

*Contains Material Designated Confidential and Highly Confidential Pursuant to Protective Order*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<p>THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, BOURNE CO. (together with its affiliate MURBO MUSIC PUBLISHING, INC.), CHERRY LANE MUSIC PUBLISHING COMPANY, INC., CAL IV ENTERTAINMENT LLC, ROBERT TUR d/b/a LOS ANGELES NEWS SERVICE, NATIONAL MUSIC PUBLISHERS' ASSOCIATION, THE RODGERS &amp; HAMMERSTEIN ORGANIZATION, STAGE THREE MUSIC (US), INC., EDWARD B. MARKS MUSIC COMPANY, FREDDY BIENSTOCK MUSIC COMPANY d/b/a BIENSTOCK PUBLISHING COMPANY, ALLEY MUSIC CORPORATION, X-RAY DOG MUSIC, INC., FÉDÉRATION FRANÇAISE DE TENNIS, THE MUSIC FORCE LLC, and SIN-DROME RECORDS, LTD. on behalf of themselves and all others similarly situated,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>YOUTUBE, INC., YOUTUBE, LLC and GOOGLE, INC.,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 07 Civ. 3582 (LLS)</p> <p><b>DECLARATION OF NOAH SISKIND GITTERMAN IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT</b></p>
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I, Noah Siskind Gitterman, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am an attorney at Proskauer Rose LLP, proposed class counsel for the prospective class along with co-counsel Bernstein Litowitz Berger & Grossman LLP. I make this declaration in opposition to defendants' motion for summary judgment.

2. Defendants produced to class plaintiffs two collections of data labeled GOO\_DBDATA001 and GOO\_DBDATA 023, which contain metadata for certain videos that

are or were on the YouTube website, including the video id, title, description, username and tags for the videos (“Metadata Databases”). Attached hereto as Exhibit 1 is a true and correct copy of data from the Metadata Databases showing the video id, video title, video tags, username, and video description for each of the videos cited by defendants in their memorandum of law at page 38, footnote 13. For the convenience of the court and counsel, we have included a column showing the exhibit number used by defendants for each of the videos they submitted.

3. Attached hereto as Exhibit 2 is a true and correct copy of data from the Metadata Databases showing the video id, video title, video tags, username, and video description for each of the alleged infringing videos identified by class plaintiffs in this action that relate to one of the class plaintiff works identified by name in defendants’ memorandum of law at page 37, footnote 12. For the convenience of the court and counsel, we have included a column showing the name of the work for each of the videos.

4. Attached hereto as Exhibit 3 is a true and correct copy of data from the Metadata Databases showing the video id, video title, video tags, username, and video description for certain additional alleged infringing videos identified by class plaintiffs to defendants in this action. For the convenience of the court and counsel, relevant portions of the data have been underlined.

5. Attached hereto as Exhibit 4 is a true and correct copy of data from the Metadata Databases showing the video id, video title, video tags, username, and video description for each of the alleged infringing videos identified by class plaintiffs in this action that relate to the Fédération française de tennis (“FFT”) copyrighted works *Ivanovic v Henin* 6/9/2007 and *Mauresmo v Savchuk* 5/27/2008. Enclosed herewith as Exhibits 5-14 are true and correct copies of each of those videos, which were produced by defendants in this action. For the convenience

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of the Court we provide both the flash video files produced by defendants, and mpeg files of the same videos, identified by letters A and B respectively in the exhibit numbers.

6. Cal IV has produced to defendants DMCA takedown notices for videos that were shown at certain URL locations on the YouTube website. These takedown notices were labeled with the following document numbers: CAL00000749-780; CAL00002964-2966; CAL00002967-2969; CAL00002970-2971; CAL00002972-2974; CAL00002975-2981; CAL00002982-2989; CAL00002990--3003. There are approximately 350 different URLs identified in these takedown notices.

7. Stage Three has produced to defendants DMCA takedown notices for videos that were shown at certain URL locations on the YouTube website. These takedown notices were labeled with the following document numbers: ST00031151-31185; ST00098506-98513; ST00119476-119664; and ST00120811-121777. There are approximately 5,185 different URLs identified in these takedown notices.

8. Attached hereto as Exhibit 15 is a true and correct copy of a screenshot from the YouTube website taken on April 26, 2010.

9. Attached hereto as Exhibit 16 are true and correct copies of additional screenshots from the YouTube website. The date of each screenshot is indicated at the bottom of each page of the exhibit.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 30, 2010 in New York, New York.

  
Noah Siskind Gitterman