

## **Paragraph 4.20 of the Complaint:** **The "YOUTUBE EMAIL DIGEST"**

The following "YouTube Email Digest" was written by Plaintiff Benjamin Ligeri (during the months of June and July of 2008) while reviewing emails sent between Benjamin Ligeri and YouTube, predominantly regarding his Bennybaby account and channel on YouTube.

### **March 23, 2007,**

The Youtube Team (YT) sent me an email telling me that a character video I had made in response to the TurboTax Rap Competition "Racial Deductions" was removed due to its inappropriate nature. And a followup email alerting me that a second part of the video "Rap Taxes Parody" was also removed for the same reason.

I responded to both emails, which allow you to respond with an objection, and I objected in that the video did not violate the terms of use and asked how to proceed with said objection. I received no reply.

The TurboTax Rap Competition hosted by Vanilla Ice called for a two-minute rap about taxes, one of my parody characters "BIGGA BLD" created a five-minute parody video and a 2 minute shortened version for the competition.

The video was refused entry by TurboTax, under the guise that it had a picture of Art Garfunkel, which it did not. It had a picture of a blond gentleman playing the saxophone who slightly resembled Garfunkel, it was part of the many jokes in the video.

After the fact, I could see why TurboTax wanted no part in this video of mine, as it didn't glorify TurboTax, which is what the winner's video did. It turns out TurboTax was looking for the "best glorification of their company" rap video as opposed to the best "tax rap" video as they advertised. But I thought it could win the 25,000 if Youtube users were allowed to vote on it, which is what was promised, but the video was never allowed into the contest so users could never vote on it.

### **May 22, 2007,**

YouTube, Inc. sent me an email alerting me that (another parody character of mine) Professor Carlton's GIRLFRIEND parody was removed as a result of a third-party notification by RCA Records claiming that the material was infringing their copyright.

Later, YouTube, Inc. sent the same copyright notification in regards to PROFESSOR CARLTON's ORDINARY DAY parody. And to another copy of the Girlfriend video hosted on Professor Carlton's own YouTube page (Youtube.com/ProfessorCarlton)... as character videos are hosted not only on my main account (Youtube.com/Bennybaby), but also on the individual character accounts as well. In this case, the two videos were the same -- except that one was surround sound and the other close up.

It took me awhile to find an email to write back to YouTube copyright office with, and then I found "copyright@youtube.com" and emailed them to explain that there was no copyright violation in those videos.

First of all, they would be Fair uUe exempted anyway even if there was any usage of copyrighted material. Professor Carlton simply makes fun of ridiculous lyrics in pop songs -- Carlton's work is excluded from copyright claims under both the Criticism and the Parody Fair Use exemptions. In addition, Carlton didn't even use any of the audio or video from the song for the parody. He just criticized a few lines of the lyrics.

I was emotionally crazed when I realized that my videos were being removed one by one and I could find NO RECOURSE at the time. I didn't know of the Digital Millennium Copyright Act ("DMCA") at the time. I emailed copyright@youtube.com with my phone number in the SUBJECT of the email, telling them that they were making a huge mistake and to please contact me.

I received an email from MARK (of YT) telling me that I could file a DMCA counter-notification if I felt that the copyright holder had misidentified my work. I found the notice, filled it out and faxed it in right away.

## **May 23, 2007,**

Heather (of YT) responded that my counter notification was received and forwarded to the party that sent the takedown notification.

I responded, asking who the "party" was that it was forwarded to. And also asking for a copy of the original copyright infringement claim, because I did not know what was even being claimed as copyright. I gave the example that I could be arguing about the song but they might be claiming a shot of a guy walking by in the b.g. It could be anything, and I was told to defend against an allegation but not told the allegation.

In a separate inquiry, I asked how long the process takes. Heather only answered the length question, 10 to 14 days for a counter notice to process.

I asked again for a copy and was sent a Notice of Claimed Copyright Infringement, dated a month earlier (4-27-07) with the scribbled name Sara Hruska (sp?) and IP Owner Sony BMG and an address and email and no other information, several

markings were blacked out.

Obviously this didn't tell me what the claim was, it didn't even mention my video or me or anything else. Just a form with a name on it, dated a month earlier -- not meeting the requirements of a sworn DMCA notice and an indication of the work being claimed.

I responded to Heather, telling her just that, in short, that the form was meaningless.

Later, I received a notice from Heather that RCA Records had retracted their claim and my video would be restored in a few days. It took some time for it to be restored and it lost its ranking as well, which was very high, and which, taken in consideration with the second time this video was deleted (two months later) the removal likely cost the video over a million views. The actual Girlfriend video by Avril Lavigne, posted by RCA Records is now at over 90 million views to give a frame of reference and Carlton's parody video was listed above it originally, and was climbing in views together with the RCA video. The second time the video was removed for fraudulent copyright claim (mentioned below) was the time RCA released another music video by Avril Lavigne of the same album as Girlfriend which influenced high search volume for Avril again, and hence Carlton.

## **May 24, 2007,**

I sent another email asking about the two other videos that had also been removed due to RCA's claim, if they would be restored as well.

## **May 25, 2007,**

I received the following email in response:

*"Hi there,*

*RCA Records has informed us that a number of notices of claimed copyright infringement they submitted to us on Tuesday, 2007.05.22, were submitted in error. They have retracted their claims with respect to those videos.*

*We are in the process of restoring this material. For technical reasons this process will take a few days. We appreciate your patience in this matter.*

*Sincerely,*

*The YouTube Team"*

When you think about it, it doesn't seem highly possible that one could submit a

copyright claim in error; nonetheless, the vides were ultimately restored.

## **June 10, 2007,**

I sent an email to Youtube objecting to a video of mine being deleted for "inappropriate content" reasons. I also asked that if something was inappropriate in it, that they tell me what was inappropriate so that I could edit it -- which they never did.

## **June 13, 2007,**

Nidhi (of YT) sent me a generic response on how youtube reviews videos to determine if they're inappropriate along with a link to the ENTIRE Youtube terms of use; which I read the relevant portion of and found nothing therein to establish my video as being inappropriate. Only extreme reasons were given in the terms for deletion of a video, such as hate/violence or pornographic. Nidhi also stated in his email: "If we remove your video after reviewing it, you can assume that we removed it purposefully, and you should take our warning notification seriously."

I responded to Nidhi alerting him to the fact that his quoted statement was untrue.

Youtube has corrected the mistake of removing my videos numerous time in the past; in fact, in almost all cases they have corrected the mistake.

## **June 25, 2007,**

Background Note: I read an article "First fame, now cash for stars on YouTube" in the LA Times (dated May 5, 2007) by Dawn C. Chmielewski stating that Youtube would start paying its non-corporate top video producers. I looked at some of the users being partnered and noticed that I had both more views and more subscribers than many of the current partners, so I attempted to inquire about becoming a partner. Also, I was planning to start spending a lot more time making content and advertising my YouTube account, possibly from a tv show platform as well; so, needless to say, it was important that all the money spent promoting Youtube's site wasn't done with absolutely no return payment, and so...

I submitted an email to Youtube via their (Google?) contact form (which is well hidden), requesting whether or not Youtube would make me a partner (and share revenue) as I may have a show going on tv as well (a new concept show that would be half on tv and half on the internet), and I would need to know whether or not to advertise my Youtube channel -- which I could only do if Youtube was paying me for said traffic -- If they weren't, I would be forced to send the traffic to a private website where revenue could be made off of the traffic and advertising costs could be covered.

## **June 26, 2007,**

Around this time, an epidemic proportion of SPAM started appearing in the comments section of almost all Youtube videos. Most of the SPAM were various URL's--including the prominent URL: "Camznow.com"--which all redirected to the URL: [www.Camazon.com](http://www.Camazon.com), which was a site where you paid to see naked girls perform sexual acts live in front of a web camera.

Needless to say, it wasn't too "family friendly" and it was certainly a pornographic spam that violated the federal CAN SPAM ACT. And I was spending up to an hour a day dealing with this spam and removing it. In addition to the other 8 to 16 hours a day I was spending creating and uploading and managing and marketing my Youtube videos.

I started sending legal compliance notices to Camazon.com who acted like they didn't know that the SPAM was going on and blamed it on a third-party advertiser and also acted like they wanted to help. However, their actions spoke differently. They kept requesting a lot of information and then as soon as I provided it to them, they deleted my inquiry and didn't respond. In addition, they asked for a copy of all of the SPAM, which may have been in the millions, so I just sent them some samples. Almost every video you selected on Youtube at the time had this SPAM on it.

I wondered how they could get away with such a grossly illegal form of spamming and how Youtube could allow it, but I thought nothing of the connection at the time.

I just wanted to solve the spam problem as it was negatively affecting almost every video creator on Youtube and I thought of an idea to solve the epidemic: to make a video that was both funny and informative, teaching people the simple steps to mark and report the spam and then delete it so that Youtube could track and prevent it or something like that. Because if you just remove the SPAM, Youtube might not know about it, so you have to mark it using the feature they have next to the comment.

