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Broadcasting Ourselves ;)

The Official YouTube Blog

SUN  Y, MARCH 26, 2006

Your 15 Minutes of Fame..ummm...Make that 10 Minutes or Less

The past few months have been phenomenal for us here at YouTube, thanks to all of you. We've been going through unprecedented growth. Most days it seems we can barely catch our breath trying to keep up with everything, and sometimes I sit at my desk and look around at the 20 or so people around me and cannot believe how far we've come in such a short period of time. No matter how fast we grow or how large we may become, our primary goal is, and will always be, about being in touch with our users and providing them the best online video experience possible. That being said, we've gotten a fair amount of emails lately about the new 10 minute limit we've implemented for video uploads. For those of you not familiar with this change, we've always had a 100MB file limit for uploads. We also recently implemented a 10 minute length limit. This change won't impact the vast majority of our users. We know that over 99% of videos uploaded are already under 10 mins, and we also know that most of our users only watch videos that are under about 3 minutes in length.

So, if most of our users are uploading and watching short form video clips, why even bother to make the change? If it ain't broke, don't fix it right? Well, if you've followed our blog postings or any of the press articles, you know we're constantly trying to balance the rights of copyright owners with the rights of our users. We poked around the system a bit and found that these longer videos were more likely to be copyrighted videos from tv shows and movies than the shorter videos posted. However, we also recognize that there are legit content creators out there who may have videos over 10 mins, so we've created a [Premium Content Program](#) for those of you with professional-produced videos.

What about the little guys you ask? We hear ya. We know that although most users are uploading short form clips, there are those of you out there that are video bloggers or amateur film makers that have legitimate, user generated content over 10 mins, and obviously, this is not an ideal situation for you. We recognize that, and we're actively working on a solution that will allow for those of you with longer form user generated content, while still preventing copyrighted full length episodes from entering the system. In fact, if you are a user with videos over 10 mins, please [contact us](#). We want to hear from you. We want to know how you've been impacted by this change and any thoughts or ideas you may have.

Remember: this site is about you, and we're listening.

Best,


[Maryrose](#)

The YouTube Team

23 comments:


[kieranmullen](#) said...


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youtube: Inform, engage and mobilize voters with YouTube and [@google](#) campaign toolkits: <http://goo.gl/rd0S>

youtube: [@cpayne12](#) Um, Disco, of course!

youtube: [@PecosRoyBean](#) Not at all :)

youtube: [@mediocrefilms](#) Nice - congrats!

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The link to Premium Content Program no longer works.

KieranMullen
http://360oregon.com

August 19, 2009 11:27 AM

BattlefieldDoktor said...

Kiearan ... check the date of this very old blog the Premium Content Program got already replaced by the Director Program and later by the Partner Program ;o)

August 27, 2009 4:40 AM



Mike Lisanke said...

Also, the email for Maryrose using the "contact us" link is no longer a valid email address. I was replying that this limit is a barrier to educational meeting content. I understand that's not your market, but; I thought I'd mention it anyway. I'll look elsewhere to find a video repository for our material.

November 5, 2009 11:03 AM

zeroxy said...

Nice Thx

[sinema](#) , [vizyondakiler](#)

December 16, 2009 8:25 AM



a11000 said...

My daughter's 17 minute piano piece I recorded CANNOT be severed in half. This 10 minute limit is arbitrary and there should be some way users can purchase for a small fee a bit of additional time on a one-time basis.

January 5, 2010 8:40 PM

trompetejogador said...

I am totally disgusted with YOUTUBE. I have a video blog called "Politically Incorrect Radio". My latest "attempt" was about 9.5 minutes long. I timed it with my watch. I use MS Movie maker. It's time line is set up so it shows minutes and seconds. Now I have to "divide" my blog. I did that B4. This 1st have was watched. The 2nd half was not. I am unemployed and cannot afford ANY "Premium" channel. I do not post material from other people. Then there's my "copy right" Issue concerning the sound track from Spring Lake Iron & Steel Charles Wesley Works. That music came from ROXIO PHOTO. Not me. I tried to use music I made such as on my other videos with Roxio. But it wouldn't let me. However the video is available with a ad for "Sonny Rollands". So now I go to waste time splitting my video up knowing the 1st part will be watched and not the 2nd. How a 9.5 minute video ends up being 23.56 minutes is beyond me!!!!

I DO NOT POST OTHER PEOPLE'S VIDEOS. Now it will make me spend TWICE the time and cut my viewership. SOMEBODY FROM YOUTUBE RESPOND TO ME
strobx1

February 10, 2010 5:11 AM



Rehd said...

This post has been removed by the author.

March 31, 2010 11:28 PM



Korsan said...

thank you
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April 16, 2010 12:56 PM

ibrahim said...

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May 6, 2010 5:00 PM

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[ed hardy womens](#)|

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[ed hardy shoes](#)|

[ed hardy boots](#)|

[ed hardy snow boots](#)|

[ed hardy kid's](#)|

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May 7, 2010 5:43 PM

nike said...

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May 7, 2010 5:44 PM

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May 7, 2010 5:45 PM

Seyhan said...

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May 12, 2010 7:04 PM

nike said...

Honour to be here!
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May 16, 2010 7:56 PM

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May 16, 2010 7:58 PM

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May 16, 2010 8:01 PM

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OsmaNetworkS said...

türk pornosu için [türk pornosu](#) sitesine bakabilirsiniz
acil sikişmek istiyorsanız [acil sikiş](#) sitesi size fazlasıyla yardımcı olacaktır
sex ve sikiş izlemek içinde [Sex izle](#) sitesini ziyaret etmenizi önerebiliriz
18lik sikiş için [sikiş 18](#) sitesinde bolca içerik vardır
amcık için kesinlikle [Amcık Sikiş](#) sitesini ziyaret edin
asyalı sikiş ve asyalı pornosu izlemek istiyorsanız [asyalı sikiş](#) tıklayın
film izlemek isteyenler içinde [film izle](#) sitesini ziyaret edin
porno için kesinlikle [Porno izle](#) sitesi ve
en güzel porno videolar için [Porno izle](#) kesinlikle ziyaret edin
erotik video ve sıcak videolar için [türk pornosu](#) sitesi
sikiş için [sikiş](#) sitesi
jigolo arayan bayanlar ve gayler için [jigolo](#) sitesi isteklerinize cevap verecektir
jigolo arayan bayanlar ve gayler için [jigolo](#) hizmeti vermektedir
jigolo arayan bayanlar ve gayler için [jigolo](#) uzman jigolodur

May 30, 2010 5:21 AM

RJ said...

glad this changed over time

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June 1, 2010 10:25 AM

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Schapiro Exhibit 57

From: "Hallie, Michelena" <Michelena.Hallie@mtvn.com>
Date: Wed, 21 Mar 2007 15:35:52 -0400
To: "Kim, Clara" <Clara.Kim@mtvstaff.com>, "Libin, Victoria - Atom Entertainment" <VLibin@atom.com>, "Molko, Joseph - MTVN" <Joseph.Molko@mtvstaff.com>
Subject: FW: Catalytic MTVN-UGC Study

Are you in the loop on this? It obviously involves legal input at various stages including guidelines for moderation review and review of questionable clips. I think it would be helpful to have a lawyers call to discuss moving forward. Since the first two sites will be addictingclips and ifilm, I suggest a call among the four of us to discuss. I'm going to a meeting later this afternoon that should give me a better idea of timing on all of this. I'll loop back after the meeting.

From: Rosen, Andrew
Sent: Sunday, March 18, 2007 5:48 PM
To: Flannigan, Erik; Harrison, Blair - iFilm; Roesch, Scott - Atom Entertainment; Jackson, Brendan - Atom Entertainment; Klauschie, Matthew - iFilm
Cc: West, Denmark; Borelli, Janet; Hallie, Michelena; Wen, Pauline; Holt, Courtney; Ahmad-Taylor, Ty; Miller, Kenny; Lehman, Nicholas
Subject: Catalytic MTVN-UGC Study

Erik, Blair, Matt, Brendan, Scott,

Thank you again for participating in Catalytic's initial survey of our UGC sites. Attached please find the results of this initial survey.

The report includes a summary of current UGC moderation practices at AddictingClips and iFilm. It also includes recommendations for improved moderation of both sites, and more general recommendations for moderation of all MTVN sites. The survey appears to be a good foundation from which we can begin to establish a moderation solution across all brands.

Generally, the report concluded the following:

1. At the MTVN level, Catalytic recommends we establish clearer moderation guidelines. Janet, Michelena, Pauline, and I are planning to meet this week to discuss further.
2. For both iFilm and AddictingClips, there are cost efficiencies to be created by automating moderation tasks where possible. Also, Catalytic recommended more consistent moderation practices for both, and proposed we implement more brand-specific guidelines for both sites. We should set up a conference call at the end of the week to discuss these particular proposals further.
3. AddictingClips requires a pilot program. I have spoken with Scott, and this pilot program requires launch as soon as possible. Catalytic is expected to send a proposal for this program tomorrow at the earliest. I will follow up with Catalytic and also check with Viacom legal to see if this program can be established quickly as an amendment to our current Viacom-wide agreement with Catalytic.
4. iFilm should consider an offshore team to help with spikes in UGC submissions. iFilm should also consider automating reporting and metrics collection as a cost efficiency.

The Conclusion, Summary Findings, and Recommendations from the report can all be found summarized below. Please feel free to contact me with any questions.

Andrew

Andrew A. Rosen
MTVN GDM

P: 212.846.8862

M: [REDACTED]

Conclusion

Using upload volumes of 400 per day, and spikes of 20%, a pre-moderation solution would require one resource per shift. To support a 24*7 roster, the team size would need to be six trained resources, some working partial work weeks (i.e. 36 hours).

