

Schapiro Exhibit 111

From: "Exarhos, Tina" <Tina.Exarhos@mtvstaff.com>
Date: Fri, 2 Feb 2007 10:41:17 -0500
To: "Burrell, Damon" <Damon.Burrell@mtvstaff.com>
Subject: Re: CONFIDENTIAL

Horrible.

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

From: Burrell, Damon
To: Exarhos, Tina
Sent: Fri Feb 02 10:32:27 2007
Subject: Re: CONFIDENTIAL

Bad move in my opinion...

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

From: Exarhos, Tina
To: Burrell, Damon
Sent: Fri Feb 02 10:28:07 2007
Subject: Fw: CONFIDENTIAL

Fuck.

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

From: Heacock, Jessica
To: Risafi, Peter; Tanki, Frank; Fasulo, Andrea - The N; Burrell, Damon; Exarhos, Tina; Kaufman, Pam; Nelson, Laura E - VH1; Kedas, Jeannie; Martinsen, Dan; Fox, Tony; Cox-Hagan, Nigel
Cc: Ganeless, Michele; Norman, Christina; Calderone, Tom; Ascheim, Tom
Sent: Fri Feb 02 10:15:45 2007
Subject: CONFIDENTIAL

Hi everyone!

It is going down, literally, this morning at 10a local. We are sending a notice now, demanding that all 100K MTVN clips that have cumed 1B views at YT come down within the next day or so. So we need to circle back on 2 things.

First, could you make sure your on air messages are as strong and as frequent as possible driving people to your websites today and through next week?

Second, would you please send me your language for any viewer services inquiries about what is happening at yt and why are clips are down? We do not know how they (yt) are going to message this with consumers - meaning -- (content unavailable because of terms of use violation, request by one of our channels, copyright violation..)

Ideally, we can just say something like "we have the best of the best clips at our website, _____.com -- without referring to anything specifically yt as it is an issue at their site.

Thoughts? Thank you!

Jessica

Schapiro Exhibit 112

From: "Mika Salmi" <msalmi@atom.com>
Date: Mon, 18 Dec 2006 19:16:29 -0800
To: "McGrath, Judy - Viacom" <Judy.McGrath@mtvstaff.com>
Subject: Re: GooTube going sideways?

Please! I will make myself available whenever you can meet/talk.

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

From: McGrath, Judy <Judy.McGrath@mtvstaff.com>
To: Mika Salmi <msalmi@atom.com>
Sent: Mon Dec 18 19:12:40 2006
Subject: Re: GooTube going sideways?

You are 100% right, we have to plan around this and pick the best consumer strategy, get the team on the same page. And move fast. You, adam, michael and I need to talk tomorrow....and you and I need to schedule regular meetings, with an agenda, twice a week going forward...okay?

Sent from my BlackBerry Wireless Handheld

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

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

Hi Judy

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

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

Here are our options:

1. Post everything to iFilm and make it clear that this is where to go.

* easy to do as it is already happening for the most part

* confusing consumer message to send then from one aggregator (youtube) to another (ifilm) when we really should send them to the brand or show site and develop a relationship

* overall direction of ifilm is clear.

2. Use the RealityDigital test site

<http://Comedycentral.realitydigital.com>

Username: comedycentral

Password: comedycentral100

* limited features but it is simple and it works

* can run in parallel with the full CC.com site and just be for video

* clunky site (created in a week), doesn't work with our current systems, and not our best effort

* CC folks haven't approved it though they've seen it and thought it was okay, not great

3. Use Tagworld to create "open" platform for all mtvn sites

* in progress, with initial show site being built for late January (Showbiz Show)

* show site will be proof for all the rest of mtvn to use it

-
- * will work with all current mtvn systems so will be easy to use in current workflow
 - * it would be a sprint to get it done by jan 2nd for all of ComedyCentral content

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

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

Please tell me if you need more info.

Mika

Schapiro Exhibit 113

Subject: RE: sweeney - user posts how to make the chair
From: "Wahtera, Megan - Paramount" <EX:/O=VIACOM/OU=PARAMOUNT/CN=RECIPIENTS/CN=WHATERME>
To: Dickehut, Robb - Paramount; Simard, Stephanie - Paramount; Stone, Casey - Paramount; Teifeld, Tamar - Paramount
Cc: Date: Wed, 19 Dec 2007 21:15:59 +0000

Oh ha – that's really funny.

From: Dickehut, Robb - Paramount
Sent: Wednesday, December 19, 2007 1:16 PM
To: Wahtera, Megan - Paramount; Simard, Stephanie - Paramount; Stone, Casey - Paramount; Teifeld, Tamar - Paramount
Subject: RE: sweeney - user posts how to make the chair

You're funny. We produced this.

Robb Dickehut

Executive Director, Interactive Marketing

Paramount Pictures

v: 323 | 956 | 5838

f: 323 | 862 | 1107

AIM: robbdickehut

From: Wahtera, Megan - Paramount
Sent: Wednesday, December 19, 2007 1:14 PM
To: Simard, Stephanie - Paramount; Stone, Casey - Paramount; Teifeld, Tamar - Paramount
Cc: Dickehut, Robb - Paramount
Subject: sweeney - user posts how to make the chair

How crazy.

<http://www.youtube.com/watch?v=Zmv27vRRaCA> <<http://www.youtube.com/watch?v=Zmv27vRRaCA&sdig=1>>

Megan Wahtera
Executive Director
Interactive Marketing
Paramount Pictures
P: 323.956.8516 | F: 323.862.1101

List of attachments:
image001.jpg

Schapiro Exhibit 114

Comedy Central clips back on YouTube

By [Nate Anderson](#) | Last updated November 1, 2006 10:30 AM

Comedy Central clips aren't leaving YouTube for good. Viacom, Comedy Central's corporate parent, has confirmed that it wants to find some way to keep the clips available, and has apparently given the green light for YouTube to put the material back up. No deal between the two firms has yet been done, but it sounds like one is imminent.

Last week, the company asked YouTube to pull many copyrighted clips of *The Daily Show*, *The Colbert Report*, and other Comedy Central properties, and many of them were taken down. Numerous short clips did remain available on the site, fueling speculation that Viacom was only concerned about longer clips.

YouTube fans responded immediately... using YouTube. One man posted a two-minute clip called "[Why did Comedy Central assert copyrights now?](#)" in which he wondered why Comedy Central had waited so long to act, and why they had chosen to do so now.

Viacom told multiple media outlets yesterday in a statement that it was interested in finding a workable business model for making clips available on the Internet, so one can only assume that some sort of revenue-sharing deal is in the works like those that YouTube signed with several music labels. Last week's takedown notices may have represented legitimate concern about giving away too much content at once, or they might have been a bargaining device designed to show YouTube exactly how upset its users would be if all Comedy Central content was pulled.

For now, at least, the clips are back—even the long ones, so get your Colbert fix on before Viacom has another change of heart.

Update

While our own searches showed that a huge array of Comedy Central content was still available on YouTube (including long clips of eight minutes or more), not all of the clips are available. It's not clear what criteria was used for the takedown requests, but some videos still remain down. Viacom and YouTube may be exploring a deal together, but their discussions have clearly not led to a total reinstatement of Comedy Central content.

Schapiro Exhibit 115

10/31/06 N.Y. Post 89
2006 WLNR 18893142

New York Post
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October 31, 2006

Section: TV Tuesday

FAKE NEWS BACK ON YOUTUBE

Don Kaplan

JON Stewart and Stephen Colbert were back on the popular YouTube Web site, a day after nearly all of their clips had been removed.

The video clearinghouse site, which Google bought last month for about \$1.6 billion, is once again allowing clips from Stewart's show along with others produced by Viacom entities, such as Nickelodeon, BET and Comedy Central.

What is missing are lengthy clips that encompassed entire episodes of "The Daily Show."

Over the weekend, YouTube officials purged the site of clips of Stewart, his Comedy Central cohort Stephen Colbert and video from "South Park" after receiving a threatening legal letter from Viacom Friday.

