

5/26/2009 Lamond, Pierre



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

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

9 vs. No. 07-CV-2203

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

12 Defendants.

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

18 Plaintiffs,

19 vs. No. 07-CV-3582

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

22 Defendants.

23 \_\_\_\_\_/

24 CONFIDENTIAL  
25 PARTIALLY VIDEOTAPED DEPOSITION OF PIERRE LAMOND  
PALO ALTO, CALIFORNIA  
TUESDAY, MAY 26, 2009

BY: LORRIE L. MARCHANT, RPR, CRR, CCRR, CLR

CSR No. 10523

JOB NO. 16796

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23  
24  
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1 video that could be uploaded, but I don't remember what 11:13:43  
2 it was. It was in a few minutes, I think. 11:13:46

3 Q. Do you know when -- whether that limitation was 11:13:49  
4 in place at the time that Sequoia invested in YouTube? 11:13:52

5 A. It might have been. I don't remember. 11:13:58

6 Q. Okay. Do you understand that YouTube actually 11:14:01  
7 had a ten-minute limitation that it imposed in early 11:14:04  
8 2006, and that this was a change in its policy? 11:14:10

9 A. That's what I was referring to. I thought it 11:14:14  
10 was in 2005. And you're right. It is ten minutes. I 11:14:16  
11 remember now. But I didn't remember then. 11:14:20

12 Q. Okay. And were you aware that YouTube changed 11:14:23  
13 its policy because it had found that videos exceeding 11:14:27  
14 ten minutes were typically TV shows or movies that are 11:14:30  
15 unauthorized on the site? 11:14:33

16 MR. TANGRI: Objection. Assumes facts. 11:14:36

17 THE WITNESS: That was not the reason that the 11:14:39  
18 limit came in. At least to the best of my recollection, 11:14:40  
19 it came in for two reasons. We didn't want people to, 11:14:42  
20 quote/unquote, hog bandwidth, and -- at the detriment of 11:14:46  
21 other users, and also we found -- or at least I remember 11:14:52  
22 that we thought that long videos did not attract many 11:14:59  
23 viewers. 11:15:08

24 BY MR. GALDSTON: 11:15:08

25 Q. So do you have any recollection of Maryrose 11:15:08

1 Dunton ever expressing the view that policy changes at 11:15:10  
2 YouTube were necessary to be more compliant with the 11:15:15  
3 Digital Millennium Copyright Act? 11:15:18

4 A. I remember the name of this lady, but I don't 11:15:21  
5 remember what you're talking about. 11:15:23

6 Q. Okay. Other than the limitation imposed of ten 11:15:27  
7 minutes on video durations, were there any other changes 11:15:32  
8 to the YouTube user policies that were implemented in 11:15:35  
9 around early 2006? 11:15:40

10 A. I don't remember. 11:15:45

11 Q. We talked about increasing traffic at the end 11:15:49  
12 of 2005. And it's your view that this traffic increased 11:15:52  
13 due to a variety of user-generated content and not 11:15:57  
14 professionally produced material; is that correct? 11:16:01

15 MR. TANGRI: Objection. Ambiguous. Assumes 11:16:04  
16 facts. 11:16:06

17 THE WITNESS: My conviction was and still is 11:16:09  
18 that the traffic increased because of user-generated 11:16:12  
19 videos and word of mouth. It started to build a 11:16:15  
20 community of people that said, you know, Go on YouTube 11:16:22  
21 if you want to see my kid, or something stupid or 11:16:25  
22 whatever. 11:16:28

23 BY MR. GALDSTON: 11:16:28

24 Q. Do you recall in late December '05, early '06, 11:16:29  
25 a "Saturday Night Live" video being posted to YouTube? 11:16:35

1 THE WITNESS: The section of the document that 12:50:16  
2 says, Comments would be updated. Like it was updated in 12:50:18  
3 June. It would be updated again -- again in February. 12:50:25  
4 Even if there was no investment event. 12:50:31

5 BY MR. GALDSTON: 12:50:33

6 Q. Okay. And when you say "updated," would there 12:50:34  
7 be additional comments, or would these comments be 12:50:37  
8 removed and -- 12:50:39

9 A. These comments would be removed and replaced 12:50:40  
10 with a new -- 12:50:42

11 Q. Okay. A new narrative? 12:50:43

12 A. Basically, what happened -- as you can read 12:50:46  
13 here, it says, YouTube executed well over the past six 12:50:48  
14 months. So it's a six-month review, basically. 12:50:53

15 Q. Okay. And if you look down at the third 12:50:57  
16 sentence in that comment section, it says, The number of 12:50:59  
17 videos streamed increased from 8 million per day in 12:51:02  
18 early January to over 100 million per day in July. 12:51:06

19 Is that an accurate statement? 12:51:13

20 A. Yes. 12:51:17

21 Q. Okay. Did anybody at YouTube do any analysis 12:51:18  
22 to determine why the traffic had increased from 12:51:22  
23 \$8 million -- 8 million views a day to over 100 million 12:51:26  
24 views a day in July? 12:51:32