Given that an offshore team achieves economies of scale at 15 resources and stability at 20 resources, a near-term target for the moderation program would be to provide pre-moderation services across three brands.

Summary Findings

- * Smaller brands need help controlling moderation costs. Current volumes make it difficult for the smaller brands to cost-effectively moderate their sites. With approximately 200 uploads per day, full-time moderation is not cost effective, and less than full-time moderation results in upload delays that negatively impact users and volume growth.
- * Use of a dedicated team across multiple brands will improve quality and lower costs. While the current volumes will make it difficult for any one smaller brand to leverage offshore cost-effectively, sufficient volumes may exist across multiple brands. Creating a larger pool of moderation resources to provide moderation for multiple MTVN brands would allow all brands to benefit from economies of scale, greater team stability, and cross-pollination of best practices.
- * Moderation guidelines are not sufficiently defined. Moderation guidelines are currently interpreted differently by each brand. Implementing a dedicated, single-source team would provide a minimum level of risk protection across all brands and at the same time support brand-specific guidelines to be implemented.

Recommendations

- * Further define moderation guidelines to drive consistently high quality UGC across MTVN brands and establish appeal for premium advertisers.
- * Identify a super-set of moderation guidelines that meet unique issues, opportunities, and strategic objectives of each brand.
- * Replicate moderation processes and tools across brands to the extent possible and achieve economies of scale at lower volumes.
- * Incorporate tools, processes, and human resources in the moderation process for a data-driven turn-key managed solution.
- * Use a managed solution that passes on lower resource costs to shorten pre-moderation cycles and improve user satisfaction without increasing risk.
- * Leverage moderation solution to support special events, custom data collection, and brand-specific strategic initiatives.
- * Implement a pilot project to meet Addicting Clips immediate moderation needs and scale the pilot project to build a dedicated MTVN team responsible for conducting moderation across at least three brands.

From: Adam Young [mailto:adam.young@catalytic.com]
Sent: Wednesday, March 14, 2007 6:27 PM
To: Rosen, Andrew

Cc: sheridan.porter@catalytic.com; kalisa.fraser@catalytic.com
Subject: MTV-UGC Study

Dear Andrew,

Attached please find the UGC Discovery Report for iFilm and Addicting Clips. We are preparing a proposal that I expect to deliver to you by week's end for a pilot project with Addicting Clips as there appears to be an immediate need.

One area that we will have to address is the rather low volumes that Addicting Clips currently experiences and how perhaps we can leverage across additional brands to achieve some economies and a corresponding cost reduction to MTV Networks.

Please do not hesitate to contact me should you have any questions prior to our submitting the proposal. Thank you for this opportunity.

Regards,

Adam

Adam Young

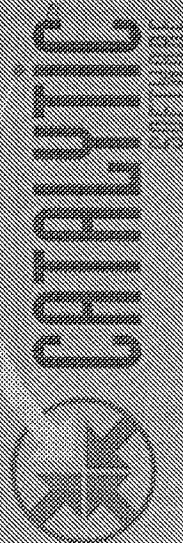
Catalytic Software, Inc.

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List of attachments:

Catalytic_Discovery_Report 070312-1.doc



Catalytic Discovery Report to MTVN

UGC Moderation

March 2007

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Contact Information

Submitted to:

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Introduction

Internet properties that incorporate social networking platforms and user generated content (UGC) are growing in value, sophistication, and appeal. Social networking has evolved from relatively simple chat rooms to become a forum for personal expression and self promotion, driving a multi-billion dollar internet phenomenon. UGC, referenced throughout this document, is a catch-all term that includes audio, video, text, and images that are created, repurposed, or merely uploaded by users. Therefore by definition UGC includes rights protected material as well as content that is of questionable social and moral value. Within this context and despite the risks, UGC remains a revenue-generating business and is widely considered a basic component of a meaningful web presence. As evidenced by recent lawsuits involving YouTube and MySpace, managing UGC effectively is necessary to avoid litigation and guardian censorship, and at the same time meet the expectations of the internet generation.

Purpose of the Study

MTVN has initiated UGC initiatives within several web properties, and employs various moderation methods across brands to effectively manage risk. Since UGC includes material that cannot be effectively moderated through fully automated or software driven processes, MTVN uses a combination of people and automated monitoring. In the scenario of image and video files, there is no existing fully automated moderation solution making in-house or US-based solutions prohibitively expensive due to labor costs.

The purpose of the study was to better understand the requirements of video and image moderation within the context of existing MTVN entities, and use that information as a basis upon which to form a cost-effective moderation solution scalable across other MTVN entities.

Scope

Moderation process and video upload volumes of:

- Addicting Clips (Atom Entertainment in San Francisco)
- iFilm (Los Angeles)

Methodology

Quantitative and qualitative data was collected. Stakeholders and representatives from the participating organizations were interviewed and the data from these sources was brought together in the final analysis and assessment stage of the evaluation.

The key stages in the evaluation methodology were as follows:

- Interviews with key stakeholders and project leaders
- High level process mapping
- Review of online moderation tools and historical volumes
- Review of moderation guidelines and discussion of interpretation of those guidelines
- Data gathering
- Analysis and assessment

Limitations of the Study

1. User Segments:
Addicting Clips and iFilm are two brands with similar user segments. Moderation processes used successfully for a broad 18-35 segment may not be indicative of optimal processes for other MTVN brands with more targeted user segments like children, young adolescents, new parents, ethnic groups, etc.
2. Brand Power:
Both iFilm and Addicting Clips are less established brands than MTV or Nickelodeon. Volumes, trends, upload patterns, and quality (or lack of) content may not be indicative of more well known brands and trafficked websites.

Other Material Referenced

Digital Millennium Copyright Act 1998: DMCA Title II, Online Copyright Infringement Liability Limitation Act (OCILLA)

Federal Bureau of Investigation: Innocent Images National Initiative (IINI) discussing investigations and initiatives to reduce online child pornography and child sexual exploitation.
<http://www.fbi.gov/publications/innocent.htm>

Websites:

www.addictingclips.com
www.cnn.com
www.dailymotion.com
www.ifilm.com
www.liveleak.com
www.myspace.com
www.stickam.com
www.youtube.com

Discussion: UGC Moderation

UGC moderation is intended to reduce risk and drive volumes by regulating the quality of content via a self-imposed process. Quality of content is typically determined by a combination of brand objectives, regulatory compliance, and legal consideration and the moderation strategy should evolve to support emerging constraints or opportunities on any one of these planes.

Sources of Risk

Catalytic categorizes UGC related risk into two main areas:

1. Negative Brand Association

Whether it is bad publicity, poor quality content, or off-topic content, social networking and UGC sites have the ability to link undesirable social attitudes and/or problems directly to a brand. Graphic depictions of violence, nudity and pornography, child safety issues, criminal acts, and anti-social behavior fall into this category. The immediate result of negative brand association is drop in advertising revenue.

2. Rights Infringement

Rights protected content such as music, video, and imagery are frequently uploaded by users to social networking / UGC sites. While blatant piracy such as posting clips of broadcast TV shows is easily identifiable, rights infringement may take a more subtle form such as a user incorporating rights-protected audio within an original video file. The immediate result of rights infringement (i.e. receipt of a DMCA Takedown notice) is a legal review process.

Moderation Strategies and Objectives

In pure risk/reward scenario UGC moderation is a relatively linear proposition: pre-moderation reduces risk and reward; post moderation increases risk but is also more appealing to an audience looking for instant gratification. By incorporating a mix of moderation strategies, companies can move the risk-reward curve to align their risk tolerance and strategic objectives.

Pre-Moderation

- Material cannot be accessed by viewers until a moderator has reviewed.
- Moderator assesses content according to regulatory and internal standards
- Most sites designed to appeal to children or sites that allow users to post pictures or other non-text content are pre-moderated.
- Suitable for sites where content is not time-critical, e.g., 6 to 24 hours to post

Post-Moderation

- Moderator reviews the material after it has been posted
- Moderator assesses content according to regulatory and internal standards and decides whether it is suitable to remain. "Off-topic" content may be moved to appropriate channels or forums, or deleted.
- Appropriate for sites which debate predefined topics, current affairs.

- Suitable for sites that require time-critical posting.

Reactive Moderation

- Users permitted to post content in real time.
- Viewers/visitors to the site alert the moderator to inappropriate or offensive content.
- Suitable for a mature online community where few messages have to be removed. This type of moderation is not suitable for sites targeting children.

Distributed Moderation

- Relies on a system of content rating that allows users to flag content for automated removal based on a specific algorithm.
- Typically used in conjunction with other moderation systems/approaches.

Market Direction

The more successful a UGC site becomes, the further it is forced to the mainstream. Legal challenges, community outcry, government regulation, and advertising withdrawal all impact the ability of companies to operate successfully at the fringe. Sites such as Liveleak and Dailymotion attract users through shock value, but high traffic (most war videos experience 6000+ views in their first day of posting) may not necessarily translate into high revenues or earnings multiples. Unmoderated UGC is widely regarded in the market as a race to the bottom and sites do not attract premium advertising. For example, by hosting violent and explicit video content on their website, Liveleak has limited their audience to a 'mature' segment and advertisers are predominantly click-throughs to adult content sites.

The market has clearly shown that shock video is interesting to a broad base, but not necessarily profitable. While 'live' site Stickam is seeing its user base growing at approximately 2500 registrations per day, MySpace has blocked its use in their user accounts on the grounds of child safety.