Using the contact form again, I sent the following email to Youtube:

*"I want to help you guys get rid of these camznow spam's, if it means making a video or what have you. I get 10 of these a day. Are you guys aware of them? They're spreading onto every video like crazy.*

*I'm here to help, just commission me."*

It got up to 30 to 50 spams a day at one point.

## June 28, 2007,

In response to my application or email request to be a revenue-sharing Partner with YouTube, I received the following response:

*"Hi there,*

*Thanks for your email. We appreciate your interest in working with YouTube. The quickest way to speak with us about forming a content partnership is to enter your information at <http://www.youtube.com/advertise>. Someone will get in touch with you shortly once you've done that.*

*Hope this helps,*

*Kavitha  
The YouTube Team"*

I responded as follows:

*"I've already filled out the advertise form awhile ago, even though I'm not an advertiser. This is urgent, as you can see by the nature of my query below, please have someone contact me as soon as possible about this.*

*Thank You Very Much,*

*Ben Ligeri  
(401) 952-6661"*

This inquiry was answered on June 29, 2007, and copied below.

## June 28, 2007 (cont'd)

I received an email from Wynston (of YT) in response to my June 26th email effort to help Youtube rid themselves of this epidemic SPAM that could've jeopardized the site's functionality and was driving YouTube users away, but didn't have to.

The email from Wynston, stated, in relevant part:

*"We appreciate your cooperation and if you would like to create a campaign to help stop this kind of spam, we would certainly **support and applaud** such an effort [emphasis added]. Kind of a grass-roots strategy to solving the spam from camznov. Thanks again."*

After I spent days making this video and starting a group for Youtube members to get involved in stopping the spam, and after the video received unanimous support and top ratings from Youtube users, and after sending emails and legal notices to the

spammers, and after numerous correspondences and empty promises from Wynston, time would reveal that my effort was not supported nor applauded in the least, contrary to Wynston's promise in the above email.

## **June 29, 2007,**

Kavitha's reply to my email about already applying--via YouTube's advertising form--to be a content partner with YouTube:

*"Hi there, Thanks for your response. Please be patient, someone will get in touch with you shortly"*

Not only was I not contacted shortly on this matter, I was never contacted about the matter.

## **June 30, 2007,**

I emailed Wynston with, among other things, a URL of the STOP SPAM video I had made (entitled CELEBRITIES AGAINST SPAM) and a URL of the group that I started and I told him I'd spent the last 30 straight hours on the task. I also asked Wynston about featuring the video.

Wynston's full reply:

*"Hi there,*

*Thanks again for your email, Benny. I got a chance to watch the video and thought it was great.*

*As far as the feature goes, it isn't really the type of content that is typically chosen. That said, it definitely serves it's purpose and if you could cut it down a bit (for example, cut out all of the fly bits) and possibly getting it down around the 3-4 minute range, I will look at it again. I think it is important though to keep the message and just cut what you think isn't the meat. No promises here. Basically features are done in the following way. YouTube's members rate videos they like, and our editorial staff reviews highly-rated and recent videos for consideration in the "Featured Videos" section of the home page and the featured videos on the "Categories" page. In addition, our programming team takes suggestions from members at editor@youtube.com and scans the site for videos of interest.*

(cont'd)

*I appreciate your efforts on the site's behalf. We need more members like you who are empowering the community to take action and cease their apathy. We will continue to create a site that allows you all to do so.*

*That said, I am definitely going to watch your other videos. I haven't gotten a chance to check out the group you created, but I will eventually. Again, I want to thank you for all the time you put into this and hopefully the rest of the community will respond positively.*

*Regards,*

*Wynston  
The YouTube Team"*

We will soon learn that these were nothing more than bathetic words and everything Wynston said was essentially false. However, Wynston's email above sounded really wonderful to me at the time. He suggests that a shorter version of the video may be featured (as the first cut was nine minutes), but he mainly relies on the set standards that Youtube has for featuring videos, which he defines as: High ratings, Recent, Liked by members.

Well, the full-length CELEBRITIES AGAINST SPAM video--which was originally entitled "Help Defeat the God of SPAM"--and the abridged version which I created the next day at a running time of 4 minutes) both exceeded these standards for being featured. And the abridged video may have exceeded these standards more than any other video in the history of Youtube:

In about a day or less of the abridged video being on Youtube, it had received FOUR HONORS (the original received an additional 2 honors), including honors in the following categories:

Top Rated  
Most Discussed  
Top Favorited

When a video is "favorited" it means it was saved by the viewer so that they'd have a link on their account to watch it without having to search for it again.

These honors were extraordinary, especially considering the fact that the video only had 65 views at this point! A video with 65 views is lucky to get one rating or one comment. Any action by a Youtube user is usually had at a 1 in a 100 to 1 in a 1,000 ratio, this video was getting action at a 1 in 6 ratio -- again, possibly the highest ratio of response on any video in the history of Youtube!

The only thing lacking was the view count, which the quality of the video and the artist has no control over. People just weren't searching for anti-spam videos, which is exactly why it should've been featured. Considering--from a microcosm standpoint--the response it received, if it were featured, it may have been the most popular video on YouTube of all time. I also received several emails about the video, and receiving an email about a video is one of the rarest things you can encounter on Youtube. I've had videos with over 100,000 views and not received an email about them. And when the original, full-length anti-spam video had only 18 views, I had already received two emails. And the group I started had five members. That means more than 25% of the viewers of the video joined the anti-spam group it was promoting.

\*\*It should be noted that the reason I was seeking the video to be featured, in addition to helping solve the spam epidemic, was, for one, to get paid (as it is rumored that Youtube pays users for featured videos), and two, to get my other videos in the spotlight, possibly forging the partnership with Youtube and I.

As far as "rumors" go, rumors are the only thing Youtube and Google dribbles to the "internet peasants" = everyone on the internet struggling to appease GooTube. ("GooTube" is a nickname given to the duo after Google purchased Youtube for 1.65 billion). Gootube hardly ever answers a question with an answer, rather they answer a question with an idea for an answer or an implication of one. By their responses, the staff at GooTube appear to have both the communication ability and the innocence of a 6-year-old child with learning disabilities. Literally. Either that is the level of the staff or that is the level they pretend to be at. One of the two options is unquestionably the case. And it's most likely the latter.

## **June 30, 2007 (cont'd),**

I sent Wynston a link to the abridged video of "CELEBRITIES AGAINST SPAM" and told him about the high stats and that it certainly met the qualifications of being featured and stated in part:

*"And since you do feature some "How To's" like "How to Freeze a Beer" or "How to Rip a PhoneBook in Half", I'm thinking, "How to Save Youtube From SPAM" (and save the communication on Youtube) has to at least rival those others, no?"*

and closed the email with:

*"Either way, I appreciate your time and I value whatever decision you make. I'm sure it's for the best. Thank you very much"*

I also described my videos to him -- since he said he definitely wanted to watch them, I told him the various categories and serials and what he could expect.

## **July 2, 2007,**

I sent a followup email to Wynston, making sure he received my emails and provided him with an update on the stats of the anti-spam videos and group, which had thirty members. And the video still only had about 100 views, which means over 25% of the viewers of the "CELEBRITIES AGAINST SPAM" video were still joining the group.

Also on July 2, 2007, I had several people subscribe to my videos.

## **July 3, 2007,**

I sent another followup email to Wynston asking if he had received my emails over the past few days.

## **July 4, 2007,**

I received an initial response from Wynston, which, short of salutations, stated:

*"Thanks for your emails, Ben. I apologize for just responding now, but I don't work on Sunday and Monday. I have received your emails and was getting some feedback from colleagues about your anti-spam "campaign" video and we're still looking into some possibilities. No promises, though. Thanks for your patience and keep up the good work/fight the good fight."*

"we're still looking into some possibilities" = the "idea" for the answer. Not the answer. Although he states "No promises", he already made a few. Plus, just a non-cut and paste email from Gootube is already a promise of greatness. I wasn't thinking so pessimistically at the time, of course, I honestly thought he would be looking into some possibilities, though it did seem like it might be a bit of an unusual process.

## **July 6, 2007,**

I wrote to Kavitha again, as no one had gotten back to me yet on the advertiser form I had filled out about partnering--and little did I know at the time, that no one would ever get back to me it--re-expressing the urgency of getting either approved or denied for the Partner Program prior to the launch of THE MUSIC SHOW and further investments in advertising. I explained that I had to have an answer to take back to investors.

I sent a message to Youtube through the contact form telling them about my conversations with Kavitha and expressing the urgency for a response. The reason I sent another email is because I feared a name like Kavitha may have represented an outsourced employee who didn't speak English and was therefore just cutting and pasting english phrases from a list. This happens a lot in the outsourced world.

