

# Schapiro Exhibit 96

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From: DiSanto, Tony <Tony.DiSanto@mtvstaff.com>  
Date: Sun, 16 Sep 2007 17:38:51 -0400  
To: Graden, Brian <Brian.Graden@mtvstaff.com>  
Subject: RE: Perez

here is link. it is at 563k  
<http://www.youtube.com/watch?v=N3NG3NFuvsY>

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

From: Graden, Brian  
Sent: Sun 9/16/2007 5:19 PM  
To: DiSanto, Tony  
Subject: Re: Perez

I will try again. That is great!!! If that gets to a mil, should bump the num!

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

From: DiSanto, Tony  
To: Graden, Brian  
Sent: Sun Sep 16 17:06:47 2007  
Subject: Re: Perez

On youtube it said 465k this morn . It was clip of him pissed off backstage

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

From: Graden, Brian  
To: DiSanto, Tony  
Sent: Sun Sep 16 17:00:00 2007  
Subject: RE: Perez

I only saw like 2K... Has 500K plus on the promo clip?  
b

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

From: DiSanto, Tony  
Sent: Sunday, September 16, 2007 9:59 AM  
To: Graden, Brian  
Subject: FW: Perez

have u checked online? the youtube clip has 495,000 views ince yesterday

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

From: DiSanto, Tony  
Sent: Sun 9/16/2007 12:49 PM  
To: DiSanto, Tony; Cappello, Blythe; Gateley, Liz; French, David - MTV; Urbont, Ariana; Burrell, Damon; Ortiz, Joe; Powers, Michael; Nicola, Jessica  
Subject: Perez

are we ready to move into phase two of this plan? start moving to air...increasing press/online buzz?  
everyone have the footage? mike, how about the show...anything we need to discuss?

# **Schapiro Exhibit 97**

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Subject: RE: Perez  
From: Graden, Brian <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=GRADENB>  
To: DiSanto, Tony  
Cc: Date: Sun, 16 Sep 2007 22:18:54 +0000

FANTASTIC

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

From: DiSanto, Tony  
Sent: Sunday, September 16, 2007 2:39 PM  
To: Graden, Brian  
Subject: RE: Perez

here is link. it is at 563k  
<http://www.youtube.com/watch?v=N3NG3NFuvsY>

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

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To: DiSanto, Tony  
Subject: Re: Perez

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Sent: Sunday, September 16, 2007 9:59 AM  
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Sent: Sun 9/16/2007 12:49 PM  
To: DiSanto, Tony; Cappello, Blythe; Gateley, Liz; French, David - MTV; Urbont, Ariana; Burrell, Damon; Ortiz, Joe; Powers, Michael; Nicola, Jessica  
Subject: Perez

are we ready to move into phase two of this plan? start moving to air...increasing press/online buzz?

---

everyone have the footage? mike, how about the show...anything we need to discuss?

# **Schapiro Exhibit 98**

From: Christy Wise.

Sent:8/7/2006 9:17 PM.

To: [-] Kevin Donahue (kevin@youtube.com).

Cc: [-] amys@fanscape.com.

Bcc: [-]

Subject: Great Meeting You.

Hi Kevin,

It was great meeting you on Friday! Thanks for taking the time to meet with us and for the delicious Starbucks! It was great getting a clear perspective on what YouTube as a company is looking for from a content & creative perspective, as well as what is on the horizon. I am looking forward to submitting some of our exclusive content and videos to you for consideration as features on the site.

As Amy mentioned, one project we are currently working on is the new A&E series Gene Simmons Family Jewels. We will create a director's account on behalf of the show and upload the videos under that account name per your suggestion. In the mean time, I wanted to pass along the two clips so you can see for yourself what we were referring to. Both video are clips of Gene and his kids "behind the scenes" playing around in a family setting. It shows Gene as the softy that most people might not know he is. The show premieres on A&E tonight (which does not include these exclusive clips), and the press surrounding its debut is pretty amazing. Let me know what you think!

Gene Simmons Family Jewels – Exclusive Clips

<http://www.youtube.com/watch?v=ONHxYF2u3gc>

[http://www.youtube.com/watch?v=5\\_Wx-ql4Rs0](http://www.youtube.com/watch?v=5_Wx-ql4Rs0)

In addition to these clips, I will work with some of our artists to create unique and compelling video content that I will pass along to you and Jenny Nielsen (per your suggestion) in the future. If there is anything in particular you are looking for, or any new YouTube initiatives that we can assist with, please let me know.

Thanks Kevin, I look forward to working with you!

-Christy

-----  
Christy Wise

Sr. Manager, Publicity & Promotions

Fanscape, Inc.