Sites that leverage an existing brand, and which are consistently pre-moderated may not be as heavily trafficked, but are nonetheless selling advertising to blue-chip brands. For example, like iFilm, CNN successfully mixes UGC with its own content and counts government agencies and Fortune 500s amongst its banner advertisers.

To enhance user experience and keep content quality high without infringing copyright, MTVN may consider the following options:

- Provide a selection of royalty-free audio clips for users to integrate into their videos, profiles, etc.
- Investigate the feasibility of monetizing and managing copyrighted content to allow users to purchase specific content for inclusion in their UGC and use it legally.
- Seed content by developing a set of "power users" – general users that regularly submit original content and verified personnel affiliated with content owners – who would be authorized to upload copyrighted content on behalf of their studio or production company.

Addicting Clips

Interviewees

- Brendan Jackson, Product Manager – Addicting Clips
- Scott Roesch, VP and General Manager – Atom Films
- Victoria Libin, Senior Director, Legal Affairs – Atom Entertainment

Findings

Addicting Clips is one of four Atom Entertainment divisions that include Atom Films, Shockwave.com, Addicting Games, and Addicting Clips. Atom Entertainment was founded in 1998 and acquired by Viacom in August 2006. The Addicting Clips website was launched in April 2006, shortly before acquisition. The business model relies on advertising and sponsorships; current site advertising is mostly non-branded banner and skyscraper click throughs.

Current Moderation Objectives

- Comply with MTVN moderation guidelines
- Comply with the DMCA by preventing infringing content from launching to the site and ensuring prompt removal of infringing content when notified
- Limit liability by acting only as a passive conduit for content
- Pre-moderate and launch all content within 10 minutes of upload

Volumes

Currently the site is experiencing upload volumes of 50 to 100 new clips per day. The site will soon merge with the Atom Films site when upload volumes are expected to reach 50 to 200 uploads per day. A maximum clip length of 10 minutes helps prevent uploading of pirated video content¹.

Description of Activities

The moderation team decrease the viewing time by "scanning" the clip quickly, i.e. by dragging the play button across the play bar. Currently, Addicting Clips moderators (customer service personnel) perform a cursory review of the newest clips posted on the site on an hourly basis, from 8 am to 6 pm PST. Clips are reviewed for violation of the existing MTVN guidelines and are designated Approved, Approved Mature, Rejected, or submitted to the Pending Further Review queue. Clips in the Pending Further Review queue are reviewed by a legal assistant for approval/rejection or for promotional placement on the Addicting Clips home page.

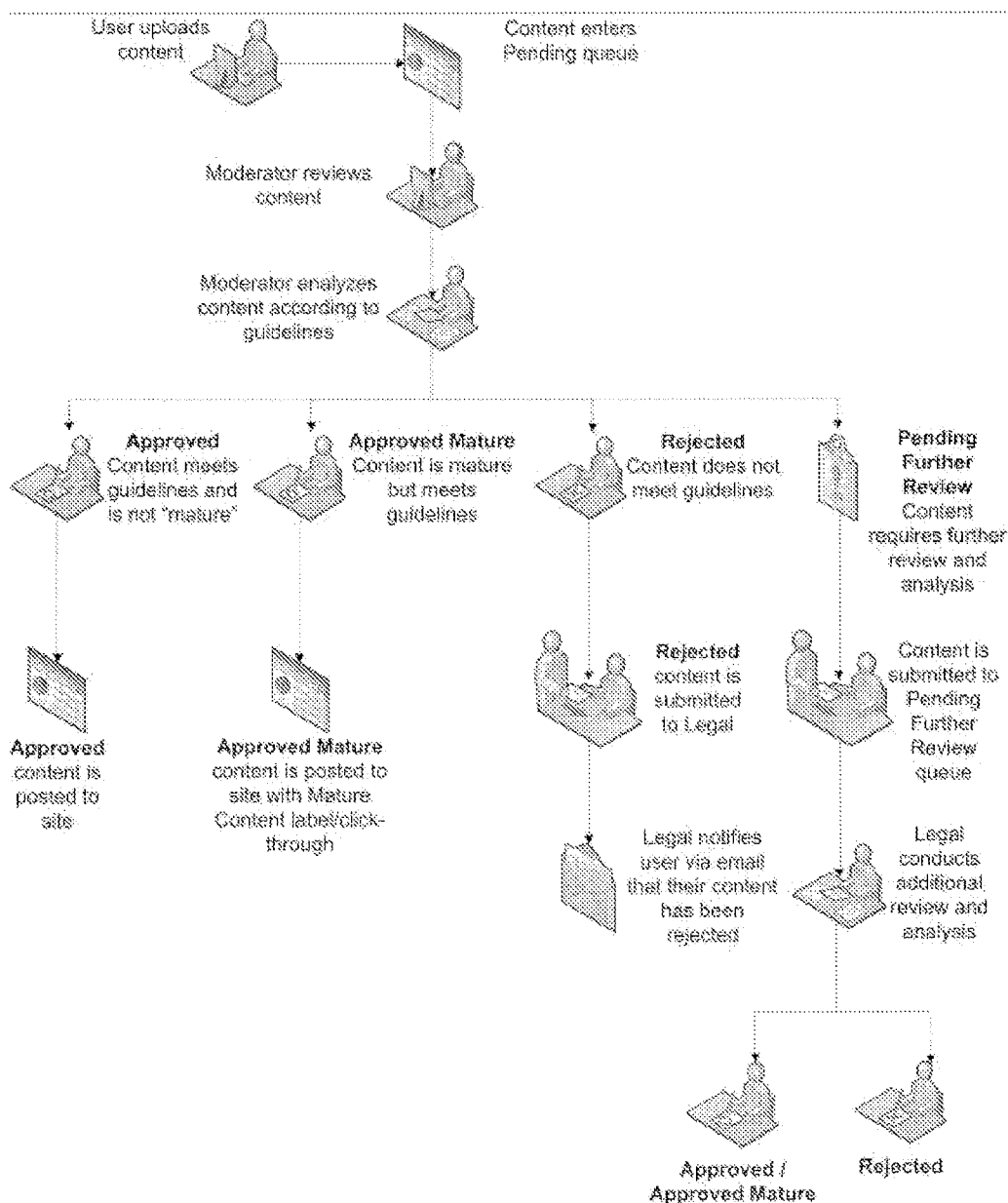
Currently, there is no moderation between the hours of 6pm and 8am PST; therefore, Addicting Clips personnel conduct ad-hoc moderation at 11pm and 5am PST to remove any offensive content prior to the start of the US business day.

¹ Visitors to French website www.dailymotion.com may view entire 30 minute episodes of *Lost*, for example.



Addicting Clips is in need of a 24x7 moderation solution that will provide through-put in less than 10 minutes. Currently, video is available for the uploading user only to view immediately. If the user sends a link to their uploaded content on Addicting Clips, users accessing that link are shown a placeholder: "This Content is Not Yet Available" until the moderators conduct their hourly review. This is a dissatisfying experience and eroding the user base.

Moderation Process



- Every video, upon uploading, enters the moderation system and arrives in the Pending queue.
- Pending queue is reviewed hourly during PST daytime hours
- Moderators review clip according to moderation guidelines and select Approve, Approve Mature, Reject, or Pending Further Review.
- Approved content launches to the site.



- Approved Mature content launches, but a "Mature Content" disclaimer click-through appears before a user can view the clip.
- Rejected content goes into a Rejected queue and is reviewed by a legal assistant who sends an email notifying the user that their content has been rejected with a brief description of why the content was rejected (i.e., violation of TOS, copyright infringement, etc.)
- Content pushed to the Pending Further Review queue is viewed by Addicting Clips legal assistants to determine whether it violates moderation guidelines. It is then Rejected or Approved/Approved Mature, as appropriate.
- The Legal Team also reviews any material that appears on the Addicting Clips home page. The Program manager views the "most viewed" or "best rated" content on the site to review the most popular clips and forwards a select list to Legal for review. Legal then approves or rejects the submitted content for promotional positioning on the Addicting Clips home page. Approved Mature content is not considered suitable for the home page.

Specific Recommendations for Addicting Clips

- Deploy a small pilot solution to eliminate the need for management and staff to perform overnight moderation tasks, as well as improve moderation times and user experience.
- Evaluate via pilot solution third-party tools to further automate moderation tasks (content recognition software, skin-tone filters) and reduce moderation costs.
- Further refine moderation guidelines to create brand-specific standards which will improve consistency of moderation within the brand.
- Create "Approved Producer" role and verification system to enable studio representatives, etc. to easily upload copyrighted content.
- Add a library of royalty-free content that users can integrate into their videos.

iFilm

Interviewees

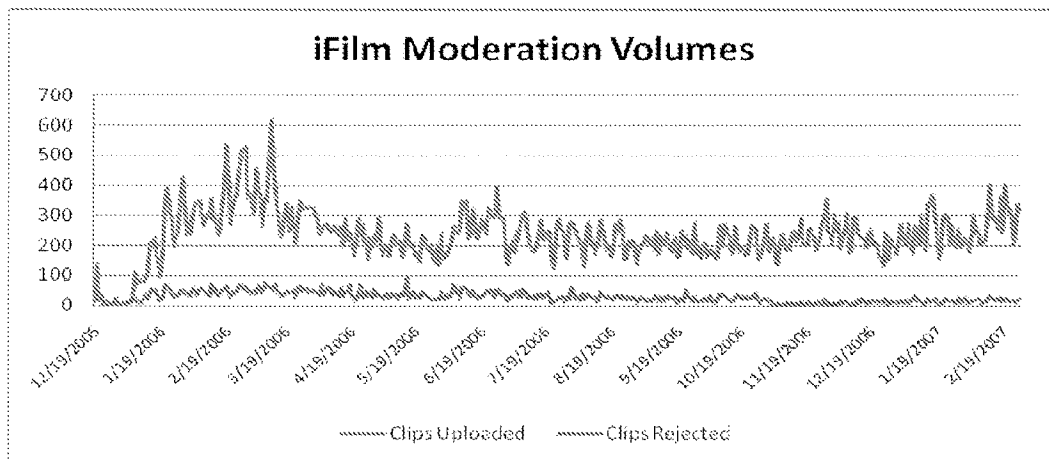
- Matthew Klauschie, Director of Media Technology – iFilm Corp.