I was unsure if Youtube was outsourcing at all to begin with. And Kavitha wasn't a name even listed in the all-encompassing database of BabyNames.com and she kept saying the same thing and doing it.

As an example of outsourced non-organic communications, I once chatted with McAfee anti-virus technical support and when I noticed that the "person" I was chatting with didn't really hear what I was saying, I stated that I needed help with a squid's ass or something and they asked me what model the squid's ass was or something. That's kinda what I thought might've been happening between Kavitha and I.

I received an automated reply from The Youtube Team (YT) telling me that my inquiry was received.

## **July 7, 2007,**

I sent the following email, in whole, to Wynston:

*"Dear Wynston,*

*Well I've been keeping up the good fight. I'm talking to people constantly and getting reports of lower SPAM. Attached is a correspondence I am having with CAMZNOW and I believe it will soon lead to the end of their SPAMMING.*

*Tell me that wouldn't be a huge accomplishment, after all, this SPAM has affected almost every regular user on Youtube, and it's all gonna be gone soon. What am I getting? The Purple Heart? Medal of Honor? Featured on the front page of Youtube, just like the guy who taught us how to rip a phonebook in half? What's the winning of this huge SPAM battle worth?*

*What do you mean by "possibilities"? You said "we're still looking into some possibilities."*

*CELEBRITIES AGAINST SPAM (<http://youtube.com/watch?v=8BNwvNmnnB4>) has gotten higher ratings and reviews than most featured videos. The group (<http://www.Youtube.com/group/StopSPAM>) is thriving.*

*If you want to feature me really badly as a thanks, but don't want to feature the SPAM vid for whatever reason, I do have 70 other videos.*

*Thanks again for everything Wynston,*

*Sincerely,*

*Benjamin Ligeri  
(cont'd)*

*p.s. What is the "videos being watched" section all about. We know thousands of videos are being watched all the time, so which ones are included in the displayed five?"*

In a separate correspondence, I also emailed the following, in relevant part, to Wynston about my struggle to get an answer back on the Partner Program.

*"Dear Wynston,*

*On another note, I've been emailing Youtube like crazy (and filled out the form I was sent) about becoming a Youtube Partner, but I haven't heard back. It's been weeks and I'm on a tight deadline, as my show is soon going to be on national tv.*

*Here's the deal. I need to tell these new investors whether or not I will be able to partner with Youtube, or how it's done, how much, etc..., otherwise we won't be able to feed the show's views back to Youtube. .... Anyway, I really want to stay with Youtube, but I can't spend millions drawing traffic to your site if I'm getting absolutely nothing back....."*

## **July 9, 2007,**

I emailed Wynston a link to a video I made, (as a character named "MC ARTIFICIAL") called the "Go See SiCKO" rap. It was a video supporting the movie SICKO and encouraging users to sign the H.R. 676 to establish Universal Health Care.

I thought it may be of interest to Youtube in featuring, as it was featured on the front page of MichaelMoore.com--on the actual homepage--where it is to this day. And they feature Moore's videos from time to time to keep up with their liberal identity.

## **July 11, 2007,**

I received an email from Shenaz (of YT), for some reason it was replied to my SiCKO email above, which stated in relevant part:

*"Hi Benny,*

*Thanks for your emails and sorry for the delay in getting back to you. We appreciate your interest in the program and are constantly evaluating the program and will be adding new partners to the program if and when appropriate. That said, please fill out the following form if you are interested in becoming a YouTube content partner:"*

A link was provided below to another form or application. I had already applied, both in email and through other forms given me by Youtube staff, and I was checking on the status when I got this contradictory email from Shenaz above that states that they apologize for the delay in getting back to me, but at the same time, provides me with another form to apply for something they're already admitting a delay in getting back to me on. That's what happens after awhile when a company issues insincere correspondences, they tend to contradict themselves and not even make any sense, while at the same time appearing to be so nice and benign with "thank you's" and "apologies."

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Hoping to keep my back and forth dialogue with one person, like Wynston, and not someone new every time, I sent the following email back to Shenaz:

*"Dear Shenaz,*

*thanks for your reply, but I'm waiting for Wynston to get back to me on a couple of things we've been going back & forth on for awhile, so could you please see that he gets my emails? Thank you.*

*As far as the partner program and "having an interest", it's not that I have an interest, it's that The Music Show has a NECESSITY to provide it's uniquely and unparalleled original content to partnered sites (=paying sites). As you know, The Music Show is moving to tv in a month, and will need to refer it's (possibly) 20-something million viewers to a website or internet video portal of some kind to see the rest of the half-tv/half-internet show. So, videos will be introduced and highlighted on the tv show, much like a director's are on The Tonight Show, then those viewers will be referred to the internet to watch complete segments.*

*I NEED TO KNOW, 100% MUST KNOW, whether or not I can partner with Youtube or I will NOT be able to refer millions of people to your site for free. This obviously goes without saying, as the investors would never allow that, and neither would you in this situation. It's important that I discuss this and other pressing issues with Youtube. Maybe we can get on the phone, either that, or I'll make a trip to your corporate office.*

*Thanks,*

*Bennybaby"*

My wrists were extended, I would've done anything to consummate communication with this company, including flying across the entire country to their corporate office.

## **July 12, 2007,**

I sent the following email to Wynston:

*"Dear Wynston, I sent you three very important emails a week ago, one that was EXTREMELY VITAL on the partner program. I need to talk to you very soon. I can't stress that enough. It would be better too if you called me, I have some serious stuff I can't divulge through email:  
401.952.6661 (my cell)  
508.336.2049 (my work)  
Thank you, Benjamin Ligeri"*

Honestly, I was trying to sound a bit mysterious in this email to induce a phone call to consummate communication.

It should be noted here that large corporations have a serious ax to grind with telephone communication and email is a very limited form of communication as is. Adding any incoherency or inconsistency to the email medium completely nullifies it as a means of communication. Unlike the telephone, where two people may go back & forth fifty times in the space of a few minutes to clarify one point, there is no back & forth in one email. One side is presented at a time, contingent on so many things that could be gleaned right over in a phone call.

One can't cut and paste on a phone call--though Google customer service reps are pushing these barriers. Needless to say, I was eager to get on the phone as I felt a five-minute conversation with a coherent human being may solve a year's worth of incoherent emails.

Email is great when one you want to tell someone a complete thought, like "check this out" or "read this", but when there's numerous variables that require clarification, the two participaters in email must be very sharp and quick in responses or the gist of the communication is always lost in time.

Email is also easy to ignore, to chill, to silence, to pretend you didn't receive the email. To answer questions in it that weren't asked and not answers ones that were asked. This is why GooTube loves this form of communication so much.

*(page break)*

## **July 14, 2007,**

I sent the following email to Wynston:

*"Please don't blow me off, I brought a million views to Youtube, much from outside marketing, great original content, in addition to dedicating days and days to help solving your SPAM problem, with successful results, and forget about getting featured, I can't even get an email returned. I really need to discuss some pressing issues with Youtube, I deserve a few minutes, please be somewhat fair and give me this. Please. I'm begging. Thanks, Benjamin Ligeri"*

I really was begging too. I was prostituting myself and begging (a position Gootube loves to get its laborers in and often does). I would do anything to get an answer. It's no wonder I needed an answer so bad, Youtube had an effectual monopoly on video sharing at the time. And now the number one search engine was sending all video searches to Youtube (unlawfully, of course), so one needed to strike a deal with Youtube to get anywhere. After all, even NBC couldn't break away!! They tried to work with Yahoo and other mega-conglomerates to build a video portal but GooTube owned the internet and so NBC was forced to strike a deal with GooTube.

## **July 17, 2007,**

I had a dispute with Ayieno (of YT) about Youtube flagging a video (which forces a user to submit to being 18 or older to watch it) that was a rap parody about a rapper's pubic fro. It was a "PG-15" video and I replied in part to Ayieno's decision to keep it flagged with this: "Ya know, I've flagged videos with severe racism and violence and you didn't restrict them, I'd like to know WHY this video is being restricted..."

It's important to note that I was on Youtube almost "24-7" during these times and was constantly the butt of the absolute contradictions in all of their policies. I test flagged some NC-17 to X rated videos by corporations and movie studios, and noticed that Youtube often not only didn't delete the video but didn't even flag the video with their "confirm you are 18 or older" button. One of these such videos was even FEATURED by Youtube and had a famous actor intimating fingering a vagina as well as using the word "cunt" several times. That's right, I flagged it and Youtube let it go without even the Age Confirmation button. I didn't personally have a problem with this NC-17 Kevin Smith video, I just had a problem with them not having a problem with it while having a problem with my PG-15 video.

Also, my overtime hours on Youtube led me to write so many emails and maybe followup more than an average person would who may just give up after a few unanswered emails.

