

1 DAVID H. KRAMER, State Bar No. 168452  
2 MAURA L. REES, State Bar No. 191698  
3 LAUREN GALLO WHITE, State Bar No.  
309075  
4 WILSON SONSINI GOODRICH &  
ROSATI  
5 Professional Corporation  
650 Page Mill Road  
6 Palo Alto, CA 94304-1050  
Telephone: (650) 493-9300  
7 Facsimile: (650) 565-5100  
Email: dkramer@wsgr.com  
8 mrees@wsgr.com  
lwhite@wsgr.com

BRIAN M. WILLEN (*Pro Hac Vice  
Forthcoming*)  
WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation  
1301 Avenue of the Americas, 40th Floor  
New York, NY 10019-6022  
Telephone: (212) 999-5800  
Facsimile: (212) 999-5801  
Email: bwillen@wsgr.com

9 Attorneys for Defendants and Counterclaimants  
YOUTUBE, LLC and GOOGLE LLC

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 MARIA SCHNEIDER and PIRATE MONITOR )  
14 LTD, individually and on behalf of all others )  
15 similarly situated, )

16 Plaintiffs, )

17 v. )

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

19 Defendants )

20 \_\_\_\_\_ )  
21 YOUTUBE, LLC and GOOGLE LLC; )

22 Counterclaimants, )

23 v. )

24 PIRATE MONITOR LTD, )

25 Counterclaim Defendant. )  
26 \_\_\_\_\_ )

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

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

**JURY TRIAL DEMANDED**

1 **PRELIMINARY STATEMENT**

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

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

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

26 Plaintiffs’ claims of entitlement to use Content ID are badly misguided; their claims of  
27 copyright infringement even more so. Defendants YouTube, LLC (“YouTube”) and Google LLC  
28

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

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 <sup>1</sup> 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.

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

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

8           5.       Defendants deny the allegations in Paragraph 5.

9           6.       Defendants deny the allegations in Paragraph 6.

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

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

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

25          10.      Defendants admit that YouTube provides certain users with a tool known as  
26 "Content ID" for the purpose of managing copyrighted works; that Content ID screening occurs,  
27 among other times, at the moment a user uploads a video to YouTube; and that such screening  
28

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.

16 **PLAINTIFFS**

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

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.