By yesterday it was understood that the media conglomerate had issues only with entire episodes - not selected

"Like our peers in the media industry, we are focused on finding the right business model for professionally created content to be legally distributed on the Internet," Viacom officials wrote yesterday in a statement.

"We want our audiences to be able to access our programming on every platform and we're interested in having it live on all forms of distribution in ways that protect our talented artists, our loyal customers and our passionate audiences."

Until Google purchased YouTube, TV execs seemed to be okay with their shows ending up on the Web site. Many looked at it as free promotion.

YouTube is the year-old Web site that offers countless snippets of television shows, films and home movies

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10/31/06 NYPOST 89

Page 2

from around the world. In the last few months, the site has run into more and more trouble with big companies that own the copyrights to some of the material that users have posted on it.

---- INDEX REFERENCES ---

COMPANY: WATER EN ENERGIEBEDRIJF ARUBA NV

INDUSTRY: (Internet Audio & Video (1IN30); Digital Broadcasting (1DI81); Internet Technology (1IN39); Internet (1IN27))

Language: EN

OTHER INDEXING: (BET; FAKE NEWS; NICKELODEON; VIACOM; VIACOM FRIDAY; WEB) (Stephen Colbert; Stewart)

Word Count: 331
10/31/06 NYPOST 89
END OF DOCUMENT

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Schapiro Exhibit 116

To: kevin@youtube.com <kevin@youtube.com>
From: Google Alerts <googlealerts-noreply@google.com>
Cc:
Bcc:
Received Date: 2006-11-01 17:37:24 CST
Subject: Google Alert - youtube

Google Blogs Alert for: youtube

So what YouTube clips got pulled down exactly? Idealog has the answer.

By DB

Jeff, the NewsCloud blogger who broke the story about the Great YouTube Purge of 2006, has come back to defend his story and give a thorough explanation of what exactly happened, including graphs and charts. ...
No Fact Zone.Net - <http://www.nofactzone.net>

Viacom, YouTube share a laugh

By noemail@noemail.org (chron.com)

Viacom, owners of Comedy Central, appears to have reached an agreement to allow clips from its properties to remain on YouTube, even after ordering the file-sharing site to take down its videos last week, according to AdWeek: Now, ...

TechBlog - <http://blogs.chron.com/techblog/>

Compromise reached: Comedy Central clips return to YouTube

After a brief moratorium, YouTube is once again a leading source for fake news. Thousands of clips from the Daily Show and the Colbert Report reappeared on the video site Tuesday after being yanked over the weekend due to a copyright ...

digg / Entertainment - <http://digg.com/view/entertainment>

A "Daily" Dose of YouTube

Case in point for Comedy Central, who once tried to remove the thousands of "Daily Show" and "Colbert Report" from the website now seems to be working out a deal to restore all but the largest clips to the YouTube library, according to ...

Screenhead.com - <http://www.screenhead.com/>

This as-it-happens Google Alert is brought to you by Google.

Remove this alert.

Create another alert.

Manage your alerts.

Schapiro Exhibit 117

To: kevin@youtube.com <kevin@youtube.com>
From: Google Alerts <googlealerts-noreply@google.com>
Cc:
Bcc:
Received Date: 2006-11-01 17:34:51 CST
Subject: Google Alert - youtube

Google News Alert for: youtube

Ohio Company Sues Internet Video Giant YouTube
KLTV - Tyler, TX, USA

Universal Tube & Rollform Equipment Corporation of Perrysburg, Ohio has sued in US District court in Toledo asking that YouTube, Inc. to stop using its name. ...

Google, YouTube Motivated By Landmark
Security Pronews - Lexington, KY, USA

Motivational and self-help workshop group Landmark Education has hit Google, YouTube, and the Internet Archive with subpoenas to find out who uploaded a video ...

Comedy Central clips back on YouTube
Ars Technica - Boston, MA, USA

Comedy Central clips aren't leaving YouTube for good. Viacom, Comedy ... clips. YouTube fans responded immediately... using YouTube. One ...
See all stories on this topic

View YouTube, Google Video with Kinoma Player 4 EX
Brighthand - Oakland, CA, USA

This provides unprecedented access to video on a mobile device, including Flash Video direct from popular sites like YouTube and Google Video. ...
See all stories on this topic

This as-it-happens Google Alert is brought to you by Google.

Remove this alert.
Create another alert.
Manage your alerts.

Schapiro Exhibit 118

Subject: RE: You Tube, interesting after our conversation
From: "Cucci, John" <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=CUCCIJ>
To: Lucas, Jeff; Weinstein, Caleb; Ganeless, Michele; Herzog, Doug;
Fox, Tony; Budow, Aileen
Cc: Date: Tue, 31 Oct 2006 23:34:16 +0000

progress...she got the full episodes vs clips thing right...thx Jeff.

From: Lucas, Jeff
Sent: Tuesday, October 31, 2006 6:06 PM
To: Weinstein, Caleb; Ganeless, Michele; Cucci, John; Herzog, Doug
Subject: You Tube, interesting after our conversation

Tuesday, October 31, 2006 by Wendy Davis

Jeff Lucas, <http://mediapst.adbureau.net/adclick/acc_random=103166643/SITE=EMAIL/AREA=JUSTANONLINEMINUTE/AAMSZ=TOWER/GUID=103166643> <http://mediapst.adbureau.net/adclick/acc_random=103166643/SITE=EMAIL/AREA=JUSTANONLINEMINUTE/AAMSZ=TOWER/GUID=103166643>
<http://mediapst.adbureau.net/adclick/acc_random=103166643/SITE=EMAIL/AREA=JUSTANONLINEMINUTE/AAMSZ=TOWER/GUID=103166643>

YouTube's relationship with big media is nothing if not fluid.

Yesterday, The New York Times reported that YouTube was in the process of excising Viacom video, including clips from "South Park," "The Daily Show" and "The Colbert Report."

But by this morning, the situation had apparently changed. Today's New York Post reported that Viacom only had an issue with entire programs on the site, not short clips. In fact, a search on YouTube Tuesday turned up a number of clips from both "Colbert" and the "Daily Show."

Of course, the situation could change again by the time this column hits your e-mail in-boxes. For the last several months, big media companies have been noisily threatening YouTube with litigation; two YouTube competitors--Grouper Networks and Bolt Media--currently face lawsuits.

While there's a rumor traveling around the blogosphere that Google convinced big media companies to give YouTube a six-month grace period from copyright lawsuits when it agreed to acquire the company, like much other blogger gossip, it's unsubstantiated.

Meanwhile, it appears certain that media conglomerates are negotiating with YouTube for some type of revenue-sharing deal.

The ultimate shape of these deals, just like the ultimate shape of YouTube, remains unknown. But Viacom and other companies should remember that YouTube and other video sharing sites give them and their stars exposure they could never get just on Comedy Central.

List of attachments:
image001.gif

EXCEPTION SHEET

UNABLE TO CONVERT FILE:

/jobs/18989/output/native/86a/86a4b0eafc6f5793ac4d41ffe3a51c6c.gif

Schapiro Exhibit 119

Subject: From: "Cahan, Adam" <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=CAHANA>
To: Bakish, Robert
Cc: Date: Tue, 27 Jun 2006 18:09:55 +0000

The more I look at the LRP the more I think we need to buy YouTube. We'll need a partner because they are burning through cash like there is no tomorrow.
NBC??

Schapiro Exhibit 120

From: "Blair Harrison" <bharrison@ifilm.com>
Date: Wed, 28 Jun 2006 15:15:09 -0700
To: "Cahan, Adam - Viacom" <Adam.Cahan@mtvn.com>, "McGrath, Judy - Viacom" <Judy.McGrath@mtvstaff.com>
Subject: RE: YouTube NBC Release

We should just buy YouTube outright.

YouTube is the social network for video. Or the video social network.

IFILM is a heavily curated and branded place where all best video in the world lives, seeded and jump-started by all the best MTVN video, today.

Two distinct roles.
Both valid and valuable and we should have both.