3201 W. Cahuenga Blvd.

Los Angeles, CA 90068

T: 323.785.7789

F: 323.785.7101

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

Christyw@fanscape.com

IM: og glitter



# **Schapiro Exhibit 99**

# Stolen Gene Simmons Home Video

SnackBoard

18 videos

Subscribe



0:03 / 1:19

SnackBoard — August 04, 2006 — This is a clip of Rock's um.... most demonic?? guy taking some piggyback time. Very hardcore. This tape was leak...

46,613 views

Like Dislike

Save to Share

Embed

Respond to this video...

Highest Rated Comments

- demonfan4life — 2 years ago 3 likes — Damn I would love to jump on him,lucky for Shannon.
- Buntonator — 3 years ago 3 likes — This was on family jewels

All Comments (30)

see all

CreaturesOfTheDay — 3 months ago — It's gene's daughter filming, and it must be her who putthis video up? right???

- Gene Simmons on The Hour with George Stroumboul... 51,973 views TheHour Featured Video 17:27
- Gene Simmons Sex Tape Reaction 59,261 views badseed2007 1:02
- Gene Simmons's House (As seen on Gene Simmons F... 16,746 views ferociouspokemachine 0:21
- GENE ON ABSOLUTT UNDERHOLDNING PART II 22,751 views delicatoo 5:11
- Gene Simmons NIKE commercial 116,231 views krippe89 0:34
- Cher Talks with Gene Simmons 270,307 views cherworld 2:58
- Gene Simmons on the Mike Douglas Show 1974 570,941 views Leraiser 3:05
- The Daily Dirt -- Gene Simmons Sex Tape 25,688 views celebritydirt 2:55
- Gene Simmons on Are You Smarter Than A 5th Grad... 104,236 views SPARTEN2 5:45
- another gene simmons sex tape or is it 17,882 views GSimmonsLookalike 1:32
- Gene Simmons Stolen Family Video 2 13,563 views SnackBoard 0:35
- Gene Simmons and Shannon Tweed talk about 179,226 views Starskiba 1:18

# **Schapiro Exhibit 100**

# Gene Simmons Stolen Family Video 2

SnackBoard

18 videos

Subscribe



0:06 / 0:35

SnackBoard — August 04, 2006 — This is candid footage of badass Gene Simmons acting like a softy goofball with his family. It was shot while fi...

13,563 views

Like

Dislike

Report

Save to

Share

<Embed>

Respond to this video...

All Comments (4)

see all

kieree2014  
1 month ago

lol

lisawatson1  
2 years ago

hehe... he said uncut.

darkbones  
3 years ago

where did u get the uncut version from anyways?



GENE SIMMONS GETS A HARD ON

4,000 views  
alanamanzoro

Featured Video



The lost Gene Simmons Interview

258,048 views  
patmellon



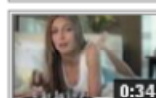
Hulk Hogan Meets KISS

332,725 views  
mbrandvoid



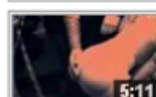
Peter & Gene Simmons

151,565 views  
peter42082



Gene Simmons NIKE commercial

116,231 views  
krippe89



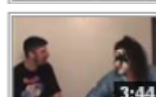
GENE ON ABSOLUTT UNDERHOLDNING PART II

22,751 views  
delicatoo



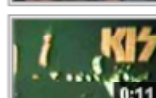
Gene Simmons - bootleg video from Vegas

12,475 views  
genefan123



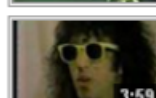
Hangin' with GENE SIMMONS!

9,800 views  
bigpoppetj



Gene Simmons Catches his hair on fire !

30,227 views  
djr2096



1984-Kiss- Paul Stanley Interview

25,625 views  
exprofesso



Kiss's Gene Simmons on the future of gasoline

3,878 views  
annaroccatu



Page Crawford Interviews

# **Schapiro Exhibit 101**

To: "Copyright Service" <copyright@youtube.com>  
From: "hylain ender" [REDACTED]  
Cc:  
Bcc:  
Received Date: 2006-10-13 12:58:16 GMT  
Subject: Re: stolen content

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for your first question, the company that has the rights is dreamworks animations.  
if you go here and enter this site <http://www.flushedaway.com/flash/index.html> you will see the same slugs  
around lots of  
the pages and on loading screens

and i state that i believe that all the information listed is accurate and truthful.  
and i am not with dreamworks, i am just an individual that noticed this and i thought i should act,  
i am unrelated to dreamworks animations or anything of that sort  
Copyright Service <copyright@youtube.com> wrote:  
In order to take action on your request, I need two further items satisfied:

- The name of the company or individual claiming the rights to the content
- A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Please respond with the requested information and statement and I will be able to move forward,

The YouTube Team

hylain ender wrote:  
> this video <http://youtube.com/watch?v=t7W3bxHFSw> is stolen content or  
> copyright issues or whatever from the new movie "flushed away" if you  
> watch the previews or see when it comes out that the EXACT SAME SLUGS  
> are in it, by color and size. i am thinking that its a preview of some  
> sort, and in the tags are also that it says "trailer, clip," AND "movie"  
> so i think you should take it off the featured list and take actions  
> against this person  
>  
> head director of RSM productions, hylain  
>  
> -----  
> Talk is cheap. Use Yahoo! Messenger to make PC-to-Phone calls. Great  
> rates starting at 1¢/min.  
>