Findings

iFilm launched its UGC channel in January 2006 and currently receives up to 400 UGC uploads per day. iFilm has 350,000 registered users currently using the profiles section, and records between 11 and 12 million unique views per month.

Although volume growth has been gradual, the site experiences some spikes in volume due to ongoing promotions (i.e., Web Junk 20 on VH1). The iFilm site is pre-moderated using an in-house team of moderators. iFilm is not currently considering outsourcing its moderation; however, Catalytic is using iFilm volumes to project and model moderation scenarios for the MTVN music groups.

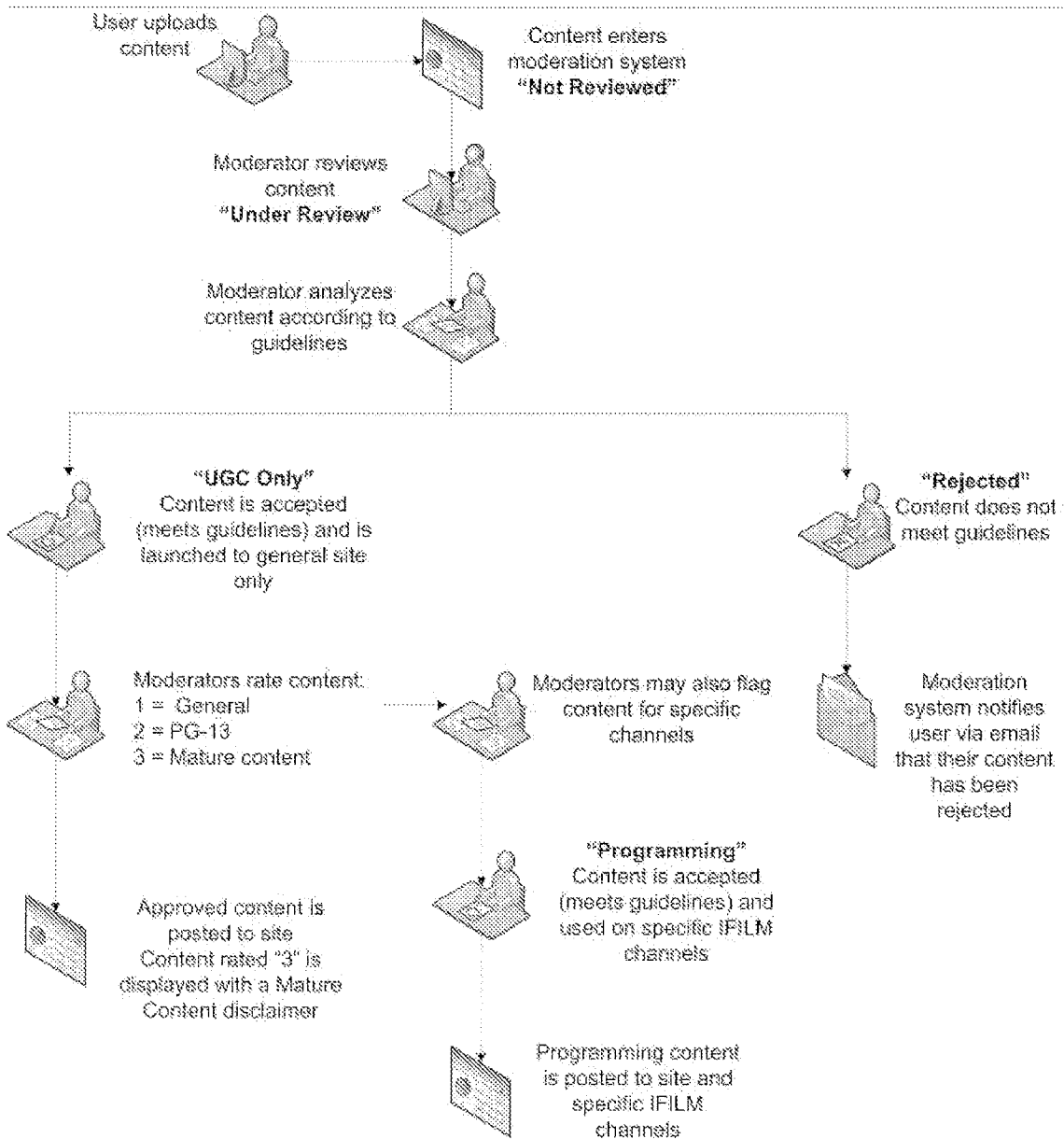
iFilm has a maximum clip size of 100MB. Clips can be any length, but the majority of clips uploaded are 3 minutes and less.



The data suggests that when upload volumes are stable over time, moderation needs stabilize as users become familiar with the "community standards" of the site. This is typical of a well-moderated site with defined – and enforced – standards and guidelines.

iFilm trend data indicates a pattern of greater uploading at the beginning of the work week. At the highest point on Mondays, uploads are 20% more than at the lowest point on Fridays. While this trend is not significant at current volumes, it would present moderation challenges at larger volumes, requiring larger moderation teams and/or longer moderation response times during times of heavy activity.

Moderation Process



- Upon uploading content, users are presented with a confirmation screen indicating the content is under review.
- The system encodes the content and submits the encoded file to the moderation queue
- The iFilm Content Reviewer reviews the clip for compliance with the moderation guidelines and rates the content using a 1 to 3 scale (1 = OK for General Audiences, 2 = PG-13, 3 = Mature Content)
- Content can be flagged as:
 1. Not Reviewed (in queue)
 2. Under Review (a Content Reviewer is reviewing it)
 3. UGC Only; the content is accepted (complies with moderation guidelines) and is approved for use on the User Video channel. Once accepted, the content is posted to the iFilm site.
 4. Rejected; the content does not comply with moderation guidelines. The Content Reviewer inserts the reason for rejection (selected from a list) into the interface and that information is merged into the auto-email to the uploading user notifying them that their content has been rejected and the reason why.
 5. Programming; the content is being used elsewhere on the iFilm site (i.e., other channels). Content Reviewers have the option of flagging reviewed content for Programming use, for promotion on specific channels.

Specific Recommendations for iFilm

- Explore the feasibility of leveraging an offshore team to address volume spikes and free up content reviewers for tasks that require onsite presence.
- Automate reporting and metric collection to eliminate the need for manual reporting at the end of each shift.
- Add a library of royalty-free clips and music that users can incorporate into their own media.
- Develop a system to link relevant advertising to specific channels and content, allowing advertisers to purchase more targeted placement on specific channels.

Conclusion

Using upload volumes of 400 per day, and spikes of 20%, a pre-moderation solution would require one resource per shift. To support a 24*7 roster, the team size would need to be six trained resources, some working partial work weeks (i.e. 36 hours).

Given that an offshore team achieves economies of scale at 15 resources and stability at 20 resources, a near-term target for the moderation program would be to provide pre-moderation services across three brands.

Summary Findings

- **Smaller brands need help controlling moderation costs.** Current volumes make it difficult for the smaller brands to cost-effectively moderate their sites. With approximately 200 uploads per day, full-time moderation is not cost effective, and less than full-time moderation results in upload delays that negatively impact users and volume growth.
- **Use of a dedicated team across multiple brands will improve quality and lower costs.** While the current volumes will make it difficult for any one smaller brand to leverage offshore cost-effectively, sufficient volumes may exist across multiple brands. Creating a larger pool of moderation resources to provide moderation for multiple MTVN brands would allow all brands to benefit from economies of scale, greater team stability, and cross-pollination of best practices.
- **Moderation guidelines are not sufficiently defined.** Moderation guidelines are currently interpreted differently by each brand. Implementing a dedicated, single-source team would provide a minimum level of risk protection across all brands and at the same time support brand-specific guidelines to be implemented.

Recommendations

- Further define moderation guidelines to drive consistently high quality UGC across MTVN brands and establish appeal for premium advertisers.
- Identify a super-set of moderation guidelines that meet unique issues, opportunities, and strategic objectives of each brand.
- Replicate moderation processes and tools across brands to the extent possible and achieve economies of scale at lower volumes.
- Incorporate tools, processes, and human resources in the moderation process for a data-driven turn-key managed solution.
- Use a managed solution that passes on lower resource costs to shorten pre-moderation cycles and improve user satisfaction without increasing risk.
- Leverage moderation solution to support special events, custom data collection, and brand-specific strategic initiatives.



- Implement a pilot project to meet Addicting Clips immediate moderation needs and scale the pilot project to build a dedicated MTVN team responsible for conducting moderation across at least three brands.

Schapiro Exhibit 58

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VIACOM INTERNATIONAL, INC., ET
AL.,

Plaintiffs,

v.

07 CV 2103 (LLS)
07 CV 3582 (LLS)

YOUTUBE, INC., ET AL,

Defendants.

-----x

New York, N.Y.
October 23, 2009
11:35 a.m.

Before:

HON. LOUIS L. STANTON,

District Judge

APPEARANCES

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MAYER BROWN LLP
Attorneys for Defendants
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BRIAN WILLEN

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1 MS. CUNHA: Your Honor, I appreciate that. I think
2 that, frankly, in these mixed business/legal documents, if
3 redactions are not allowed and the entire document has to be
4 produced, that is problematic because we have just looked at an
5 e-mail where I think there is a substantial amount of business
6 discussion in that e-mail and a very little amount of legal
7 discussion, and the Court's rule is that that entire
8 communication is privileged.