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

From: Cahan, Adam [mailto:Adam.Cahan@mtvn.com]
Sent: Wednesday, June 28, 2006 1:15 PM
To: McGrath, Judy - Viacom; Blair Harrison; Graden, Brian - Viacom
Subject: RE: YouTube NBC Release

My hope is that 3 things will happen:

1. The digital implementation team focused on "Portals" needs to include a line about iFilm and we should see about getting Blair on it. My hope is that this will be on the agenda in the same way we would work a deal with YouTube or others.
2. Blair is also on the User Generated Content piece which will also feature how we use the iFilm tool set across our sites as the intake and editorial for UGC.
3. We are actively pursuing a deal with YouTube for us to sell advertising through their site. In addition HIGHLY CONFIDENTIAL - we are now talking with NBC about buying YouTube in a partnership if the News JV falls apart.

Blair - please weigh in on the getting content if there is more.

- AC

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

From: McGrath, Judy
Sent: Wednesday, June 28, 2006 4:11 PM
To: 'bharrison@ifilm.com'; Cahan, Adam; Graden, Brian
Subject: Re: YouTube NBC Release

So how is it going on the next generation of ifilm and our other sites coming together? Can you give me an update?

Sent from my BlackBerry Wireless Handheld

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

From: Blair Harrison <bharrison@ifilm.com>
To: Cahan, Adam; McGrath, Judy; Graden, Brian

Sent: Wed Jun 28 15:51:37 2006
Subject: YouTube NBC Release

I'm sure you all saw this...

<http://www.digitaljournal.com/news/?articleID=4789>

It all looks very good until you realize that it's just another bunch of promotional clips being uploaded to YouTube... something NBC is doing anyway... but this time there's a press release involved.

When we actually make the "goods" available on IFILM - the content itself - then we are really going to have something disruptive to talk about. Something that will make us stand out from every other video site out there.

Schapiro Exhibit 121

Subject: Returning your call
From: "Cahan, Adam" <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=CAHANA>
To: Bakish, Robert
Cc: Date: Wed, 28 Jun 2006 22:14:18 +0000

Let's BUY YOUTUBE

Schapiro Exhibit 122

From: "Blair Harrison" <bharrison@ifilm.com>
Date: Wed, 28 Jun 2006 15:36:51 -0700
To: "Cahan, Adam - Viacom" <Adam.Cahan@mtvn.com>, "McGrath, Judy - Viacom" <Judy.McGrath@mtvstaff.com>
Subject: RE: YouTube NBC Release

I was just telling Adam that I spent the evening with Wade Davis last night, and told him he had to figure out how to buy it, as it will probably take some financial gymnastics.

Adam and I will work up a plan.

And yes Judy - I do think YouTube is being sanitized by the content providers' commitment to it.

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

From: Cahan, Adam [mailto:Adam.Cahan@mtvn.com]
Sent: Wednesday, June 28, 2006 3:19 PM
To: McGrath, Judy - Viacom; Blair Harrison
Subject: RE: YouTube NBC Release

Agree. My sense is you tap the zeitgeist in a new way.
The reason for bringing in a partner is two-fold: 1 avoid consolidation of the operations which are likely to lose money for a period. 2. legitimize the site as a content owner friendly place.

But there are real reasons to buy it outright - strategically owning the social network element

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

From: McGrath, Judy
Sent: Wednesday, June 28, 2006 6:18 PM
To: 'bharrison@ifilm.com'; Cahan, Adam
Subject: Re: YouTube NBC Release

I couldn't agree more. Let's get to Freston's checkbook. Now that everyone is "licensing" content or endorsing YouTube, is it less threatened by potential lawsuits, etc?

Sent from my BlackBerry Wireless Handheld

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

From: Blair Harrison <bharrison@ifilm.com>
To: Cahan, Adam; McGrath, Judy
Sent: Wed Jun 28 18:15:09 2006
Subject: RE: YouTube NBC Release

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Sent: Wednesday, June 28, 2006 1:15 PM
To: McGrath, Judy - Viacom; Blair Harrison; Graden, Brian - Viacom
Subject: RE: YouTube NBC Release

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To: Cahan, Adam; McGrath, Judy; Graden, Brian
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Subject: YouTube NBC Release

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Schapiro Exhibit 123

From: "Cahan, Adam" <Adam.Cahan@mtvn.com>
Date: Thu, 6 Jul 2006 23:45:14 -0400
To: "McGrath, Judy" <Judy.McGrath@mtvstaff.com>, "Wolf, Michael" <Michael.Wolf@mtvn.com>
Subject: Update from the plane



You tube - we had a very deep conversation (over an hour) about the potential, the risk and why strategically it is so critical. They are very much in the "we need to buy it now mode"!!! Next steps: we are developing a rough model - and they want to take it to the board next meeting (2weeks). Then go straight to youtube for an acquisition. I would say they are extremely serious about buying and only want to lose it once we are convinced we cannot make the number work (600m+).



T

Schapiro Exhibit 124

From: "Witt, Jason" <Jason.Witt@mtvstaff.com>
Date: Mon, 17 Jul 2006 21:12:27 -0400
To: "Cahan, Adam" <Adam.Cahan@mtvn.com>
Subject: RE:

Beth is mostly working on DTO deals.

Sounds like MSFT JV conversations are all but dead. Some negotiations to be had on more tactical deal--terms for licensing Urge content (as MSFT has a pie shell with no filling).

Yahoo Music folks sending proposal this week possibly.

Those were basic headlines.

How did YT call go? I heard they wanted 1.5 bones.

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

From: Cahan, Adam
Sent: Monday, July 17, 2006 5:31 PM
To: Witt, Jason
Subject:

Can you give me a topline update on what beth is up to. Where are we on msft.

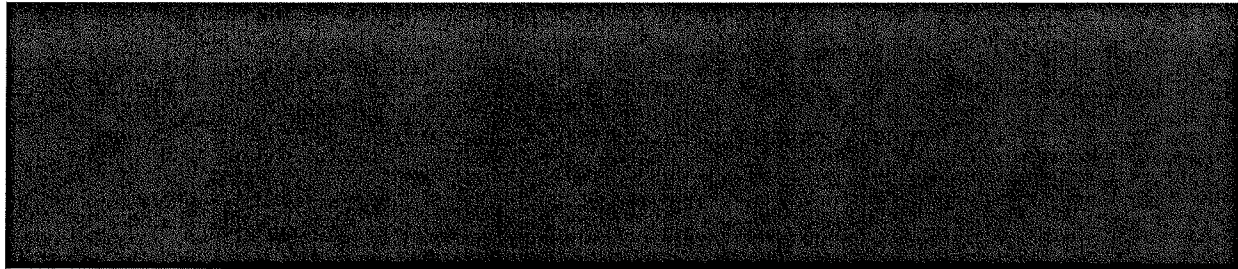
Schapiro Exhibit 125

Subject: RE: NCTA Board dinner
From: "Freston, Tom" <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=FRESTONT
>
To: McGrath, Judy
Cc: Date: Thu, 20 Jul 2006 23:48:54 +0000

I gather that the YouTube valuation from your guys only gets you to \$500-600MM? Brian is interested, eh?

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

From: McGrath, Judy
Sent: Wednesday, July 19, 2006 8:24 PM
To: Browning, Nicole - MTVN; Freston, Tom
Cc: Wolf, Michael
Subject: NCTA Board dinner



Sent from my BlackBerry Wireless Handheld

Schapiro Exhibit 126

From: "Wolf, Michael" <Michael.Wolf@mtvn.com>
Date: Fri, 21 Jul 2006 17:10:22 -0400
To: "Cahan, Adam" <Adam.Cahan@mtvn.com>
Subject: RE: Fyi

That was the answer for vanguard too.

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

From: Cahan, Adam
Sent: Friday, July 21, 2006 4:30 PM
To: Wolf, Michael
Subject: Fyi

The answer on beagle is not for sale.

