0	0	0
	Jack's Big Music Show	0	0	0
	Laguna Beach	43	0	0
	Naked Brothers Band	0	0	0
	Noah's Arc	0	0	0
	Real World	0	0	0
	Sit Down Comedy with David Steinberg	0	0	0
	South of Nowhere	1	0	51
	Spongebob Squarepants	6	1	41
	Hogan Knows Best	0	81	3

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<b>Breaking Bonaduce</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>VMA Awards</b>	<b>8</b>	<b>134</b>	<b>0</b>
<b>Wonder Pets</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Zoey 101</b>	<b>18</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>211</b>	<b>537</b>	<b>7626</b>

Sarah Cruz  
Client Services  
BayTSP, Inc.

# **Schapiro Exhibit 21**

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Subject: Re: MTVN Weekly Report November 27 - December 03, 2006  
From: "Cahan, Adam" <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=CAHANA>  
To: Hallie, Michelena  
Cc: Date: Thu, 07 Dec 2006 15:33:35 +0000

Less than 130? I thought we were going to. 2:30.

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

From: Hallie, Michelena  
To: Ashendorf, Sandy - MTVN; Bakish, Robert; Cahan, Adam; Cheeks, George; Dillon, Michelle; Dominguez, Chris - iFilm; Ellis, Gary; Fahey-Rush, Colleen; Fricklas, Michael; Gottlock, Brian; Harrison, Blair - iFilm; Herzog, Doug; Hurvitz, Lauren; Jackson, Genise; Kim, Clara; Matthews, Beth; Salmi, Mika; Moosnick, Heather - MTVN; Morril, Mark; Robinson, Carole; Shapiro, Andra; Simon, Joe; Sussman, David; Sutphen, David; Weinstein, Caleb; Wen, Pauline; West, Joella; Williams, Reggie; Wolf, Michael  
Sent: Thu Dec 07 09:51:32 2006  
Subject: FW: MTVN Weekly Report November 27 - December 03, 2006

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- 1665 of the clips retrieved on youtube were smaller than our criteria and therefore not taken down. 435 of those were South Park. It is difficult to reconcile this number with the information on the size of clips because they were collected at different times, but it appears that the majority of those not taken down were probably less than 1:30 minutes.  
- There were [redacted] viewer hits [redacted] and 3,300,935 on those not taken down.



As always, call or email with questions.

Michelena Hallie  
Senior Vice President  
Deputy General Counsel, Intellectual Property  
MTV Networks, Business and Legal Affairs  
1515 Broadway, 34th Floor  
New York, New York 10036  
[redacted]

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From: Deana Arizala [mailto:deanaa@baytsp.com]  
Sent: Wednesday, December 06, 2006 5:19 PM  
To: Hallie, Michelena  
Cc: Mark M. Ishikawa; Courtney Nieman; Evelyn Espinosa; Morales, Cindy; Sarah Cruz  
Subject: MTVN Weekly Report November 27 - December 03, 2006

Michelena,

Enclosed is the November 27 - December 03, 2006 Weekly Report. I will be out of the office at 3PM (PST) today,

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so you if you have any question please redirect them to Courtney Nieman.

Thank you.

Best Regards,

Deana Arizala

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Deana Arizala  
Client Services Manager. BayTSP, Inc  
408.341.2365 (direct)  
408.341.2300 (voice)  
408.341.2399 (fax)

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# **Schapiro Exhibit 22**

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**From:** Mark M. Ishikawa  
**Sent:** Saturday, October 07, 2006 6:50 AM  
**To:** Hallie, Michelena  
**Cc:** paramount\_cc  
**Subject:** Assets remaining on YouTube

Michelena,

We have completed our initial scans and removal of the selected assets from YouTube as per your instructions. We will continue to scan and remove assets as they are uploaded.

I did some scanning of the remaining assets which did not meet the “appears like entire episodes” model and quite a bit remains.

[REDACTED]  
[REDACTED] We are leaving a majority of the content on YouTube. We have other clients that will send takedown notices for clips as short as 4 seconds as long as its identifiable as the content.

Let me know if you want to discuss this.

Thx

Mark

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BAYTSP 003723588

# **Schapiro Exhibit 23**



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From: "Worsnup, Mickey - Paramount" <Mickey\_Worsnup@Paramount.com>  
Date: Thu, 21 Jun 2007 16:32:29 -0700  
To: "Powell, Amy - Paramount" <[REDACTED]>, "Teifeld, Tamar - Paramount" <Tamar\_Teifeld@Paramount.com>, "Chiang, Cat - Paramount" <Cat\_Chiang@Paramount.com>, "Tipton, Kristina - Paramount" <Kristina\_Tipton@Paramount.com>  
Subject: Re: Transformers

These are all legit. The first one is from someone just compiled all our TV spots and trailers and made their own music video....its actually good, we should turn a blind eye.

I think KT said the rest of them are just EPK clips.

On 6/21/07 4:21 PM, "Powell, Amy - Paramount" <[REDACTED]> wrote:

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

From: Courtney Nieman <courtneyni@baytsp.com>  
To: Perry, Alfred - Paramount; Powell, Amy - Paramount  
Cc: Mark M. Ishikawa <marki@baytsp.com>; Evelyn Espinosa <evelyn@baytsp.com>; Warren Kim <warrenk@baytsp.com>  
Sent: Thu Jun 21 16:19:47 2007  
Subject: FW: Transformers

We found these just a short time ago. I have asked Blair to send take down notices on them. They don't look like teasers or trailers. Many scenes I haven't picked up on before. Let me know if you want me to stop the take down notices.

Courtney Nieman

From: Blair Taylor  
Sent: Thursday, June 21, 2007 4:10 PM  
To: Warren Kim; Courtney Nieman  
Subject: Transformers

yugiohtcgcollector02

<http://www.youtube.com/watch?v=5G8Tcms6xQk>  
<http://www.youtube.com/watch?v=3v1NUJze4nI>  
<http://www.youtube.com/watch?v=rSVdjKXmVDo>  
<http://www.youtube.com/watch?v=VG3OjK41Q8E>  
<http://www.youtube.com/watch?v=fyCNSWALU6k>  
<http://www.youtube.com/watch?v=wZREL0QN-HQ>  
[http://www.youtube.com/watch?v=wxxnllc5K\\_g](http://www.youtube.com/watch?v=wxxnllc5K_g)  
<http://www.youtube.com/watch?v=RDPGh6hsW0g>  
[http://www.youtube.com/watch?v=Esyyx1i1\\_nQ](http://www.youtube.com/watch?v=Esyyx1i1_nQ)

This user has all the above clips on YouTube. To me they do not appear to be parts of the trailer. Please advise~

Thanks

b

.....