## July 18, 2007,

I sent the following email to Wynston:

"Dear Wynston, if you are getting my emails and have just been extremely busy, that's fine, just let me know you're getting my emails. I'm over here single-handedly fighting a battle against SPAM and saving your company a lot of money and dissatisfied customers and I'm not even getting a response on my "good fight" that I'm fighting.

///

I'm assuming you only allow advertising from people Youtube is friendly with or knows or something, because I filled out the advertising form over a month ago and have sent several emails and have not heard back.

I've also done the same about partner info. and have not heard back. Now I've brought you over a half a million views (including from outside marketing) all in the past TWO MONTHS), you're not just gonna ignore a guy like me, are ya? 5,000 people with my daily traffic = all your daily traffic. Meaning, if 5,000 people brought my traffic, that would represent your daily traffic, and I'm just getting warmed up. I have big plans and I NEED TO TALK TO SOMEONE AT YOUTUBE!!!!!!!!!!!!!!

Sincerely,  
Ben Ligeri"

\*\*it's important to note at this point, it's been over two weeks since Wynston replied to tell me he's going to reply **soon** and almost three weeks since Kavitha told me someone would respond **shortly** about the partner program and the advertising application, and I have not heard back from either. All issues were pressing and the urgency was so stated to Youtube in a multitude of ignored emails. The life of a video artist can be intense.

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And in the midst of all this, instead of getting any responses or any of the followup correspondence promised, I get another slap in the face from Youtube:

an email notifying me that "Professor Carlton's" GIRLFRIEND Parody video has been removed yet again due to a copyright infringement notification by RCA RECORDS yet again, not even two months after the first one was withdrawn by RCA Records because of an "error" they had made ON THE SAME EXACT VIDEO.

The first time, the Girlfriend parody video was removed by Youtube at the time of heavy traffic to the 'Avril Lavigne' search term, and a few days ago Avril had come out with a new hit video and another was slated for release in two days. It would seem Youtube was trying to chill my parody content to provide a clear path to their sponsor's content (RCA RECORDS) free from "obtrusive user generated content", the kind of content that meets the definition of Youtube's bathetic trademarked motto "Broadcast Yourself."

**\*\*It's important to note here that GooTube's intention was never the "Broadcast Yourself" motto they proclaimed and continue to proclaim to this day, their intention was to make Youtube a one-stop TIVO for all copyrighted tv content. It was clear that once users were searching for all video on Youtube.com, GooTube could begin to phase out the user-generated content in place of corporate tv content. This is clear in Youtube's featuring of broadcast station content from corporations like CBS. Youtube will let user's leave on their own though, as more and more new video sharing sites that are more user-friendly continue to crowd the market. Today, I looked at the featured videos section of Youtube.com (the homepage) and saw five featured videos of the Rolling Stones. FIVE. The videos of the guy making an omelette in a plastic bag or the dog rollerskating are all just diversions of YouTube's ultimate goal of turning Youtube.com into network[ed] tv.**

[definition: "TIVO" is a machine that automatically finds and digitally records your favorite tv shows].

I wrote to Youtube a few times telling them that a copyright claim had already been made on this video in the past and was thence retracted in error. I even copied the original retraction email sent to me by The Youtube Team (YT).

Despite the clear points in the email, I got this ridiculous generic response from Harry (of YT):

*"Dear Benjamin, We received notification from RCA Records. When we're notified that a particular video uploaded to our site infringes another's copyright, we remove the material as the law requires. If you feel a content owner has misidentified your content as infringing, you may file a DMCA counter-notification. For more information, visit our Copyright Tips page, [http://youtube.com/t/dmca\\_policy](http://youtube.com/t/dmca_policy).*

*Sincerely,*

*Harry*

*The YouTube Team"*

I replied, copying my previous email once again, since it either hadn't been read or was read by someone fixated on intellectually and emotionally punishing me. I told Harry once again that I was cleared by Youtube and RCA on this EXACT SAME ISSUE last month, copying to him the email from Youtube that stated RCA had made an "error" with respect to my videos and has retracted their copyright infringement claim and my videos were being restored to Youtube.com.

(page break)

## July 19, 2007,

Unrelated to any of the preceding conversations thus far, I sent the following email to Youtube, convinced of a likely error in the ranking system:

*"Dear Youtube, This is a big concern, so hopefully I'm somehow wrong about this, but I don't think the HONORS system is calculating views accurately. For one, I know I rank in the top 100 most viewed comedians this month, and two, last month I went from number 20 [most viewed comedians] for most of the month, to none. Then I went back & forth between number 20 most viewed and no honors. It seems unlikely that I wouldn't hit a lower level, like #98 most viewed, or #40 something most viewed. It seems odd to go between #20 most viewed one second, then not even in the top 100 the next second, then back to #20 most viewed the next second.  
Thanks, Ben Ligeri*

I received an automated reply telling me that the message was received.

**\*\*we'll take this time to note that I was one of the most viewed comedians on Youtube during this time, maintaining a top 20 rank for about a month and even making number one for several days. I've since had days and weeks with twice as many views as I did back then, but for some reason, I don't get ranked anymore.**

In response, I received the following email from Kshema (of YT):

*"Hi there, Thanks for your email. I appreciate you bringing this issue to our attention. We're currently investigating the situation and it should be fixed soon. Thank you for your patience and I apologize for any inconvenience.  
Regards,  
Kshema  
The YouTube Team"*

Nobody every got back to me on this issue.

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Also on this day, I sent a legal notification to the Youtube copyright department, requesting that the email be forwarded to Youtube's legal department, as Youtube was violating the law with respect to the DMCA notifications.

I received a reply stating that my message had been queued for review.

- - -

Today, I get to hear back from Harry -- two days after my followup to his improper response to my first email alerting him that the copyright infringement form that Youtube claims has been filed by RCA Records on behalf of my Girlfriend parody video was already retracted the month prio. If you recall, after telling Harry this the first time, he wrote back with this email:

*"Dear Benjamin, We received notification from RCA Records. When we're notified that a particular video uploaded to our site infringes another's copyright, we remove the material as the law requires. If you feel a content owner has misidentified your content as infringing, you may file a DMCA counter-notification. For more information, visit our Copyright Tips page, [http://youtube.com/t/dmca\\_policy](http://youtube.com/t/dmca_policy).*

*Sincerely,*

*Harry*

*The YouTube Team"*

Once again, Harry wrote back with the exact same email, word for word. At this point, I was convinced Harry was trying to help The Youtube Team in bringing about my mental and physical collapse. I replied with the following email:

*"What is it that you have against me, Harry? Why are you doing everything in your power to make my life a living hell? Please tell me that? No matter what I say or bring to your attention, you continue to cut & paste the same unrelated response. I might have to make a video about you Harry. Why don't you just tell me you want to be in a video with me?*

*Please forward this email to your legal dep't so they can review the legal issues contained in our correspondence.*

*Thank you,*

*Ben Ligeri"*

I ended up faxing ANOTHER DMCA counter-notification, of which I would be notified a week later of its receipt by Youtube. receipt

## **July 23, 2007,**

Four days after my last email to Harry and I still haven't heard back from him yet. (I guess that could be called a mitigation.) But today I am treated to another generic email to my specific partner program requests, only this time signed by Evelyn, which stated in whole:

*"Hi Ben,*

*Thanks for you interest. We're constantly evaluating the program and will be adding new partners to the program if and when appropriate. If you haven't received a response, there are no partnership opportunities available at this time. In the meantime, we encourage you to explore all that YouTube has to offer at [www.youtube.com](http://www.youtube.com)*

*Sincerely,*

*Evelyn"*

So, instead of an actual response to my specific and detailed inquiries about the Partner Program and my plan to bring millions more people to Youtube, I get an *'interpretive'* email from Evelyn that doesn't tell me whether or not I've been denied for the Partner Program, but instead tells me to assume that no reply is a denial.

Now, for obvious reasons, it would be contrary to everything empirical to denote any form of meaning from a lack of a response from Youtube, as it's as regular of an event as sunrise and sunset.

Additionally, the fact that Evelyn gave me the link to Youtube.com to explore the endless possibilities proves that she has no idea what's going on, what planet we're all on, or, like Harry, she is bent on torturing me.

So not only is this not a response from Youtube at all, it's another slap in the face. In my mind, I picture Evelyn pretending to be one of those nice grandma's in the nursing home who doesn't recognize your face but still smiles.

I wasn't sure of Youtube's motivation at the time to send me incoherent and incomplete emails and promise future correspondence and answers that never came (though I now realize these incoherent emails were designed to keep me clinging so that they could continue to extort my content and advertising profits and build their company on my work by not ever officially saying "no" but rather continuing to lead me on).

## **July 25, 2007,**

Today, I receive another email from the Joker -- I mean Harry in Youtube copyright.