Schapiro Exhibit 127

Subject: RE: Congrats and question
From: "Cahan, Adam" <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=CAHANA>
To: 'Susan Wojcicki'
Cc: Gokul Rajaram; Salar Kamangar
Date: Fri, 06 Oct 2006 14:55:32 +0000

Thanks Susan - btw Zeitgeist was great and fun to see everyone again.

Salar, looking forward to talking with you about the Music Wiki Project. We're very excited about it and met with Susan/Marissa/Peter on the topic a week or so back.

The acquisition... I suspect below not to be true but..

Here's how I could see this working as a complementary opportunity (long shot but worth exploring).

YouTube's biggest issues are copyright (esp with music labels) and monetization.

- * Viacom/MTVN is the largest video producer in the world. across Comedy Central (Stewart, Colbert, Southpark); Nickelodeon (SpongeBob); and MTV (music videos, news interviews) we believe that we make up 20-30% of the content on YouTube top 100 at any given time
- * In addition, as you know from Wiki we have the largest archive of music pop culture in the world. The market for commercially available music videos is between 4,000-5,000. We have 45,000 in our library. We believe music videos and derivative works makes up 20-40% of youTube content
- * The challenge with YouTube is that in working with the labels they are going to find they owe tremendous amounts of \$\$ that they cannot monetize. The deals they are cutting are going to represent in excess of 40-50% of revenues

So the idea would be. Viacom and Google buy YouTube. Viacom legitimizes the content on the site by providing content and developing a business model that works for us and other content providers. We also shepard the process with the music labels given our strength in those negotiations (we are likely the only party that can bring it together on reasonable terms). In addition, Viacom uses it's salesforce to help monetize viacom's content and music video (again no one else including Yahoo has been able to do this more effectively than us).

The downside of course is that Google needs to manage the process such that other content providers feel they can participate and that youTube remains a platform instead of becoming a viacom/google property.

<http://www.techcrunch.com/2006/10/06/completely-unsubstantiated-googleyoutube-rumor/>

Completely Unsubstantiated Google/YouTube Rumor <<http://www.techcrunch.com/2006/10/06/completely-unsubstantiated-googleyoutube-rumor/>>

Michael Arrington

I got an email tonight about a possible Google acquisition of YouTube that may be in the final stages before closing. Rumored price is \$1.6 billion. A quick phone call to a VC confirmed that the rumor is circulating (he also confirmed the price), but that is far from confirmation that this deal is happening. I'm digging for more but the source on this one is very good.

We know that YouTube has had informal talks with a number of companies about acquisition in the <<http://www.techcrunch.com/2006/09/21/youtubes-magic-number-15-billion/>> \$1.5 - \$2 billion range. And I suspect Google won't be daunted by the prospect of dealing with a ton of pissed off copyright holders.

Based on <<http://www.techcrunch.com/2006/01/18/youtube-is-probably-being-acquired/>> experience with these sort of rumors, I'd put this at 40% likely to be at least partially true.

<<http://www.technorati.com/tag/Google>> Google, <<http://www.technorati.com/tag/YouTube>> YouTube

This entry was posted on Friday, October 6th, 2006 at 12:18 am and is filed under <http://www.techcrunch.com/category/company-product-profiles/> Company & Product Profiles. You can follow any responses to this entry through the <http://www.techcrunch.com/2006/10/06/completely-unsubstantiated-googleyoutube-rumor/feed/> RSS 2.0 feed. You can <http://www.techcrunch.com/2006/10/06/completely-unsubstantiated-googleyoutube-rumor/#respond> leave a response, or <http://www.techcrunch.com/2006/10/06/completely-unsubstantiated-googleyoutube-rumor/trackback/> trackback from your own site.

<http://www.techcrunch.com/2006/10/06/completely-uns>

From: Susan Wojcicki [mailto:susan@clayco.com]
Sent: Thursday, October 05, 2006 11:26 PM
To: Cahan, Adam
Cc: Gokul Rajaram; amontez@google.com; Salar Kamangar
Subject: Re: Congrats and question

And now cc'ing Salar as well.

On 10/5/06, Susan Wojcicki <susan@clayco.com> wrote:

Hi Adam,

I'm going to ensure that Salar is able to take over the work from me on the Wiki and you should work with him going forward. I'll be working on our ad products (including video ads) so I'll get to see you that way.

What is the acquisition? Happy to discuss although Salar would be the right person right now.

If you need me on something, pls let me know.

Looking forward to doing this project with you.

Susan

On 10/2/06, Cahan, Adam <Adam.Cahan@mtvn.com> wrote:

Susan -

Hope all is well. I understand some congrats are in order - taking on ads seems like a terrific opportunity.

Given the changeover in Peter reporting to Salar, do we need to do anything more in terms of Wiki? Does Salar need to be looped in or do we stay focused on working with you, Peter and Marissa?

One more question and call it a long shot question...

Spoke with Gokul about an idea for an acquisition that I am sure both of us have looked at in the video sharing space. Think there is a seed of an opportunity there for us/Google and wiki more broadly. Would be curious to float it by you (with the caveat that you won't hold it against me for taking a stab in the dark)

Can we chat briefly?

Thanks- Adam

--

Susan Wojcicki
VP, Product Management
susan@clayco.com

[REDACTED]

--
Susan Wojcicki
VP, Product Management

[REDACTED]

Schapiro Exhibit 128

Subject: Re: Confidential -- Google
From: "Cahan, Adam" <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=CAHANA>
To: Wolf, Michael; McGrath, Judy
Cc: Date: Sun, 08 Oct 2006 19:08:15 +0000

Sounds good.

Is there any chance of getting us in the deal meaning a small investment from us such that a move with wiki is predetermined. We should feel much more comfortable with a google/youtube than a youtube/news or yahoo. Want to be sure they get it with us engaged.

Michael calling you.

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

From: Wolf, Michael
To: McGrath, Judy; Cahan, Adam
Sent: Sun Oct 08 14:10:40 2006
Subject: Confidential -- Google

I just got a call from Eric Schmidt.

They ARE negotiating with YouTube and he thinks that the deal will likely be announced within the next 24 hours. There is a chance, however, that the deal will not happen since YouTube was in middle of talks of selling the company to Yahoo or NewsCorp when Google stepped last week with a much better offer.

He is aware of the fact that over 25% of the content is from MTVN and realizes that he will need to partner with us in order to create a business model from YouTube. He promised me that they would do the first content deal with our company and that it would be part of a much broader partnership around licensing and advertising revenue sharing from our content. He also recognizes that a deal with MTVN is key to legitimizing YouTube with the rest of the content industry. We discussed that since he would not be able to direct YouTube until after the approvals/close, we would work out a deal with Google first which would later apply to YouTube.

We also talked about the cross-network advertising and the contextual advertising/search deals...we agreed we should try to get both closed within the next 10 days and he will turn up the heat on his advertising organization (I told him we were expecting large premium for our audience).

Eric agreed that before they announce anything, he would call me first. I expect to hear back from him later today.

Schapiro Exhibit 129

From: "Herzog, Doug" <Doug.Herzog@comedycentral.com>
Date: Sun, 8 Oct 2006 15:42:36 -0700
To: "McGrath, Judy" <Judy.McGrath@mtvstaff.com>
Subject: RE: Confidential -- Google/URGENT

What is the latest?

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

From: McGrath, Judy
Sent: Sunday, October 08, 2006 1:06 PM
To: Toffler, Van; Herzog, Doug
Subject: FW: Confidential -- Google/URGENT

I'm going down.

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

From: McGrath, Judy
Sent: Sunday, October 08, 2006 3:31 PM
To: Dauman, Philippe; Dooley, Tom
Subject: FW: Confidential -- Google/URGENT

Of course I believe in the strength of our content. And the organic strategy, sure.

I think we need to prepare for the fallout as we continue to say we are not interested in a big digital acquisition.

This morning, I was concerned about navigating the Google/YouTube acquisition to our advantage. As we sign deals with labels for wikimusic, they sign deals for a bigger platform. As we negotiate for a revenue-sharing deal, they will be playing on a whole other level.