9 Now we have a document that clearly is mixed, business
10 and legal. And we have taken the position, we will give you
11 the business and we are trying to redact out what is really
12 legal. That is what we are trying to do. If the Court's
13 position is that the entire document should be withheld, we
14 have not taken that position.

15 With respect to the numbers in this chart, I think --

16 THE COURT: Let me interrupt you because you raise a
17 very interesting point about the conflict between the treatment
18 of this exhibit and the prior one. And I am inclined to think
19 that they are two different things, that the solicitation of
20 legal advice by a client from a lawyer in the classic format
21 that the client discloses confidential material to obtain legal
22 advice on whatever question he wants is not the same as what
23 is, effectively, more like a policy. Here you have the
24 generation of the behavior of the company. And that's the
25 result of a lot of different inputs, some of it business, some

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1 of it legal, some of it who knows what, technical, costs,
2 accounting -- ingredients from many sources are comprehended in
3 the policy.

4 And the policy, when we reach that question, I am
5 going to rule, unless I am dissuaded, that the policy should be
6 disclosed even though some of the input is legal and that that
7 view is carried up to the point of also identifying if all of
8 the policy was directed by the lawyers, and that it stops
9 there, that the underlying advice is protected, the reasons the
10 lawyer says we must do this are protected. And the line is
11 drawn just behind the question: Is this what your lawyers told
12 you to do? Answer: Yes. Well, why? The objection to that is
13 sustained.

14 I think this is more like that. Here we have the
15 plan, the proposed action which is the result of input from
16 many sources or, at least for today's purposes, some legal,
17 some business. Looking at this chart it looks like me
18 overwhelmingly business, but as you say, the product has legal
19 input as well. But I think that's more like the policy and
20 should be disclosed rather than protected under the policy
21 analysis rather than the consultative analysis.

22 MS. CUNHA: Your Honor, I think that your articulation
23 of the rule concerning the policy is accurate.

24 THE COURT: I think it is a little daring. I think
25 you could find cases of judges who would say no, you don't have

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1 to say if it was dictated by the legal department. I think
2 that is a close question in principle. But it seems to me that
3 for business litigation, it is the kind of thing that the
4 adversary should be entitled to know and not so confidential
5 that it should be protected.

6 I would draw the line where I articulated in light of
7 what I have before me in this case. Some other case, God
8 knows.

9 MS. CUNHA: Your Honor, I think that we agree with
10 where your Honor is drawing the line with respect to policy. I
11 would just point out, with respect to the document that we were
12 looking at before, the e-mail, that document contains an
13 articulation of a company policy, a business policy.

14 THE COURT: The fingerprinting?

15 MS. CUNHA: The fingerprinting.

16 THE COURT: Yes, but the communications are more
17 consultative. They are soliciting the view of the lawyer on a
18 particular point. I am not going to revisit that.

19 MS. CUNHA: The e-mail at the top does state an
20 articulation of the policy and, again, that is the position
21 that we have taken that policies are discoverable and we have
22 not tried to shield policies.

23 THE COURT: Look, all of these things are, the
24 categories are always blurred at the edges. There can be an
25 established policy which is public, but an application for a

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1 me that in a business litigation where the input from lawyers
2 is so potent, at least in this country, so pervasive an element
3 in so many decisions that it is legitimate for the person on
4 the other side of the transaction to know whether that is an
5 element or, indeed, the controlling and decisive factor, just
6 as they might ask, well, are you doing this to save costs, are
7 you doing it to get your stock price up, whatever. The
8 identification of it as an element does not invade the privacy
9 of the attorney-client relationship in the way classically
10 sought to be protected.

11 MR. SCHAPIRO: In that event, your Honor, just to be
12 clear as we go forward in this litigation, one thing we want to
13 be very careful about is not waiving our privilege broadly.
14 And you may recall that some time ago in this litigation there
15 was a lot of back-and-forth about the advice of counsel
16 defense, and the class in particular wanted a representation
17 from us as to whether we would be relying in any way on advice
18 of counsel.

19 We eventually determined that no, we would not invoke
20 advice of counsel, in large part because there is a lot of law
21 out there that says, if you do that, everything is waived and
22 it is an open book. But it would be, we think, profoundly
23 unfair for us to be in a position where the other side is able
24 to try to make some hay of the fact that a lawyer said, for
25 example, stop running advertisements on watch pages and try to

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1 say there is something sinister about that or knowledge of
2 guilt and having us be unable to put it in context or to point
3 to the fact that, I did some other things also because the
4 lawyer told me and that has some bearing on my state of mind.
5 That is a concern that I have.

6 So as long as it is not a waiver, as long as we are
7 allowed to point to the fact that a lawyer told us something
8 and they are allowed to point to the fact also that YouTube
9 lawyers were saying X, Y or Z, while I still would take
10 respectful issue with your Honor's drawing of the line, I don't
11 think it is nearly as problematic for us as it would be if we
12 have to have one hand tied behind our back in that regard.

13 THE COURT: I am not sure what that hand tied behind
14 your back would be, but it seems to me you are saying that if
15 the line is drawn behind the statement that the policy was one
16 imposed by the lawyer, that no factfinder should be told or
17 allowed to draw the conclusion that that is because something
18 wrong was being done and was being corrected or something was
19 required to be done to be right. It doesn't carry over to
20 that. The fact is, the legal advice and the situation as
21 expressed to the lawyer are simply protected from disclosure
22 and no inferences can be drawn from that point on. I would
23 think that was almost a necessary corollary of drawing the
24 line.

25 MR. SCHAPIRO: Did you say "almost a necessary?"

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1 THE COURT: Yes, "a necessary," not an unnecessary.

2 MR. SCHAPIRO: Thank you, Judge.

3 THE COURT: Do you differ on that, Ms. Cunha? You
4 thought that was the right place to draw the line?

5 MS. CUNHA: We do think that is the right place to
6 draw the line.

7 THE COURT: But you think that people should be free
8 to argue inferences from it?

9 MS. CUNHA: At this point, it would be premature to
10 say what we can and cannot argue based on what the discovery
11 reveals.

12 THE COURT: That would be from some other source based
13 on other information.

14 I think, since the point is raised for the record, I
15 would like not like arguments to be made drawn simply from the
16 fact that the action was commanded by or forbidden by counsel
17 without prior notice to me and the opportunity to give the
18 other side an opportunity to object. It might vary very much
19 on the record of each one.

20 MS. CUNHA: I think it will depend on the
21 circumstances. I think, based on your Honor's ruling on that
22 standard, it dispenses with all but one document, and one more
23 document if I could indulge the Court to give us some guidance
24 on it, I think it would be helpful in continuing to resolve
25 these issues.

Schapiro Exhibit 59

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.) Case No.
 YOUTUBE, INC., YOUTUBE, LLC,) 1:07CV02103
 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.) Case No.
 YOUTUBE, INC., YOUTUBE, LLC, and) 07CV3582
 GOOGLE, INC.,)
)
 Defendants.)
 -----)

VIDEOTAPE DEPOSITION OF ROBERT TUR
NEW YORK, NEW YORK
Thursday, November 12, 2009

JOB NO. 18091

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November 12, 2009

9:46 a.m.

VIDEOTAPED DEPOSITION OF ROBERT TUR,
held at the offices of Wilson Sonsini
Goodrich & Rosati, 1301 Avenue of the
Americas, New York, New York, pursuant to
notice, before before Erica L. Ruggieri,
Registered Professional Reporter and
Notary Public of the State of New York.

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A P P E A R A N C E S

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FOR THE PLAINTIFF VIACOM INTERNATIONAL,
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JENNER & BLOCK, LLP
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Suite 900
Washington, DC 20001
(202) 639-6000
(202) 661-4916
LundyR@jenner.com

FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE,
LLC and GOOGLE, INC.:

WILSON SONSINI GOODRICH & ROSATI
BY: BART E. VOLKMER, ESQ.
650 Page Mill Road
Palo Alto, California 94304-1050
(650) 493-9300
Mvolkmer@wsgr.com

ALSO PRESENT:

CARLOS KING, Videographer

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MR. VOLKMER: Let's mark 35.

(Tur Exhibit 35, e-mail

exchange between Robert Tur and

07:26:39 Lance Schmidt, marked for

identification, as of this date.)

Q. Do you recognize the document
that I have marked as Exhibit 35?

A. This appears to be an e-mail
07:27:36 from my neighbor or an e-mail from me to
Lance Schmidt, my neighbor.

Q. Mr. Schmidt writes, "Much better
for you personally, though, to be out in
front, as opposed to gathering a class for
07:27:57 a class action suit or to be left behind
by another, bigger lawsuit."

Do you see that?

A. Yes.

Q. And you respond, "True, well
07:28:03 said."

Did you agree with Mr. Schmidt's
statement?

A. Well, I do agree with "slippery
07:28:26 slope for them," YouTube. "If they
acquiesce to the deal, then all others who

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claim breach of DMCA will want to join in
on the act."

07:28:37 I don't agree with, "Much better
for you personally, though, to be out in
front as opposed to gathering a class for
a class action suit or to be left behind
by a bigger -- by another bigger lawsuit."

07:28:49 Q. You didn't agree with that
statement from Mr. Schmidt?

A. No.

MR. VOLKMER: Let's mark 36.

(Tur Exhibit 36, e-mail from
Robert Tur, marked for
07:29:36 identification, as of this date.)