*"Dear Benjamin,  
Thank you for your counter-notification. It has been forwarded to the party who sent the takedown notification.  
Sincerely,  
Harry  
The YouTube Team"*

It still hadn't sunk in for Harry that, despite my countless emails, this whole issue had been settled two months ago by Harry's department and that this was my second counter-notification on the same issue.

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## **July 26, 2007,**

Now almost a month since I've heard from Wynston--not to mention that his last response served only to tell me that an actual response was coming soon--but now three days since litigation has been hinted at, and who pops out of the woodwork: WYNSTON! It's only right, at this stage, to copy his entire email, so here it is:

"Hi there,

Benny, sorry that I haven't responded personally to your email messages. We are always extremely busy, but I was waiting to hear a response from our partner team on your status. I had forwarded one of your email messages to our partner program in order to expediate your application, because it seemed that you were interested in becoming a content partner.

I explained that you had created a video that was attempting to educate the YouTube masses on how to combat spam. As a YouTube user, we don't aim to appease, but please you. I'm sorry if their response was not to your satisfaction.

Again, thanks for helping us fight spam and good luck in your future YouTube ventures. I will continue to cheer you on.

Regards,

Wynston  
The YouTube Team"

This email was kind of like getting a ten square-foot box in the mail with nothing in it, not even bubble wrap. Basically, Wynston says nothing. Despite my dozens of emails, many of which just asked for a confirmation that Wynston had received the previous emails, Wynston now tells me that he didn't want to respond to me until hearing back from the partner team.

And now that he has allegedly heard back from them, he doesn't share this information with me that he's been waiting for to get back to me with. Instead he short circuits into this poetic saying about how Youtube's goal isn't to *pacify* (appease) me but to provide me with *genuine satisfaction* (please). I actually spent awhile studying these words "appease" and "please" used so naturally by Wynston, hoping reference materials would fill in the holes left in our correspondence. I thought for a mintue that maybe it was a riddle I had to solve to unlock the final answer I'd been looking for. Like I stated earlier, this is what GooTube does, instead of answering your questions, they give you an idea for an answer. And not an idea for an answer to YOUR question, but an idea for an answer to ANY question.

But what about Wynston's promises:

1. To look into featuring the video and provide me a response.
2. An answer on the Partner Program, after he allegedly put in this word for me about my anti-spam work on behalf of Youtube.
3. Information on the Advertising Program.
4. Taking a look at my videos to see what my content was all about.
5. Supporting and applauding my efforts. And cheering me on. --

Surely the above number 5 didn't mean the bathetic thanks he bestowed on me through email coupled with the lack of basic response?

Then he says *"I'm sorry if their response was not to your satisfaction."*

What response? I didn't get a response. Surely he wasn't talking about the response where Evelyn told me about this great new site called [www.Youtube.com](http://www.Youtube.com)?

And then, like a parent trying to convince an all-knowing adolescent that Santa Claus ate the cookies and milk, Wynston informs me that he will be continuing to cheer me on during my ventures on Youtube. I may have been dumb, but I wasn't that dumb. Or I might've been.

## **July 27, 2007,**

In response to the above email from Wynston, I sent this reply, in whole:

*"Dear Wynston,*

*I have no idea what you're talking about in this email. I didn't receive an email from your partner program that I know of. The reason I've been emailing you and others at Youtube so "incessantly," is because I have received no reply from anyone, including you, despite the severity of the situation. However, since you know of this email from the partner program, why don't you forward it to me yourself. I would appreciate that and that will eliminate any more confusion. And then I will be able to tell whether it's too my liking or not.*

*Seeing that the words "please" and "appease" have identical meanings (namely, "to satisfy"), I must ask what you mean by "...we don't aim to appease but please..."?*

*If you are thankful for my assistance in helping you fight SPAM, as you say you are, I must ask you to communicate further with me and much more regularly, or the knots I have tied on the problem will come undone. If you do care about solving your SPAM problem, I do have the solution, or the best one. I have eliminated your biggest spammer, CAMZNOW (one that was taking me an hour a day just to delete the spam off of my videos alone) but I have seen others budding, and they are getting stronger,*

*like deer ticks, and it will "take a village" to stop them. Are you onboard or not? Can you name these spammers and their domains off the top of your head like I, "Mr. Eric Brokovich", can do? Do you understand what I mean by "are you onboard or not?" I have spent days and days trying to solve this problem on behalf of youtube, with no "Consideration" from youtube, and, three weeks into the battle, you send me an email, apologizing for not responding, but still not responding to the issues I've raised. This is an epidemic, Wynston, but not as serious of an epidemic, as Youtube's email response system.*

*I look forward to your contact information so we can work like proper gentleman on the solution of this and other problems on Youtube. For not even a problem as small as getting the wrong drink at Wendy's could be solved by the method we're going about it, namely, an email every three weeks or what have you.*

*I look forward to your reply,*

*Sincerely,*

*Benjamin Ligeri*

I speak my mind, I try to be as polite as possible, I always throw in a little humor, but I'm human and I don't like being walked on.

## **July 29, 2007,**

I sent the following email (in whole) to Youtube, care of their legal department and copyright department, separately addressed:

*"Any word on this status? I filed my counter a few weeks ago, the second counter on the same video.*

*I've said this many times before, including in the fax containing my counter notice, but I'll say it once more, this time for legal reasons. Two months ago, RCA filed a copyright infringement notice on the below video: GIRLFRIEND. I filed a counter, I then received an email from Youtube stating that RCA Records mistakenly flagged my video and my video was subsequently put back up. Now, two months later, despite the mistake by RCA, I am being told by Youtube that RCA is now making the same mistake again, and this fact is falling on deaf ears. As is my counter notice. And this video remains removed from Youtube once again, for about two weeks, once again.*

*"Sincerely,"*

*Benjamin Ligeri"*

## July 30, 2007,

I sent the following email to Wynston, in whole:

*"Dear Wynston,*

*It's also been about a month since you said you'd get back to me on the SPAM video and situation. Another thing I haven't heard back on. So there's that and the partner program that are still outstanding. Thanks a lot,*

*Benjamin Ligeri"*

## July 31, 2007,

BACKGROUND:

Youtube held a contest around this time called the SKETCHIES CONTEST sponsored by Sierra Mist, and it called for a 3-minute comedy sketch. I created a low budget version of a high concept sketch that I had written a few years earlier called THE CIVILIZED CAR HORN (about a new civilized-speaking car horn that replaces the primitive HONKING of the current model). I felt it had a decent chance of winning the \$25,000 if it the video was voted on by YouTube users, as agreed upon by in the terms for the contest. I also submitted several other sketches under different character accounts. There weren't many quality submissions and it turned out that Youtube was using the contest to promote sponsored users and/or friends of Youtube such as 'Awkward Pictures' and 'LisaNova'.

Youtube users were supposed to vote on the semi-finalists, but Youtube itself chose the top twenty semi-finalists. And it was clear from the get go that Youtube's decision wasn't being based on the comedy or general quality of the comedy sketch but on WHO the creator of the sketch was. Some of the finalist sketches selected by Youtube were so bad that an expert in constitutional law might call them 'cruel and unusual punishment'. Examples would include some kid splashing water on his face as if the act of the splashing itself was funny and that was it, and another where a few kids were on a quest to find Edgar Allen Poe in a completely unhumorous way by any standards. Many of these finalist videos selected by Youtube to be voted on by the community of viewers looked as though they had been made to entertain people who had spent their entire life on a secluded island and never had the pleasure of even the slightest irony in media form.

And others just lacked complete substance, like Awkward Pictures sketch "Waffle" was simply a "why did the chicken cross the road" type joke. It wasn't bad or anything but there were just so many great sketches not selected, why is a 20-second knock knock type joke being selected as a finalist in a 3-minute sketch contest?? The sketches just simply weren't chosen based on the grounds that Youtube had outlined as the grounds for choosing the initial semi-finalists. And it seemed more than a little coincidental that Youtube's chosen partners were also the top semi-finalists.

And Awkward Pictures, who eventually one the contest, had their video featured on the homepage of YouTube.com, as if a few million "extra views" isn't going to tip the contest in their favor, when the average sketch was lucky to get a few hundred views on its own.

It was also done very secretly, I remember many people complaining that they couldn't find where to vote on the finalists. I know that I personally spent hours looking for where to vote for the semi-finalists, and that was after clicking the link that said "VOTE HERE"!!! I emailed Youtube several times on where to vote and never received an answer. The whole contest, the selection process, and voting just simply reeked of inside corruption.

After doing quite a bit of research and learning that the YOUTUBE SKETCHIES CONTEST was indeed fraudulent, I sent the following email to Youtube:

*"Dear Youtube,*

*I am writing to tell you that I am quite certain the Youtube Sketchies contest was fraudulent in many respects. I'm not quite sure who to contact on this matter, as to my discoveries of this fraud. I will try to contact the sponsor, Sierra Mist, if I do not hear back from you, maybe that is the correct venue to pursue. Either way, I do hope you get back to me on this serious issue that affects Youtube. You can reply to this email or call me at 401-952-1603. Although I will be out of the country for a week, if you leave a message, I can call you back from where I'm at.*

*Yours,  
Benjamin Ligeri"*

Sure I'm acting more innocent than I really am in the above email, as if the fraudsters themselves could help. But I was curious how widespread throughout YouTube the contest fraud was and also what their reaction might be.