YouTube may go to Fox.

Are you SURE there is no appetite for Viacom figuring out a play here? A small investment in the Google/YouTube deal?

Sumner says publicly that Facebook is too expensive. Does that mean it's off the table?

See below.

We need to discuss first thing in our Investment Committee meeting, assuming the deal isn't struck between now and then.

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

From: Wolf, Michael
To: McGrath, Judy; Cahan, Adam
Sent: Sun Oct 08 14:10:40 2006
Subject: Confidential -- Google

I just got a call from Eric Schmidt.

They ARE negotiating with YouTube and he thinks that the deal will likely be announced within the next 24 hours. There is a chance, however, that the deal will not happen since YouTube was in middle of talks of selling the company to Yahoo or NewsCorp when Google stepped last week with a much better offer.

He is aware of the fact that over 25% of the content is from MTVN and realizes that he will need to partner with us in order to create a business model from YouTube. He promised me that they would do the first content deal with our company and that it would be part of a much broader partnership around licensing and advertising revenue sharing from our content. He also recognizes that a deal with MTVN is key to legitimizing YouTube with the rest of the content industry. We discussed that since he would not be able to direct YouTube until after the approvals/close, we

would work out a deal with Google first which would later apply to YouTube.

We also talked about the cross-network advertising and the contextual advertising/search deals...we agreed we should try to get both closed within the next 10 days and he will turn up the heat on his advertising organization (I told him we were expecting large premium for our audience).

Eric agreed that before they announce anything, he would call me first. I expect to hear back from him later today.

Schapiro Exhibit 130

From: "Toffler, Van" <Van.Toffler@mtvstaff.com>
Date: Sun, 8 Oct 2006 16:07:38 -0400
To: "McGrath, Judy" <Judy.McGrath@mtvstaff.com>, "Eigendorff, Rich"
<Rich.Eigendorff@mtvstaff.com>
Subject: Re: Confidential -- Google

Not good

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

From: McGrath, Judy
To: Toffler, Van; Eigendorff, Rich
Sent: Sun Oct 08 16:03:41 2006
Subject: RE: Confidential -- Google

no

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

From: Toffler, Van
Sent: Sunday, October 08, 2006 3:44 PM
To: McGrath, Judy; Eigendorff, Rich
Subject: Re: Confidential -- Google

So what did phil and Tom say to a google/youtube/mtvn combo?

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

From: McGrath, Judy
To: Toffler, Van; Eigendorff, Rich
Sent: Sun Oct 08 15:31:29 2006
Subject: FW: Confidential -- Google

What a fucking mess. I pitched Philippe and Tom on us getting in this somehow, or looking at Facebook....nothing.

See below.

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

From: Cahan, Adam
Sent: Sunday, October 08, 2006 3:08 PM
To: Wolf, Michael; McGrath, Judy
Subject: Re: Confidential -- Google

Sounds good.

Is there any chance of getting us in the deal meaning a small investment from us such that a move with wiki is predetermined. We should feel much more comfortable with a google/youtube than a youtube/news or yahoo. Want to be sure they get it with us engaged.

Michael calling you.

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

From: Wolf, Michael
To: McGrath, Judy; Cahan, Adam
Sent: Sun Oct 08 14:10:40 2006
Subject: Confidential -- Google

I just got a call from Eric Schmidt.

They ARE negotiating with YouTube and he thinks that the deal will likely be announced within the next 24 hours. There is a chance, however, that the deal will not happen since YouTube was in middle of talks of selling the company to Yahoo or NewsCorp when Google stepped last week with a much better offer.

He is aware of the fact that over 25% of the content is from MTVN and realizes that he will need to partner with us in order to create a business model from YouTube. He promised me that they would do the first content deal with our company and that it would be part of a much broader partnership around licensing and advertising revenue sharing from our content. He also recognizes that a deal with MTVN is key to legitimizing YouTube with the rest of the content industry. We discussed that since he would not be able to direct YouTube until after the approvals/close, we would work out a deal with Google first which would later apply to YouTube.

We also talked about the cross-network advertising and the contextual advertising/search deals...we agreed we should try to get both closed within the next 10 days and he will turn up the heat on his advertising organization (I told him we were expecting large premium for our audience).

Eric agreed that before they announce anything, he would call me first. I expect to hear back from him later today.

Subject: RE: Talking points?
From: "Flannigan, Erik" <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=FLANNIGE>
To: Fox, Tony; Budow, Aileen
Cc: Bittler, David
Date: Wed, 07 Mar 2007 20:25:24 +0000

Guys,

Here's some data pulled by Angela along these lines. The question is really down to what measurement matters as any correlation to YouTube is specious.

Video plays seems the fairest comparison, and overall we are up 13% on all video plays post takedown vs. pre. Other measures are lower, in part because January was huge with O'Reilly and other factors.

>
>-----
>From: Fox, Tony
>Sent: Wednesday, March 07, 2007 3:16 PM
>To: Flannigan, Erik
>Subject: FW: Talking points?
>
>Erik, who should I go to for this - not sure who replaced Jillian Beirne.
>
>Tony

>-----
>From: Bittler, David
>Sent: Wednesday, March 07, 2007 3:09 PM
>To: Budow, Aileen; Fox, Tony
>Subject: Talking points?
>
>Hola...do you guys have talking points or something to that effect about how well you guys are doing on the Web post YouTube takedown? Need something for Viacom asap...We look at MotherLoad alone internally for tracking purposes, but total streams during the same period increased +13%. The total number includes all players - ML, mini, media, syndicated.
>

>-----
From: Hamlin, Angela
Sent: Wednesday, March 07, 2007 12:50 PM
To: Ganeless, Michele
Cc: Flannigan, Erik; Cook, Chanon
Subject: RE: Digital stats

Adding last week doesn't add to the post takedown story since traffic was soft. It was like we had 2 dark weeks instead of one, so I pasted the original data below. I've also included a point about the syndicated player.

2007td (1/1-2/4) vs. Post takedown (2/5-2/25) Weekly averages

motherload weekly streams +7%
motherload uniques +6%

cc.com rollup uniques -1%
cc.com rollup page views =0%

cc.com standalone uniques -13%
cc.com standalone page views -2%

Since launching in December, the syndicated player has generated over 1.2 million streams. The player is averaging over half a million streams a month in '07.

Schapiro Exhibit 132

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,)
 NO. 07-CV-2203)
 vs.)
 YOUTUBE, INC., YOUTUBE, LLC,)
 and GOOGLE, INC.,)
)
 Defendants.)

 VIDEOTAPED DEPOSITION OF ERIK FLANNIGAN
 NEW YORK, NEW YORK
 THURSDAY, OCTOBER 16, 2008

BY: REBECCA SCHAUMLOFFEL, RPR, CLR
 JOB NO. 16002

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OCTOBER 16, 2008

9:30 a.m.

VIDEOTAPED DEPOSITION OF
ERIK FLANNIGAN, taken at the offices of
WILSON, SONSINI, GOODRICH & ROSATI, 1301
Avenue of the Americas, New York, New
York, pursuant to notice, before REBECCA
SCHAUMLOFFEL, CLR, RPR.

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

FOR THE PLAINTIFFS VIACOM
INTERNATIONAL, INC.:
SHEARMAN & STERLING LLP
By: JOHN GUELI, ESQ.
By: KRISTIN FITZMAURICE, ESQ.
599 Lexington Avenue
New York, New York 10022
(212) 848-4744
jgueli@shearman.com
kfitzmaurice@shearman.com

FOR THE DEFENDANTS YOUTUBE, INC.,
YOUTUBE, LLC and GOOGLE, INC.:
WILSON SONSINI GOODRICH & ROSATI
By: DAVID H. KRAMER, ESQ.
CAROLINE WILSON, ESQ.
650 Page Mill Road
Palo Alto, California 94304
(650) 849-3311
Dkramer@wsgr.com
Cwilson@wsgr.com

ALSO PRESENT:

Michelena Hallie, MTV Networks

Manuel Abreu, Videographer

1 FLANNIGAN

2 was Exhibit 2, right?

