



April 2, 2021

**VIA ECF**

The Honorable James Donato  
United States District Judge  
San Francisco Courthouse, Courtroom 11, 19th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

***Schneider v. YouTube—Case No. 3:20-cv-04423 (N.D. Cal.)***

Dear Judge Donato,

We represent Plaintiff, and putative class representative, Maria Schneider and respectfully submit this letter motion seeking an order compelling production of certain documents requested by Plaintiffs’ October 28, 2020 First Set of Requests for Production. We certify that the parties have met and conferred on the issues raised here consistent with Your Honor’s Standing Orders.

Plaintiff respectfully requests that the Court compel Defendants to produce: (1) Takedown Notices that copyright holders have submitted requesting Defendants remove infringing videos and documents related to such notices; (2) documents and data concerning Defendants’ knowledge of uploaders who are repeat infringers as evidenced by multiple instances of infringing uploads identified by YouTube’s Content ID system even though YouTube did not penalize or ban them; and (3) document and data retention policies.

**I. Relevant Background**

Ms. Schneider is a seven-time Grammy Award-winning musician who, like other members of the putative class of copyright holders, has had her music and compositions repeatedly infringed on YouTube. This lawsuit seeks redress for Defendants’ systematic and intentional infringement and facilitation of infringement of copyrighted works. Defendants’ wrongful conduct is motivated by, and has benefited them through, increased traffic on the YouTube platform thereby driving up Defendants’ advertising revenues.

YouTube has a two-tiered copyright enforcement system. Content ID is YouTube’s premier system that uses digital fingerprints of copyrighted works to identify and block infringing videos at the time of upload and does not require the submission of a Takedown Notice. (Dkt. 1 ¶¶ 2, 8, 10, 56.) Content ID, however, is available only to large copyright holders such as record labels and production companies. (*Id.* ¶ 57.) Plaintiff and other members of the putative class are smaller copyright owners who have been denied access to Content ID. (*Id.* ¶ 99.A.) Without such access, Plaintiff and the class must manually identify infringement after it has occurred and submit Takedown Notices. (*Id.* ¶ 10.)

Both elements of this two-tiered system are relevant to the claims here including because of their role in establishing whether Defendants should be prohibited from taking advantage of safe harbors against copyright liability granted by the Digital Millennium Copyright Act of 1998, 17 U.S.C. § 512 (“DMCA”). Those safe harbors are not available absent “a policy that provides



for the termination in appropriate circumstances of” uploaders “who are repeat infringers”. 17 U.S.C. § 512(i); *see also* Dkt 1, ¶¶ 12, 88.

YouTube publicly touts Content ID as handling the vast majority of its copyright enforcement issues; but infringing uploads identified by Content ID are *never* counted as “copyright strikes” that YouTube tracks when identifying repeat infringers for termination. (Dkt 1 ¶ 89.) Instead, the only way YouTube issues a copyright strike toward termination is on the basis of the vastly smaller number of takedown notices submitted after a copyright holder manually finds infringement. Infringement caught by Content ID is excluded entirely. (*Id.* ¶ 88.) Defendants’ failure to assess penalties, including copyright strikes and termination for these repeat infringers: (i) fails to satisfy the reasonableness requirement to track and terminate repeat infringers as required for the safe harbors; (ii) encourages and incentivizes users to continue posting infringing content; and (iii) creates the constructive (if not actual) knowledge of infringement that is an independent basis to deny access to the DMCA safe harbors. (*Id.* ¶¶ 88-91.)

Independent of the safe harbor issues, Takedown Notices are also relevant: (a) to the definition of the class, which includes only those copyright holders who have submitted a successful takedown notice (*id.* ¶ 99.A); (b) because YouTube claims that submitting too many such notices is a valid basis to ban non-Content ID copyright holders from using tools designed to help them manually locate infringing content (a policy that forms an independent basis to deny DMCA safe harbors) (*id.* ¶¶ 14, 86); and (c) to Defendants’ knowledge that YouTube displayed and distributed unauthorized and infringing copies of putative class members’ copyrighted works that contain copyright management information (“CMI”) (*id.* ¶ 144) that “Defendants thereafter displayed and distributed . . . with the intent and knowledge that” the CMI identifying putative members as the rights holders “had been removed . . . without the permission of Plaintiffs and the Class” in violation of relevant statutes (*id.* ¶¶ 145-48).

## **II. Defendants Must Produce Takedown Notices and Related Documents as Well as Data on Repeat Infringers Caught by Content ID.**

Request 20 seeks documents sufficient to identify each user who has uploaded or attempted to upload videos identified as infringing by Content ID and information about such uploads. Request 27 seeks “All Documents Concerning Takedown Notices You have received” including the Takedown Notices and certain documents regarding such notices. Request 28 seeks “All databases Concerning Takedown Notices and Documents sufficient to show all fields” thereof. Excerpts of the Requests and Responses are in Exhibits A and B, hereto, respectively.

The identity of users who have uploaded infringing videos caught by Content ID, and the related requested information, go directly to whether it is reasonable for YouTube’s repeat infringer policy to ignore instances of infringement caught by Content ID. This information surely will indicate multiple instances of repeat infringers—identified by Content ID—who were never terminated. Similarly, Takedown Notices and their dispositions directly relate to the adequacy of Defendants’ policy and practices regarding repeat infringers.

Notably, “Section 512(i)(1)(A) requires an assessment of the service provider’s ‘policy,’ not how the service provider treated a particular copyright holder.” *Perfect 10, Inc. v. CCBill LLC*, 488 F.3d 1102, 1113 (9th Cir. 2007). Whether YouTube has reasonably implemented a



repeat-infringer policy focuses on whether and how it deters users from repeatedly posting infringing content and how it identifies repeat infringers. As noted above, Takedown Notices also identify the putative class members who include all persons “whose copyrighted works have been uploaded to YouTube . . . where such person has had to submit a successful takedown notice with respect to such work, and where such person’s work has subsequently been infringed or uploaded without permission.” (Dkt. 1 ¶ 99.) Takedown notices are directly relevant to the class definition and identify instances of subsequent infringement of putative members’ works.