Blair Taylor

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Client Services Support

BayTSP, Inc

blairt@baytsp.com

408.341.2300

.....

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# **Schapiro Exhibit 24**

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From: "Fricklas, Michael" <Michael.Fricklas@viacom.com>  
Date: Tue, 6 Feb 2007 22:35:14 -0500  
To: "Ann Brick" <abrick@aclunc.org>  
Subject: RE: YouTube Take-Down Notices

I've attached a short letter that I hope is helpful in answering your questions.

Please feel free to contact us if you have any more questions. There is a lot of misinformation travelling around the blogs!

Mike Fricklas

This e-mail is confidential and may be privileged. If you receive it in error, please delete it and notify the sender of the error. Thank you.

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

From: Ann Brick [mailto:abrick@aclunc.org]  
Sent: Tuesday, February 06, 2007 2:52 PM  
To: Fricklas, Michael  
Subject: YouTube Take-Down Notices

Please see attached.

Ann Brick  
Staff Attorney  
ACLU of Northern California  
39 Drumm Street  
San Francisco, CA. 94111  
(415) 621-2493

We've moved! Our new address is 39 Drumm Street, San Francisco, CA. 94111. Phone, fax, and email remain the same.

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This message and any files or text attached to it are intended only for the recipients named above, and contain information that may be confidential or privileged. If you are not an intended recipient, you must not read, copy, use or disclose this communication. Please also notify the sender by replying to this message, and then delete all copies of it from your system. Thank you.

List of attachments:  
aclureponse.pdf



BET Networks > Famous Music > MTV Networks > Paramount Pictures

Michael D. Fricklas  
Executive Vice President  
General Counsel and Secretary

February 6, 2007

Ann Brick  
Staff Attorney  
Nicole Ozer  
Technology and Civil Liberties Policy Director  
American Civil Liberties Union Foundation of Northern California  
39 Drumm Street  
San Francisco, CA 94111

Dear Ms. Brick and Ms. Ozer:

Thank you for your letter of earlier today and for the opportunity to respond to your concerns. There is much misinformation circulating and we appreciate the opportunity to explain what we've done.

In fact, at substantial cost, every one of the over 100,000 clips was identified through filtering followed by a review of each clip by a member of our team to ensure that the content was Viacom's and was infringing. For the purpose of this takedown, we took a very conservative approach and gave clear direction to all viewers of clips that they include only those that constitute clear infringements. Nearly all of these were taken 100% from our networks and motion pictures without the additional of any new creative material. There are many, many clips that use material from our shows and movies that have not been removed because it is possible that there could be a fair use claim and we did not have the resources to do the analysis. I do not have the precise numbers, but it is estimated that over a million clips were viewed in the process of preparing for the takedown. To see a few of the clips we did not take down, search on "Jon Stewart" or "South Park" and see the clips that remain.

We are very familiar with the doctrines of parody, political commentary and criticism and the way they relate to the use of copyrighted material. In fact, Viacom relies upon the law in these areas regularly. Watch nearly any episode of South Park, The Daily Show with Jon Stewart or the Colbert Report and you will see how our artists draw from copyrighted works in legitimate ways for legitimate purposes. We believe strongly in the first amendment and have worked closely with the ACLU in the area on many occasions.

1515 Broadway > New York > NY 10036 Tel > [REDACTED] Fax > [REDACTED] Email > michael.fricklas@viacom.com

Confidential

VIA02074234

It is true that some identification errors were made, but we understand those errors to be under .1% of the total number of takedowns and therefore an even smaller percentage of the number of clips reviewed. We have asked YouTube to reinstate every erroneous message as soon as we become aware of it. We wish these errors didn't occur, but as you can see we were confronted with a truly Herculean task in demanding the removal of our copyrighted works.

Regrettably, YouTube has allowed itself to be turned not only into a forum for illegal consumption and sharing of copyrighted material, but it has decided to capture for itself the revenue from advertising to users while they watch and upload. We are insisting that YouTube respect the rights of authors, composers, singers, actors, producers and distributors of creative works by refusing to allow its website to be used for this behavior and by insisting that it apply reasonable efforts to weed out apparently copyrighted material. We believe YouTube can't hide behind the "we don't know it's there" defense – YouTube already weeds out other material that it deems offensive, such as content with nudity or hate speech. In fact, you may be aware that YouTube recently admitted that it can filter, but that it will implement filtering only for content owners who agree to do a business deal. This "if you don't sell it, we'll take it" approach clearly exposes YouTube's inability to assert the DMCA defense as YouTube has admitted that it has the ability to control its site and the right to do so, but refuses unless it is paid. It is a shame that we have had to incur the substantial expense to protect the rights of Viacom and our artists while YouTube irresponsibly benefits from the business model it has created.

Again, thanks for the opportunity to respond. If you have any further questions please do not hesitate to call Mark Morril at [REDACTED] Michelena Hallie at [REDACTED] or mc.

Very truly yours,



Michael D. Fricklas

# **Schapiro Exhibit 25**

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Subject: RE: trailers on youtube  
From: "Scott Roesch" <EX:/O=ATOMSHOCKWAVE/OU=SAN FRANCISCO/CN=RECIPIENTS/CN=SROESCH>  
To: Megan O'Neill  
Cc: Date: Fri, 23 Feb 2007 17:58:06 +0000

Redacted  
for  
Privilege

that's not a problem -- MTVN's takedown notice actually excepted content under 2:30 (ie, stuff that is promotional  
[REDACTED])

Would be great -- we've done this with other pieces as well.

---

From: Megan O'Neill  
Sent: Friday, February 23, 2007 8:27 AM  
To: Scott Roesch  
Subject: trailers on youtube

Hi Scott:

In light of MTVN's relationship with YouTube, do you think they will allow us to upload trailers that promote studio pieces? The chicks guys want to upload a trailer that gives their af url to help drive more traffic.

Thx,

Megan



# **Schapiro Exhibit 26**

—  
**From:** Courtney Nieman  
**Sent:** Monday, January 15, 2007 4:24 PM  
**To:** Mark M. Ishikawa  
**Cc:** Evelyn Espinosa; Deana Arizala  
**Subject:** RE: YouTube Infringement Update as of 1000 14Jan07 \*\*\*Infringement count - 59,292\*\*

Mark,

My fault, I mixed Daily Motion with Yahoo Video. Here is a breakdown of the 112 notices we sent out on Saturday. You instructed us to go back and send out notices based on the original rules. We did not sent out anything against YouTube since I felt that Adam would want to hold everything for them back. With your permission, I will sent this report to Michelena and Adam.