-----  
Yahoo! Messenger with Voice. Make PC-to-Phone Calls to the US (and 30+ countries) for 2¢/min or less

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# **Schapiro Exhibit 102**

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**From:** Scott Martin  
**Sent:** Wednesday, October 11, 2006 5:19 AM  
**To:** Mark M. Ishikawa  
**Subject:** RE: YouTube

thanks

**the type of information you describe is exactly what I am looking for. As I mentioned, this is not part of a piracy effort and would not involve take-down notices. It is intelligence gathering so that we can be better informed about traffic so we are better positioned for negotiations (possibly business negotiations; possibly cease & desist negotiations).**

S

----- Replied by Scott Martin on 10/10/2006 11:15:49 PM -----

**From:** "Mark M. Ishikawa" <marki@baytsp.com>  
10/10/2006 09:59 PM  
**To:** "Scott Martin" <scott\_martin@paramount.com>  
**cc:**  
**Subject:** RE: YouTube

Scott,

Sure. I'll be on the Paramount lot most of the day tomorrow. Call my cell phone (408) 568-0317

Paramount decided not to have us do searching on the Video Protocols (YouTube, Google, Yahoo) after the Amy Transformers incident. The only asset we have been instructed to perform video searches is jackass 2.

We are doing data gathering and infringement takedowns for all of the other studios that engage our services. We launched our Verified Enforcement program on the 6 months ago, and providing services to several other studios and the MPAA.

We are launching a new program for clients to gather statistics on how much traffic our client's material is getting on YouTube, without launching takedown notices so our clients can determine the amount of damages that they are actually incurring. We will be gathering number of new postings per day, and the number of downloads / views per day over time. This is a more expensive service per asset as a human has to do the visual verifications for each infringement. Once we get a benchmark as to the number of downloads per day, we will recommend the launching of takedown notices to measure the number of days that YouTube takes to comply. We will recommend that a sample number of assets be left as control assets so we can continue to monitor propagation and damages.

We believe that with this information you will be able to drive a much better advertising deal with Google/YouTube at the end of the day if that's what you choose to do, or provide litigation support if / when there is are lawsuits filed against YouTube. Once the lawsuits are filed we may not be able to get the same level of information.

Call me tomorrow so we can discuss.

Mark

6/11/2008



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**From:** Scott Martin  
**Sent:** Tuesday, October 10, 2006 7:00 PM  
**To:** Mark M. Ishikawa  
**Subject:** Re: YouTube

**Mark--**

**Wearing my non-piracy hat, I'm looking at the level of our content that is currently available on YouTube.**

**I'm curious about the type of data gathering that you might be able to provide for us regarding our content on YouTube.  
Are you available to chat tomorrow?**

**S**



----- Replied by Scott Martin on 10/10/2006 7:57:27 PM -----

**From:** "Mark M. Ishikawa" <marki@baytsp.com>  
10/10/2006 06:02 PM  
**To:** "Scott Martin" <scott\_martin@paramount.com>, "Perry, Alfred - Paramount" <Alfred\_Perry@paramount.com>  
**cc:** "John Salter" <john\_salter@paramount.com>  
**Subject:** YouTube

Scott & Al,

Here's an interesting point that you may want to consider. From my non lawyer understanding of the DMCA, the operators are provided Safe Harbor under the DMCA if they take down identified infringements within a "Reasonable amount of time". The reason they have this Safe Harbor is they are not inspecting the content that is being posted. YouTube has announced the implementation of proactive filtering. Since they are now claiming to do content filtering, do they loose their Safe Harbor protection if their filtering doesn't work properly?

We are beginning serious data gathering of infringements on the YouTube for some of our other clients. Let me know if you are interested in discussing that.

Thx

Mark

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 004174341

Scott Martin | Executive Vice President, Intellectual Property  
Paramount Pictures Corporation  
5555 Melrose Avenue, Lubitsch 324, Hollywood, CA 90038  
☎ direct (323) 956-5570 | 📠 fax (323) 862-0964

# **Schapiro Exhibit 103**

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**From:** Lawrence Low  
**Sent:** Wednesday, October 11, 2006 5:37 AM  
**To:** Mark M. Ishikawa; Travis Hill; Evelyn Espinosa  
**Subject:** RE: The Project

Scott is interested in getting negotiation leverage as we discussed – what is now becoming apparent is that they are seeking this leverage right now (see WSJ article I forwarded – Viacom supposedly is in discussion with a deal). For now, talks are still on friendly terms but Viacom and News are interested in getting leverage.