Defendants have refused to produce *any* Takedown Notices beyond those submitted by the named Plaintiffs and have refused to provide any documents or data concerning infringement detected by Content ID. Defendants have raised unsubstantiated burden concerns and have even refused to confirm Plaintiff’s belief that Defendants have this information (or the vast bulk of it) compiled in one or more databases that either can be copied or securely accessed to satisfy Defendants’ production obligations. Plaintiff offered to narrow the Takedown Notice requests from seeking a copy of every notice to the information listed in Appendix A hereto. In response, Defendants offered one month of Takedown Notices. Such a narrow period ignores the purpose and need of this discovery and thus is not a meaningful compromise.

### **III. Defendants Must Produce Document and Data Retention Policies.**

Request 69 seeks all document or data retention policies concerning certain categories of documents including Takedown Notices, Content ID (and access thereto), videos posted on or deleted from YouTube’s platform, copyright policies, and repeat infringers. By refusing to produce even their retention policies, Defendants are further inhibiting Plaintiff’s efforts to obtain documents generally by preventing the ability to discover what documents and data they retain in the ordinary course. This unjustifiable refusal is particularly inappropriate given that it also prevents Plaintiff from evaluating Defendants’ assertions of burden. For example, without the retention policies Plaintiff is significantly disadvantaged in negotiations to try to narrow requests based on what, by policy, should readily be available.

Defendants have also refused to say whether they retain certain documents requested by Plaintiff. For example, Defendants will not say whether they have videos in the form they were originally uploaded, which contain statutorily protected CMI metadata that identifies copyrighted works. The original videos are directly relevant to Plaintiff’s claim under 17 U.S.C. § 1202(b) that Defendants have eliminated, concealed, or failed to preserve CMI contained in the original videos that is plainly not present in the videos available on YouTube. (Dkt. 1 ¶¶ 139-48.)

Defendants’ retention policies will help provide information concerning these questions of what is even available and allow Plaintiff to pursue a preservation order if relevant evidence is not properly being retained, as we fear is the case. Plaintiffs have put Defendants on notice of their obligation to preserve. *See Al Otro Lado, Inc. v. Nielsen*, 328 F.R.D. 408, 416 (S.D. Cal. 2018) (“a litigant must preserve evidence which it knows, or would reasonably know, is relevant to the parties’ claims or defenses.”) (citations omitted). The retention policies are also relevant to how Defendants refer to their own documents and data and how it is stored, all of which relates to discovery and preservation issues generally.

Plaintiff respectfully requests the Court compel production of the requested documents.



Respectfully submitted,

/s/ Philip C. Korologos

Philip C. Korologos

*Counsel for Plaintiff Maria Schneider and Counterclaim  
Defendant Pirate Monitor LTD*

cc: All counsel via ECF



## APPENDIX A

- a) The identity of all persons that have submitted a Takedown Notice from January 1, 2015 to the present;
- b) the date the Takedown Notice was submitted;
- c) the work(s) that were the subject of the Takedown Notice;
- d) the URL of the video(s) that were the subject of the Takedown Notice;
- e) the dates for which the video that was the subject of the Takedown Notice was publicly displayed on YouTube;
- f) the YouTube account of the channel posting the challenged video, including the account or channel name, email address, and the IP address associated with the posting of the video that was the subject of the Takedown Notice;
- g) all steps taken, and the dates on which they were taken, leading to resolution of the Takedown Notice;
- h) any evidence of registration of the copyright(s) for the work(s) that were the subject of the Takedown Notice;
- i) the outcome of the Takedown Notice; and
- j) whether YouTube has a copy of the video that was the subject of the Takedown Notice.

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARIA SCHNEIDER and PIRATE MONITOR LTD, individually and on behalf of all others similarly situated;	)	Case Number: 3:20-cv-04423-JD
Plaintiffs,	)	<b>PLAINTIFFS’ FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS TO DEFENDANTS YOUTUBE, LLC AND GOOGLE LLC</b>
vs.	)	
YOUTUBE, LLC; GOOGLE LLC; and ALPHABET INC.;	)	
Defendants.	)	

Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiffs Maria Schneider and Pirate Monitor LTD (“Pirate Monitor”), by their attorneys Boies Schiller Flexner LLP and Korein Tillery, LLC, request that Defendants, YouTube, LLC (“YouTube”) and Google LLC (“Google”) respond to the following document requests (the “Requests”) within thirty days of service and produce responsive documents, and afterwards supplement such production as may become necessary to comply with the requirements of Rule 26(e) of the Federal Rules of Civil Procedure.

**DEFINITIONS**

1. The words and phrases used in these Requests shall have the meanings ascribed to them under the Federal Rules of Civil Procedure, unless otherwise stated. All definitions herein include both the singular and plural.

2. “And” and “Or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise

1 be construed to be outside of its scope.

2 3. “Account Monetization Program” means any program by which Users receive  
3 compensation on YouTube, Including the YouTube Partner Program.

4 4. “Answer” means the Defendants’ answer filed on September 21, 2020.

5 5. “AutoPlay Feature” means Your system that queues subsequent videos to play  
6 sequentially, Including the system described in Paragraph 37 of the Complaint.

7 6. “CMI Video” means a video containing CMI at the time the User initiated the  
8 upload of the video to Your platform.

9 7. “Communication” means the transmittal of information (in the form of facts,  
10 ideas, inquiries or otherwise).

11 8. “Complaint” means the complaint filed by Plaintiffs against Defendants on July  
12 2, 2020.

13 9. “Concerning” means relating to, referring to, describing, evidencing or  
14 constituting.

15 10. “Content ID System” means Your copyright management tool described  
16 throughout the Complaint, Including at Paragraphs 2, 8, 9, 10, and 12.

17 11. “Copyright Management Information” or “CMI” has the meaning it has under  
18 U.S.C. § 1202.

19 12. “Copyright Strike” means the strike issued by You to a User following a  
20 Takedown Notice.

21 13. “Counterclaims” means the counterclaims filed by Defendants Google and  
22 YouTube on September 21, 2020.

23 14. “Document” is defined to be synonymous in meaning and equal in scope to the  
24 usage of the term “documents or electronically stored information” in Federal Rule of Civil  
25 Procedure 34(a)(1)(A) and includes Communications. A draft or non-identical copy is a separate  
26 Document within the meaning of this term.

27 15. “Fair Use” has the meaning it has under 17 U.S.C. § 107.