3 A. Agreed.

4 Q. Let's take a quick look at

5 11:28:25 Exhibit 2.

6 A. Okay.

7 Q. The date on this

8 transmission, by the way, is March 25,

9 2007?

10 11:28:34 A. Okay.

11 MR. GUELI: To

12 Mr. Flannigan?

13 MR. KRAMER: You are

14 absolutely right, counsel. I

15 11:28:42 apologize.

16 Q. The document as it was sent

17 to you is March 25th, 2007?

18 A. Um-hum.

19 Q. The spreadsheet shows a

20 11:28:49 property, a clip title, a user name and

21 a URL?

22 A. Um-hum.

23 Q. Are the all capital titles

24 under the property column shows on MTV

25 11:29:07 Networks?

FLANNIGAN

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A. They are not. Some are.

Q. Do you recognize them?

A. Some are. Some aren't.

11:29:12 Q. Which are and which are not,
if you wouldn't mind?

A. Freak Show, Naked Truck --
well --

MR. GUELI: Which is which?

11:29:20 Q. Which is which?

A. Oh, sorry. The first two,
Good God and Baxter & McGuire were
digitally only original. They never
were on air. Freak Show was on air.

11:29:33 Naked Trucker was on air. Shatner was
on air. Sarah Silverman was on air.
Halfway Home was on air. Mind of
Mencia. I think that's it.

Q. Those are all on air on MTV
11:29:56 Networks?

A. Yes.

Q. Do you recognize the user
name, Thatsfunny?

A. I do not.

11:30:05 Q. How about the user name,

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FLANNIGAN

That is also funny?

A. I do not.

Q. You see that the properties
11:30:13 were at one time on YouTube?

MR. GUELI: Where are you
look at, counselor?

MR. KRAMER: I am looking at
the totals. It is unfortunate --

11:30:30 MR. GUELI: Is there Bates
number?

MR. KRAMER: I am look at
Bates number 65 -- sorry.
'695799.

11:30:36 MR. GUELI: Okay.

A. It doesn't appear to be a
YouTube URL on the list, though, right?

Q. I think you will find and I
would like you to confirm this for me
11:30:45 that in each place where the URL column
says no longer up, that in the totals
column, for views to date column, later
on in the page I was referencing, there
is a site reference to YouTube?

11:31:02 A. I am not sure what the

1 FLANNIGAN

2 correlation is though. I know where
3 you are pointing to, this number, but I
4 don't know what "no longer up" means
5 11:31:10 honestly.

6 Q. Well, as of March 25, 2007,
7 that's after the YouTube takedown
8 notice that Viacom sent in early
9 February of 2007, right?

10 11:31:21 A. Is March 25th after that
11 date?

12 Q. Yes.

13 A. We can all represent that.

14 Q. I think we can all agree.
15 11:31:28 So, is it your understanding that at
16 one time these properties were being
17 virally marketed by Viacom on YouTube?

18 A. I honestly don't know.

19 Q. Do you recognize those other
20 11:31:47 sites that are listed in -- for whom
21 URL's appear as sites on which MTVN
22 would virally market content?

23 A. Some of them. Some of them,
24 I've not heard.

25 11:32:01 Q. I note for Naked Trucker,

1 FLANNIGAN

2 Q. How many videos in total
3 have you uploaded to YouTube?

4 A. Somewhere in the five to six
5 14:33:46 range.

6 Q. What were they?

7 A. They were my friend, Madi
8 Diaz, a musician who my wife is the
9 manager of. Some performances that she
10 14:33:57 had given.

11 Q. Did you have the right to
12 share those clips through the YouTube
13 service?

14 A. I did.

15 14:34:00 Q. Who gave you those rights?

16 A. Madi herself.

17 Q. Why did you upload those
18 video clips to YouTube?

19 A. I uploaded those clips to
20 14:34:10 YouTube so Madi could see performances
21 that I had shot for her.

22 Q. So this is videos of
23 performances of Madi Diaz that you shot
24 yourself?

25 14:34:21 A. Correct.

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FLANNIGAN

Q. And you then uploaded those performances to YouTube?

A. That's correct.

14:34:27 Q. Did any of those videos infringe any third-party's copyrights?

MR. GUELI: Object to the form.

A. To the best of my knowledge as Madi is the songwriter and owns her performance and granted me the right to do it and knew I was putting them up on YouTube, no.

Q. Did you -- so, is it your testimony that the only videos that you have uploaded to the YouTube service are videos of Madi Diaz's concerts?

A. Five of the six were or four of the five. One of them is not.

14:35:20 Q. What is the sixth?

A. Amy Winehouse.

Q. Do you know Amy Winehouse?

A. I don't.

Q. So, do you have any reason to -- did you have the rights to upload

1 FLANNIGAN

2 Amy Winehouse footage to the YouTube
3 service?

4 A. Probably not.

5 14:35:33 Q. When did you upload the Amy
6 Winehouse clip to the YouTube service?

7 A. Some time in 2007.

8 Q. But you represented to
9 YouTube that you had the authority to
10 14:35:50 upload that clip when you did, right?

11 A. I did.

12 Q. So you lied to YouTube?

13 A. I interpreted it as
14 something that I -- I wouldn't say I
15 14:36:07 lied. I would say I gave the -- I
16 represented that I could represent the
17 copyright and there is some copyright
18 of that recording that I actually
19 probably do own because I shot the
20 14:36:17 footage. So, whether the complete
21 copyright story behind that clip was
22 answered by the question that YouTube
23 asked me, that, I don't know.

24 Q. Did you upload Madi Diaz
25 14:36:29 video clips to other video sharing

FLANNIGAN

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services?

A. I did.

Q. To like what?

14:36:33 A. Vimeo.

Q. Is that a Viacom service?

A. No.

Q. Did you upload Madi Diaz
video clips to Viacom services?

14:36:39 A. Never.

Q. Why not?

A. No need. Not necessary.
Didn't cross my mind.

Q. Would the Madi Diaz videos
14:36:51 that you uploaded to YouTube pass the
screening requirements of
AddictingClips?

A. Sure.

Q. Would it pass the screening
14:36:57 requirements at iFilm?

A. I assume so, yes.

Q. Do you know if any
third-party publisher has the rights to
any of the Madi Diaz content that you
14:37:07 uploaded to YouTube?

1 FLANNIGAN

2 is an E-mail from Adam Cahan to you
3 dated February 5, 2007. The subject
4 line, "ours?"

5 15:28:32 Do you recall receiving
6 this?

7 A. Not necessarily, no.

8 Q. This was an E-mail sent from
9 Mr. Cahan's work address to you and
10 15:28:42 Caleb Weinstein at your work addresses,
11 right?

12 A. Yes.

13 Q. And Mr. Cahan is wondering
14 if a particular clip on the YouTube
15 15:28:51 service is owned by Viacom, correct?

16 A. I presume that's what "ours"
17 means.

18 Q. That's the reasonable
19 interpretation of what he said there,
20 15:28:57 right?

21 A. Agreed.

22 Q. The URL refers to a video on
23 the YouTube service?

24 A. It would appear so, yes.

25 15:29:04 Q. Did you actually view this

1 FLANNIGAN

2 video?

3 A. Couldn't tell you.

4 MR. KRAMER: Let's have this
5 15:29:15 marked as Exhibit 16, please.

6 (Whereupon, the
7 aforementioned two-page document
8 was marked as Flannigan Exhibit 16
9 for identification as of this date
10 15:29:32 by the Reporter.)

11 Q. Mr. Flannigan, Exhibit 16 is
12 a screen shot of the page whose URL
13 matches the URL in the E-mail Mr. Cahan
14 sent you which is Exhibit 15. It is a
15 15:29:42 page on YouTube for the YouTube video
16 ID 1HDR, all caps, HDRtaUGG1lw. I
17 printed this off the internet a couple
18 of days ago.