Asset	Google	Yahoo	YouTube	My Space	Daily Motion
South Park - Full Episode	-	-	3-	72-	-
South of Nowhere - Full Episode	-	-	-	17-	-
Spongebob Squarepants - Full Episode	-	-	-	14-	-
Avatar the Last Airbender - Full Episode	-	-	-	4-	-
Fairly Odd Parents - Full Episode	-	-	-	2-	-
Andy Milonakis - Full Episode	-	-	-	1-	-
Laguna Beach - Full Episode	-	-	-	1-	-
VMA Awards - Full Episode	-	-	-	1-	-

Courtney Nieman

-----  
**From:** Mark M. Ishikawa  
**Sent:** Monday, January 15, 2007 4:04 AM  
**To:** Michelena.hallie@mtvn.com  
**Cc:** Courtney Nieman; Evelyn Espinosa; Deana Arizala  
**Subject:** RE: YouTube Infringement Update as of 1000 14Jan07 \*\*\*Infringement count - 59,292\*\*

Shit... Where did the Daily Motion come from? I thought we were only monitoring the assets for them without any takedown instructions.

I would like an answer as soon as you all come in.

Mark

-----  
**From:** Michelena.hallie@mtvn.com  
**Sent:** Monday, January 15, 2007 3:41 AM  
**To:** Courtney Nieman; Cahan, Adam  
**Cc:** Mark M. Ishikawa; Evelyn Espinosa; Deana Arizala  
**Subject:** Re: YouTube Infringement Update as of 1000 14Jan07 \*\*\*Infringement count - 59,292\*\*

Daily Motion? We haven't started on that service. Please explain

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

From: Courtney Nieman <courtney@baytsp.com>

To: Cahan, Adam; Hallie, Michelena

Cc: Mark M. Ishikawa <marki@baytsp.com>; Evelyn Espinosa <evelyn@baytsp.com>; Deana Arizala <deanaa@baytsp.com>; Courtney Nieman <courtney@baytsp.com>

6/11/2008

Sent: Mon Jan 15 02:28:02 2007  
Subject: RE: YouTube Infringement Update as of 1000 14Jan07 \*\*\*Infringement count - 59,292\*\*

Adam,

We sent out notices yesterday (Saturday) to MySpace, and DailyMotion. This was to deal with existing infringements on those protocols only, using the existing rules (2:30 and 3:00 whole shows).

Courtney Nieman  
Manager Client Services BayTSP  
408-341-2314

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

From: Cahan, Adam [mailto:Adam.Cahan@mtvn.com]  
Sent: Sun 1/14/2007 1:02 PM  
To: Chris Schmalz; Michelena.hallie@mtvn.com  
Cc: Mark M. Ishikawa; Evelyn Espinosa; Courtney Nieman  
Subject: Re: YouTube Infringement Update as of 1000 14Jan07 \*\*\*Infringement count - 59,292\*\*

As per prior email. Want to be sure we do not issue any takedowns this week. Even on items that would qualify under past infringement rules. Would like to amass as much as possible in one go.

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

From: Chris Schmalz <chriss@baytsp.com>  
To: Hallie, Michelena; Cahan, Adam  
Cc: Mark M. Ishikawa <marki@baytsp.com>; Evelyn Espinosa <evelyn@baytsp.com>; Courtney Nieman <courtneyni@baytsp.com>  
Sent: Sun Jan 14 15:25:04 2007  
Subject: YouTube Infringement Update as of 1000 14Jan07 \*\*\*Infringement count - 59,292\*\*

Michelena & Adam,

Here is the updated count as of 1000 hours 14Jan07. We have had an increase in count from 56K to 59K since yesterday. Please let me know if you have any questions.

Pending Notices

December 18, 2006 - January 12, 2007

YouTube

Asset	YouTube
51 - Celebrity Paranormal	26
51 - Flavor of Love	378
51 - My Fair Brady	5
51 - Strange Love	30
51 - Surreal Life	105
ATM - Angry Kid	327

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ATM - Star Wars Gangsta Rap	9
BET - 106 and Park	149
BET - Access Granted	87
BET - BET Awards	143
BET - BET Hip Hop Awards	86
BET - Black Carpet	21
BET - Bobby Jones Gospel	50
BET - College Hill	5
BET - Comic View	32
BET - Hotwired	2
BET - Rap City	307
BET - Rip The Runway	0
BET - Spring Bling	34
BET - The Student Center	3
CMT - Country Fried Home Videos	7
CMT - Cowboy U	3
CMT - Crossroads	140
CMT - Foxworthys Big Night Out	2
CMT - Trick My Truck	1
CMT Music Awards - Clips	1
CMT Music Awards - Full Episode	0
Com - Baxter & McGuire	5
Com - Chappelle Show	1,041
Com - Colbert Report	481
Com - Colin Quinn Tough Crowd	42
Com - Comedy Central Presents	1,081
Com - Crank Yankers	33
Com - Dog Bites Man	24
Com - Drawn Together	307
Com - Freak Show	157
Com - Golden Age	25
Com - Lewis Black: Taxed Beyond Belief	72
Com - Live at Gotham	22
Com - Meet The Creeps	16

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Com - Mind of Mencia	308
Com - Night of too many stars	18
Com - Odd Todd	8
Com - Premium Blend	38
Com - Reno 911!	325
Com - Shadow Rock	2
Com - Shorties Watchin Shorties	84
Com - Showbiz Show w/ David Spade	68
Com - South Park	3,961
Com - Stella	134
Com - Strangers With Candy	190
Com - Thats My Bush	22
Com - The Colbert Report	648
Com - The Daily Show	817
Com - Tiny Hands	17
Com - Upright Citizens Brigade	53
Com - Wanda Sykes: Tongue Untied	30
Logo - Noahs Arc	37
Logo - Open Bar	429
Logo - The Ride	11
Logo - US of Ant	5
Logo - Wisecrack	5
MTV - 2 A Days	30
MTV - 24/7	31
MTV - 8th & Ocean	17
MTV - A Cut	9
MTV - Adventures of Chico & Guapo	7
MTV - Aeon Flux	57
MTV - All Eyes On	54
MTV - Amo a Laura	122
MTV - Andy Milonakis	290
MTV - Barrio 19	15
MTV - Beavis & Butthead	643
MTV - Boiling Points	38