28 16. “ID3 Tags” means the metadata container used in conjunction with audio files,



1 Including MP3 files and includes ID3v1 and ID3v2 tags.

2 17. “Including” or “includes” means including without limitation.

3 18. “ISRC” means the International Standard Recording Code.

4 19. “ISWC” means the International Standard Musical Work Code.

5 20. “Lawsuit” means the case filed by Plaintiff against Defendants in the United  
6 States District Court for the Northern District of California, number 20-cv-04423.

7 21. “Metadata” means any information attached to, embedded in, or a part of a digital  
8 video file that provides information Concerning that file, Including CMI and Tags.

9 22. “Unsuccessful Takedown Notice” means a Takedown Notice that is not a  
10 Successful Takedown Notice.

11 23. “Unsuccessful Takedown Notice Video” means any video uploaded to Your  
12 platform subsequent to the date that an Unsuccessful Takedown Notice was submitted that is not  
13 the subject of the Unsuccessful Takedown Notice but that used the work or works that were the  
14 subject of an Unsuccessful Takedown Notice in whole or in part, either by reproducing them or  
15 performing them.

16 24. “Person” means any natural person or any legal entity, Including, without  
17 limitation, any business or governmental entity or association.

18 25. “Pirate Monitor” means Plaintiff Pirate Monitor LTD and all present and former  
19 subsidiaries, predecessors, parents, successors, affiliates, segments, divisions, and all present or  
20 former owners, officers, directors, managers, limited partners, general partners, agents,  
21 representatives, accountants, investigators, consultants, attorneys, attorneys-in-fact, predecessors or  
22 successors in interest, employees, trustees, advisors, and any other Person acting on its behalf.

23 26. “Pirate Monitor Infringing Videos” means any video uploaded to Your platform  
24 that uses any of the Pirate Monitor Works in whole or in part, either by reproducing them or  
25 performing them.

26 27. “Pirate Monitor Works” means any works to which Pirate Monitor holds or has held  
27 since January 1, 2005 exclusive copyrights, Including the works identified in Paragraph 65 of the  
28 Complaint.

1           28. “Performance Rights Organizations” means any organization that collects  
2 royalties on behalf of copyright owners and includes but is not limited to Broadcast Music, Inc.  
3 (“BMI”), the American Society of Composers, Authors, and Publishers (“ASCAP”), the Society  
4 of European Stage Authors and Composers (“SESAC”), and the American Music Rights  
5 Association (“AMRA”).

6           29. “Plaintiffs” means Schneider and Pirate Monitor.

7           30. “Red Flag Knowledge” means Your subjective awareness of facts that would have  
8 made copyright infringement objectively obvious to a reasonable person.

9           31. “Removed Takedown Notice Video” means a video posted to Your platform that  
10 was removed, deleted, or no longer displayed because of a Takedown Notice.

11           32. “Removed Takedown Notice Video Re-upload” means a video that is  
12 substantively identical to a Removed Takedown Notice Video or contains the portion or aspect  
13 of the removed Takedown Notice Video that was the target of a Successful Takedown Notice.

14           33. “Repeat Infringer” has the meaning it has under 17 U.S.C. § 512(i).

15           34. “Response to Counterclaims” means Plaintiff Pirate Monitor’s Rule 12 motion  
16 and/or responsive pleading filed in response to Defendants’ Counterclaims.

17           35. “Schneider” means Plaintiff Maria Schneider and all agents, representatives,  
18 accountants, investigators, consultants, attorneys, attorneys-in-fact, advisors, and any other Person  
19 acting on her behalf.

20           36. “Schneider Infringing Videos” means any video uploaded to Your platform that  
21 uses any of the Schneider Works in whole or in part, either by reproducing them or performing  
22 them.

23           37. “Schneider Works” means any works to which Schneider holds or has held since  
24 January 1, 2005 exclusive copyrights, Including the works identified in Paragraph 60 of the  
25 Complaint.

26           38. “Tags” are descriptive keywords Users add to a video to help viewers find content.

27           39. “Takedown Notice” means a request submitted via Your online platform, by email,  
28 or in any other way that seeks to have content of any kind removed, deleted, or no longer displayed

1 because the content contains copyrighted material that has been posted or is being displayed without  
2 a license or permission.

3 40. “User” means a user of Your YouTube platform.

4 41. “Successful Takedown Notice” means a Takedown Notice that resulted in a  
5 Removed Takedown Notice Video or that You otherwise determined set forth a meritorious  
6 claim that copyrighted material has been posted or is being displayed without a license or  
7 permission.

8 42. “Successful Takedown Notice Video” means any video uploaded to Your  
9 platform subsequent to the date that a Successful Takedown Notice was submitted that used the  
10 work or works that were the subject of a Successful Takedown Notice in whole or in part, either  
11 by reproducing them or performing them.

12 43. The terms “You,” “Your,” and “Yourself” mean Defendants YouTube and  
13 Google and all present and former subsidiaries, predecessors, parents, successors, affiliates,  
14 segments, divisions, and all present or former owners, officers, directors, managers, limited partners,  
15 general partners, agents, representatives, accountants, investigators, consultants, attorneys,  
16 attorneys-in-fact, predecessors or successors in interest, employees, trustees, advisors, and any other  
17 Person acting on its behalf.

18 44. “YouTube Partner Program” means the program launched in 2007 that uses  
19 AdSense to monetize content posted by Users.  
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**INSTRUCTIONS**

1  
2 1. These Instructions incorporate by reference any instructions set forth in the Local  
3 Rules of the United States District Court of the Northern District of California and the Federal Rules  
4 of Civil Procedure and the instructions contained in the Standing Order for Discovery in Civil Cases  
5 before Judge Donato.

6 2. The Documents covered by these requests include all Documents in Your  
7 possession, custody, or control.

8 3. Each Request shall be construed independently, and no Request shall be viewed  
9 as limiting the scope of any other Request.

10 4. You shall produce all Documents in the manner in which they are maintained in  
11 the usual course of Your business and/or You shall organize and label the Documents to  
12 correspond to the categories of the Requests. A request for a Document shall be deemed to  
13 include a request for any and all file folders within which the Document was contained,  
14 transmittal sheets, cover letters, exhibits, attachments, or enclosures to the Document in addition  
15 to the Document itself.

16 5. The fact that a Document is produced by another party does not relieve You of the  
17 obligation to produce Your copy of the same Document, even if the two Documents are identical.