This is also good for us but our value will change if these negotiations are successfully concluded (not necessarily a given but with all the Google BD people running around LA at the moment, they sure are trying hard).

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**From:** Mark M. Ishikawa [mailto:marki@baytsp.com]  
**Sent:** Tuesday, October 10, 2006 10:28 PM  
**To:** Lawrence Low; Travis Hill; Evelyn Espinosa  
**Subject:** The Project

Ok guys,

I think the real winner for this project will be to gather information on amount of damages incurred by the clients. Besides the other potential exit..

mark

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 002045787

# **Schapiro Exhibit 104**

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**From:** Hallie, Michelena [Michelena.Hallie@mtvn.com]  
**Sent:** Monday, October 23, 2006 10:39 PM  
**To:** Mark M. Ishikawa  
**Cc:** paramount\_cc  
**Subject:** RE: Bay Tsp

I think you can assume that it will be roughly the same shows you are currently working on for us. And I do think most people will be primarily interested in metrix information, though for the ISP sites like youtube, google, yahoo and myspace my assumption is we will want to be taking down at least some of our material as well.

Thanks, Mark.

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

From: Mark M. Ishikawa [mailto:marki@baytsp.com]  
Sent: Monday, October 23, 2006 6:32 PM  
To: Hallie, Michelena  
Cc: paramount\_cc  
Subject: RE: Bay Tsp

Understood. I'll work up some pricing for what I believe you want as soon as I can. Any idea how many assets we're looking at doing this on?

From the e-mail questions I saw from Adam I believe he is looking more for the metrics monitoring program

Mark

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

From: Hallie, Michelena [mailto:Michelena.Hallie@mtvn.com]  
Sent: Monday, October 23, 2006 3:26 PM  
To: Mark M. Ishikawa  
Cc: Evelyn Espinosa; Arielle Kim; Rodriguez, Roxelana  
Subject: RE: Bay Tsp

I think there's enough interest to warrant a visit. I'm copying Roxy so she can coordinate a time. But as I said, I don't want planning the meeting to delay moving forward on broadening the program since I'm getting a lot of pressure here for a proposal that we can implement asap. Perhaps we can discuss at least an initial program that we can refine during the meeting. Thanks.

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

From: Hallie, Michelena  
Sent: Monday, October 23, 2006 2:42 PM  
To: 'Mark M. Ishikawa'  
Cc: Evelyn Espinosa; Arielle Kim  
Subject: RE: Bay Tsp

Thanks, Mark. Let me ask around. I know there's a tremendous amount of interest now at the corporate level to implement a tracking program so even if a meeting does not make sense, it would be helpful to get a proposal in place as soon as possible.

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

From: Mark M. Ishikawa [mailto:marki@baytsp.com]  
Sent: Monday, October 23, 2006 2:35 PM  
To: Hallie, Michelena  
Cc: Evelyn Espinosa; Arielle Kim  
Subject: RE: Bay Tsp

Michelena,

Should I plan on making a visit to New York sometime in the next week or two so we can get a better handle on the scope of the project? If you think you can get the appropriate people together on your side I will be there. I want to make sure we take a comprehensive look at what everyone is trying to achieve. We need to evaluate the level of information you want to gather, as that will greatly affect the pricing. We can do all of the listed protocols. We have some recommendations on data points that we gather, but it all depends on what the strategic plans are.

We are rolling out a program which will give you a comprehensive assessment of the level of exposure your content is facing, which will help when formulating a advertising deal with these video sites, and if negotiations are not successful with these companies, we will have the evidence gathered for litigation, so it effectively gives you the upper hand when negotiating. Data gathered for this project will also help identify the next YouTube in the event you are investigating the acquisition of one of these services.

Let me know what you think.

Mark

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

From: Hallie, Michelena [mailto:Michelena.Hallie@mtvn.com]  
Sent: Monday, October 23, 2006 6:27 AM  
To: Evelyn Espinosa  
Cc: Arielle Kim; Mark M. Ishikawa  
Subject: FW: Bay Tsp  
Importance: High

Hello, Evelyn. I know Mark is traveling so I thought I'd start with you and see if we have to loop Mark in as well. We are now revisiting the more global monitoring of MTVN properties outlined in the attached proposal, and would like you to update it to include yahoo video, google video, grouper and bolt (if these last 2 are available) as well as p2p, myspace and youtube. It will be for the same programs you are now monitoring on youtube and myspace, though I assume we will be adding as we go along. Could you get me a budget on this? And of course, as it always is around here I'm getting significant pressure to get this budget asap.

