

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNIVERSAL TUBE & ROLLFORM
EQUIPMENT CORPORATION,

Plaintiff,

v.

YOUTUBE, INC.

Defendant.

Case No. 3:06-CV-02628

**DEFENDANT YOUTUBE, INC.'S
STATUS REPORT**

Judge: James G. Carr

Pursuant to the Court's September 25, 2007 Scheduling Order in the above-referenced matter, Defendant and Counterclaimant YouTube Inc. ("YouTube") submits the following status report.

Unfortunately, despite earlier optimism, this matter has not settled. Plaintiff Universal Tube & Rollform Equipment Corporation ("Universal") has persistently refused to respond to YouTube's draft settlement agreement and dismissal, which was provided to them more than a month ago, on September 28, 2007. After several unanswered phone calls and emails, on October 8, 2007, Universal's counsel responded by saying that they would "be in touch following review" of the proposed agreement. Ten days later, having heard nothing further, YouTube's counsel placed repeated calls and emails to Universal's counsel, with no response. Then, on October 25, 2007, YouTube's counsel received an email promising comments on the draft by close of business the next day, October 26, 2007. No such response was forthcoming. Finally, late yesterday afternoon, YouTube's counsel received an email from Universal's counsel

rejecting YouTube's draft proposal, but refusing to provide any counterproposal, and suggesting that we ask the Court for additional time.

Meanwhile, Universal continues to mislead consumers by using the "YouTube" trademark on its website, and continues to profit from that infringement. It appears that Plaintiff is quite happy with the current state of affairs, and intends neither to settle nor to prosecute this matter, instead seeking to string out the status quo as long as possible. Accordingly, YouTube asks that the Court order the parties to exchange Rule 26 disclosures within 30 days, and set a case management schedule leading to trial at the Court's earliest convenience. YouTube submits that, unless Universal voluntarily suspends its use of the YouTube mark pending trial, the trial should be set at the earliest reasonable date, sometime in the Spring or early Summer of 2008.

Counsel for YouTube is available to discuss this matter further at the Court's convenience.

Dated: October 31, 2007

Respectfully Submitted

By: /s/ Matthias A. Kamber
Harry D. Cornett, Jr. (0013179)
Benjamin C. Sassé (0072856)
TUCKER ELLIS & WEST LLP
925 Euclid Avenue, Suite 1150
Cleveland, OH 44115-1414
Tel: 216.592.5000
Fax: 216.592.5009
E-mail: harry.cornett@tuckerellis.com
benjamin.sasse@tuckerellis.com

Michael H. Page (*pro hac vice*)
Mark A. Lemley (*pro hac vice*)
Matthias A. Kamber (*pro hac vice*)
KEKER & VAN NEST, LLP
710 Sansome St.
San Francisco, CA 94111
Telephone: 415.391.5400
Facsimile: 415.397.7188
E-mail: mpage@kvn.com
mlemley@kvn.com
mkamber@kvn.com

Attorneys for Defendant YouTube, Inc.

Certificate of Service

I hereby certify that on **October 31, 2007**, a copy of foregoing **DEFENDANT YOUTUBE INC.'S STATUS REPORT** was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

/s/ Matthias A. Kamber
MATTHIAS A. KAMBER
Keker & Van Nest LLP
710 Sansome St
San Francisco, CA, 94111
Phone: (415) 391-5400
Fax: (415) 397-7188
E-mail: mkamber@kvn.com