18 6. If any responsive Document was, but is no longer in Your possession or subject  
19 to Your control, state whether it is (a) missing or lost; (b) destroyed; (c) otherwise disposed of;  
20 or (d) transferred voluntarily or involuntarily to others, and identify the name and address of its  
21 current or last known custodian, and the circumstances surrounding such disposition.

22 7. The obligation to respond to these Requests is continuing pursuant to Rule 26(e)  
23 of the Federal Rules of Civil Procedure. If at any time after responding to these Requests You  
24 discover additional responsive Documents that will make Your responses to these Requests more  
25 complete or correct, amend Your responses and produce such responsive Documents as soon as  
26 reasonably possible.

27 8. Unless otherwise specified, these Requests seek Documents from January 1, 2015  
28 to the present.

1 being viewed; (2) monetizing a video by running ads against it; and (3) tracking the  
2 video's viewership statistics.

3 g) The number of times that You have determined a Person or User has attempted to  
4 access Content ID to "improperly censor videos," as alleged in Paragraph 15 of  
5 Your Counterclaims.

6 h) The number of times that You have determined a Person or User has attempted to  
7 "claim ownership rights in others' content," as alleged in Paragraph 15 of Your  
8 Counterclaims.

9 **REQUEST NO. 20**

10 Documents sufficient to identify each User that either attempted to upload a video but was  
11 prevented from doing so by operation of the Content ID System or uploaded a video that was  
12 subsequently deleted or removed by operation of the Content ID System, including the User's  
13 name, username, email address, IP address, affiliation, any other unique identifier used internally  
14 by YouTube or Google tied to a User, when the User attempted to upload a video or had a video  
15 deleted or removed (including each video if there is more than one for each User), whether the  
16 User was enrolled in the Account Monetization Program and/or the YouTube Partner Program,  
17 and the copyrighted work that was detected by the Content ID System.

18 **REQUEST NO. 21**

19 All Documents Concerning the Content ID System's processes for identifying matches for  
20 copyrighted works and recognizing third party performances of copyrighted works, including any  
21 changes to the processes, any evaluations of the efficacy or accuracy of the processes, and any  
22 complaints or comments Concerning the efficacy or accuracy of the processes.

23 **REQUEST NO. 22**

24 All procedures, criteria, manuals, logic Documents, terms of service, guidelines, or policy  
25 Documents Concerning the Content ID System, including all Documents Concerning the policies  
26 and any changes in policies Concerning access to the Content ID System.

27 **REQUEST NO. 23**

28 All Documents Concerning the following issues related to Your Content ID System:

1 **REQUEST NO. 27**

2 All Documents Concerning Takedown Notices You have received Concerning videos  
3 posted to Your platform, Including:

- 4 a) The Takedown Notice submitted;
- 5 b) Any changes to the Takedown Notice;
- 6 c) Any Communications Concerning the Takedown Notice, Including with the issuer  
7 of the Takedown Notice and with any targets of the Takedown Notice;
- 8 d) The disposition of the Takedown Notice, Including whether a Copyright Strike  
9 was issued, whether the video that was the subject of the Takedown Notice was  
10 removed, and any changes to the allocation of revenue associated with the video  
11 that was the subject of the Takedown Notice.

12 **REQUEST NO. 28**

13 All databases Concerning Takedown Notices and Documents sufficient to show all fields  
14 in any databases Concerning Takedown Notices, Including a description of the nature of each field.

15 **REQUEST NO. 29**

16 All Removed Takedown Notice Videos.

17 **REQUEST NO. 30**

18 Documents sufficient to show the following information for all Removed Takedown Notice  
19 Videos:

- 20 a. The date(s) uploaded, the number of copies made, the date each copy was made,  
21 the location of each copy;
- 22 b. the metadata included with each video (Including before and after each video was  
23 uploaded) and whether that metadata was supplied by the User or You;
- 24 c. the number of views, the number of downloads, the number of likes, the number of  
25 Users who subscribed to the channel of the User that posted the video from the page  
26 containing the video;
- 27  
28

- b) Any instances in which You have paid or reimbursed all or some of the defense costs in a lawsuit or other proceeding Concerning Fair Use;
- c) Any efforts to create a filter for rejecting false or inadequate claims of Fair Use;
- d) Discussion of Users who have invoked Fair Use in response to an allegation of copyright infringement;
- e) Your efforts to inform Users of Your policies and procedures applicable to Fair Use.

**REQUEST NO. 67**

Documents sufficient to show the following information Concerning Fair Use for each month since the Content ID System was launched:

- a) The total number of Users who have invoked Fair Use in response to an allegation of copyright infringement;
- b) The number of videos for which a User has invoked Fair Use in response to an allegation of copyright infringement;
- c) Your determination about how many claims by Users who have invoked Fair Use meet the applicable criteria for Fair Use;
- d) The total number of videos removed from Your platform posted by Users who have invoked Fair Use;
- e) The total number of Copyright Strikes issued to Users who have invoked Fair Use.

**REQUEST NO. 68**

All Documents Concerning Your negotiations with any Performance Rights Organization, Including the contracts between you and any Performance Rights Organization and Documents Concerning the Content ID System, how revenue is shared with copyright holders, and Copyright Management Information.

**REQUEST NO. 69**

All Document or data retention policies applying to or Concerning the following:

- a) Takedown Notices;
- b) The Content ID System;

- c) Videos posted to Your platform, Including any videos that a User chose to remove;
- d) Policies related to copyright;
- e) Repeat Infringers;
- f) Access to Content ID.

**REQUEST NO. 70**

All Documents You intend to use in support of Your affirmative defenses.

**REQUEST NO. 71**

All Documents supporting Your claim that “Pirate Monitor has misused the YouTube service and engaged in a fraudulent scheme to obtain access to YouTube’s copyright management systems,” as stated in Paragraph 1 of Your Counterclaims.

**REQUEST NO. 72**

All Documents supporting Your claim that Pirate Monitor “intended to fool YouTube into believing that Pirate Monitor could be trusted not to abuse YouTube’s powerful copyright management tools, Including Content ID,” as stated in Paragraph 1 of Your Counterclaims.

**REQUEST NO. 73**

Documents sufficient to identify all Persons You claim spent time “processing Pirate Monitor’s bogus takedowns and investigating its misconduct.”