Thanks for your help. Michelena

# **Schapiro Exhibit 105**



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 MICHELENA HALLIE  
NEW YORK, NEW YORK  
THURSDAY, DECEMBER 10, 2009  
JOB NO. 18264

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A P P E A R A N C E S :

FOR THE PLAINTIFFS VIACOM INTERNATIONAL,  
INC.:

JENNER & BLOCK  
1099 New York Avenue, NW, Suite 900  
Washington, D.C. 2000  
(202) 639-6000  
BY: SCOTT WILKENS, ESQ.  
Swilkens@jenner.com

FOR DEFENDANTS, GOOGLE:  
WILSON SONSINI GOODRICH & ROSATI  
650 Page Mill Road  
Palo Alto, CA 94304-1050  
BY: MAURA L. REES, ESQ.  
Mrees@wsgr.com

ALSO PRESENT:

Carlos King, Videographer

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FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND  
AGREED by and between the attorneys for  
the respective parties herein, that  
filing and sealing be and the same are  
hereby waived.

IT IS FURTHER STIPULATED AND  
AGREED that all objections, except as to  
the form of the question, shall be  
reserved to the time of the trial.

IT IS FURTHER STIPULATED AND  
AGREED that the within deposition may be  
sworn to and signed before any officer  
authorized to administer an oath, with  
the same force and effect as if signed  
and sworn to before the Court.

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MICHELENA HALLIE

the witness clearly, even with the  
red water bottle there?

THE VIDEOGRAPHER: Yes.

11:55:27 MR. WILKENS: I just wanted  
to check. Thanks.

MS. REES: Exhibit 11.

(Whereupon, the  
aforementioned documents, BayTSP  
003927252 through '253, were  
marked as Defendant's Exhibit  
Hallie-11 for identification as of  
this date by the Reporter.)

THE WITNESS: Okay.

11:57:55 Q. Exhibit 11 begins with the  
Bates number BayTSP 003927252.

Can you identify Exhibit 11?

A. It appears to be an E-mail  
chain between me and various members of  
11:58:16 BayTSP, primarily Mark Ishikawa.

Q. If you look towards the  
middle of the first page of the  
exhibit, there is an E-mail from you to  
Mark Ishikawa, cc'd to some other  
11:58:31 people, in which you say, "But as I

MICHELENA HALLIE

1  
2 said, I don't want planning the meeting  
3 to delay moving forward on broadening  
4 the program, since I am getting a lot  
5 11:58:44 of pressure here for a proposal that we  
6 can implement ASAP."

7 From whom were you getting  
8 the pressure that you referred to in  
9 this E-mail?

10 11:59:02 A. I don't remember.

11 Q. Do you have an idea of who  
12 you believe it is likely that you were  
13 getting pressure from, based on the  
14 people that you were generally dealing  
15 11:59:17 with on these issues in this timeframe?

16 MR. WILKENS: Objection to  
17 the form.

18 A. My vague recollection is  
19 that it would have been, possibly, Adam  
20 11:59:37 and Mike Fricklas.

21 Q. At the top of the page, the  
22 very first E-mail on the page, from you  
23 to Mark Ishikawa, in the middle of the  
24 E-mail, you say, "And I do think most  
25 12:00:05 people will be primarily interested in

MICHELENA HALLIE

1  
2 the metrics information. Though for  
3 the ISP sites like YouTube, Google,  
4 Yahoo and MySpace, my assumption is we  
5 12:00:19 will want to be taking down at least  
6 some of our material as well."

7 What did you mean when you  
8 referred to metrics information?

9 A. My general recollection is  
10 12:00:39 that we wanted to get a better  
11 understanding of the infringement  
12 problem that MTVN had across the  
13 Internet. So, my assumption was that  
14 that was how I used the phrase,  
15 12:00:56 "metrics information."

16 Q. When you say, a better  
17 understanding of the infringement  
18 problem as being related to the way  
19 that you used the phrase, "metrics  
20 12:01:11 information," does that mean that  
21 Viacom was interested in finding out,  
22 for example, how many clips of its  
23 content were being found on a site like  
24 YouTube?

25 12:01:25 A. I recall that we didn't feel

MICHELENA HALLIE

1  
2 we had enough information on how and  
3 where our properties were being  
4 infringed on the Internet. And that we  
5 12:01:39 decided that a good way to, at least,  
6 start gathering that information was  
7 through a tracking process that BayTSP  
8 seemed equipped to provide for us.

9 Q. What types of information  
10 12:01:55 would BayTSP provide through that  
11 tracking process?

12 A. What type -- which of our  
13 shows were most vulnerable to  
14 infringement; which sites, peer-to-peer  
15 12:02:15 services or other services on the  
16 Internet, were most rampant in posting  
17 the infringing content.

18 Q. Did the metrics information  
19 you were talking about include things  
20 12:02:35 like number of views of a potentially  
21 infringing clip?

22 A. Yes, my recollection is that  
23 it did. Oh, views, I am not sure. I  
24 am not sure. I know that it included  
25 12:02:50 the number of pieces uploaded, but I am

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not sure if it included views.

MS. REES: Exhibit 12.

(Whereupon, the  
aforementioned document, BayTSP  
003733345, was marked as  
Defendant's Exhibit Hallie-12 for  
identification as of this date by  
the Reporter.)