Q. Do you recognize the document I
have marked as Exhibit 36, Mr. Tur?

A. Yes.

Q. And what is it?

07:29:41 A. It's an e-mail from me to a
friend of mine.

Q. You write, "I don't think we did
anything with them, unless Marika made a
deal and forgot to tell me about it. Is
07:30:09 the movie worth seeing?"

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What movie are you referencing?

A. Freedom Writers Guild.

Q. Did the Freedom Writers Guild
07:30:18 movie contain any of your footage?

A. I don't know.

Q. Did you investigate whether or
not the Freedom Writers movie contained
your footage?

07:30:28 A. No, I did not.

Q. Is it possible that Marika had
done a deal with Paramount and forgot to
tell you about it?

A. It's possible. It's not likely,
07:30:58 but it is possible.

Q. If Paramount uploaded a clip of
Freedom Writers movie to YouTube, and it
contained some of your footage, would that
use be authorized?

07:31:22 MR. SHAFTEL: Objection,
incomplete hypothetical, vague and
ambiguous. Legal conclusion.

A. You are asking me -- I can't
answer this. I don't know, based on the
07:31:41 hypothetical you posed. I would have to

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TUR

see the contract.

07:32:05 Q. In May of 2007 was Marika engaged in licensing efforts on behalf of Los Angeles News Service or on behalf of the copyrights that you owned?

MR. SHAFTEL: Objection.

A. She did some licensing.

07:32:21 Q. Did she do licensing work on your behalf in late 2007?

A. It's possible.

MR. VOLKMER: Let's mark 37.

07:33:41 (Tur Exhibit 37, memorandum of transfer and confirmation of rights, marked for identification, as of this date.)

Q. Do you recognize the document I have marked as Exhibit 37?

A. I do.

07:33:36 Q. What is this document?

A. This is a memorandum of transfer and confirmation of rights.

Q. Did you ever sign this document?

A. I didn't have to sign it.

07:33:50 Q. Did you ever sign it?

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TUR

A. No.

Q. Why was it created?

A. She was assigning me the rights
07:34:04 to the material, for purposes of --
purposes of ownership for litigation,
things like that.

Q. And what date did this
instrument -- what date was this
07:34:22 instrument signed by Marika?

A. It's really difficult to tell,
because the xerox, I can't really tell for
sure.

Q. Do you have any recollection of
07:34:44 this instrument being drafted and signed?

A. Yeah. I remember asking her for
it, and it was a while ago. I just don't
remember the date.

Q. Was it while this litigation was
07:35:01 pending?

A. Could be the California case
could have been this case.

Q. Was one of the two?

MR. SHAFTEL: Objection.

A. It could be. I'm not sure.
07:35:12

Schapiro Exhibit 60

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,)

CASE NO.
07-CV-2103

vs.)

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,)

CASE NO.
07-CV-3582

vs.)

YOUTUBE, INC., YOUTUBE, LLC, AND)
GOOGLE, INC.,)

DEFENDANTS.)

-----)
VIDEOTAPED 30(B)(6) DEPOSITION OF)
X-RAY DOG MUSIC, INC. through TIMOTHY A. STITHEM)
TUESDAY, DECEMBER 8, 2009)
LOS ANGELES, CALIFORNIA)

Job No. 18195

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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,) CASE NO.
07-CV-2103

vs.)

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,) CASE NO.
07-CV-3582

vs.)

YOUTUBE, INC., YOUTUBE, LLC, AND)
GOOGLE, INC.,)
DEFENDANTS.)

-----)

VIDEOTAPED 30(B)(6) DEPOSITION OF X-RAY DOG
MUSIC, INC. through TIMOTHY A. STITHEM, taken on
behalf of the Defendants, at 10:05 a.m., Tuesday,
December 8, 2009, at 350 South Grand Avenue, Los
Angeles, California, before Elizabeth Borrelli,
CSR No. 7884, pursuant to notice.

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APPEARANCES OF COUNSEL

FOR CLASS PLAINTIFFS AND THE DEPONENT:

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FOR DEFENDANT YOU TUBE:

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- AND -

1 APPEARANCES (Continued):
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6 Washington, D.C. 20006-1101

7 (202) 263-3868

8 (202) 762-4292 (fax)

9 mkeegan@mayerbrown.com
10

11 ALSO PRESENT:

12 MITCH LERMAN, Videographer
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1 14:13 licensing XRD's works for background music to a
2 television show?

3 MR. GALDSTON: Object to the form of the
4 question. Calls for a legal conclusion.

5 14:13 THE WITNESS: My understanding is no.

6 BY MS. SCHULTZ:

7 Q. Would this prohibit the subpublisher from
8 using XRD's works as the background to a home video?

9 MR. GALDSTON: Same objections.

10 14:13 THE WITNESS: It's not my understanding
11 that it would restrict it, no.

12 BY MS. SCHULTZ:

13 Q. What about as background to an animated
14 creation?

15 14:14 MR. GALDSTON: Same objections.

16 THE WITNESS: I doubt it. Again, as long
17 as it's licensed, tracked and paid for.

18 BY MS. SCHULTZ:

19 Q. Do you know if EMI Group Hong Kong has
20 14:14 ever licensed any XRD composition for use on the
21 Internet?

22 A. I can't specifically cite one offhand
23 right now, no.

24 Q. Does XRD track the licenses executed by
25 14:14 EMI Group Hong Kong?

1 14:14 A. That's what we administer them to do, is
2 to track and keep track of the licenses that they --
3 pertain on our behalf.

4 Q. Do they provide those tracking sheets to
5 14:14 you?

6 A. No, they do not.

7 Q. Do they provide those sub- -- strike that.
8 Do they provide those licensing agreements
9 to you?

10 14:15 A. No, they do not.

11 Q. So do you know if either of the works in
12 suit were licensed by EMI Group Hong Kong for use on
13 the Internet?

14 A. Again, I would have to look through a
15 14:15 mound of paperwork to figure that out.

16 Q. But if they don't give you the licensing
17 agreements, you may not even know that; is that
18 correct?

19 A. I'd have to follow up with them.

20 14:15 Q. So then it's possible that a license
21 executed by EMI Group Hong Kong or another
22 subpublisher authorized the use of Dethroned or Here
23 Comes the King for use on the Internet, correct?

24 MR. GALDSTON: Objection. Calls for
25 14:16 speculation.

1 14:16 Again, you mean in context, not just the
2 particular works?

3 THE WITNESS: Is it possible? Yes.

4 BY MS. SCHULTZ:

5 14:16 Q. I'm going to be handing you what's going
6 to be marked as Exhibit 11.

7 A. Are we done with this one?

8 Q. Yes.

9 A. Okay.

10 14:16 (Whereupon Exhibit 11 was marked for
11 identification.)

12 BY MS. SCHULTZ:

13 Q. It's XD00049782.

14 A. Uh-huh.

15 14:16 Q. The "From" line is from xraydogmusic.com.
16 Do you know whose e-mail address that is?

17 A. Yeah. That's our website address.

18 Q. Who would be writing from that website
19 address?

20 14:17 A. Well, I -- that was coming from me.

21 Q. From --

22 A. From Tim.

23 Q. From Tim. Yeah.

24 A. I get it on my laptop.

25 14:17 Q. Do -- are you the only one that uses that

1 14:17 e-mail?

2 A. I don't use the e-mail. It just is -- I
3 receive everything.

4 Q. Okay.

5 14:17 The bottom e-mail message is from
6 weison@ms2.hinet.net.

7 Do you know who that is?

8 A. I have no idea.

9 Q. Okay.

10 14:17 And from what you just said, does it make
11 sense, would that individual have sent an e-mail to
12 your website?

13 A. Yep.

14 Q. Okay.

15 14:17 So that e-mail went to your website e-mail
16 address?

17 A. Yep. We have several friends, maybe
18 hundreds, that kind of look out for us and let us
19 know when things look fishy, as this clearly was.

20 14:17 Q. So what that person did was send you a
21 YouTube clip and ask you, did they pay you anything?

22 A. Yep.

23 And the answer was no.

24 Q. And you wrote, "Here's a really good one
25 14:18 for the YouTube file," dot, dot, dot, question mark.

1 14:18 A. Uh-huh.

2 Q. What does that mean?

3 A. It would mean another infringement on
4 You- -- or I'm sorry -- another unauthorized use on
5 14:18 YouTube that we needed to look into.

6 Q. And then you say, "Would be nice to know
7 if this was licensed," dot, dot, dot, dot, "but I'm
8 not sure what language it is" --

9 A. Right.

10 14:18 Q. -- dot, dot, dot.

11 By looking at the YouTube clip, it wasn't
12 enough to let you know whether that was an
13 authorized use or not of your work?

14 MR. GALDSTON: Object to the form of the
15 14:18 question. Calls for speculation.

16 THE WITNESS: Yeah, because we would have
17 to consult with our foreign publisher.

18 But in this case, since it was a language
19 I couldn't tell, Asian language of some sort, I was
20 14:19 not even clear on which Asian country it would be.

21 BY MS. SCHULTZ:

22 Q. Why does not knowing what language the
23 video was in make it difficult to know whether it
24 was a licensed use?

25 14:19 A. Well, I'm not very proficient on the

1 14:19 different Asian -- you know, the language, the way
2 it's spelled out, you know, in its written form. I
3 couldn't tell.

4 Q. Do you remember this clip?

5 14:19 A. Off the top of my head, no.

6 Q. And it sounds like from before you said
7 you figured out that it was an unlicensed use?

8 MR. GALDSTON: Object to the form of the
9 question.

10 14:19 THE WITNESS: It didn't appear to be an
11 authentic production. It appeared to be a homemade
12 animated video.