**REQUEST NO. 74**

All Documents subject to Your preservation efforts and obligations in relation to this Lawsuit.

**REQUEST NO. 75**

All Documents Concerning Your claim that You are entitled to one or more safe harbors under the DMCA for the allegations in this Lawsuit.

**REQUEST NO. 76**

All Documents identified in Your Initial Disclosures, Including Documents identified in any subsequent amendments to Your Initial Disclosures.



# **EXHIBIT B**

1 DAVID H. KRAMER, State Bar No. 168452  
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9 Attorneys for Defendants and Counterclaimants  
YOUTUBE, LLC and GOOGLE LLC

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

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

16 Plaintiffs, )

17 v. )

18 YOUTUBE, LLC and GOOGLE LLC, )

19 Defendants. )

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

22 Counterclaimants, )

23 v. )

24 PIRATE MONITOR LTD, )

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

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

**DEFENDANTS AND  
COUNTERCLAIMANTS  
YOUTUBE, LLC AND GOOGLE  
LLC'S RESPONSES AND  
OBJECTIONS TO PLAINTIFFS'  
FIRST SET OF REQUESTS FOR  
PRODUCTION (NOS. 1-77)**

Judge: Hon. James Donato

1 Pursuant to Federal Rules of Civil Procedure 26 and 34 and the Local Rules of the United  
2 States District Court for the Northern District of California, Defendants and Counterclaimants  
3 YouTube, LLC and Google LLC (collectively, “Defendants”) hereby respond to Plaintiff Maria  
4 Schneider’s and Plaintiff and Counterclaim-defendant Pirate Monitor LTC’s (collectively,  
5 “Plaintiffs”) First Set of Requests for Production (“Requests”) as follows:

6 **PRELIMINARY STATEMENT**

7 The following responses are provided subject to all appropriate objections (including,  
8 without limitation, objections concerning competency, relevancy, materiality, and propriety) that  
9 would require the exclusion of any statement contained herein if the statement were made by a  
10 witness present and testifying in court.

11 In addition, all responses to the Requests are based upon the information presently known  
12 to Defendants, and Defendants expressly reserve the right to revise and supplement their  
13 responses to the Requests. A response to a Request shall not be deemed a waiver of any  
14 applicable objection or an admission of relevancy.

15 To the extent the Requests would require the production of information that implicates  
16 the personal privacy interests of individual employees or agents and/or of third parties of  
17 Defendants, the parties need to implement appropriate protections for personal privacy before  
18 Defendants will produce any materials responsive to the Requests.

19 **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

20 1. As a threshold matter, Plaintiffs’ prolix Definitions, much like the Complaint, are  
21 replete with unsubstantiated assumptions and improper advocacy. Their byzantine structure,  
22 vagueness, and overbreadth render interpreting the Requests themselves (let alone drafting  
23 responses) an unduly burdensome effort that is disproportionate to the needs of this case.

24 2. Defendants object to the definition of “Account Monetization Program” as vague  
25 and ambiguous. In particular, the definition is vague and ambiguous in its use of the undefined  
26 terms “program” and “compensation.” Defendants further object to this definition as overly  
27 broad and unduly burdensome to the extent it encompasses information not relevant to the  
28

1 parties' claims or defenses and would require Defendants to collect information that is  
2 disproportionate to the needs of this case. For purposes of responding to the Requests, the  
3 "Account Monetization Program" will be defined as the five monetization features ("Advertising  
4 revenue," "Channel memberships," Merchandise shelf," "Super Chat & Super Stickers," and  
5 "YouTube Premium Revenue") that enable some users to make money on YouTube. *See* "How  
6 to earn money on YouTube," <https://support.google.com/youtube/answer/72857?hl=en>.

7         3. Defendants object to the definition of "AutoPlay Feature" as vague and  
8 ambiguous. In particular, the definition is vague and ambiguous in its use of the undefined term  
9 "queues." Plaintiffs' "description" in Paragraph 37 of the Complaint provides no more clarity, as  
10 it merely parrots the vague and ambiguous definition provided in these Requests. Defendants  
11 further object to this definition as overly broad and unduly burdensome to the extent it  
12 encompasses information not relevant to the parties' claims or defenses and would require  
13 Defendants to collect information that is disproportionate to the needs of this case.

14         4. Defendants object to the definition of "CMI Video" as vague and ambiguous. In  
15 particular, the definition is vague and ambiguous in its use of the undefined terms "CMI,"  
16 "containing," and "initiated." Defendants further object to this definition as overly broad and  
17 unduly burdensome to the extent it requires Defendants to collect information relating to every  
18 video uploaded to YouTube, regardless of their relevance to the parties' claims or defenses in  
19 this case.

20         5. Defendants object to the definition of "Communication" to the extent it exceeds  
21 the scope contemplated by the Federal Rules of Civil Procedure, the Local Rules of the United  
22 States District Court for the Northern District of California, or other applicable law. Defendants  
23 further object to the definition as overly broad and unduly burdensome to the extent it  
24 encompasses information not relevant to the parties' claims or defenses and would require  
25 Defendants to collect information that is disproportionate to the needs of this case.

26         6. Defendants object to the definition of "Concerning" as vague and ambiguous. In  
27 particular, the term is vague and ambiguous in its use of the undefined terms "relating,"  
28

1 “referring,” “describing,” “evidencing,” and “construing.” Defendants further object to this  
2 definition as overly broad and unduly burdensome to the extent it encompasses information not  
3 relevant to the parties’ claims or defenses and would require Defendants to collect information  
4 that is disproportionate to the needs of this case.

5 7. Defendants object to the definition of “Content ID System” as vague and  
6 ambiguous. In particular, the definition is vague and ambiguous in its use of the phrase “YOUR  
7 copyright management tool.” Defendants have created and made available many tools for  
8 protecting the copyrights of others. Defendants further object to Plaintiffs’ descriptions in  
9 Paragraphs 2, 8, 9, 10, and 12 of the Complaint as inaccurate in their characterization of Content  
10 ID. Defendants specifically object to Plaintiffs’ characterization of Content ID as being  
11 “completely divorced” from YouTube, LLC’s repeat-infringer policy. *See* Compl. ¶ 12. For  
12 purposes of responding to the Requests, the “Content ID System” will be defined as a tool  
13 YouTube provides to certain users for the purpose of managing copyrighted works that scans  
14 videos uploaded to YouTube and compares them against reference files previously provided to  
15 YouTube by copyright owners. *See* “How Content ID works,”  
16 <https://support.google.com/youtube/answer/2797370?hl=en>.