12:04:07 THE WITNESS: Okay.

Q. Can you identify Exhibit 12?

A. It appears to be an E-mail,  
initially from Cindy Morales to Deana  
Arizala, at BayTSP, and then Deana  
Arizala to Mark Ishikawa.

12:04:21 Q. And in the E-mail from Cindy  
Morales, at the bottom of the page, she  
says, "We would like to have all clips  
that are two and a half minutes or  
12:04:43 greater removed off of YouTube, except  
for The Daily Show and Colbert Report.  
For these two titles, we are requesting  
that you remove clips that are five  
minutes or longer."

12:05:00 Do you know why there was a



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1  
2 marked as Defendant's Exhibit  
3 Hallie-45 for identification as of  
4 this date by the Reporter.)

5 15:50:19 A. Okay.

6 Q. Can you identify Exhibit 45?

7 A. It appears to be an E-mail  
8 chain between me, various people at  
9 BayTSP, and then, ultimately, including  
10 15:50:33 Cindy Morales.

11 Q. And in the very middle of  
12 the first page, there is an E-mail from  
13 you responding to a question from  
14 Courtney Nieman. Well, first Courtney  
15 15:50:46 Nieman's question at the bottom of the  
16 page, it says, "A question came up from  
17 the group of people that are  
18 approving/declining the video clips.

19 What about commercials/trailers/promos,  
20 15:50:58 should these be approved or declined."

21 And your response is "If  
22 there are commercials/trailers/promos  
23 for programs on the list, they should  
24 be taken down, unless it is from the  
25 15:51:09 addresses that Cindy sent to you that

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1  
2 are clips that we uploaded ourselves."

3 And it looks, at the very  
4 top, you are asking Cindy if she has  
5 15:51:19 the, "White List."

6 First of all, what is the  
7 White List?

8 A. I am assuming from this,  
9 that it is the list of clips that MTVN  
10 15:51:41 authorized to be uploaded.

11 Q. And how was the White List  
12 compiled?

13 A. People within MTVN were  
14 directed to send any user names or  
15 15:52:07 other identifying information to Cindy  
16 Morales and/or Warren Solow's group,  
17 depending on the time.

18 Q. And in your E-mail in the  
19 middle of the page that starts, "If  
20 15:52:24 there are commercials/trailers/promos,"  
21 your instruction is, "they should be  
22 taken down unless they are from the  
23 addresses Cindy sent to you."

24 So was the policy, at that  
25 15:52:33 time, that clips that appeared to be

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commercials, trailers or promos should  
be taken down if they were not uploaded  
by Viacom or someone affiliated with  
Viacom?

A. That would appear to be  
correct. If we hadn't authorized their  
upload, they should be taken down.

MR. WILKENS: Can we take  
another, really quick, break?

MS. REES: Sure.

MR. WILKENS: Thanks.

THE VIDEOGRAPHER: The time  
is 3:53 p.m. and we are off the  
record.

(Whereupon, a recess was  
held.)

THE VIDEOGRAPHER: The time  
is 3:58 p.m. and we are back on  
the record.

BY MS. REES:

MS. REES: Exhibit 46.

(Whereupon, the  
aforementioned documents, VIA  
11788096 and VIA 11787096, were

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1  
2 January '07 than it became in April of  
3 '07.

4 Q. And do you have any  
5 16:01:52 recollection of whether that's how the  
6 policy evolved, at least between these  
7 two dates?

8 A. I don't.

9 Q. Did the difference in policy  
10 16:02:30 about whether to takedown or leave up  
11 commercials and advertising clips for  
12 MTVN programming, did it have to do  
13 with the fact that January 2007 was  
14 before the mass takedown and Viacom  
15 16:02:48 wanted to take down as many clips as  
16 possible, whereas April 2007 was after  
17 the mass takedown and there was no  
18 longer that goal?

19 MR. WILKENS: Objection to  
20 16:03:01 the form.

21 A. I don't recall that being  
22 the case. I recall all of these  
23 decisions, as I think the documents  
24 will back up, were evolving in part of  
25 16:03:14 a legal analysis.

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MS. REES: Exhibit 47.

(Whereupon, the

aforementioned document, BayTSP

16:03:49 004295197, was marked as

Defendant's Exhibit Hallie-47 for

identification as of this date by

the Reporter.)

A. Okay.

16:04:13 Q. Can you identify Exhibit 47?

A. It is an E-mail from

Courtney Nieman to Travis Hill with

copies to various people, including me.

Q. And is this the list of

16:04:26 account names that was described in a

previous E-mail as the White List?

A. It -- judging from the

timing, that E-mail that you are

referring to was January 3rd and this

16:04:49 is January 31st, so it is possible that

it is.

Q. And this was -- the purpose

of giving this list to BayTSP was so

that BayTSP would know not to take down

16:05:08 videos that Viacom had posted to

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1  
2 YouTube under the account names listed  
3 in Exhibit 47?

