

Judge rebuffs Viacom in YouTube copyright case (Update)

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FILE - This file image made March 18, 2010, shows the YouTube website in Los Angeles. A federal judge sided with Google Inc. on Wednesday, June 23, 2010, in a \$1 billion copyright lawsuit filed by media company Viacom Inc. over YouTube videos, saying the service promptly removed illegal materials as required under federal law. (AP Photo/Richard Vogel, File)

(AP) -- YouTube's actions spoke louder than its founders' words when it came down to deciding whether the Internet's most watched video site illegally exploited copyrighted clips owned by media company Viacom Inc.

That was the rationale driving a pivotal ruling in a high-stakes legal battle pitting Viacom against YouTube and its deep-pocketed owner, Internet search leader Google Inc.

U.S. District Judge Louis Stanton in New York sided with Google Wednesday as he rebuffed Viacom's attempt to collect more than \$1 billion in damages for YouTube's alleged copyright infringement during its first two years of existence.

The 30-page opinion embraces Google's interpretation of a 12-year-old law that shields Internet services from claims of copyright infringement as long as they promptly remove illegal content when notified of a violation.

It represented a major victory for Google, as well as other Internet service providers and free-speech groups who feared a decision in favor of Viacom would undercut the Digital Millennium Copyright Act and make it more difficult for people to use the Internet to express themselves.

"Without this decision, user-generated content would dry up and the Internet would cease to be a participatory medium," said David Sohn, a lawyer for the Center for Democracy & Technology.

If not for the broad protections allowed under digital copyright law, Google probably wouldn't have paid \$1.76 billion to acquire YouTube in 2006. A few months before that deal, Google's own executives had branded the video-sharing service as "a 'rogue enabler' of content theft," according to documents unearthed in the copyright infringement case.

E-mails obtained as part of the evidence submitted in the case depicted YouTube founders Chad Hurley, Steven Chen and Jawed Karim as video pirates more interested in getting rich quick than obeying federal law.

But Stanton seem more interested in YouTube's behavior than the mindset of its founders.

In dismissing the lawsuit before a trial, Stanton noted that Viacom had spent several months accumulating about 100,000 videos violating its copyright and then sent a mass takedown notice on Feb. 2, 2007. By the next business day, Stanton said, YouTube had removed virtually all of them.

Stanton said there's no dispute that "when YouTube was given the (takedown) notices, it removed the material."

The judge's reasoning was "clear and decisive," said Eric Goldman, a Santa Clara University associate professor who specializes in high-tech law. "He rose above the fray and didn't get into any of the mudslinging that was going on in this case."

Viacom, the owner of popular cable channels such as MTV, Comedy Central and Nickelodeon, called Stanton's decision "fundamentally flawed" and vowed to appeal. That virtually ensures a legal brawl that already has dragged on for more than three years will spill into 2011 and perhaps beyond.

"Copyright protection is essential to the survival of creative industries," said Michael Fricklas, Viacom's general counsel. "It is and should be illegal for companies to build their businesses with creative material they have stolen from others."

The bitter battle revolves around Viacom's allegations that YouTube built itself into the Internet's most watched video site by milking unlicensed use of copyright-protected clips stolen from professionally produced shows such as Viacom's "The Colbert Report" and "The Daily Show."

The pirated material came from the millions of people who have uploaded clips to YouTube since its 2005 inception. About 24 hours of

new video is posted to YouTube every minute.

Since it was sold to Google, YouTube has developed a system that helps flag copyright violations when videos are posted. Viacom argues those copyright detection tools prove YouTube could have done more to keep illegal content off its site.

Kent Walker, Google's general counsel, said the company is confident Stanton's decision will hold up. The 30-page ruling is "thoughtful, thorough and well-considered," Walker said in an interview. He also hailed the decision as "a victory for a new generation of creators and artists eager to showcase their work online," Walker said.

Facebook, eBay Inc. and Yahoo Inc. were among the Internet companies that had backed Google in its battle with Viacom.

The sparring leading up to Stanton's decision proved embarrassing for both sides.

An early e-mail exchange among Hurley, Chen and Karim showed at least one of them may have knowingly violated copyrights as they posted video clips during the service's early stages.

"Jawed, please stop putting stolen videos on the site," Chen wrote in the July 19, 2005, e-mail. "We're going to have a tough time defending the fact that we're not liable for the copyrighted material on the site because we didn't put it up when one of the co-founders is blatantly stealing content from other sites and trying to get everyone to see it."

Other documents showed Viacom had hoped to buy YouTube before getting trumped by Google, making it seem as if the media company's later claims of copyright abuse may have been a case of sour grapes.

A July 2006 e-mail from Fricklas, Viacom's top lawyer, even disputed that YouTube was engaged in rampant copyright infringement. "Mostly YouTube behaves," Fricklas wrote.

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