17 8. Defendants object to the definition of “Copyright Strike” as vague and  
18 ambiguous. In particular, the definition is vague and ambiguous in its use of the phrase  
19 “following a Takedown Notice.” Defendants further object to this definition as overly broad and  
20 unduly burdensome to the extent it encompasses information not relevant to the parties’ claims  
21 or defenses and would require Defendants to collect information that is disproportionate to the  
22 needs of this case. For purposes of responding to the Requests, “Copyright Strike” will be  
23 defined as the warning that a user receives when YouTube has removed the user’s video from the  
24 YouTube service because a copyright owner submitted to YouTube a complete and valid legal  
25 request asking YouTube to do so. *See* “Copyright strike basics,”  
26 <https://support.google.com/youtube/answer/2814000?hl=en>.

1           9.       Defendants object to the definition of “Document” to the extent it exceeds the  
2 scope contemplated by the Federal Rules of Civil Procedure, the Local Rules of the United States  
3 District Court for the Northern District of California, or other applicable law. Defendants further  
4 object to this definition as overly broad and unduly burdensome to the extent it encompasses  
5 information not relevant to the parties’ claims or defenses and would require Defendants to  
6 collect information that is disproportionate to the needs of this case.

7           10.       Defendants object to the definition of “ID3 Tags” as vague and ambiguous. In  
8 particular, the definition is vague and ambiguous in its use of the undefined terms “metadata  
9 container,” “audio files,” and “ID3v1 and ID3v2 tags.”

10          11.       Defendants object to the definition of “Metadata” as overly broad (especially  
11 insofar as it encompasses “any information”), vague, and ambiguous. In particular, the definition  
12 is vague and ambiguous in its use of the phrases “attached to,” “embedded in,” “part of,” and  
13 “provides information.”

14          12.       Defendants object to the definition of “Unsuccessful Takedown Notice” as vague  
15 and ambiguous. In particular, the definition is vague and ambiguous in its use of the term  
16 “Successful Takedown Notice.” Defendants further object to this definition as overly broad and  
17 unduly burdensome to the extent it encompasses information not relevant to the parties’ claims  
18 or defenses and would require Defendants to collect information that is disproportionate to the  
19 needs of this case.

20          13.       Defendants object to the definition of “Unsuccessful Takedown Notice Video” as  
21 vague and ambiguous. In particular, the definition is vague and ambiguous in its use of the  
22 undefined terms “Your platform,” “submitted,” “Unsuccessful Takedown Notice,” “used,”  
23 “reproducing,” and “performing.” The definition is further vague and ambiguous in its use of the  
24 phrase “were the subject of.” Defendants also object to the definition to the extent it calls for a  
25 legal conclusion as to whether content has been reproduced or performed. Defendants further  
26 object to this definition as overly broad and unduly burdensome to the extent it encompasses  
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1 information not relevant to the parties' claims or defenses and would require Defendants to  
2 collect information that is disproportionate to the needs of this case.

3 14. Defendants object to the definition of "Pirate Monitor" as overly broad, vague and  
4 ambiguous, and unduly burdensome. In particular, the definition is overly broad because it  
5 encompasses "present or former ... agents, representatives ... investigators ... advisors, and any  
6 other person acting on its behalf." For purposes of responding to the Requests, "Pirate Monitor"  
7 will be defined as Pirate Monitor LTD and those authorized agents and employees known or  
8 believed to be acting on its behalf and within the scope of their agency or employment.

9 15. Defendants object to the definition of "Pirate Monitor Infringing Videos" as  
10 vague and ambiguous. In particular, the definition is vague and ambiguous in its use of the  
11 undefined terms "Your platform," "uses," "Pirate Monitor Works," "reproducing," and  
12 "performing." Defendants also object to the definition to the extent it calls for a legal conclusion  
13 as to whether content has been reproduced or performed under the Copyright Act. Defendants  
14 further object to this definition as overly broad and unduly burdensome to the extent it  
15 encompasses information not relevant to the parties' claims or defenses and would require  
16 Defendants to collect information that is disproportionate to the needs of this case. Moreover,  
17 Defendants object that this term is meaningless and untimely because Plaintiffs have failed to  
18 identify any allegedly infringing content in their Complaint or in discovery, including but not  
19 limited to, in response to Defendants' Interrogatory No. 2.

20 16. Defendants object to the definition of "Pirate Monitor Works" as vague and  
21 ambiguous. In particular, Defendants object that the definition is vague and ambiguous in its use  
22 of the term "exclusive copyrights." Defendants object that this definition encompasses  
23 documents concerning works that have not been identified as Works In Suit. Defendants also  
24 object to the definition to the extent it calls for a legal conclusion as to whether Plaintiff and  
25 Counterclaim-defendant Pirate Monitor LTD holds "exclusive copyrights" in any works.  
26 Defendants further object to this definition as overly broad and unduly burdensome to the extent  
27 it encompasses information not relevant to the parties' claims or defenses (especially insofar as it  
28

1 encompasses works not identified by Plaintiff and Counterclaim-defendant Pirate Monitor LTD  
2 as Works In Suit and/or United States works not timely registered with the United States  
3 Copyright Office) and would require Defendants to collect information that is disproportionate to  
4 the needs of this case. For purposes of these responses, Defendants will interpret “Pirate Monitor  
5 Works” to be limited to the Works In Suit identified in response to Defendants’ Interrogatory  
6 No. 1.

7 17. Defendants object to the definition of “Performance Rights Organizations” as  
8 overly broad and unduly burdensome to the extent it encompasses information not relevant to the  
9 parties’ claims or defenses and would require Defendants to collect information that is  
10 disproportionate to the needs of this case.

11 18. Defendants object to the definition of “Red Flag Knowledge” as calling for a legal  
12 conclusion. Defendants also object that this definition encompasses documents concerning works  
13 that have not been identified as Works In Suit. Defendants further object to this definition as  
14 overly broad and unduly burdensome to the extent it encompasses information not relevant to the  
15 parties’ claims or defenses and would require Defendants to collect information that is  
16 disproportionate to the needs of this case.