13 BY MS. SCHULTZ:

14 Q. And so did you ever determine whether it
15 14:20 was an authorized use?

16 A. I can't say yes or no. I can't recall
17 exactly what the outcome was.

18 Q. Did anyone at X-Ray Dog follow up on this?

19 A. I believe we tried, yes.

20 14:20 Q. And what did you do?

21 A. I forwarded this to -- well, Mitch and
22 Lauren, who were handling some of the international
23 people contacts, publishers, and then they put forth
24 a question to their contacts.

25 14:20 I can't recall if there was an answer or a

1 14:20 license or if we added it to our Excel list of
2 YouTube unauthorized usages.

3 Q. You're not sure whether it got added?

4 A. I couldn't say 100 percent right now.

5 14:20 Q. Do you know how many hours XRD spent
6 trying to figure this out?

7 A. I would only guess several.

8 Q. And if it was difficult for XRD to
9 determine if this was a licensed use, how would
10 14:21 YouTube be able to tell if this was an authorized
11 use?

12 MR. GALDSTON: Object to the form of the
13 question. Calls for speculation. And has been
14 asked and answered.

15 14:21 THE WITNESS: Yeah. It would have to be a
16 system set up where whoever is broadcasting
17 materials has an agreement in place with whoever is
18 posting that that they have the rights to do such
19 things.

20 14:21 BY MS. SCHULTZ:

21 Q. So that's the system you believe should be
22 set up for YouTube?

23 MR. GALDSTON: Object to the form of the
24 question. It's argumentative. Calls for
25 14:21 speculation.

1 14:21 THE WITNESS: Yeah, I believe there is a
2 fiduciary duty or a duty by anyone broadcasting to
3 the world video information material that it's not
4 violating any other people's copyrights, which is
5 14:22 clearly the case with YouTube, which many of the
6 clips up there freely admit that, "I don't own the
7 copyright of this Star Wars video, nor this piece of
8 music from X-Ray Dog Music, but I'm posting it up
9 here anyway." It says it right there. Many of
10 14:22 these clips do the same thing.
11 So, unfortunately, we have no control over
12 stopping that. Because people do it daily.
13 Hundreds. We stop 10, 10 more show up. It doesn't
14 stop.
15 14:22 BY MS. SCHULTZ:
16 Q. What's the system you would propose that
17 YouTube follow to prevent unauthorized uses on its
18 site?
19 MR. GALDSTON: Object to the form of the
20 14:22 question. Calls for speculation. Asked and
21 answered. Lacks foundation.
22 THE WITNESS: I'm not an expert. I
23 can't -- I can't speak to that. I just -- I feel
24 like any entity that is large and broadcasting to
25 14:23 the world should have some responsibility to make

Schapiro Exhibit 61

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.) Case No. 1:07CV02103

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.) Case No. 07CV3582

YOUTUBE, INC., YOUTUBE, LLC, and)
GOOGLE, INC.,)
)
Defendants.)

_____)

VIDEOTAPE DEPOSITION OF NANCY DiTURO
NEW YORK, NEW YORK
MONDAY, NOVEMBER 10, 2008

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November 10, 2008

10:13 a.m.

VIDEOTAPED DEPOSITION OF NANCY
DiTURO, held at the offices of Mayer
Brown, LLP, 1675 Broadway, New York,
New York, pursuant to notice, before Erica
L. Ruggieri, Registered Professional
Reporter and Notary Public of the State of
New York.

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A P P E A R A N C E S

FOR THE LEAD PLAINTIFFS AND PROSPECTIVE
CLASS:

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Awong@lchb.com

FOR THE DEFENDANTS YOUTUBE, INC.,
YOUTUBE, LLC and GOOGLE, INC.:

FOR THE DEFENDANTS YOUTUBE, INC.,
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(202) 263-3868
Fagbapuruonwu@mayerbrown.com

ALSO PRESENT:

SALLEAN BROWN, Videographer
VICTORIA TRAUBE, Rodgers & Hammerstein

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N. DiTURO

A. Another song that I represent.

Q. So all of the songs in the catalog would be considered similar works?

02:25:47 A. Yes.

Q. Okay. Now, if you note that in all of the agreements in Exhibits 11, 12 and 13, all of them permit the composition to be used in "Promotional advertisements and trailers in context only."

Do you see that?

A. Yes, I do.

Q. Okay. What does that mean?

A. That the composition, as embodied in the program, can be used in advertising and promotion.

Q. So if the licensee has the right to put the composition, as embodied in the program, into an advertisement, does that mean that the licensee has the right to post the clip on YouTube?

02:26:34

MR. STELLINGS: Objection.

A. I don't know.

Q. What information would you need to determine whether the licensee has that

02:26:58

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N. DiTURO

right?

A. I'm not sure.

Q. Okay. Because I think we had a
02:27:12 similar discussion before lunch, and you
said that you would need to look at a
particular agreement. And now we have a
particular agreement.

So if we look at Exhibit 11, for
02:27:26 instance. So the clause we are discussing
is clause 4 in Exhibit 11. It says, "The
composition may be used in promotional
advertisements and trailers in context
only."

02:27:35 Do you see that?

A. Yes.

Q. Okay. So now that we have the
agreement in front of you, can you
determine whether posting the work on
02:27:46 YouTube would be covered by the grant in
this license?

MR. STELLINGS: Objection.

A. I don't know.

Q. Can you tell me what types of --
02:28:25 what types of places would be permissible

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N. DiTURO

for an advertisement to be placed, under
this license?

A. Television, radio.

02:28:53 Q. Anything else?

A. Videos.

Q. Anything else?

A. The company website.

Q. And why do you say a company
02:29:15 website would be permissible?

A. They are advertising a show.

Q. And what happens if they want to
advertise their show on another website;
would that be permissible?

02:29:37 A. I don't know.

Q. Well, let's say there is a
website devoted to, I don't know, the best
of reality TV. It's called
bestofrealityTV.com, and this was a place
02:29:58 where information and clips were gathered
for fans of reality TV.

In that circumstance, if the
licensee wanted to post the clip at issue
incorporating the composition, on this
02:30:11 website we just discussed, would that be

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N. DiTURO

permissible under this license?

MR. STELLINGS: Objection.

A. I don't know.

02:30:31 Q. But you testified that it would be permissible to post it on the company -- the licensee's own website; is that correct?

A. Yes.

02:30:38 Q. And what's the distinction between the company's own website, for advertising purposes, versus advertising purposes on a third-party website?

A. I don't know.

02:30:49 Q. Okay. And now, if we take a look at Exhibits 11 and 13. We again see the same language that suggests that the license is conditioned upon obtaining a valid performance license from another entity.

02:31:17 Do you see where I'm looking?

A. Yes.

Q. Okay. And I don't see that language in Exhibit 12. Do you see if there's a similar grant anywhere in

02:31:37

Schapiro Exhibit 62

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
THE FOOTBALL ASSOCIATION PREMIER)
LEAGUE LIMITED, BOURNE CO., et al.,)
on behalf of themselves and all)
others similarly situated,)
)
Plaintiffs,)
vs.) Case No. 07CV3582
)
YOUTUBE, INC., YOUTUBE, LLC, and)
GOOGLE, INC.,)
)
Defendants.)
-----X

VIDEOTAPE DEPOSITION OF SEIGO TAKESHIMA
NEW YORK, NEW YORK
MONDAY, AUGUST 25, 2008

REPORTED BY:
ERICA RUGGIERI, CSR, RPR
JOB NO. 15378

DAVID FELDMAN WORLDWIDE, INC.
805 Third Avenue, New York, New York 10022 (212)705-8585

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August 25, 2008
9:28 a.m.

VIDEOTAPED DEPOSITION OF SEIGO
TAKESHIMA, held at the offices of Mayer
Brown, LLP, 1675 Broadway, New York, New
York, pursuant to notice, before Erica L.
Ruggieri, Registered Professional Reporter
and Notary Public of the State of New
York.

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

3
4 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE
5 CLASS:

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14 FOR THE DEFENDANTS YOUTUBE, INC.,
15 YOUTUBE, LLC and GOOGLE, INC.:

16 MAYER BROWN, LLP
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24 ALSO PRESENT:

25 MANUEL ABREU, Videographer
KEITH HAUPRICH, Cherry Lane

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2 use of this work?

3 MR. HART: I'm going to have to
4 object to that on the same grounds,
5 namely, legal conclusion, competence.
6 Also asking the witness to interpret a
7 license agreement.

8 A. I mean this is a license to a
9 specific production company, so that
10 would -- I think that's the license
11 agreement with them, so not with YouTube
12 or anyone else.

13 Q. So let me rephrase.

14 If the specific company licensed
15 here were to put the video of Rules of
16 Attraction onto YouTube with the song
17 Afternoon Delight, to your knowledge,
18 would that be an authorized use of that
19 work, Afternoon Delight?

20 MR. HART: Same objections,
21 asked and answered as well as
22 competence, as well as legal
23 conclusion, as well as asking the
24 witness to interpret a license
25 agreement that he had no part in.

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2 A. Well, I'm not a lawyer, so I
3 cannot really speak to everything.

4 But my interpretation is this is
5 the -- if this company, Attraction
6 Productions, is distributing those video
7 or the movie through their website, I
8 think that's under this license, the uses
9 should be under this license.

10 Q. So if the production company
11 were distributing the video Rules of
12 Attraction over YouTube, that would be
13 covered by this license, to your
14 understanding?

15 MR. HART: I'm going to have to
16 repeat my objection. This witness is
17 not competent to testify as to this.

18 A. I don't know.

19 Q. Counsel said several times that
20 he has some competence objection. Now,
21 your job, right is manager of licensing,
22 right? Isn't that right?