## **August 1, 2007,**

Good old Harry the Mad Hatter writes back to me with the following email:

*"Dear Benjamin,  
We have not had any communication with the claimant involving your counter notice as of yet. The DMCA counter process takes 10 to 14 to complete.  
Sincerely,  
Harry  
The YouTube Team"*

As you can see, Harry still hasn't acknowledged any degree of the same point in my multiple emails and in my counter-notification that the claimant had already withdrawn their notice two months ago stating that they had made an error in filing it in the first place, and that Youtube had restored this same exact video two months ago.

My reply to Harry:

*"Dear Harry (c/o Harry's Supervisor),  
you say it takes 10 to 14 days to complete, but it's been over two months since I initially filed the counter reply and the ruling has been reached by Youtube copyright, to restore the video, yet you have not? So why is this? I received an email, which I've sent you several times, that said RCA has retracted their claim to my video and the video will be restored. The video was restored two months ago. Why is it being taken down after Youtube and the claimant have agreed it should be put back up, as it does not violate the claimant's copyright, by their own admission to you. If there's any doubt, would you like me to forward you the email I received from YOUTUBE'S COPYRIGHT DEP'T for the fourth time?"*

*Or how else should I respond to a double message where **Youtube is saying that the claim has been reviewed and retracted by the claimant while simultaneously saying that the claim is still being processed?** [emphasis added] That's the equivalent of a judge telling a defendant that he is going to jail and is also not being sent to jail. Are you trying to make normal people go insane or is there something I'm missing?*

*Sincerely,  
Benjamin Ligeri"*

## **August 6, 2007,**

Today marks the 18th day since I sent my second counter-notification in accordance with the DMCA process that Youtube is in clear violation of, so I write this email to copyright@youtube.com (even though I say in the email that it's only been 14 days in the below email, it's actually been 18 days since the second counter-notification was faxed on 7-19-07 and almost two months since the first):

*"And now it's been 14 days, so let's see if Youtube Copyright writes back to tell me the status of the copyright dispute between user Bennybaby and RCA Records over the video GIRLFRIEND by PROFESSOR CARLTON, that was removed a second time in July after it was removed two months ago by a copyright claim of RCA Records and then subsequently put back up after RCA Records retracted their copyright claim.*

*Sincerely,  
Benjamin Ligeri*

*that guy routinely tortured by that company known as youtube"*

Also today, in response to my allegation of fraud in the Sketchies Contest, I received this email from legal@support.youtube.com:

*"Hi there,  
What is the nature of the fraud you allege?  
Sincerely,  
Mike  
YouTube, LLC"*

I replied:

*"Hi Mike,  
I'm not really alleging yet, just alerting you at this point. The fraud that I speak of, however, is multi-dimensional, predominantly dealing with the selection process vs. how the selection process was promulgated. Specifically, the top 20 selection appeared fraudulent, and we're talking res ipsa loquitur fraud, so are you very familiar with the contest? And Youtube politics at that?"*

*Sincerely,*

*Benjamin Ligeri*

*p.s. While I got legal's ear, there have been some other frauds and unfair business practices on Youtube which I've been victim of. One is my dealings with Wynston from the Youtube Team. I have a compiled series of our emails if you'd like to read it, another case of old res ipsa. And then there's my copyright debacle with Harry and Heather, a severe res ipsa. I'm not throwing this latin legal phrase around loosely either."*

I never heard back from Mike in Youtube Legal.

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Also today, I sent an email to Wynston and Youtube Legal telling Wynston that I am considering naming him personally in a claim against Youtube, as it's been over a month since he promised to get back to me on a multitude of issues of which he has unanimously ignored.

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## August 9, 2007,

*"Dear Benjamin,  
In accordance with the Digital Millennium Copyright Act, we've completed processing your counter-notification regarding your video  
[http://www.youtube.com/watch?v=fQg\\_DSxVOhs](http://www.youtube.com/watch?v=fQg_DSxVOhs)  
This content has been restored and your account will not be penalized.  
Sincerely,  
Harry  
The YouTube Team"*

It's important to note that Harry is wrong about these actions being taken in accordance with the DMCA, as they were not. They are way past the DMCA's mandatory deadline for restoring a user's content after a counter-notification.

My reply:

*"In accordance with the Digital Millennium Copyright Act (and applicable state and federal copyright law), I'm requesting all of the information and documentation on the decision, including the copyright claim form filed by the claimaint, and I'm requesting to know why this "mistake" has occurred TWICE with respect to the SAME video, as well as what is being done to prevent this "mistake" from happening in the future, and also WHY no one acted on the information presented by myself (the respondent) numerous times -- namely that this issue has occurred before with respect to the SAME video. What's to stop this from happening again? And if this does happen again, what should I do? What can I reference to prevent the whole process from needlessly going on again?"*

**Did the claimaint retract their claim again or was a ruling reached by Youtube independent of any claimaint action?**

*Sincerely,  
Benjamin Ligeri"*

I can't understand how anyone reading this email digest wouldn't be burning with curiosity about what is going on Youtube's side of these emails. WHY do I get an email from YouTube telling me the issue is over, I have been cleared, and another email stating the opposite? And why, when this is brought to their attention, is it completely ignored?

Also, it's funny that Viacom can't get their 100% copyright-protected content off of Youtube that everyone can instantly recognize, but Youtube vehemently removes material of individual artists like myself on behalf of big companies who don't have any DMCA copyright claim -- is Youtube trying to show off how tough they are on DMCA violations by making an example of a DMCA-follower while promoting DMCA-violating content like Viacom's? I contend so.

## **August 11, 2007,**

As I think I stated above, at one point, fighting SPAM on my Youtube videos was taking me nearly an hour per day, just to reflect on why I was so involved in the fight against SPAM. Imagine getting 60 emails a day for comments posted on your videos only to find out that only 20 of them were real comments and the other forty were SPAM comments advertising a live porn site.

Today, I noticed that Youtube finally did something in the fight against SPAM, although it was completely pointless, and leads one to more evidence that Youtube was supporting the spammer or in some type of partnership with the spammer -- while trying to create the appearance that they're tough on SPAM...

Youtube made it so you couldn't type in the word "Camznow" into the comments section, the section where the spamming was taking place. But Camazon.com, the site where all the SPAM URL's redirected to, had long since ceased from using the URL: "camznowdotcom", and were using URL's like Camaholic.com, Camzhome.com, and other URL's which redirected to Camazon.com. It seems now that YouTube was trying to look tough on SPAM by taking pointless actions.

I sent Youtube an email alerting them to the other URL's and suggesting that they prevent the typing of the other prominent SPAM URL's as well. I never received a response.

## **August 28, 2007,**

I was sent an email by YT stating that a video of mine (a parody on sexy videos) was removed due to its inappropriate nature. The relevant portion of the email stated:

*"After being flagged by members of the YouTube community and reviewed by YouTube staff, the video below has been removed due to its inappropriate nature."*

*as well as the following threat:*

*"This is the second video removal notice for your account if you receive one more, your account will be permanently disabled and all of your previously uploaded videos will be taken down."*

This video had over 100,000 views, I believe close to 200,000 and had already been reviewed by "YouTube staff" dozens of times before, as it had been flagged by users dozens of times before (which is typical for a video viewed so many times).

Youtube staff originally put an Age Confirmation button on it, which means they reviewed it and determined one should have to confirm that they are 18 or older before watching it, the notification is common and usually reads something like **"To view this video or group, please verify you are 18 by clicking CONFIRM"**

All you have to do is then click "CONFIRM."

Even though it's a PG-15-type comedy video with pictures of celebrities from mainstream magazines, the confirm button wasn't completely out of line, but the deleting of the video was, as it also contradicted Youtube staff. Youtube staff already ruled possibly one hundred or more times in the past that the video was fine, but ONE staff member decided to overrule the previous one hundred or more rulings and delete it??

And not only delete it, but threaten destruction of my entire account, something I had invested thousands of hours into. To me, this was a "don't forget who owns you" type threat, typical of GooTube-attempted control over the internet and its users.

Why else would I be being punished for having a video that 99.99% of the Youtube staff thought was appropriate for Youtube but "one staff member" didn't. I assumed the actions taken were retaliatory and I replied to Youtube and the legal department with an email explaining the above circumstances of Youtube staff approving the video over a hundred times and then deleting it. I never received a reply.