19 Does viewing this screen
20 15:30:03 shot refresh your recollection of
21 viewing the video that Mr. Cahan sent
22 you to look at?

23 A. It does not.

24 Q. You were asked by Mr. Cahan
25 15:30:12 to view this video in the scope of your

1 FLANNIGAN

2 employment; is that correct?

3 A. As was Caleb Weinstein, yes.

4 Q. Do you recall making any

5 15:30:19 determinations as to whether the video

6 clip accessible through this web page

7 was Viacom work?

8 A. I honestly don't recall

9 doing such things.

10 15:30:28 Q. As you sit here today, does

11 it appear to be a Viacom work?

12 A. Is the actual video content

13 Viacom content?

14 Q. Yes.

15 15:30:38 A. It is clearly something from

16 South Park. That much I can tell you.

17 Q. And do you know whether this

18 clip was authorized to be on YouTube?

19 A. Based on the faulty aspect

20 15:30:51 ratio, I would guess no.

21 Q. What information would you

22 need to be conclusive about that?

23 A. I mean, conclusive is a high

24 bar. The fact that this is missing

25 15:31:04 references to South Park, the

1 FLANNIGAN

2 description that goes with the clip
3 makes no sense and doesn't appear to
4 come with it. It is sort of missing
5 15:31:19 the standard metadata of the things we
6 were trying to promote.

7 So my assessment of this,
8 just looking at it, I don't know what
9 Todd n Tyler is personally. I don't
10 15:31:33 know -- VH-1 classic, I am a little
11 curious as to what that means. So I
12 would probably need to find out what
13 the reference to VH-1 classic is here
14 because that is kind of a disconnect
15 15:31:44 with the fact that it is Comedy Central
16 content. But most of what I see here
17 suggests that is it is unauthorized.

18 Q. Okay. So can you explain to
19 me why, if you perceived this to be
20 15:31:58 unauthorized, it would remain up on the
21 YouTube service after Mr. Cahan sent
22 you an E-mail asking whether it was
23 yours in February of 2007?

24 MR. GUELI: Object to the
25 15:32:08 form.

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FLANNIGAN

A. Yes, I don't know why.

Q. So if you saw Exhibit 16 today, would you send YouTube a takedown notice for the video at Exhibit 16?

15:32:23 MR. GUELI: Object to the form.

A. Would I do that, no.

15:32:29 Q. Would you alert someone to the presence of this seemingly unauthorized video on YouTube?

A. I may or may not. I generally assume that that work is being done without me affirmatively flagging videos.

15:32:43 Q. Can you tell me why Mr. Cahan would have -- do you have any idea as to why Mr. Cahan would have sent you an E-mail asking you whether to make a determination as to whether this was Viacom content in February of 2007?

15:32:55 A. I have no idea why he picked this clip out.

FLANNIGAN

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15:33:32 Q. Do you know why Mr. Cahan would be asking you, though, in February of 2007, whether a particular piece of content on the YouTube service was Viacom's?

A. Me versus someone else?

Q. Yes. What knowledge do you have --

15:33:38 A. He is looking at purely that it is a South Park clip and that South Park is Comedy Central property, and I am the Comedy Central digital person. I doubt it would be any more than that.

15:33:48 Q. And why would he send it to Mr. Weinstein, if you know?

A. He works for Comedy Central.

Q. Okay. What was Mr. Weinstein's role at Comedy Central?

15:33:56 A. He ran our business development and strategy team.

Q. Is he still there?

A. No.

Q. Do you know where he is?

15:34:01 A. I believe he is at

1 FLANNIGAN

2 Discovery.

3 Q. Discovery Television?

4 A. Networks, yes.

5 15:34:05 Q. Station. Network.

6 MR. KRAMER: Let's have this
7 one marked as 17.

8 (Whereupon, the
9 aforementioned document bearing
10 Bates No. VIA00223432 was marked
11 as Flannigan Exhibit 17 for
12 identification as of this date by
13 the Reporter.)

14 Q. Taking a look at what's been
15 15:35:03 marked as Exhibit 17, Mr. Flannigan,
16 bears Bates number VIA00223432. It is
17 an E-mail exchange between you and
18 Mr. Herzog, you identified previously
19 as your boss, right?

20 15:35:16 A. Correct.

21 Q. This is dated July 16, 2007.
22 The subject in your E-mail to
23 Mr. Herzog, the subject is "Nobody Does
24 Dylan Like Blanchett" and it contains a
25 15:35:29 YouTube URL with the video ID

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VyWgzUGoliw.

Do you remember forwarding
this video to Mr. Herzog?

15:35:52 A. I do.

Q. Do you know what video is
accessible or was accessible at this
YouTube URL?

A. Yes, I believe it was a long
15:35:59 scene from the film I'm Not There,
prior to the release of the film I'm
Not There.

Q. You sent this E-mail to
Mr. Herzog from your work E-mail
15:36:11 address, right?

A. Correct.

Q. You sent it to Mr. Herzog's
work E-mail address?

A. Correct.

15:36:15 Q. Do you know whether the
video clip from the movie I'm Not There
was authorized to be on YouTube?

A. I don't but assume it was.

Q. Why did you assume that it
15:36:30 was?

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A. Because it was a sort of in the pre-promotion window for that film.

Q. So you didn't know whether
15:36:38 it was or was not authorized at the
time that you forwarded it to
Mr. Herzog?

A. Correct.

Q. Was it a Viacom -- sorry,
15:36:46 was the -- does Paramount Pictures have
any rights to the movie I Am Not There?

MR. GUELI: Object to the
form.

A. I don't know. They might
15:36:59 have international distribution for all
I know. I am not sure.

Q. Do you know if this was
content uploaded to the YouTube service
by someone at Viacom?

A. I don't but it is extremely
15:37:06 unlikely that it was.

Q. Why do you say that?

A. Because it has nothing to do
with any of our properties, at least
15:37:17 domestically, or what I know about the

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film.

Q. So you did watch this video,
right?

15:37:22 A. Um-hum.

Q. And as you sit here today,
you don't know whether it was on
YouTube with the authorization of the
appropriate rights holder?

15:37:36 A. Yes, I don't know.

Q. You are just making an
assumption?

A. I told you the reasons why I
thought. You asked me if I thought it
was at that time. I did.

15:37:41 Q. So if the clip was
unauthorized, do you believe that you
engaged in copyright infringement by
watching this from your work computer
at Viacom?

MR. GUELI: Objection.

A. I have no idea.

Q. Do you believe you engaged
in copyright infringement by virtue of
forwarding this clip, assuming it was

1 FLANNIGAN

2 unauthorized, to Mr. Herzog?

3 MR. GUELI: Objection to
4 form.

5 15:38:14 A. Again, I have no idea.

6 Q. Weren't you -- strike that.
7 Did you have something you
8 wanted to add, Mr. Flannigan?

9 A. No thanks.

10 15:39:14 MR. KRAMER: Just hang on a
11 second before we give that to the
12 witness.

13 Q. Mr. Flannigan, are you aware
14 that Viacom has used the private video
15 15:39:23 functionality on YouTube?

16 MR. GUELI: Sorry, could you
17 read that question back?

18 (Whereupon, the
19 aforementioned question was read
20 15:39:34 back by the Court Reporter.)

21 MR. GUELI: Object to the
22 form.

23 Q. Are you aware of any people
24 at Viacom have used the private video
25 15:39:41 functionality tool at YouTube?

1 FLANNIGAN

2 A. Yes, it is a comedian.

3 Q. So you've subscribed to that
4 comedian's channel on YouTube?

5 16:21:51 A. Correct.

6 Q. Correct. And under the
7 favorites section under the [REDACTED]
8 channel page, those are videos that you
9 have watched on the YouTube service?

10 16:22:06 A. Correct.

11 Q. And those are videos that
12 you have favorited on the YouTube
13 service, correct?

14 A. Correct.

15 16:22:10 Q. So the "Radiohead play the
16 Smiths video, the Radiohead - Ceremony
17 video, the Arcade Fire - Neon Bible
18 Live in an elevator video, and the
19 Guided By Voices - Teenage FBI videos,
20 16:22:23 those are your favorites on YouTube?