4 A. Well, that they not take  
5 16:05:19 down clips that Viacom had authorized  
6 to be posted. I don't know if it was  
7 Viacom itself or agents of Viacom.

8 Q. In the early 2007 timeframe,  
9 were you familiar with a marketing firm  
10 16:05:41 that Viacom was using called Fanscape?

11 A. I have heard of Fanscape. I  
12 don't remember when I first heard of  
13 it.

14 Q. Do you know why Fanscape is  
15 16:05:52 not on this list? Because Fanscape was  
16 posting videos on behalf of Viacom at  
17 this time, right?

18 MR. WILKENS: Objection to  
19 the form of the question.

20 16:05:59 A. I don't recall. I recall  
21 hearing the name, Fanscape. I don't  
22 even remember in what context.

23 Q. Looking at this list now, is  
24 it your belief that this list is  
25 16:06:15 incomplete, that even as of January 31,

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2007, there are quite a few more  
authorized clips that appear on this  
list?

16:06:24 A. I don't know.

MS. REES: Exhibit 48.

(Whereupon, the  
aforementioned documents, VIA  
16669294 through '298, were marked  
as Defendant's Exhibit Hallie-48  
for identification as of this date  
by the Reporter.)

16:06:56 A. Okay.

Q. Can you identify Exhibit 48?

16:10:10 A. It is an E-mail chain that  
starts between the various people,  
apparently, of Paramount Pictures.

Then Al Perry forwards it to Mark  
Morril, Scott Martin and myself,  
copying Rebecca Prentice. I respond  
and Mike Fricklas appears to respond.

Q. In the second page, there  
appears to be a question from  
Paramount; "Can you clarify Paramount's  
position on dealing with YouTube at a

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1  
2 local level? Are we able to work with  
3 them if we are using our own approved  
4 material or is this a blanket ruling  
5 16:11:08 that we should not be dealing with  
6 YouTube at all?"

7 And then the request is  
8 forwarded a couple of times and some of  
9 it is redacted. On the first page in  
10 16:11:15 the middle of the page, the portion of  
11 your response that is not redacted is,  
12 "As of now, we are posting clips and  
13 providing IP addresses to Bay so they  
14 know not to take them down."

15 16:11:27 So, first of all, as I think  
16 you testified before, although tell me  
17 if I am wrong, Viacom did not have any  
18 policy of, you know, for example, after  
19 the mass takedown in February of 2007,  
20 16:11:46 of telling its employees to stop  
21 putting clips on YouTube? That was not  
22 a policy that Viacom adopted, right?

23 MR. WILKENS: Objection to  
24 the form of the question.

25 16:11:56 A. There was a policy regarding



# **Schapiro Exhibit 106**

Adam wants us to be searching for tds/colbert/tcr/stewart/southpark/south park/chappelle etc like crazy today (particularly by date added) to make sure we don't miss any high profile new stuff.

Since the notice is going out early tomorrow morning, we want to be generating the notice itself tonight. We'll cut off new entrants for tomorrow's notice at 5 PM Pacific and once all records are in CIMS, we will begin notice generation.

He mentioned that the press will be all over YouTube after the announcement tomorrow, so we will no longer be holding back notices. We should be in constant search/notice send mode after this initial big notice.

Bottom line: If you search for the high profile shows and find them, we've failed. If you search for them and cannot find them, we're succeeding. Adam just wanted to be very clear on how critical it is on an ongoing basis that we keep the searching/takedowns going.

--Travis

# **Schapiro Exhibit 107**

—  

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**From:** Mark M. Ishikawa  
**Sent:** Monday, January 01, 2007 6:52 AM  
**To:** Michelena.hallie@mtvn.com  
**Cc:** Courtney Nieman; Evelyn Espinosa  
**Subject:** Count update...

CURRENT	COUNT	
YouTube	Approved	24356
YouTube	Declined	147610
YouTube	Pending	22815

6/20/2008

HIGHLY CONFIDENTIAL

BAYTSP 004182969

# **Schapiro Exhibit 108**

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**From:** Mark M. Ishikawa  
**Sent:** Monday, October 16, 2006 10:51 PM  
**To:** 'Hallie, Michelena'  
**Cc:** paramount\_cc; Travis Hill  
**Subject:** RE: MySpace

Michelena,

I can have this ramped up 1 week after you tell me it's a go. I have to order additional servers for this project and my vendor lead time is about 1 week.

Mark

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

**From:** Hallie, Michelena [mailto:Michelena.Hallie@mtvn.com]  
**Sent:** Monday, October 16, 2006 2:08 PM  
**To:** Mark M. Ishikawa  
**Cc:** Lawrence Low; Leland Woo; Matt Sprague; Evelyn Espinosa; Arielle Kim  
**Subject:** RE: MySpace

Ok. How long will it take for you to gear up and be in a position to start taking material down? Once I have that info I'll confirm internally that we want you to move forward.

