

12/12/2008 King, David

1 UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK



3 VIACOM INTERNATIONAL, INC., COMEDY)
4 PARTNERS, COUNTRY MUSIC.)
5 TELEVISION, INC., PARAMOUNT)
6 PICTURES CORPORATION, and BLACK)
7 ENTERTAINMENT TELEVISION, LLC,)

8 Plaintiffs,)

9 vs.)

NO. 07-CV-2203

10 YOUTUBE, INC., YOUTUBE, LLC,)
11 and GOOGLE, INC.,)

12 Defendants.)

13 _____)
14 THE FOOTBALL ASSOCIATION PREMIER)
15 LEAGUE LIMITED, BOURNE CO., et al.,)
16 on behalf of themselves and all)
17 others similarly situated,)

18 Plaintiffs,)

19 vs.)

NO. 07-CV-3582

20 YOUTUBE, INC., YOUTUBE, LLC, and)
21 GOOGLE, INC.,)

22 Defendants.)

23 HIGHLY CONFIDENTIAL
24 VIDEOTAPED DEPOSITION OF DAVID KING
25 SAN FRANCISCO, CALIFORNIA
FRIDAY, DECEMBER 12, 2008

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR
CSR LICENSE NO. 9830
JOB NO. 16211

1 KING 76-0002

2 THE WITNESS: I don't think I can provide
3 a -- an accurate definition of the term "progressive
4 download." So while it's accurate that it's a term
5 that I've heard, I do not feel confident in my -- in
6 my understanding of exactly what that refers to.

7 MR. HART: Okay.

8 Q So you don't know whether YouTube's process
9 of disseminating content over the Internet to end
10 users involves progressive downloading?

11 MR. MANCINI: Objection to form and
12 characterization and lacks foundation.

13 THE WITNESS: I'm not expert in the term
14 "progressive download," so I can't comment on whether
15 that is applicable to the technical functioning of the
16 YouTube website.

17 MR. HART: Q. Now, also in -- in Exhibit 18,
18 page nine, second bullet, so we're clear what I'm
19 referring to, it says, "Get complete catalog
20 information from signed publishers, an industry
21 standard. See WR format."

22 Right? That's what I'm refer --

23 A Yes.

24 Q Okay. Is it necessary for YouTube to have
25 signed agreements with publishers in order to get

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76-0003

information about the rights music publishers own or control?

MR. MANCINI: Objection to form and objection to the extent it seeks a legal conclusion.

MR. HART: Just want the facts. No legal conclusions.

THE WITNESS: I don't -- I don't feel that I have the -- the legal expertise to comment on whether access to the data would require a -- an agreement.

MR. HART: Okay.

Q Have you ever gone to the Harry Fox website?

A I have gone to the Harry Fox website.

Q You ever looked up a song title on the Harry Fox website?

A I have done so.

Q You have?

A I have.

Q Okay. Have you ever gone to the ASCAP or BMI websites?

A I have gone to the ASCAP and the BMI websites.

Q Have you ever looked up useable composition publisher information on either of those websites?

A Yes, I have done so.

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KING

76-0004

Q Okay. Are you aware whether YouTube has public performance licenses from ASCAP and BMI in the United States?

A I am not aware if those -- if we have those licenses or not.

Q Okay. Thank you.

We're up to 19?

MR. DESANCTIS: 19 is the next number.

MR. HART: Okay. 22. 22.

(Document marked King Exhibit 19 for identification.)

MR. HART: Man, are you good or what? That's 19; right?

MR. DESANCTIS: 19.

MR. HART: Q. Have you had an opportunity to review Exhibit 19?

A I have.

Q Will you identify it for us?

A This would appear to be a correspondence to me from Franck Chastagnol on April 2007.

Q Okay. Did you ever reply to Mr. Chastagnol?

A I don't recall.

Q Okay. Do you have any understanding about whether 30 seconds amounts to fair use?