23 A. Yes.

24 Q. And in the course of your job,
25 you occasionally see license agreements,

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2 do you not?

3 MR. HART: Objection.

4 Mischaracterizes prior testimony.

5 A. Occasionally.

6 Q. And in the course of your job,
7 you actually negotiate the rights that are
8 being licensed, is that not the case?

9 A. Yes.

10 Q. And you know what rights you are
11 actually licensing, don't you?

12 MR. HART: Objection to form.

13 A. Mostly.

14 Q. And so if you had negotiated the
15 rights for a license and you later were to
16 see a license agreement, you could
17 determine whether or not that license
18 agreement accurately reflected the terms
19 that you had negotiated; isn't that right?

20 MR. HART: Objection,
21 argumentative and assumes facts not in
22 evidence.

23 A. Can you repeat -- rephrase the
24 question.

25 Q. Yes. If you had negotiated the

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2 terms of a license and you were to later
3 see the license agreement, you would be
4 able to determine whether that license
5 agreement accurately reflected the terms
6 that you had negotiated; isn't that right?

7 MR. HART: Same objections.

8 A. Most of the time, yes.

9 Q. And so when you are looking at
10 this license agreement where it says
11 "website exhibition," is there any reason
12 that prevents you from understanding what
13 is meant in this license agreement by
14 website exhibition?

15 MR. HART: Other than what he
16 already testified to?

17 A. I'm sorry, can you repeat the
18 question?

19 MR. HART: I'm going to maintain
20 my objections.

21 Q. Is there any reason why you
22 can't understand what is meant here by
23 website exhibition in this license
24 agreement?

25 MR. HART: Objection. It also

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2 mischaracterizes what the license
3 says.

4 A. Well, I don't draft the license,
5 so I don't know exactly what is going to
6 be on the license.

7 Q. Right. And we have covered the
8 fact that if you later on have to read the
9 license, you are capable of understanding
10 whether it reflects the terms that were
11 actually negotiated.

12 So I'm just asking you whether
13 it's within reason --

14 MR. HART: Well, you are also
15 mischaracterizing his testimony.

16 Q. Let me ask this question. It's
17 a yes or no question.

18 Is there any reason why you
19 can't understand what is meant here by
20 "website exhibition"?

21 MR. HART: Same objections, and
22 asked and answered.

23 A. I'm sorry, I get confused. So
24 can you ask that question again?

25 Q. Is there any reason why you

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2 cannot understand what is meant here by
3 the term "website exhibition"?

4 MR. HART: Same objections. And
5 asked and answered.

6 A. Well, it's my understanding the
7 website exhibition is the use in -- I mean
8 use through the Internet. That's like my
9 understanding.

10 Q. Anywhere on the Internet?

11 MR. HART: Objection.

12 Mischaracterizes prior testimony.

13 Asked and answered.

14 A. I don't know.

15 Q. Is there any reason why you
16 don't know the answer to that question?

17 MR. HART: Asked and answered.

18 I believe you are harassing the
19 witness at this point. He's answered
20 this question three or four times.

21 MR. GOEKE: He's never answered
22 the question. Thank you, counsel.

23 A. I don't know.

24 Q. So over here, where it refers
25 to -- sorry, in Exhibit 17, on page 80095

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2 where it refers to "Broad rights including
3 Internet," the language that we just
4 referred to doesn't give you any context
5 to understand whether that would give
6 rights to use Afternoon Delight in the
7 show Rules of Attraction anywhere on the
8 Internet?

9 MR. HART: Objection to form.
10 You know, I'm a fairly intelligent
11 person, and I don't understand that
12 question.

13 Could you rephrase it, please.

14 Q. Did you understand the question?

15 MR. HART: You know what, I
16 don't understand it, so I'm asking you
17 to rephrase it.

18 MR. GOEKE: You know what, it
19 doesn't matter whether you understand
20 the question.

21 MR. HART: Yes, it does. As his
22 lawyer, it does matter. So I'm asking
23 you kindly to rephrase the question.

24 MR. GOEKE: Whether you
25 understand the question is irrelevant.

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2 identification, as of this date.)

3 Q. Mr. Takeshima, I'm showing you a
4 document that's Bates labeled CH00000411
5 through 414, which we will mark as
6 Takeshima 19.

7 Mr. Takeshima, I'll just
8 represent to you that the license number
9 at the bottom, 14489, corresponds to the
10 license number on page CH00080097, with
11 respect to Arrested Development, which is
12 14489.

13 Mr. Takeshima, have you ever
14 seen this license before?

15 A. No.

16 Q. No, okay.

17 Now, if you look at number 6,
18 under Grant of Rights, you see there it
19 goes, "In consideration of the sum of
20 \$18,000" -- I'll skip a few words --
21 "based upon licensor's ownership and/or
22 control of the compositions as set forth
23 on schedule A, licensor hereby grants to
24 licensee the nonexclusive right throughout
25 the territory to record, dub, synchronize

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2 the compositions into the program to
3 exhibit, perform, distribute, exploit
4 and/or broadcast the compositions in the
5 sound track of and in timed relation with
6 the program in any and all forms of media
7 now known or hereafter devised," there's a
8 parenthetical exclusion, "in a linear
9 format (it being understood of expository
10 material, chapter stops and other locator
11 codes of any kind shall not be deemed
12 nonlinear) and via in context
13 advertisements derived therefrom."

14 Do you see that?

15 A. Yes.

16 Q. Now, reading that license
17 agreement, do you understand that the work
18 Afternoon Delight was licensed to be used
19 in the program in any and all forms of
20 media now known or hereafter devised?

21 MR. HART: Objection. The
22 license agreement speaks for itself.

23 A. Yes, yes.

24 Q. If the licensee of this license
25 posted Arrested Development with the song

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2 Afternoon Delight on YouTube, would you
3 understand that to be a licensed use of
4 that content?

5 MR. HART: Objection. Legal
6 conclusion, competence, prior
7 testimony, foundation.

8 A. I need you to ask the question
9 again. Sorry.

10 MR. GOEKE: Can you repeat the
11 question.

12 (Record read.)

13 MR. HART: I maintain my
14 objections.

15 A. I don't know for sure, so I
16 would seek the advice.

17 Q. So you are telling me that the
18 licensing manager of Cherry Lane, being
19 presented with the license that governs
20 this content, cannot even tell me whether
21 or not the content has been licensed; is
22 that right?

23 MR. HART: Objection,
24 argumentative tone, insinuating, and
25 asked and answered.

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2 A. Um --

3 MR. HART: Did you say you had
4 to -- can you read back that last
5 answer?

6 MR. GOEKE: Counsel, I really --

7 MR. HART: No, no, I want to
8 hear his last -- I want to hear what
9 he said.

10 MR. GOEKE: You are advising the
11 client.

12 MR. HART: I'm not advising. I
13 want to hear -- don't characterize
14 what's on this record. I want to hear
15 what the witness said.

16 MR. GOEKE: You've characterized
17 what's on this record several times,
18 and I've let you get away with it.
19 This is far beyond what's allowed
20 under the rules.

21 MR. HART: What, wanting to hear
22 what his answer said?

23 MR. GOEKE: No, suggesting to
24 the witness what his answer might be.

25 MR. HART: I want to hear what

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2 his answer was. I wasn't suggesting
3 anything.

4 (Record read.)

5 MR. HART: Okay. That's what I
6 thought he said.

7 Go ahead. Is there a question
8 pending.

9 MR. GOEKE: Yes, I believe there
10 is, and I'll rephrase it.

11 Q. Are you going to tell me,
12 sitting here today, that the manager of
13 licensing for Cherry Lane Music, being
14 presented with the license agreement with
15 respect to the work Afternoon Delight,
16 cannot tell me whether that license
17 agreement permits the use of Afternoon
18 Delight in the work in question here on
19 YouTube?

20 MR. HART: I'm going to object
21 for the reasons previously stated, in
22 addition to the tone of the question
23 being derogatory, insinuating and
24 demeaning.

25 MR. GOEKE: I object to your

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2 characterization of the tone. I think
3 it's neither of those.

4 A. I didn't do this deal myself.
5 And I know it's being licensed, but I mean
6 for those kind of question I seek some
7 advice to the -- my supervisor or could be
8 business affairs.

9 Q. And so the answer to my question
10 is yes, it is the case that you, as the
11 manager of Cherry Lane licensing, cannot
12 tell me, by looking at this license
13 agreement, whether or not the content here
14 has been licensed for use on YouTube?

15 MR. HART: Objection. Asked and
16 answered, argumentative.

17 A. This one doesn't really mention
18 the YouTube on the license. So it's --
19 it's my interpretation.

20 Q. What's your interpretation?

21 A. I cannot tell for sure.

22 Q. Okay. Mr. Takeshima, you've
23 used YouTube, you said, several times for
24 your own personal use, correct?

25 A. Yes.

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2 Q. In fact, you belong to a band
3 known as Writers in Crisis; is that right?

4 A. Yes.

5 Q. And your band maintains a set of
6 web pages on MySpace; is that right?

7 A. Yes.

8 Q. And on those web pages are, in
9 fact, videos of your band that have been
10 recorded and/or posted on YouTube; is that
11 right?

12 A. I think so, yes.

13 Q. So you, in fact, use YouTube to
14 post content about your own band?

15 MR. HART: Objection to form.

16 And lack of foundation.

17 A. I didn't create video, and I
18 wasn't -- I mean I was in the video shoot,
19 but I didn't really do anything about it.
20 And my friend, as experiment, he put on
21 the YouTube.

22 Q. Okay. But currently, on your
23 MySpace website, you are hosting a video
24 of your band that is hosted through
25 YouTube; is that correct?

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