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I sent the following notice of litigation to Youtube care of all the email addresses I had on record for Youtube:

*"Please treat this email as a legal record. And forward it to your legal dep't or higher management. Thanks.*

*Dear Youtube,*

*I have left messages for your attorney in the VIACOM matter, he hasn't called back yet, I am trying to negotiate some sensibility with Youtube prior to pursuing federal litigation against them -- since federal litigation against Youtube is currently the last thing I desire, for more reasons than just having several other cases currently pending, but I will file it if I don't hear from someone soon to talk about a host of unlawful activity Youtube has perpetrated against myself. I will be asking for approximately [\$quantity omitted] in special/actual damages, including disengagement, and [\$quantity omitted] in exemplary and I will be very supported in getting the exemplary. [cont'd]*  
***If you want to make a phone call and possibly solve all of these problems***  
*[emphasis added], my number is 401-952-6661 (or 508-336-2049).*

(cont'd)

*I know a phone call to one of your most viewed and appreciated youtubers is "a lot to ask", but I'm asking. I have tried every method possible to personally mitigate YOUTUBE's faults, and I'm running out of alternatives to litigation. And this won't be a litigation that you're familiar and comfortable with (such as the weak Viacom suit against you that you've spent your lives preparing for), this will be alleging all of the things you THOUGHT you were getting away with, such as artist extortion, fraud, breach of contract, breach of implied duty, RICO with partners, etc..*

*I look forward to your call*

*Very Truly Yours,*

*Benjamin Ligeri"*

I received no reply to this email. I also sent a certified letter months earlier and received no reply. Despite numerous emails sent from Youtube to myself, I've never really received a true reply from Youtube.. If it's not clear by the email record, all of these Youtube agents from Harry to Evelyn to Wynston to Shenaz to Kavitha and The Youtube Team itself all appear to be characters playing a part in a digital Alice In Wonderland.

Nonetheless, I truly wanted to mitigate damages at the time, and that is proven by the fact that I would let almost a year go by from this notice of litigation to my actual filing. I continued to make attempts to mitigate, hoping I could find some reason not to sue, maybe one person with a speck of either integrity, emotion, reason, heart, or soul, or any other redeeming quality in this digital cyclops known as Youtube.

At this point, my involvement in Youtube died off, like an emotional death from the pain of being betrayed. I started my own website. Without any html or website coding knowledge and with no money, I built a website in a few days with dozens of high quality videos, much higher quality than Youtube videos. It was clear to me at the time that if a layman like myself could make a website with superior video quality to Youtube in a few days, than the only thing Youtube had over me was my content.

Months after the last video I did, a Transformers parody, I would come back to Youtube to respond to the police brutality in the Andrew Meyer incident, a video that would go on to receive hundreds of heated comments in the following days.

But the prodding of my fans would ultimately force my hand back on the "tube" here and there to make videos, since no one was able to leave Youtube, not the content creators or the viewers. GooTube knew they had you in every sense of the phrase as every action and non-action they take is like that of a complacent czar of the new digital order. I realize now that YouTube knew if I left that my fans would try to get me back.

I tried just making trailers of videos with advertisements for MY website, as I had previously always advertised [Youtube.com](http://Youtube.com) in all my marketing efforts. My videos basically went down in production. There were no major character pieces anymore, such as by characters like "Professor Carlton" or "BIGGA BLD", most or all of the recurring characters died out.

During the last year, and complimenting these frustrating correspondences with Youtube, I was also working full time and overtime creating scores of videos for Youtube.com as well as managing my share of the site. Even at Federal Minimum Wage, I had earned over \$12,000 dollars, though I wasn't paid one cent. And I, as well as other videographers and content creators, don't work at Federal Minimum Wage, we work at a wage of anywhere from \$50 to \$500 an hour on average.

## **February 26, 2008,**

### **Seven months later,**

After no communication during the prior seven months between Youtube and I, I get the following out-of-the-blue email from Youtube:

*"Hi there,*

*As you may have heard, we're expanding the YouTube Partner Program and we thought you may be a good candidate. Becoming a partner will enable you to participate in ad revenue sharing and new syndication opportunities.*

*Here's what you'll need to do:"*

followed by a link to a new and improved [Youtube Partner Program application](#) with an "Apply Now" button. They thought I'd be a good candidate? I said that a year ago. Did they finally wise up, I was wondering. And so I applied again.

What does it even mean to be a "good candidate" for receiving consideration for your labor? A candidate is one who is regarded as suitable to receive certain treatment; if I'm already "extra suitable", why didn't they just approve me? Did they just want me to ask again to make it look like some wheels were turning. I would contend so.

Anyway, over the next few weeks, I checked on the status of the application and where it used to say "APPLY NOW", it instead said "Your Application is Processing".

However, almost two weeks later on....

## **March 10, 2008,**

When I checked the status of my application today, it didn't say ""Your Application is Processing" but instead had reverted back to saying "APPLY NOW" as if I hadn't applied yet. I emailed Youtube to alert them about this and received the following reply from Evelyn, whom I had forgotten (in a repressed memory) that I had dealt with in the past until having done this email digest:

*"Hi Benjamin,*

*Are you logged into the same account you signed up with? If you haven't heard back regarding the status of your application and you are seeing the "apply now" button, please try applying again.*

*We apologize for the inconvenience.*

*Sincerely,  
Evelyn"*

I replied with the following email:

*"Hi Evelyn,*

*the account is Youtube.com/Bennybaby, could you check the status, seeing that I've been working on this for over a year, I'd like to find out what's going on.*

*Thank you, I can't wait to hear back.*

*Ben Ligeri*

*Youtube.com/Bennybaby*

*plus I linked 5 or so other accounts, my app is still stored in there."*

Meaning, my completed application was still being shown on the site to some extent but it was still saying "Apply Now" as if the app. wasn't right in front of my eyes.

(page break)

## **March 11, 2008,**

Evelyn replied with the following email:

*"Hi Ben,*

*I don't see your application anywhere - if you haven't heard back, can you please apply again?*

*Sincerely,  
Evelyn"*

I replied with the following email:

*"I haven't heard back, but also, I don't get any emails from Youtube anymore. I'm still signed up to receive notification when someone comments on a video or subscribes, but I have stopped receiving those notifications.*

*Anyway, I re-applied, here is a pdf of the application screen so no one loses the app this time. I'd also like to know what the criteria is for getting accepted into this program."*

I noticed that after re-applying, it still said "Apply Now", so I also sent the following email back:

*"I applied again, and it's like I didn't. I click on this link  
<http://www.youtube.com/partners>*

*and it asks me to apply now. If I click that, it has my application all filled out already.*

*If you can't find it now, here is a .pdf of my application, why don't you submit it manually or something. Thanks."*

## **March 12, 2008,**

I received the following reply from Evelyn:

*"Hi Ben,*

*I'm seeing your application now - the screening team should get to it soon. Thanks for your patience!*

*Sincerely,  
Evelyn*

(cont'd)

*Something not quite right with the site? Check out our current site issues here:  
[http://www.google.com/support/youtube/bin/static.py?  
page=known\\_issues.cs&ctx=yt\\_hp](http://www.google.com/support/youtube/bin/static.py?page=known_issues.cs&ctx=yt_hp)"*

## **March 18, 2008,**

I emailed back (partner-support@youtube.com) asking how to check the status of the application and asking how long the process usually takes "A week, a month, a year?" I also asked Evelyn if she knew Wynston.

## **March 19, 2008,**

Evelyn replied, just telling me to "please be patient."

I replied telling her that I don't mind being patient in the least, that I was just curious how long it might take, as I was starting to create a lot of videos and films again and wanted to know if I should wait to put them on Youtube or continue to move them to a private website.

Evelyn replied to tell me that she contacted the review team to get my application reviewed quickly and that she appreciated my patience.

I replied thanking her.

## **March 22, 2008,**

I received an email, days earlier on another account, from another email, telling me that a video I made--which was just an impression of Will Ferrell--was deleted for "inappropriate content". It was just me reciting PG lines from Anchorman and Will Ferrell sketches. PG would be the most extreme rating this video could ever possibly receive. After not getting an answer on the other account email, I brought the situation to Evelyn's attention, since she was currently my only contact at Youtube.