17 19. Defendants object to the definition of “Removed Takedown Notice Video” as  
18 vague and ambiguous. In particular, the definition is vague and ambiguous in its use of the  
19 undefined term “Your platform” and the phrases “was removed, deleted, or no longer displayed”  
20 and “because of.” Defendants also object that this definition encompasses documents concerning  
21 works that have not been identified as Works In Suit. Defendants further object to this definition  
22 as overly broad and unduly burdensome to the extent it encompasses information not relevant to  
23 the parties’ claims or defenses and would require Defendants to collect information that is  
24 disproportionate to the needs of this case.

25 20. Defendants object to the definition of “Removed Takedown Notice Re-upload” as  
26 vague and ambiguous. In particular, the definition is vague and ambiguous in its use of the  
27 undefined terms “substantively identical,” “aspect,” “removed Takedown Notice Video,”  
28



1 “target,” and “Successful Takedown Notice.” Defendants also object that this definition  
2 encompasses documents concerning works that have not been identified as Work In Suit.  
3 Defendants further object to this definition as overly broad and unduly burdensome to the extent  
4 it encompasses information not relevant to the parties’ claims or defenses and would require  
5 Defendants to collect information that is disproportionate to the needs of this case.

6 21. Defendants object to the definition of “Repeat Infringer” to the extent it calls for a  
7 legal conclusion. Defendants further object to this definition as overly broad and unduly  
8 burdensome to the extent it encompasses information not relevant to the parties’ claims or  
9 defenses and would require Defendants to collect information that is disproportionate to the  
10 needs of this case.

11 22. Defendants object to the definition of “Schneider” as overly broad, vague and  
12 ambiguous, and unduly burdensome. In particular, the definition is overly broad because it  
13 encompasses “all agents, representatives ... investigators ... advisors, and any other person  
14 acting on her behalf.” For purposes of responding to the Requests, “Schneider” will be defined as  
15 Maria Schneider and persons known or believed to be acting on her behalf .

16 23. Defendants object to the definition of “Schneider Infringing Videos” as vague and  
17 ambiguous. In particular, the definition is vague and ambiguous in its use of the undefined terms  
18 “Your platform,” “uses,” “Schneider Works,” “reproducing,” and “performing.” Defendants also  
19 object to the definition to the extent it calls for a legal conclusion as to whether content has been  
20 reproduced or performed under the Copyright Act. Defendants further object to this definition as  
21 overly broad and unduly burdensome to the extent it encompasses information not relevant to the  
22 parties’ claims or defenses and would require Defendants to collect information that is  
23 disproportionate to the needs of this case. Moreover, Defendants object that this term is  
24 meaningless and untimely because Plaintiffs have failed to identify any allegedly infringing  
25 content in their Complaint or in discovery, including but not limited to, in response to  
26 Defendants’ Interrogatory No. 2.

27  
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1           24. Defendants object to the definition of “Schneider Works” as vague and  
2 ambiguous. In particular, Defendants object that the definition is vague and ambiguous in its use  
3 of the term “exclusive copyrights.” Defendants object that this definition encompasses  
4 documents concerning works that have not been identified as Works In Suit. Defendants also  
5 object to the definition to the extent it calls for a legal conclusion as to whether Plaintiff Maria  
6 Schneider holds “exclusive copyrights” in any works. Defendants further object to this definition  
7 as overly broad and unduly burdensome to the extent it encompasses information not relevant to  
8 the parties’ claims or defenses (especially insofar as it encompasses works not identified by  
9 Plaintiff Maria Schneider as Works In Suit and/or United States works not timely registered with  
10 the United States Copyright Office) and would require Defendants to collect information that is  
11 disproportionate to the needs of this case. For purposes of these responses, Defendants will  
12 interpret “Schneider Works” to be limited to the Works In Suit identified in response to  
13 Defendants’ Interrogatory No. 1.

14           25. Defendants object to the definition of “Tags” as vague and ambiguous. In  
15 particular, the definition is vague and ambiguous in its use of the undefined term “descriptive  
16 keywords” and the phrase “find content.”

17           26. Defendants object to the definition of “Takedown Notice” as vague, ambiguous,  
18 and overly broad. In particular, the definition is vague and ambiguous in its use of the term  
19 “request” and the phrases “any other way” and “via Your online platform.” Defendants object  
20 that the definition is overly broad and unduly burdensome to the extent it extends beyond notices  
21 submitted to Defendants. Defendants also object to the definition to the extent it calls for a legal  
22 conclusion as to whether content has been posted or displayed without license or permission.  
23 Defendants further object to the definition to the extent it encompasses non-written  
24 communications that do not satisfy the requirements set forth in 17 U.S.C. § 512(c)(3). For  
25 purposes of responding to the Requests, “Takedown Notice” will be defined as notices that are  
26 compliant with 17 U.S.C. § 512(c)(3) and have been submitted through YouTube LLC’s online  
27 form, *see* “Submit a copyright takedown notice,”  
28

1 <https://support.google.com/youtube/answer/2807622?hl=en>, or to YouTube’s designated agent  
2 via email, facsimile, or postal mail, *see* “Copyright Contact Information,”  
3 <https://support.google.com/youtube/answer/6005908?hl=en>.

4 27. Defendants object to the term “Successful Takedown Notice” as vague and  
5 ambiguous. In particular, the definition is vague and ambiguous in its use of the phrases  
6 “resulted in a Removed Takedown Notice Video” and “otherwise determined set forth a  
7 meritorious claim.” Defendants object to the definition to the extent it calls for a legal  
8 conclusion. Defendants also object that this definition encompasses documents concerning works  
9 that have not been identified as Works In Suit. Defendants further object to this definition as  
10 overly broad and unduly burdensome to the extent it encompasses information not relevant to the  
11 parties’ claims or defenses and would require Defendants to collect information that is  
12 disproportionate to the needs of this case.

