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 YOUTUBE, LLC and GOOGLE LLC

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

MARIA SCHNEIDER and PIRATE MONITOR
 LTD, individually and on behalf of all others
 similarly situated,

Plaintiffs,

v.

YOUTUBE, LLC; GOOGLE LLC; and
 ALPHABET INC.,

Defendants

YOUTUBE, LLC and GOOGLE LLC;

Counterclaimants,

v.

PIRATE MONITOR LTD,

Counterclaim Defendant.

CASE NO.: 3:20-cv-04423-JD

**YOUTUBE AND GOOGLE'S
 ANSWER AND COUNTERCLAIMS**

JURY TRIAL DEMANDED

PRELIMINARY STATEMENT

Since its founding in 2005, YouTube has gone far above and beyond its legal obligations to assist copyright holders in protecting their rights. It has developed best-in-class processes for removing allegedly infringing materials pursuant to the Digital Millennium Copyright Act (“DMCA”), which protects online services like YouTube from claims of infringement by their users. It has also invested well over a hundred million dollars to pioneer industry-leading copyright management tools like its Content ID system.

Precisely because YouTube’s novel copyright management tools are so powerful, they must be used with care. These special tools enable users to automatically (or at the touch of a button) remove content from YouTube or block it from appearing in the first place. Misused or put in the wrong hands, these tools can be used to censor videos that others have every right to share through YouTube. These tools can also enable users to wrongfully claim ownership rights in others’ content or to take for themselves revenue that rightly belongs to others.

Plaintiffs’ claims in this case offer an especially pointed example of why YouTube limits access to Content ID. Both Pirate Monitor and Maria Schneider complain that they have not been allowed access to Content ID. But Pirate Monitor has clearly demonstrated why it cannot be trusted to use that tool properly. As set forth in YouTube’s Counterclaims, Pirate Monitor has engaged in widespread abuse of the DMCA’s notice-and-takedown process, going so far as to upload hundreds of videos to YouTube under false pretenses only then to claim, through false DMCA notices, that those same videos were infringing. This was apparently a ruse to obtain access to Content ID, and when it failed Pirate Monitor responded with this lawsuit. As for Schneider, she is suing YouTube on copyrighted musical works that she and her agents licensed YouTube to use. Not only that, despite Schneider’s claims that she has no access to Content ID, her own agent in fact used the tool to generate revenue from those same musical works on her behalf. Use of Content ID requires far greater care and candor.

Plaintiffs’ claims of entitlement to use Content ID are badly misguided; their claims of copyright infringement even more so. Defendants YouTube, LLC (“YouTube”) and Google LLC

1 (“Google,” and collectively, “Defendants”) hereby answer the Complaint (“Complaint,” Dkt. 1)
2 and assert Counterclaims against Plaintiff Pirate Monitor LTD.¹

3 **DEFENDANTS’ ANSWER**

4 To the extent the paragraphs (“Paragraphs”) of the Complaint are grouped under headings
5 and subheadings, Defendants respond generally that such headings and subheadings (some of
6 which are repeated below for reference only and which do not constitute admissions) state legal
7 conclusions and pejorative inferences to which no response is required. To the extent a response
8 is necessary, Defendants deny each and every heading and subheading in the Complaint and
9 incorporate by reference this response in each Paragraph below as if fully set forth herein.

10 Further, Defendants object that, rather than a short and plain statement of Plaintiffs’
11 allegations and claims required by Fed. R. Civ. P. 8, the Complaint is an overlong narrative with
12 lengthy Paragraph after lengthy Paragraph of advocacy. The complex rhetoric and built-in
13 assumptions in the Complaint make straightforward responses often impossible.

14 Except as expressly admitted herein, Defendants deny any and all allegations as set forth
15 in the Complaint. Defendants expressly reserve the right to amend and/or supplement their
16 Answer as may be necessary. Defendants further answer the numbered Paragraphs in the
17 Complaint as follows:

18 1. Defendants lack knowledge or information sufficient to form a belief about
19 Plaintiffs’ alleged ownership of copyrighted works. Defendants deny the remaining allegations in
20 Paragraph 1.