## **March 25, 2008,**

Three days later, I received the following reply from Evelyn:

*"Hi Ben,  
It looks like this was a mistake and your video has now been reinstated. It should be playing by the end of the day tomorrow.*

*I apologize for any inconvenience.  
Sincerely,  
Evelyn*

(cont'd)

*Something not quite right with the site? Check out our current site issues here:  
[http://www.google.com/support/youtube/bin/static.py?  
page=known\\_issues.cs&ctx=yt\\_hp](http://www.google.com/support/youtube/bin/static.py?page=known_issues.cs&ctx=yt_hp)"*

## **March 27, 2008,**

I received the following reply on my application for the Youtube Partner Program:

*"Dear BennyBaby,*

*Thank you for your interest in the YouTube Partner Program. Our goal is to extend invitations to as many partners as we can. Unfortunately we are unable to accept your application at this time. Advertisers on YouTube are currently looking to advertise against family safe content.*

*Applications are reviewed for a variety of criteria, including but not limited to the size of your audience, country of residence, quality of content, and consistency with our Community Guidelines and Terms of Use. Please review the program qualifications ( <http://www.youtube/partners> ) for a complete list of our criteria.*

*As we continue to expand the program we hope to be able to accept a broader group of partners. We have registered your interest in the program and will continue to monitor your account for potential future acceptance into the program.*

*Thank you for your understanding.*

*The YouTube Team"*

And so, almost a year after my original application for the Youtube Partner Program, and about a month after this latest application to the Program, a determination was finally reached: that Youtube was unable to accept my application, implying that all my material wasn't "family safe" -- even though Youtube has several partners, partnerships, and sponsors with content that is much further from "family safe" than mine -- such as "50 Cent", "True", and "FordModels" which has nude models, "MyDamnChannel" which the first video I saw was a vulgar bedtime story written by a young girl about masturbation and semen, and of course good old Playboy, and so many others.

I couldn't stop thinking, did Youtube dare say "FAMILY SAFE"?????????????????????" to me or did I just hallucinate that...

I sent the following reply to Youtube:

*"Are you saying the reason is because some of my content isn't family safe? If so, you don't have to take all the accounts as a whole, I have family safe accounts. TheWesleyJohnsonShow, ProfessorCarlton (with 500,000 views), and InsaneCoverArtist are all rated G. If that's not the reason, please provide me with another reason. I'm okay with you saying no, but I need a reason. You do have people with 1 thousandth the views and subscribers as me in the partner program currently, I'd hate to see it as an inside type deal where only friends of youtube get in. Thanks."*

And I later followed up with this reply:

*"I have, my app. was denied. I'm hoping to get a little more information on why. If it's just a matter of me having R-rated content, then that's not really a substantial reason, as I the majority of my content is G, so you could still opt to partner certain accounts. So I'd just like to know what other objections there might've been, as I do have more views and subscribers than many partners of yours do. It gives me the feeling that you only partner people through connections, friends of youtube, etc..."*

I received this 'Alice-In-Wonderland response' from Evelyn:

*"Hi Ben,*

*If you have other channels you would like to be considered for the program, please feel free to submit your other channels for the program:  
<http://youtube.com/partners>.*

*Sincerely,*

*The YouTube Team*

*Something not quite right with the site? Check out our current site issues here:  
[http://www.google.com/support/youtube/bin/static.py?page=known\\_issues.cs&ctx=yt\\_hp](http://www.google.com/support/youtube/bin/static.py?page=known_issues.cs&ctx=yt_hp)"*

These other accounts and channels were already submitted in the application that was denied as I so stated in the email that she was replying to. The application had a feature where you could attach--as many of your other Youtube accounts as you wanted--to the application. I attached seven other accounts, a total of eight accounts to the application. Plus, the channels on the main account: Youtube.com/Bennybaby had all of the character videos from these other accounts in specified playlists. So Youtube.com/TheWesleyJohnsonShow was an account with Wesley Johnson videos and Youtube.com/Bennybaby had a playlist called Wesley Johnson with those videos.

Wesley Johnson is a politically correct parody character who has an "international" talk show and his content is all G-rated, PG by the most Puritan of standards. Needless to say, I really wanted to know why Wesley and other PG characters were denied, even if they were going to deny pg-13 to R-rated characters like Bigga BLD the "World's Biggest Gangsta Rapper", who is still much more family friendly than Youtube's other gangsta rapping partners.

But now I was unsure if Wesley and these other PG characters were even ruled upon since Evelyn was now asking me to apply as if I hadn't already. For that matter, it seems unlikely that Youtube even reviewed my application at all, despite the fact that I was told I was such a wonderful and extra suitable candidate a few weeks prior.

## **March 27, 2008,**

I sent the following email in reply:

*"Dear Youtube,*

*I already submitted the other accounts/channels in that one application. Please answer my questions. I'd like to know the reason my application was denied. Your denial letter confused me on one area and I'm trying to clarify that area. I'm one of the most viewed on Youtube, I've spent thousands of hours building and advertising my youtube page so if you want to deny me something that dozens of far less qualified people have been approved for, I would like a reason.*

*50% of the 6 or 7 accounts I listed for the partner program are rated G. Specifically, Wesley Johnson, ICA, and Professor Carlton. The amount of 18+ content I have in my accounts is negligible. My question is this, is this 18+ content the reason for the denial? That was the unclear part of your email. It sounded like you said advertisers want to advertise on family friendly content. Well I noticed some of your biggest advertisers are for products that are illegal for people under 21. Such as Smirnoff and Malibu Rum and Budwesier. I want to get a little further with this conversation. I've done incredible amount for this company, I deserve a lot more than careless emails.*

*Call me if your's like 401-952-6661"*

note: Youtube's ads themselves are often not family safe, yet Youtube is saying that the sponsors of these ads want to place their non-family safe ads only on family safe content? Any marketing professor would laugh at that lie. Alcohol is for people 21 and older, how can this be advertised on children's videos? It should ONLY be advertised on adult videos and I believe can only unlawfully be advertised to children. Yet Youtube is heavily marketing alcohol to teens and pre-teens.

I also asked what the pay structure for the Partner Program was in a followup email.

Over the next week, due to no response, I continued to send the above inquiry several times, rephrased several different ways. I never received a response to the inquiry. I did receive one final Alice-In-Wonderland email below from my dearest Evelyn:

## **April 1, 2008,**

*"Hi Ben,*

*As mentioned before, as we continue to expand the program we hope to be able to accept a broader group of partners. We have registered your interest in the program and will continue to monitor your account for potential future acceptance into the program. Unfortunately we are unable to accept your application at this time as advertisers on YouTube are currently looking to advertise against family safe content.*

*Sincerely,*

*Evelyn"*

Clearly this email was just a cut and paste generic response and did not answer any of the questions I had asked, nor dealt with anything relevant to my application, as I was telling them that I had applied several family safe accounts. It just reiterated the denial without cause. However, it did confirm the reason that Youtube was giving me for not accepting me into the Partner Program -- that my material wasn't "family safe" enough for advertisers.

## **April 4, 2008,**

Again, I sent many replies to Youtube hoping for ANY REASONABLE answer whatsoever, including the following email care of the Youtube Partner Program President:

*"Dear Evelyn and Youtube Partner Program President,*

*I submitted six accounts to the partner account and received a general denial on the grounds that advertisers want family friendly content -- so, based on a few videos that aren't quote "family friendly", Youtube has decided to effectively steal my content and profit off it without payment.*

(cont'd)

*Now I've brought over 3 million views to youtube in my tenure and I am willing to bet my life that that has earned me a fair and equitable response from Youtube, not a charred response. Now of the SEVEN accounts I submitted to the partner program, three of them contain 100% G-rated content. If you're going to deny the accounts with R-rated content for the partner program, alright, what about the accounts with G rated content? If you're going to deny those, please provide me with a reason that applies to those. Whatever that reason may be, please provide it.*

*Like I already said, just one of those accounts has a half a million views (Professor Carlton). There's also Wesley Johnson and I.C.A., not to mention the fact that 90% of the content on the master account (youtube.com/Bennybaby) is family friendly. Please provide me with another reason for the denial. That's all I'm asking. I'm not applying for the partner program anymore. I'm not interested in you recording my interest for it either. You can answer that question then we don't have to talk again. You can go back to sleeping with your TIVO clients like NBC. I just want a reason, and I'm quite certain I've earned that. And I will get it at any legal cost.*

*Sincerely,*

*Benjamin Ligeri*

*Document saved for legal records. And admissible as material fact under the excited utterance doctrine. And every time I send this email, currently about 20 times, the damages in the case go up. For over a year I've thought of every reason in the world not to sue Youtube, now I have so many claims, including [claims omitted], that it's sickening. Please respond and help mitigate your damages."*

Needless to say, I was a "little" agitated on that fine day.

**April 8, 2008,**

I also sent the following email to Evelyn:

*"Evelyn,*

*do you realize I'm going to sue you PERSONALLY, unattached from Youtube, for ignoring two dozen of my emails and the resulting emotional distress of having worked two years to be faced by your insolent breach of contract. If you're not at fault, you might want to speak up now so I know.*

*Ben"*

And today would mark the last day of my communications with Youtube and my attempts for solutions as well as my attempts to help them mitigate their damages via email.

It's important to note that if Evelyn got back to me and said "I'm sorry, they make me say this stuff, I have no choice, if I speak out I'll be fired" or whatever, explaining something to me, or contacting me in some way, I wouldn't be adding her to a lawsuit I am currently preparing or having prepared.

DATED THIS \_\_\_\_\_ DAY OF JULY, 2008.

Written by Benjamin Ligeri

\_\_\_\_\_

Benjamin Ligeri