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MTV - Bust A Move	3
MTV - Call to Greatness	14
MTV - Celebrity Death Match	60
MTV - Cheyenne	75
MTV - Cribs	466
MTV - Daria	383
MTV - Dirty Sanchez	182
MTV - European Music Awards	118
MTV - Footballers Cribs	12
MTV - Fur TV	10
MTV - Goal	736
MTV - Headbangers Ball	200
MTV - Homewreckers	3
MTV - India Productions	75
MTV - Jackass	2,038
MTV - Jamie Kennedy's Blowin Up	67
MTV - Laguna Beach	302
MTV - Made	132
MTV - Meet the Barkers	68
MTV - Movie Awards	625
MTV - MTV News Week in Rock	23
MTV - MTV Unplugged	607
MTV - My Super Sweet 16	28
MTV - Newlyweds: Nick & Jessica	376
MTV - Pimp Intl	5
MTV - Pimp My Ride	103
MTV - Pimp UK	6
MTV - Punkd	118
MTV - Real World	158
MTV - Rob & Big	37
MTV - Runs House	188
MTV - Senseless	7
MTV - Staying Alive	85
MTV - Strutter	29

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MTV - The Hills	99
MTV - The State	206
MTV - Totally Boy Band	6
MTV - Totally Scott Lee	2
MTV - Transit	21
MTV - TRL	1,987
MTV - UK Productions	264
MTV - Virgin Diaries	4
MTV - Viva La Bam	454
MTV - VMA Awards	1,474
MTV - Where My Dogs At	18
MTV - Wildboyz	132
MTV - Wonder Showzen	202
MTV - Yo Mama	108
MTV - Yo MTV Raps	198
MTV - You Hear it First	103
MTVN - BET	459
MTVN - CMT	0
MTVN - Comedy Central	0
MTVN - Generic	1
MTVN - MTV	5,978
MTVN - Music Videos	1,067
MTVN - NICK	778
MTVN - VH1	203
Nick - AAAHH! Real Monsters	28
Nick - Action League Now	33
Nick - All Grown Up	42
Nick - Allegras Window	4
Nick - Amanda Show	17
Nick - Angry Beavers	105
Nick - As Told By Ginger	38
Nick - Avatar the Last Airbender	6,701
Nick - Backyardigans	122
Nick - Blues room	30

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Nick - CatDog	35	
Nick - Catscratch	8	
Nick - Danny Phantom	2,572	
Nick - Degrassi	3,574	
Nick - Dora the Explorer	100	
Nick - Double Dare 2000	44	
Nick - Doug	114	
Nick - Drake & Josh	194	
Nick - Fairly Odd Parents	245	
Nick - Figure It Out	14	
Nick - Global GUTS	42	
Nick - Hey Arnold	643	
Nick - Invader Zim	2,582	
Nick - Jimmy Neutron	337	
Nick - Just for Kicks	5	
Nick - Legend of the Hidden Temple	180	
Nick - Miracles Boys	5	
Nick - Mr. Meaty	25	
Nick - My Life as a Teenage Robot	138	
Nick - Naked Brothers Band	69	
Nick - Nickelodeon GUTS	16	
Nick - Ren and Stimpy	338	
Nick - Rugrats	64	
Nick - South of Nowhere	1,346	
Nick - Spongebob Squarepants	1,698	
Nick - The Journey of Allen Strange	1	
Nick - The Wild Thornberries	8	
Nick - Unfabulous	93	
Nick - What Goes On	2	
Nick - Xs	9	
Nick - Zoey101	38	
Spk - 10 Things Every Guy Should Experience		0
Spk - 52 Greatest Action Sports Athletes		0
Spk - AutoRox		0

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Spk - Boom	0	
Spk - Boston PD F/K/A Beyond the Badgc		0
Spk - By the Numbers	0	
Spk - California Youth Authority	0	
Spk - Carpocalypse	0	
Spk - Casino Cinema	1	
Spk - Disorderly Conduct	23	
Spk - Enduro at Erzberg	0	
Spk - Extreme 4x4	1	
Spk - Extreme Sports Athletes	0	
Spk - Films of Fury	1	
Spk - Fresh Baked Video Games		16
Spk - Gamehead	0	
Spk - Gary the Rat	0	
Spk - Geek Ray Vision	0	
Spk - GQ Man of the Year Awards		0
Spk - Horsepower	7	
Spk - I Hate My Job	0	
Spk - Invasion Iowa	0	
Spk - Joe Schmo	1	
Spk - Joe Schmo 2	0	
Spk - King of Vegas	0	
Spk - Lance Krall Show	0	
Spk - Muscle Car	0	
Spk - Playbook	0	
Spk - Pros v Joes	0	
Spk - Raising the Roofs	0	
Spk - Rattlesnake Raceway	0	
Spk - Ren & Stimpy	0	
Spk - Scream Awards 2006		69
Spk - Spike TV's Video Game Awards 2003, 2004, 2005 and 2006		0
Spk - Spike's Most Irresistible Women		0
Spk - Spike's Perfect 10		0
Spk - Spike's Sexiest: NYC Bartenders		0

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Spk - SportsFan	0	
Spk - Stripperella	0	
Spk - Stuck	0	
Spk - The John Henson Show	0	
Spk - This Just In	0	
Spk - Trucks	0	
Spk - True Dads	0	
Spk - True to the Game	0	
Spk - Ultimate Guy Vacation	0	
Spk - Untold Series	0	
Spk - Viva Baseball	0	
TVLa - Fatherhood	3	
TVLa - HiJinks	0	
TVLa - Nick At Nite Funniest Mom In America		1
TVLa - Sit Down with David Steinberg	0	
TVLa - TV Land Present the 100	1	
VH1 - 100 Greatest Countdowns	66	
VH1 - 40 Greatest Countdowns	9	
VH1 - And You Don?t Stop...	26	
VH1 - Behind the Music	274	
VH1 - Best Week Ever	106	
VH1 - Best Year Ever	5	
VH1 - Big In 2006 Awards	17	
VH1 - Black In the 80s	3	
VH1 - Breaking Bonaduce	5	
VH1 - Cable In the Classroom	1	
VH1 - Can?t Get A Date	28	
VH1 - Celebrity Eye Candy	3	
VH1 - Celebrity Fit Club	96	
VH1 - Confessions	12	
VH1 - Driven	65	
VH1 - Drug Years	29	
VH1 - Heavy: The Story of Metal	14	
VH1 - Hip Hop Honors 2006	70	

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VH1 - Hogan Knows Best	5	
VH1 - I Love the	216	
VH1 - I Married...	43	
VH1 - Ice T's Rap School	8	
VH1 - Legends	112	
VH1 - Meet the Family	180	
VH1 - Movies That Rock!	12	
VH1 - Music Awards	701	
VH1 - Race O Rama	1	
VH1 - Remaking...	13	
VH1 - Rock Honors	66	
VH1 - Rock Honors 2006	6	
VH1 - So Notorious	26	
VH1 - Storytellers	181	
VH1 - Supergroup	20	
VH1 - The Fabulous Life Of...	30	
VH1 - The Fabulous Life Presents: Really Rich Real Estate	0	
VH1 - VH1 All Access	36	
VH1 - VH1 News Presents	2	
VH1 - VH1 News Specials	124	
VH1 - VH1 Rock Docs	1	
VH1 - When ___ Ruled the World	11	
VH1 - World Series of Pop Culture	1	
Total	59,292	

-----  
Chris Schmalz

Team RADAR

BayTSP, Inc.