21 2. Defendants admit that YouTube provides certain users with a tool known as
22 “Content ID” for the purpose of managing copyrighted works. Defendants deny the remaining
23 allegations in Paragraph 2.

24
25
26 ¹ On September 21, 2020, Plaintiffs voluntarily dismissed all claims against Defendant Alphabet
27 Inc. (Dkt. 33). This Answer and Counterclaims are accordingly made on behalf of Defendants
28 YouTube, LLC and Google LLC.

3. Defendants lack knowledge or information sufficient to form a belief about Plaintiffs' alleged "lack [of] resources and leverage necessary to combat copyright infringement." Defendants deny the remaining allegations in Paragraph 3.

4. Defendants lack knowledge or information sufficient to form a belief about the allegation that "watching[ing] more than one billion hours of videos every single day ... equat[es] to approximately 5 billion videos viewed each day." Defendants otherwise admit the allegations in Paragraph 4.

5. Defendants deny the allegations in Paragraph 5.

6. Defendants deny the allegations in Paragraph 6.

7. Defendants admit that they generate revenue from targeted advertising. Defendants deny the remaining allegations in Paragraph 7.

8. Defendants admit that YouTube provides certain users with a tool known as "Content ID" for the purpose of managing copyrighted works, and that the tool scans videos uploaded to YouTube and comparing them against files previously provided to YouTube by copyright owners. Defendants also admit that an uploaded video that matches copyright material submitted through Content ID may receive a Content ID claim. Defendants further admit that copyright owners who use the Content ID tool can then choose to block that video, license and monetize that video, and/or track viewership statistics. *See* "How Content ID works," <https://support.google.com/youtube/answer/2797370?hl=en>. Defendants deny the remaining allegations in Paragraph 8.

9. Defendants admit that YouTube provides certain users with a tool known as "Content ID" for the purpose of managing copyrighted works. Defendants further admit that YouTube also provides a notice-and-takedown system for the purpose of managing copyrighted works. Defendants deny the remaining allegations in Paragraph 9.

10. Defendants admit that YouTube provides certain users with a tool known as "Content ID" for the purpose of managing copyrighted works; that Content ID screening occurs, among other times, at the moment a user uploads a video to YouTube; and that such screening

1 may prevent the public availability of the uploaded video, at the Content ID user's election.
2 Defendants further admit that YouTube also provides a notice-and-takedown system for the
3 purpose of managing copyrighted works. Defendants deny the remaining allegations in
4 Paragraph 10.

5 11. Defendants deny the allegations in Paragraph 11.

6 12. Defendants admit that YouTube assesses "strikes" for copyright violations and
7 bans repeat copyright infringers from its platform. Defendants admit that the DMCA creates a
8 safe harbor from liability for copyright infringement to which Defendants are entitled.
9 Defendants deny the remaining allegations in Paragraph 12.

10 13. Defendants admit that YouTube has received DMCA takedown requests from
11 Plaintiff Maria Schneider and from Pirate Monitor LLC. Defendants further admit that Plaintiffs
12 have not been individually approved to use the Content ID tool. Defendants deny the remaining
13 allegations in Paragraph 13.

14 14. Defendants deny the allegations in Paragraph 14.

15 15. Defendants deny the allegations in Paragraph 15.

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17 16. Defendants lack knowledge or information sufficient to form a belief about the
18 truth of the allegations in Paragraph 16.

19 17. Defendants lack knowledge or information sufficient to form a belief about the
20 truth of the allegations in Paragraph 17.

21 **DEFENDANTS**

22 18. Defendants admit that YouTube, LLC, is a Delaware limited liability company
23 with its principal place of business at 901 Cherry Avenue, San Bruno, California 94066.
24 Defendants also admit that in 2006, YouTube was purchased by Google and since that purchase
25 YouTube has operated as a wholly owned and controlled subsidiary of Google. Plaintiffs'
26 allegations regarding operation and control of the YouTube website and that YouTube "conducts
27 business as Google" are vague and ambiguous. As a result, Defendants lack knowledge or
28

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