21 A. Those are favorites on
22 YouTube.

23 Q. That you have identified as
24 favorites?

25 16:22:28 A. Yes.

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FLANNIGAN

Q. Earlier I asked you how many views you believed the Amy Winehouse video received that you had uploaded.

16:22:37 Can you tell by looking at this Exhibit 19 how many views it was as of the date the page was printed?

A. 50,104.

Q. Do you have any reason to believe that the videos that you favorited in your [REDACTED] account were authorized -- were uploaded to the YouTube service with the authorization of the rights holders?

16:23:01 MR. GUELI: Objection to the form.

A. They may have been.

Q. Do you know one way or the other?

16:23:07 A. I don't.

Q. The channel page for the [REDACTED] account, your account, indicates that the account was created on May 16, 2006.

16:23:35 Do you see that?

1 FLANNIGAN

2 A. I do.

3 Q. Is that about when you
4 started using the YouTube service under
5 16:23:40 the name [REDACTED]

6 A. Yes.

7 Q. Do you know whether you used
8 the YouTube service prior to that time
9 without a user name?

10 16:23:50 A. I did.

11 Q. And I am sorry, it was
12 without a user name at the time prior
13 to --

14 A. You asked the question and I
15 16:23:57 said yes.

16 Q. So the reason you created
17 the [REDACTED] account was to upload
18 videos; is that correct?

19 A. No, I think the first use of
20 16:24:11 it was actually to subscribe to
21 Clelltickle.

22 MR. KRAMER: I need to take
23 a quick break and look back on
24 some of the questions that I asked
25 16:24:40 that were instructed not to answer

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FLANNIGAN

take on it. I have the document to show you about that we are actually going to be fine, I think, with respect to your requested departure time. I hope.

A. Okay.

(Whereupon, the aforementioned document bearing Bates No. VIA00225564 and '65 were marked as Flannigan Exhibit 23 for identification as of this date by the Reporter.)

Q. Exhibit 23, Mr. Flannigan, is an E-mail exchange provided to us by Viacom in this action bears Bates number VIA 00225564 to '65. It is a two-page document. You are on the earliest in time and the latest in time E-mails in this thread. And it is -- why don't I ask you, what is this document?

A. I believe this is further follow-up to the two previous E-mails that you have produced. And Angela is

1 FLANNIGAN

2 pulling, probably pursuant to my
3 original comment, stream data, uniques
4 data and page-view data. Given that it
5 16:56:03 is stream data, I can now sort of
6 verify for you this would be Amniture
7 internal reporting and characterizing
8 kind of what happened pre and
9 post-takedown in terms of our weekly
10 16:56:16 averages.

11 Q. You write in the top E-mail
12 "The question is really down to what
13 measurement matters as any correlation
14 to YouTube is specious."

15 16:56:24 Do you see that?

16 A. I do.

17 Q. You were the one that typed
18 that?

19 A. I was.

20 16:56:29 Q. So you knew when you typed
21 that what the word specious meant,
22 right?

23 A. Then, I did.

24 Q. So as of March 7, 2007, it
25 16:56:36 was your belief that Mr. Dooley's

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FLANNIGAN

statement correlating 90% in traffic on
Viacom's comedy sites to the YouTube
takedown was specious, right?

16:56:46 MR. GUELI: Objection to the
form.

A. I think there is a broader
point in this statement which is that
that correlation, or any correlation,
16:57:00 an ability to correlate is specious.

Q. Mr. Flannigan -- sorry, are
you guys set?

MR. GUELI: Yes.

MR. KRAMER: I didn't mean
16:57:41 to interrupt you guys.

Q. What is your understanding,
Mr. Flannigan, of why Viacom is suing
YouTube?

A. My -- I would characterize
16:58:05 it as Viacom is suing YouTube over the
preponderance of our video material
appearing in great volumes and at great
play counts on YouTube without our
affirmative authorization.

16:58:22 Q. So you think that YouTube

1 FLANNIGAN

2 doesn't sufficiently respect Viacom's
3 intellectual property copyrights in
4 Viacom's content?

5 16:58:34 MR. GUELI: Object to the
6 form. Are you asking --

7 MR. KRAMER: I am just
8 asking him if that's a fair
9 summary of what he just said.

10 16:58:40 A. You are asking me if that's
11 what I thought as opposed to asking me
12 why Viacom is suing YouTube?

13 Q. Is it fair to say that you
14 believe that YouTube has failed to
15 16:58:49 sufficiently respect Viacom's
16 intellectual properties rights in its
17 content?

18 MR. GUELI: Sorry, could you
19 read that back, please?

20 16:58:56 (Whereupon, the
21 aforementioned question was read
22 back by the Court Reporter.)

23 MR. GUELI: You say you
24 there, you are asking personally
25 16:59:19 his view?

Schapiro Exhibit 133

From: "heather gillette" <heather@youtube.com>
Date: Fri, 7 Apr 2006 16:25:54 -0700
To: <donna.cooper@bet.net>
Cc: <copyright@youtube.com>
Subject: Infringement Notificaton

Dear Ms. Cooper,

As you may now, YouTube is a consumer media company for sharing original videos through the World Wide Web. YouTube respects the intellectual property rights of all third-parties, and complies as a service provider with all provisions of the Digital Millennium Copyright Act. YouTube does not permit intellectual property infringing content on its website and has no interest in harboring any materials owned by BET.

YouTube will immediately remove such infringing content upon notification pursuant to the requirements of 17 U.S.C. Â§ 512 (c)(3)(A). Unfortunately, your letter of April 7th is deficient under the DMCA. Specifically, it does not provide information "reasonably sufficient to permit the service provider to locate the material." 512(c)(3)(A)(iii). YouTube has a million web pages, and we are not able to search the entire site for infringing works. Accordingly, we would like to take this opportunity to invite you to access a new tool that we created solely to assist content owners to locate and notify us of potentially infringing content on YouTube.com.

All a content owner needs to do to participate in the program and gain access to this tool is complete and submit to YouTube a short application that can be found here:

http://youtube.com/t/copyright_program

Once your application has been submitted and approved, we will follow up by providing you with a tutorial and login information to get you started and on your way!

We are committed to working in cooperation with content owners to keep infringing content off of the YouTube site! Please let me know if you have any questions.

Sincerely,

Heather Gillette

YouTube, Inc.

Schapiro Exhibit 134

From: Copyright Service [REDACTED]
Sent: Wednesday, March 14, 2007 7:53 PM
To: Courtney Nieman
Cc: Evelyn Espinosa; Mark M. Ishikawa
Subject: Re: [#123571123] Request for the CVT tool: Client Viacom

Dear Courtney,

BayTSP already has a CVP tool account for Viacom International, Inc. that was created on September 8, 2006. The login information was sent to email address arianh@baytsp.com. If you would like access to this account, please contact the holder of that email address. If you would like to create a new CVP account, all you need to do is complete and submit to YouTube the CVP application that can be found here:

http://youtube.com/t/copyright_program

Sincerely,

Erik
The YouTube Team

Original Message Follows:

From: "Courtney Nieman" <courtneyni@baytsp.com>
Subject: Request for the CVT tool: Client Viacom
Date: Tue, 13 Mar 2007 13:48:39 -0700

Team,

I would like to request a CVT account: nvtmyab. This will be used to make "urgent" takedowns on behalf of Viacom and its partners. Please let me know if you need additional information.

Courtney Nieman
Manager Client Services
BayTSP, Inc.
408-341-2314
AIM: BayTSPCanne
Have you checked out BayTSP's Piracy news web log?
<http://www.baytsp.com/weblog>

The information contained in this email message may be confidential and is intended only for the parties to whom it is addressed. If you are not the intended recipient or an agent of same, please notify us of the mistake by telephone (408-341-2300) or email and delete the message from your system. Please do not copy the message or distribute it to anyone.