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

**From:** Mark M. Ishikawa [mailto:marki@baytsp.com]  
**Sent:** Monday, October 16, 2006 4:45 PM  
**To:** Hallie, Michelena  
**Cc:** Lawrence Low; Leland Woo; Matt Sprague; Evelyn Espinosa; Arielle Kim  
**Subject:** RE: MySpace

Michelena,

The pricing for a similar process scanning the MySpace system is as follows:

25 assets \$7,500 per month  
Each additional 25 assets \$6,000 per month

Setup fee equal to the 1st month's service for that asset, including asset changes.

This service is more computer intensive and more bandwidth intensive than the YouTube crawler. Plus the amount of asset verification time is significantly higher than YouTube.

Mark

# **Schapiro Exhibit 109**

---

Subject: RE: GooTube going sideways?  
From: Robinson, Carole <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=ROBINSOC>  
To: Hurvitz, Lauren  
Cc: Date: Tue, 19 Dec 2006 03:40:20 +0000

[REDACTED]

I just can't believe we are going down this bad legal strategy road. It truly bums me out. Feels like we're not in charge, right?

---

From: Hurvitz, Lauren  
Sent: Monday, December 18, 2006 10:34 PM  
To: Robinson, Carole  
Subject: RE: GooTube going sideways?

[REDACTED]

If we pull our content down and sue youtube with no alternative I bet Jon Stewart and Colbert will have a fit.

---

From: Robinson, Carole  
Sent: Mon 12/18/2006 10:33 PM  
To: Hurvitz, Lauren  
Subject: RE: GooTube going sideways?

Laur-  
Did you read what I sent her for the meeting?

[REDACTED]

C

---

From: Hurvitz, Lauren  
Sent: Monday, December 18, 2006 10:03 PM  
To: Robinson, Carole; McGrath, Judy  
Subject: RE: GooTube going sideways?

Very tough position. If we take our content out of the market place we will suffer consumer, press and talent backlash for sure.

---

From: Robinson, Carole  
Sent: Mon 12/18/2006 9:42 PM  
To: McGrath, Judy; Hurvitz, Lauren  
Subject: RE: GooTube going sideways?

I like that he's all over it but I hate that he has to be. Wish we were in a different place. Do you know the timing on when this plays out? Would be good to discuss tomorrow morning, too.



---

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

From: McGrath, Judy  
Sent: Monday, December 18, 2006 9:20 PM  
To: Robinson, Carole; Hurvitz, Lauren  
Subject: Fw: GooTube going sideways?

Yeesh.

-----  
Sent from my BlackBerry Wireless Handheld

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

From: Salmi, Mika  
To: McGrath, Judy  
Cc: Cahan, Adam  
Sent: Mon Dec 18 21:02:35 2006  
Subject: GooTube going sideways?

Hi Judy

Adam (copied) has told me that the deal with GooTube has hit an impasse and that there is a good chance that we may ask GooTube to pull down all our content over 30 seconds (9,000 clips?).

If this is the case, then we may need an alternative for consumers to find and watch our video than what we currently offer. Otherwise, we risk being raked over the coals by consumers and the press. The key site for us is Comedy Central.

Here are our options:

1. Post everything to iFilm and make it clear that this is where to go.  
\* easy to do as it is already happening for the most part  
\* confusing consumer message to send then from one aggregator (youtube) to another (ifilm) when we really should send them to the brand or show site and develop a relationship

\* overall direction of ifilm is clear.

2. Use the RealityDigital test site  
<http://Comedycentral.realitydigital.com> <<http://comedycentral.realitydigital.com/>>  
Username: comedycentral  
Password: comedycentral100

\* limited features but it is simple and it works  
\* can run in parallel with the full CC.com site and just be for video  
\* clunky site (created in a week), doesn't work with our current systems, and not our best effort  
\* CC folks haven't approved it though they've seen it and thought it was okay, not great

3. Use Tagworld to create "open" platform for all mtvn sites  
\* in progress, with initial show site being built for late January (Showbiz Show)  
\* show site will be proof for all the rest of mtvn to use it  
\* will work with all current mtvn systems so will be easy to use in current workflow  
\* it would be a sprint to get it done by Jan 2nd for all of ComedyCentral content

#3 is our preference but the plan for that was to start rolling stuff out throughout Q1. This rushed timetable of legal action against YouTube is not great in terms of building the best product and consumer experience. I would prefer for us to start the legal action once we have an alternative ready (late Q1).

---

So, I just want you to know the story. The first decision is whether we want to offer an alternative if legal action begins. Then, we need to decide what is that alternative (choices 1-3 above). We also need all the ComedyCentral folks on board and engaged in this. And again, my preference is for us to have more time to develop an alternative - rushing will not serve us well.

Please tell me if you need more info.

Mika