Phone: (408) 341-2371

AIM: BayTSP Chris S

6/11/2008

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Be sure to visit [www.baytsp.com/weblog](http://www.baytsp.com/weblog) <outbind://47-0000000089EF563C23D976419A9E9E8378007AC80700DD1ADF5F6447A749A9D8B0667CBDA27E000001C9D41B0000034C5155B7C5>  
for the latest P2P news...

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6/11/2008

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BAYTSP 004313364

# **Schapiro Exhibit 27**

---

**From:** Simon, Joe [Joe.Simon@viacom.com]  
**Sent:** Wednesday, January 24, 2007 11:09 PM  
**To:** Mark M. Ishikawa  
**Cc:** Arielle Kim  
**Subject:** RE: \*\*\*Private\*\*\* Phone call request

Uh oh.

We need to talk - sorry for the delay. Been on a plane. When can we talk?

---

**From:** Mark M. Ishikawa [mailto:marki@baytsp.com]  
**Sent:** Tuesday, January 23, 2007 6:17 PM  
**To:** Simon, Joe  
**Cc:** Arielle Kim  
**Subject:** \*\*\*Private\*\*\* Phone call request

Joe,

Hope you're doing well

I was wondering if you had a few minutes for a call tomorrow (East Coast time) to discuss a situation I'm having with a big project at MTVN. As you're probably aware we're gathering data for the YouTube litigation project and there is an individual from MTVN, Adam Cahan who thinks he has technical knowledge and continues to set unrealistic expectations, and has been very unpleasant to deal with. He has made threats during a call where he has stated that he will see that my company is put out of business and that he will contact everyone that he knows to make sure of that.

My fear at this point is that we won't be paid for our work, and that this will harm my reputation with Viacom and Paramount. I'm in a difficult situation here, because I know the data is required for the litigation to proceed. I could withhold the data until I am paid, but that would sour the relationship with Viacom. We have bent over backwards to help make this litigation successful for Viacom and I'm not sure how to handle this. The crux of the problem is that Adam appears to have made some commitments to Philipe over the volume of infringements and is having a hard time meeting those numbers.

Thanks

Mark

6/11/2008

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BAYTSP 004296418

# **Schapiro Exhibit 28**

---

From: "Frank, Kristin - MTVN" <Kristin.Frank@logostaff.com>  
Date: Wed, 11 Oct 2006 10:01:34 -0400  
To: "Sherman, Lisa" <Lisa.Sherman@logostaff.com>, "Witt, Jason" <Jason.Witt@mtvstaff.com>, "Parent, Richard" <Richard.Parent@logostaff.com>  
Cc: "Leonard, Marc" <Marc.Leonard@Logostaff.com>  
Subject: RE: YouTube Weekly Report

Richard - please continue pulling full episodes and as we had discussed, leave random clips up because they are promotional in nature for us.

Thanks all

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

From: Sherman, Lisa  
Sent: Wednesday, October 11, 2006 7:39 AM  
To: Witt, Jason; Frank, Kristin - MTVN; Parent, Richard  
Cc: Leonard, Marc  
Subject: Re: YouTube Weekly Report

I'm inclined to keep clips on there for now...

-----  
Sent from my BlackBerry Wireless Handheld

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

From: Witt, Jason  
To: Frank, Kristin - MTVN; Parent, Richard  
CC: Leonard, Marc; Sherman, Lisa  
Sent: Wed Oct 11 01:02:05 2006  
Subject: RE: YouTube Weekly Report

We are going to try to do something with them--actually taking it upstairs tomorrow to get green light. But that shouldn't change anything you'd do in normal course--so if you typically yank 'em, keep doing it until we have something.

Generally folks from other brands are pulling down full eps, and leaving other stuff up for now.

---

From: Frank, Kristin - MTVN  
Sent: Tue 10/10/2006 7:49 PM  
To: Parent, Richard; Witt, Jason  
Cc: Leonard, Marc; Sherman, Lisa  
Subject: RE: YouTube Weekly Report

Now, there also is a deal going down with You Tube where we would get ad sales dollars from these...

Jason - should we not be pulling down our content from YOU TUBE at this point based on where we are with the deal

Please advise - thanks


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

From: Parent, Richard  
Sent: Tuesday, October 10, 2006 7:49 PM  
To: Frank, Kristin - MTVN



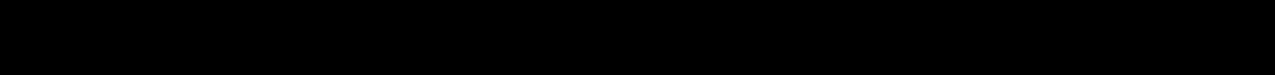
---

Subject: Re: YouTube Weekly Report



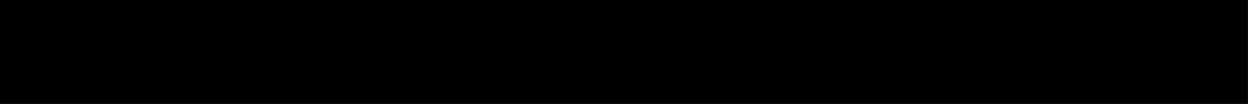
-----Original Message-----

From: Frank, Kristin - MTVN  
To: Leonard, Marc; Parent, Richard; Opatut, Eileen; Jacobson, Joanne; Sherman, Lisa  
Sent: Tue Oct 10 19:41:11 2006  
Subject: RE: YouTube Weekly Report



---

From: Leonard, Marc  
Sent: Tuesday, October 10, 2006 4:52 PM  
To: Parent, Richard; Opatut, Eileen; Frank, Kristin - MTVN; Jacobson, Joanne; Sherman, Lisa  
Subject: FW: YouTube Weekly Report



---

From: Morales, Cindy  
Sent: Tuesday, October 10, 2006 4:44 PM  
To: Medina, Rhonda; Polaner, Melissa; Lewand, Beth; Cunin, Mary Beth; Weinstein, Caleb; Levin, Seth - Legal; Leonard, Marc; DeBenedittis, Paul J. - MTV Online

Cc: Shapiro, Andra; Jackson, Genise; Kim, Clara; Cheeks, George; Gottlock, Brian; Rockwell, Nick; Steele, Don; Moiko, Joseph - MTVN; Halbe, Michelena

Subject: YouTube Weekly Report

Hi All,



Redacted  
for  
Privilege

<< File: MTVN Report\_10.08.06.xls >>

Cindy Morales  
Manager, Intellectual Property  
MTV Networks  
1515 Broadway  
New York, NY 10036  
p. 212.846.8892  
f. 212.846.1774

# **Schapiro Exhibit 29**

From: French, David - MTV.