25 A. I don't know if there was any analysis done of 12:51:34

1 why it happened. 12:51:37

2 Q. Okay. So nobody wanted to consider whether the 12:51:38

3 increase was due to popularity of professionally 12:51:44

4 generated content versus user-generated content? 12:51:50

5 MR. TANGRI: Objection. Assumes facts and 12:51:54

6 ambiguous. 12:51:56

7 MS. REES: Same objections. 12:51:57

8 THE WITNESS: I told you that I don't know if 12:51:57

9 there was any analysis done. 12:51:59

10 BY MR. GALDSTON: 12:52:00

11 Q. Okay. But this -- this is a good thing for 12:52:01

12 YouTube, correct, the increase in traffic? 12:52:07

13 A. Well, that's the way they increase the -- 12:52:11

14 that's the way the traffic was measured, in terms of the 12:52:13

15 number of visitors per day. 12:52:16

16 Q. Sure. And it's a positive event for the 12:52:18

17 company. It's a positive development that it's 12:52:19

18 increased from 8 million per day to over 100 million per 12:52:21

19 day? 12:52:24

20 A. Yes. 12:52:25

21 Q. Okay. And why is that; for the reasons we 12:52:25

22 discussed earlier, because of the ad revenues that it 12:52:28

23 would attract? 12:52:30

24 A. For the ad -- 12:52:31

25 MR. TANGRI: Objection. Mischaracterizes. 12:52:33

1 THE WITNESS: It was important just from the 12:52:34  
2 point of view of potential revenue per ad. 12:52:36

3 BY MR. GALDSTON: 12:52:40

4 Q. Do you recall the -- an episode of "American 12:52:45  
5 Idol" or episodes of "American Idol" being published on 12:52:50  
6 YouTube between January and July of 2006 without 12:52:55  
7 authorization by the content owners, Fremantle? 12:53:01

8 A. I don't recall that at all. 12:53:06

9 Q. You don't have any -- any recollection of that 12:53:08  
10 occurring? 12:53:10

11 A. No. 12:53:10

12 Q. So if episodes of "American Idol" were 12:53:15  
13 published on the YouTube Web site, you're unaware of 12:53:19  
14 that as you sit here today? 12:53:21

15 MS. REES: Objection. Asked and answered. 12:53:24  
16 Vague and ambiguous. 12:53:25

17 THE WITNESS: I'm totally unaware of that. 12:53:26

18 BY MR. GALDSTON: 12:53:28

19 Q. Okay. So in the comments section -- and, 12:53:30  
20 again, this is a document I realize Mr. Botha and -- 12:53:41  
21 and -- authored with your input. And it says, The 12:53:47  
22 strains of rapid growth are evident. 12:53:51

23 What -- what is meant there? 12:53:53

24 MR. TANGRI: Objection to the preamble as 12:53:55  
25 mischaracterizing his prior answer. 12:53:56

1 reviews for inappropriate content? 12:55:03

2 A. Probably there were not enough people in that 12:55:09

3 area as well. 12:55:12

4 Q. Okay. 12:55:13

5 A. It was not easy to get quality people and train 12:55:13

6 them and -- fast enough. 12:55:17

7 Q. Do you see below, the next paragraph begins, 12:55:24

8 YouTube continues its active outreach to content owners? 12:55:25

9 What was YouTube doing by way of active outreach to 12:55:35

10 content owners? 12:55:41

11 A. Well, apparently they had a deal with NBC which 12:55:46

12 I now remember. I had forgotten earlier. 12:55:48

13 NBC marketing decided that it was useful for 12:55:56

14 them to put clips of their shows on -- on YouTube to 12:56:01

15 create awareness in some cases or create some audience 12:56:10

16 following. 12:56:14

17 And I remember this deal as being -- as it says 12:56:15

18 here, as being actually fairly small. Not that 12:56:21

19 significant. I don't remember what the dollar value 12:56:26

20 was, but it was not that significant. 12:56:28

21 And so we were exploring the possibility of 12:56:33

22 doing more of that. 12:56:35

23 Q. Okay. And that's because there was a belief 12:56:36

24 that it was critical to provide consumers with 12:56:39

25 professionally produced content as well as 12:56:41

1 user-generated content; is that part of the reason? 12:56:44  
2 MR. TANGRI: Objection. Ambiguous. 12:56:48  
3 Mischaracterizes the document. 12:56:50  
4 THE WITNESS: Well, I guess it's what we 12:56:55  
5 believed at the time. 12:56:56  
6 BY MR. GALDSTON: 12:56:56  
7 Q. Why did YouTube believe at the time that it was 12:56:57  
8 critically important to provide professionally produced 12:56:59  
9 content as well as user-generated content? 12:57:02  
10 MS. REES: Objection. Mischaracterization. 12:57:06  
11 MR. TANGRI: Same objection. 12:57:07  
12 THE WITNESS: I don't remember. I don't 12:57:08  
13 remember that at all. 12:57:11  
14 BY MR. GALDSTON: 12:57:12  
15 Q. Okay. But it was critically important to the 12:57:13  
16 company as of June of 2006? 12:57:15  
17 MR. TANGRI: Same objection. Mischaracterizes. 12:57:18  
18 MS. REES: Same objection. 12:57:20  
19 THE WITNESS: That's what it says here, but I 12:57:24  
20 don't remember why. 12:57:26  
21 BY MR. GALDSTON: 12:57:27  
22 Q. Okay. This is a document that was distributed 12:57:27  
23 to the partners at Sequoia Capital; right? 12:57:29  
24 A. Yes, sir. 12:57:31  
25 Q. So you and Mr. Botha were preparing this 12:57:32