

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC.,  
COMEDY PARTNERS,  
COUNTRY MUSIC TELEVISION, INC.,  
PARAMOUNT PICTURES CORPORATION,  
And BLACK ENTERTAINMENT  
TELEVISION LLC,

Plaintiffs,

v.

YOUTUBE, INC., YOUTUBE, LLC, and  
GOOGLE INC.

Defendants.

ECF Case

No. 1:07-cv-02103 (LLS) (FM)

**DEFENDANTS' ANSWER AND  
DEMAND FOR JURY TRIAL**

Viacom's complaint in this action challenges the careful balance established by Congress when it enacted the Digital Millennium Copyright Act. The DMCA balances the rights of copyright holders and the need to protect the internet as an important new form of communication. By seeking to make carriers and hosting providers liable for internet communications, Viacom's complaint threatens the way hundreds of millions of people legitimately exchange information, news, entertainment, and political and artistic expression. Google and YouTube respect the importance of intellectual property rights, and not only comply with their safe harbor obligations under the DMCA, but go well above and beyond what the law requires.

Defendants YouTube, Inc., YouTube, LLC and Google Inc. (collectively, "Defendants"), by their undersigned attorneys, hereby answer Plaintiffs' Viacom International Inc., Comedy Partners, Country Music Television, Inc., Paramount Pictures Corporation, and Black

Entertainment Television LLC (all collectively, “Plaintiffs”) Complaint For Declaratory and Injunctive Relief and Damages (the “Complaint”) as follows:

**INTRODUCTION**

1. Defendants admit that the internet has had a significant impact on the way in which Americans inform and entertain themselves. Defendants are without information sufficient to form a belief as to the remaining allegations of paragraph 1 of the Complaint, in part because such allegations are not simple, concise and direct averments as required by Federal Rule of Civil Procedure 8(e), and on that basis Defendants deny such allegations.

2. Defendants deny the allegations of paragraph 2 of the Complaint.

3. Defendants admit that the website located at [www.youtube.com](http://www.youtube.com) is a forum for users to share their own original “user generated” video content. Defendants are without sufficient knowledge or information to confirm that Dow Jones reported the information averred in paragraph 3 of the Complaint, and therefore deny it. Defendants deny the remaining allegations in paragraph 3 of the Complaint.

4. Defendants deny the allegations of paragraph 4 of the Complaint.

5. Defendants deny the allegations of paragraph 5 of the Complaint.

6. Defendants deny the allegations of paragraph 6 of the Complaint.

7. Defendants deny the allegations of paragraph 7 of the Complaint.

8. Defendants deny the allegations of paragraph 8 of the Complaint.

9. Defendants admit that Google purchased YouTube Inc. for \$1.65 billion.

Defendants deny the remaining allegations of paragraph 9 of the Complaint.

10. Defendants admit that Plaintiffs seek a declaration of willful infringement, a permanent injunction and damages, but deny that Plaintiffs are entitled to any such relief.

Defendants deny the remaining allegations of paragraph 10 of the Complaint.

### **JURISDICTION AND VENUE**

11. Defendants admit that the Complaint purports to state a claim for damages and injunctive relief for copyright infringement, but deny that Plaintiffs are entitled to any such relief and otherwise deny the allegations of paragraph 11 of the Complaint.

12. Defendants admit that this Court has original subject matter jurisdiction over this matter.

13. Defendants admit this Court has personal jurisdiction over them for purposes of this action. Defendants admit that Google maintains an office and employs personnel in New York and this District, and is thus physically present in the state. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations that Plaintiffs Viacom International Inc. and Comedy Partners have their principal places of business in New York and in this District, and therefore deny them. Defendants deny the remaining allegations of paragraph 13 of the Complaint.

14. Defendants admit that venue is proper in this District.

### **PLAINTIFFS AND PLAINTIFFS' BUSINESSES**

15. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 15 of the Complaint, and therefore deny them.

16. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 16 of the Complaint, and therefore deny them.

17. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 17 of the Complaint, and therefore deny them.

18. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 18 of the Complaint, and therefore deny them.

19. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 19 of the Complaint, and therefore deny them.

20. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 20 of the Complaint, and therefore deny them.

21. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 21 of the Complaint, and therefore deny them.

22. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 22 of the Complaint, and therefore deny them.

23. Defendants deny the allegations in paragraph 23 of the Complaint.

### **DEFENDANTS**

24. Defendants deny the allegations of paragraph 24 of the Complaint.

25. Defendants admit that YouTube LLC is a Delaware limited liability company with its principal place of business in San Bruno, California. Defendants otherwise deny the allegations of Paragraph 25.

26. Defendants admit that YouTube LLC is a wholly-owned subsidiary of Google Inc. (“Google”), and that Google Inc. is a Delaware corporation with its principal place of business in Mountain View, California. Defendants further admit that Google has a place of business in the State of New York, in this judicial district, and that Google acquired YouTube, Inc. for \$1.65 billion in a transaction announced on October 9, 2006 and closed on November 13, 2006. Defendants deny any remaining allegations of Paragraph 26.

27. Defendants admit that YouTube LLC and Google today operate an online service called “YouTube” which can be accessed at the website [www.youtube.com](http://www.youtube.com), and that the service is popular. Defendants deny the remaining allegations in paragraph 27 of the Complaint.

28. Defendants admit that Google's press release announcing that it had closed its acquisition of YouTube quoted Chad Hurley, CEO and Co-Founder of YouTube, as saying, "The community will remain the most important part of YouTube and we are staying on the same course we set out nearly one year ago." Defendants admit that Google's website includes a capability for users to search for video clips and receive search results that include links to clips on YouTube. Defendants deny the remaining allegations in paragraph 28 of the Complaint.

### **NATURE OF THE ACTION**

29. Paragraph 29 of the Complaint states legal conclusions as to which no responsive pleading is required. To the extent a response is required, Defendants deny the allegations of paragraph 29 of the Complaint.

30. Defendants admit that paragraph 30 of the Complaint quotes small excerpts from a YouTube, Inc. Press Release dated December 15, 2005. Defendants admit that YouTube encourages users to upload video clips to the service that the users have the right to upload, and that clips uploaded to the service are typically available for viewing free of charge by members of the public who have internet access. Defendants deny the remaining allegations in paragraph 30 of the Complaint.

31. Defendants admit that when a user uploads a video to the YouTube service, the video is copied into a software format, stored on YouTube's computers, and made available for viewing through the YouTube service. Defendants admit that users of the YouTube service can search for videos stored on the service by entering a search query, and that they will receive a list of thumbnails – single frame images of video clips stored on the service – identified in response to that search query. Defendants admit that the purpose of these thumbnails is to help users find what they are searching for. Defendants deny the remaining allegations of paragraph 31 of the Complaint.

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