Sent: 3/5/2008 11:13 PM.

To: [-] Christy Wise; Yeomans, Emily.

Cc: [-] Urbont, Ariana.

Bcc: [-]

Subject: Re: Hills Trailer.

I agree.... We can't fight this, and in the end, its all good for the show.

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

From: Christy Wise <christyw@fanscape.com>

To: Yeomans, Emily; French, David - MTV

Cc: Urbont, Ariana

Sent: Wed Mar 05 14:50:42 2008

Subject: RE: Hills Trailer

It's on a few different YouTube accounts so they will need to do quite a bit of searching. My advice is to let it happen – there is no harm in getting these extra views. It can only help you. I understand you wanting to give MTV.com the exclusive (and traffic), but in the long run I think it's better for the show to let the buzz and awareness spread organically. It's a good thing that people actually want to steal it and post it themselves.

Just my two cents!

-Christy

-----  
Christy Wise

Sr. Director, Partnership Marketing

Fanscape, Inc.

<http://fanscape.com/> <<http://fanscape.com/>>

3201 W. Cahuenga Blvd.

Los Angeles, CA 90068

T: 323.785.7789

F: 323.785.7101

Christyw@fanscape.com <<mailto:Christyw@fanscape.com>>

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<<http://www.fanscape.biz/>>

---

From: Yeomans, Emily [mailto:Emily.Yeomans@mtvstaff.com]  
Sent: Wednesday, March 05, 2008 2:45 PM  
To: Christy Wise; French, David - MTV  
Cc: Urbont, Ariana  
Subject: RE: Hills Trailer

Dave- can we have viacom take it off?

---

From: Christy Wise [mailto:christyw@fanscape.com]  
Sent: Wednesday, March 05, 2008 2:44 PM  
To: Yeomans, Emily; French, David - MTV  
Cc: Urbont, Ariana  
Subject: RE: Hills Trailer

We didn't put this on YouTube – someone must have ripped it from the mtv.com player and posted it themselves.

-----  
Christy Wise

Sr. Director, Partnership Marketing

Fanscape, Inc.

<http://fanscape.com/> <<http://fanscape.com/>>

3201 W. Cahuenga Blvd.

Los Angeles, CA 90068

T: 323.785.7789

F: 323.785.7101

Christyw@fanscape.com <mailto:Christyw@fanscape.com>

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<<http://www.fanscape.biz/>>

---

From: Yeomans, Emily [mailto:Emily.Yeomans@mtvstaff.com]  
Sent: Wednesday, March 05, 2008 2:09 PM  
To: Christy Wise; French, David - MTV  
Cc: Urbont, Ariana  
Subject: Hills Trailer

Is the trailer suppose to be on YouTube? I thought mtv.com had the exclusive?

# **Schapiro Exhibit 30**

---

**From:** Michelena.hallie@mtvn.com  
**Sent:** Friday, December 15, 2006 5:38 PM  
**To:** Deana Arizala; Courtney Nieman  
**Cc:** Morales, Cindy; Weinstein, Caleb  
**Subject:** Fw: Bay Tsp Weekly Report December 04 - 10, 2006

Please stop taking down Comedy Central Presents clips immediately.

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

From: Weinstein, Caleb  
To: Hallie, Michelena  
CC: Morales, Cindy; Lathan, Lucy  
Sent: Fri Dec 15 12:18:51 2006  
Subject: RE: Bay Tsp Weekly Report December 04 - 10, 2006

Hi -

I didn't realize we were screening for CCP. We should stop pulling down for Comedy Central Presents as I believe we are most likely pulling clips down from the my space pages of the comedians who performed on the show.

Thanks,

Caleb

caleb.weinstein@mtvn.com  
Office: +1 212 767 4086

---

From: Hallie, Michelena  
Sent: Thursday, December 14, 2006 10:37 AM  
To: Ioannou, Sofia; Ashendorf, Sandy - MTVN; Bakish, Robert; Cahan, Adam; Cheeks, George; Dillon, Michelle; Dominguez, Chris - iFilm; Ellis, Gary; Fahey-Rush, Colleen; Fricklas, Michael; Gottlock, Brian; Harrison, Blair - iFilm; Herzog, Doug; Hurvitz, Lauren; Jackson, Genise; Kim, Clara; Matthews, Beth; Salmi, Mika; Moosnick, Heather - MTVN; Morrill, Mark; Robinson, Carole; Shapiro, Andra; Simon, Joe; Sussman, David; Sutphen, David; Weinstein, Caleb; Wen, Pauline; West, Joella; Williams, Reggie; Wolf, Michael  
Subject: Bay Tsp Weekly Report December 04 - 10, 2006

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Attached is this week's report on Bay's internet activities. Highlights:

- 784 clips were taken down off youtube. 155 were Chappelle Show (a recent addition to the list so the clips removed included relatively old ones) and 69 were The Daily Show.
- 336 were taken down off myspace. There is no clear "favorite" on myspace, but 30 clips from Celebrity Death Match, 45 from Comedy Central Presents, 32 from Degraasi and 35 from South Park, were removed.
- The report now includes numbers of clips found on P2P sites by territory (page 16). Though we do not take down these clips since they are not covered under the DMCA, I thought this may be of some assistance to international marketing and research. If there is additional information that may be helpful to your group, please let me know and I'll see if we can gather it.

6/13/2008

HIGHLY CONFIDENTIAL

BAYTSP 004342189



As always, call or email with any questions.

Michelena Hallie  
Senior Vice President  
Deputy General Counsel, Intellectual Property  
MTV Networks, Business and Legal Affairs  
1515 Broadway, 34th Floor  
New York, New York 10036



6/13/2008

HIGHLY CONFIDENTIAL

BAYTSP 004342190

# **Schapiro Exhibit 31**

To: "Heather Gillette" <hgillette@google.com>  
From: "Courtney Nieman" <courtneyni@baytsp.com>  
Cc:  
Bcc:  
Received Date: 2006-12-14 16:44:29 GMT  
Subject: RE: [html] Re:

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Thanks - mybad. I just looked it up and servicerep is the contact for another organization. Please forgive the mix up. Hope all is well in the land of video. Have a great day.

Courtney Nieman

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From: Heather Gillette [mailto:hgillette@google.com]  
Sent: Thursday, December 14, 2006 8:39 AM  
To: Courtney Nieman  
Cc: [REDACTED] heather gillette  
Subject: [html] Re:

Hey there Courtney,

This is down. Also, please make sure you email [REDACTED] and not [REDACTED] otherwise my 24/7 team won't see these ;)

I will respond to your other email soon, I have not yet had a chance!

Heather

On 12/14/06, Courtney Nieman <courtneyni@baytsp.com> wrote:

Please take down <http://www.youtube.com/watch?v=CAI8KEOaTgg> <<http://www.youtube.com/watch?v=CAI8KEOaTgg>> . This director account put up the entire movie and is in violation of the DMCA and Copyright laws. This request is made by BayTSP on behalf of Paramount Pictures Corporation.

Thank you for your attention and quick response.

Courtney Nieman  
Manager Client Services  
BayTSP, Inc.  
408-341-2314  
AIM: BayTSPCanne  
Have you checked out BayTSP's Piracy news web log?  
<http://www.baytsp.com/weblog> <<http://www.baytsp.com/weblog>>

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The information contained in this email message may be confidential and is intended only for the parties to whom it is addressed. If you are not the intended recipient or an agent of same, please notify us of the mistake by telephone (408-341-2300) or email and

delete the message from your system. Please do not copy the message or distribute it to anyone.

Courtney Nieman  
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# **Schapiro Exhibit 32**

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Subject: RE: EBAum and Revver  
From: "Victoria Libin" <EX:/O=ATOMSHOCKWAVE/OU=SAN FRANCISCO/CN=RECIPIENTS/CN=VLIBIN>  
To: Peter Ignacio; Chris Albrecht; Megan O'Neill; Scott Roesch; Kate O'Brien; Adam Lovingood  
Cc: Mika Salmi  
Date: Wed, 04 Oct 2006 20:18:37 +0000

Here is the presentation I gave in L.A. with a co-panelist. It will help you understand our TOS side by side against Revver, Yahoo, YouTube, etc.

Victoria Libin

Sr. Director of Legal Affairs

Atom Entertainment, Inc.

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San Francisco, CA 94104

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Fax. 415-503-2425

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From: Peter Ignacio  
Sent: Wednesday, October 04, 2006 1:06 PM  
To: Chris Albrecht; Megan O'Neill; Scott Roesch; Kate O'Brien  
Cc: Victoria Libin; Mika Salmi  
Subject: RE: EBAum and Revver

Former shockwave.com exec Stefanie Henning is now at the Fox division which produced the eBaum's world TV show pilot. She didn't say anything specific about what went wrong, but rolled her eyes, and said that it was a disaster.

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From: Chris Albrecht  
Sent: Wednesday, October 04, 2006 1:02 PM  
To: Megan O'Neill; Peter Ignacio; Scott Roesch; Kate O'Brien  
Cc: Victoria Libin; Mika Salmi  
Subject: EBAum and Revver

WIRED's got a big article on eBaum's world:

Couple things of note:

1. They're learning first-hand about clearances. (wah-wah) They never got any and have to for their TV show now.
2. They've started paying \$250 - \$1,500 for content. In exchange:
3. "All submissions must be made through an upload form, which includes a thorough consent and release

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agreement requiring authors to relinquish all rights to their material.

4. eBaum's dad seems like a real <expletive>

REVVVER:

Victoria just told me something interesting (she's cc'd here in case I mess it up in translation). The Terms of Service for Revver state that they have an irrevocable non-exclusive license in perpetuity. So if someone uploads to Revver, they can't go do an exclusive deal anywhere else – ever.

She also mentioned some interesting things about the ToS for Yahoo and YouTube – might not be a bad idea to put those all side by side as we approach filmmakers.

-Chris

List of attachments:

CLA\_Presentation\_VII\_9\_27\_2006.ppt

*The Digital Realm: Cyberspace  
and New Film Law*

**Life After YouTube: The Benefits &  
Perils of User Generated Content**

**Victoria Libin**  
**Sr. Director Legal Affairs**  
**Atom Entertainment**

**Jennifer Burke Sylva**  
**Attorney at Law**  
**Law Offices of JBS**



## Advantages & Perils of Posting Your Films to User Generated Content Sites

### The Advantages:

- Easy Way to Gain Exposure to millions of viewers:
  - No editorial staff to charm;
  - No complicated negotiations.
- Buzz for a hit piece may lead to monetary gain:
  - Lilly Allen gaining a record deal by uploading her songs to her MySpace page;
  - Eepybird with their diet coke and Mentos videos landed them appearances on TV.

## Perils of Posting Your Films to User Generated Content Sites

- You may lose control of your work and consequently lose ability to make money from it.
- Your work may be altered in a way that offends your artistic sensibilities.
- Your work may be perceived negatively by the audience and affect your career potential.

## To Post or Not to Post?

- Factors that should inform your decision to post your work to user generated content sites:
  - Digital Rights Management and Watermarking.
  - Key language in each user generated content site's Terms of Service.
  - The nature of your work:
    - Investment & Return. Did your film require lots of time and/or capital to produce?
    - Clearances & Scope of Licenses. Do your underlining agreements (e.g. talent releases, music licenses, screenplay agreement, etc.) allow you to post your work when you will receive little or no compensation?

## Top Things to Consider When Reviewing Terms of Service

- The License grant language that will bind you and your work
- Representations and Warranties
  - Film does not infringe third party rights
    - Do you have talent and location releases?
    - Do you own or have a license for music used in your film?
    - Does your film use recognizable brands?
- Indemnification
  - Clause that makes you liable for any damages (money) caused by your film, (e.g., site has to pay record company or music publisher money because your film infringed the copyrighted music).

## What rights are you giving up?

- The rights you give to user generated content sites to use or potentially to own your films are contained in the license grant provisions.
- Some provisions are fair and others are very onerous
- We will look at the license grant language to demonstrate the good, the bad, and the ugly from the film owner's perspective.

## YouTube's License Grant

- **For clarity, you retain all of your ownership rights in your User Submissions.** However, by submitting the User Submissions ["US"] to YouTube, you hereby grant to YouTube a **worldwide, non-exclusive, royalty-free sublicensable and transferable** license to use, reproduce, distribute, **prepare derivative works of**, display, and perform the US in connection with the YouTube Website and YouTube's (and its successor's) business...**in any media format and through any media channels...**The foregoing license granted by you terminates once you remove or delete US from the YouTube Website.

## Yahoo's License Grant

- Yahoo! **does not claim ownership** of Content you submit or make available for inclusion on the Service. However, with respect to Content you submit or make available for inclusion on publicly accessible areas of the Service, you grant Yahoo! the following worldwide, royalty-free and **non-exclusive** license(s), as applicable: With respect to Content you submit or make available for inclusion on publicly accessible areas of Yahoo! Groups, the license to use, distribute, reproduce, modify, adapt, publicly perform and publicly display such Content on the Service **solely for the purposes** of providing and promoting the specific Yahoo! Group to which such Content was submitted or made available. **This license exists only for as long as you elect to continue to include such Content on the Service and will terminate at the time you remove or Yahoo! removes such Content from the Service.**

## MySpace's License Grant

- Myspace.com **does not claim any ownership rights** in the text, files, images, photos, videos, sounds, musical works, works of authorship, or any other materials (collectively "Content") that you post to the MySpace Services. After posting your Consent to the MySpace Services, you continue to retain all ownership right in such Content, and you continue to have the right to use your Content in any way you choose. By displaying or publishing ("posting") any Content on or through the My Space Services, you hereby grant to MySpace.com a **limited license** to use, modify, publicly perform, publicly display, reproduce, and distribute such Content **solely on and through the MySpace Services...The license you grant...is non-exclusive...**



## Grouper's License Grant

- You grant to Grouper and Grouper's affiliates, representatives, and assigns an **irrevocable, perpetual**, non-exclusive, fully-paid, world-wide, royalty-free license, with the **right to grant sublicenses through multiple tiers** of sublicensees, to publicly display, publicly perform, distribute, store, transcode, syndicate, broadcast, reproduce, **edit, modify, create derivative works**, and otherwise use and reuse your Submissions (or any portions or derivative works thereof) **in any manner, in any medium, for any purpose.**

# Google's Terms of Service

- Not structured as a license.
- Structured as an indexing of automated machinery to third party content over which Google exercise no control.
- Google Services are made available for a user's personal, non-commercial use.
- "Google's indices consist of information that has been identified, indexed and compiled through **an automated process with no advance review by human beings**. Given the enormous volume of web site information added, deleted, and changed on a frequent basis, **Google cannot and does not screen anything made available through its indices**. For each web site reflected in Google's indices, if either (i) a site owner restricts access to his or her web site or (ii) a site is taken down from the web, then, upon receipt of a request by the site owner or a third party in the second instance, Google would consider on a case-by-case basis requests to remove the link to that site from its indices. However, **if the operator of the site does not take steps to prevent it**, the automatic facilities used to create the indices are likely to find that site and index it again in a relatively short amount of time."

## Heavy's License Grant

- All materials sent by you to us, including, but not limited to, videos, posting to chats, survey responses, message board material, contest entries and similar items, scripts, story lines, fan fiction, characters, drawings, information, suggestions, ideas or concepts (collectively, "Submissions.") whether unsolicited or solicited **shall be deemed and shall remain our sole property in perpetuity** without compensation to you of any kind and you hereby automatically grant us by assignment the entire right, title and interest in and to such Submissions and you specifically acknowledge that the Submissions may be edited for use. You also waive all so-called "moral rights" in all Submissions. None of the Submissions shall be subject to any obligation of confidentiality on our part and we shall not be liable for any use or disclosure of any Submissions. The sender further waives the right to make any claims against us relating to Submissions, including, but not limited to, unfair competition, breach of implied contract and/or breach of confidentiality.

## Atom Entertainment License Grant

- Atom Entertainment **does not claim ownership** in User Materials you submit [by submitting material] you automatically grant Atom Entertainment **and to users...** a **royalty-free**, world-wide, **non-exclusive**, **sub-licensable**, **and assignable** right and license to use, copy, reproduce, modify, adapt, publish, edit, translate, create derivative works from, transmit, distribute, publicly display and publicly perform such User Material for the purpose of displaying and promoting the User Materials **on any website operated by, and in any related marketing materials** produced by, Atom Entertainment **and its affiliates**.

## What to do when the party is over

- Impact on your potential future exploitation of your submitted films.

## Protecting Your Films: What do When You Find Your Films on UGC Sites that You Did Not Post

- Safe Harbor Provision:
  - Section 512 of the Digital Millennium Copyright Act (DMCA) protects sites that host content at the direction of users from liability for information posted or transmitted by users if the site where the site has no knowledge that infringing material resides on its servers and upon notification, quickly removes or disables access to material identified in a copyright holder's notice.
  - In order to qualify for safe harbor protection, the site must:
    - have no knowledge of, or financial benefit from, the infringing activity;
    - provide proper notification of its policies to its subscribers; and
    - set up an agent to deal with copyright complaints.

## Protecting Your Films: What do When You Find Your Films on UGC Sites that You Did Not Post

- Locate copyright agent contact info on web site or NIC's WHO IS look up.
- Send cease & desist containing DMCA elements ordering web site to pull down the content (form take down notice provided in materials). Notice should:
  - Include exact URL where your work is found on the applicable user generated content web site;
  - Attest under penalty of perjury that you are the copyright owner or have been permitted by the copyright owner to act on his/her behalf.

## Protecting Your Films: What do When You Find Your Films on UGC Sites that You Did Not Post

- What to do if the site forwards a counter-infringement notice:
  - Someone else may believe they own or have rights to your work and may respond by filling out a counter-infringement form.
  - You have the right to pursue a claim against the person sending the counter-infringement notice.
- What to do if the site does not remove your films after sending a cease and desist and the site has not sent you a counter-infringement notice:
  - You have the right to pursue a claim against the site.



# How To Find and Hire a Lawyer

- Resources
- Engagement Letter
- Factors that will influence an attorney's willingness to represent you:
  - Recovering Attorney's Fees
    - Did you file the copyright registration with the copyright office?
    - How well did you document the claim and did you reserve your rights in the cease and desist letter?
    - Does the site that infringed your copyright have money or insurance?
    - How were you damaged monetarily—is there a market for your work.

## Fair Use Doctrine

- Can a site or user claim that their use of your film does not infringe your copyright because of fair use?
- Can you claim that elements of your film do not infringe third party rights because of fair use?

## Fair Use Doctrine

- The Legal Basics and why you should not rely on it without legal help.