13 28. Defendants object to the definition of “Successful Takedown Notice Video” as  
14 vague and ambiguous. In particular, the definition is vague and ambiguous in its use of the  
15 undefined terms “Your platform,” “submitted,” “used,” and “Successful Takedown Notice.” The  
16 definition is further vague and ambiguous in its use of the phrase “were the subject of.”  
17 Defendants also object to the definition to the extent it calls for a legal conclusion as to whether  
18 content has been reproduced or performed under the Copyright Act. Defendants also object that  
19 this definition encompasses documents concerning works that have not been identified as Works  
20 In Suit. Defendants further object to this definition as overly broad and unduly burdensome to  
21 the extent it encompasses information not relevant to the parties’ claims or defenses and would  
22 require Defendants to collect information that is disproportionate to the needs of this case.

23 29. Defendants object to the definition of “You,” “Your,” and “Yourself” on the  
24 grounds that the definition is overbroad, vague and ambiguous, and unduly burdensome.  
25 Defendants further object to the definition to the extent it seeks information not currently in the  
26 possession, custody, or control of Defendants. Defendants will respond solely on behalf of  
27 themselves (Google LLC and YouTube, LLC), and not any other subsidiaries or affiliates, or any  
28

1 other person or entity. Defendants further object to the definition on the grounds that it includes  
2 Defendants' attorneys and requires Defendants to provide a legal conclusion or to produce  
3 information that is protected by any privilege, including the attorney-client privilege, work  
4 product immunity doctrine, common interest privilege, or any other applicable privilege,  
5 immunity, or restriction on discovery. For purposes of responding to the Requests, "You,"  
6 "Your," and "Yourself" will be defined as Google LLC, YouTube, LLC, and those authorized  
7 agents and employees acting on its behalf and within the scope of their agency or employment.<sup>1</sup>

8         30. Defendants object to the definition of "YouTube Partner Program" as vague and  
9 ambiguous. In particular, the term is vague and ambiguous in its use of the phrase "uses AdSense  
10 to monetize content posted to Users." Defendants further object to this definition as overly broad  
11 and unduly burdensome to the extent it encompasses information not relevant to the parties'  
12 claims or defenses and would require Defendants to collect information that is disproportionate  
13 to the needs of this case. For purposes of responding to the Requests, the "YouTube Partner  
14 Program" will be defined as the program that gives YouTube content creators access to  
15 YouTube's Creator Support Teams, Copyright Match Tool, and monetization features. *See*  
16 "YouTube Partner Program overview & eligibility,"  
17 <https://support.google.com/youtube/answer/72851?hl=en>.

18         31. Defendants object to the Instructions accompanying Plaintiffs' Requests to the  
19 extent that such Instructions purport to impose obligations on Defendants in excess of the  
20 Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the  
21 Northern District of California, the Standing Order for Discovery in Civil Cases before Judge  
22 Donato, or any other applicable law, or to the extent that the Instructions purport to require  
23 Defendants to take actions or provide information not required by or which exceed the scope of  
24 the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the  
25

26  
27 \_\_\_\_\_  
28 <sup>1</sup> Per the parties' agreement, Defendants will produce otherwise discoverable information that is retained by, owned by, possessed by, or in the control of Alphabet Inc.

1 Northern District of California, the Standing Order for Discovery in Civil Cases before Judge  
2 Donato, or any other applicable law.

3 32. Defendants object to Instruction No. 8 insofar as it calls for information beyond  
4 the scope of the three-year statute of limitations applicable to Plaintiffs' claims. *See* 17 U.S.C. §  
5 507(b). Defendants will produce reasonably accessible non-privileged documents following an  
6 inquiry proportionate to the needs of the case for the three-year period predating the filing of the  
7 Complaint.

8 **SPECIFIC RESPONSES AND OBJECTIONS TO DOCUMENT REQUESTS**

9 **DOCUMENT REQUEST NO. 1:**

10 **All Documents Concerning any of the alleged facts in the Complaint, the Answer,  
11 and Counterclaims, the Response to Counterclaims, or any statement of fact contained in  
12 any other Document filed in this Lawsuit.**

12 **RESPONSE TO DOCUMENTS REQUEST NO. 1:**

13 Defendants object to this Request on the grounds that it is vague, ambiguous, unduly  
14 burdensome, and overly broad (especially insofar as it demands that Defendants produce “[a]ll”  
15 documents). In particular, Defendants object to the Request because it is vague and ambiguous in  
16 its use of the terms “alleged facts” and “statement of fact.” Defendants further object that this  
17 Request is compound to the extent that it contains multiple sub-parts.

18 Defendants object to the extent that this Request calls for the production of proprietary,  
19 confidential, or trade secret information that has little or no connection to the parties' claims and  
20 defenses in this action, imposing a further burden on Defendants that is out of line with  
21 Plaintiffs' legitimate needs. To the extent this Request seeks materials relating to third parties,  
22 Defendants also object on the grounds that this Request calls for the production of materials not  
23 relevant to Plaintiffs' claims and for the production of proprietary, confidential, or trade secret  
24 documents without the entry of a protective order.

25 Defendants further object that this Request seeks documents concerning works that have  
26 not been identified as Works In Suit. In addition, Defendants object to this Request to the extent  
27 that it seeks information concerning alleged infringements that Plaintiffs have failed to identify.  
28

1 **d) The number of videos for which a Takedown Notice was issued by or on behalf of**  
2 **participants in the Content ID System;**

3 **e) The number of videos removed from Your platform following Takedown Notices**  
4 **issued by or on behalf of participants in the Content ID System;**

5 **f) The number of videos that are subject to each of the following options at the**  
6 **election of a participant in the Content ID System: (1) blocking a whole video from**  
7 **being viewed; (2) monetizing a video by running ads against it; and (3) tracking the**  
8 **video’s viewership statistics.**

9 **g) The number of times that You have determined a Person or User has attempted**  
10 **to access Content ID to “improperly censor videos,” as alleged in Paragraph 15 of**  
11 **Your Counterclaims.**

12 **h) The number of times that You have determined a Person or User has attempted**  
13 **to “claim ownership rights in others’ content,” as alleged in Paragraph 15 of Your**  
14 **Counterclaims.**

15 **RESPONSE TO DOCUMENTS REQUEST NO. 19:**

16 Defendants object to this Request because it calls for the production of materials relevant  
17 to a putative class of plaintiffs that has not been certified by the Court. Defendants object that  
18 this Request is compound and structurally confusing. Defendants also object to this Request on  
19 the grounds that it is overly broad, unduly burdensome, and not relevant to any party’s claim or  
20 defense or proportional to the needs of the case. Defendants further object to this Request as not  
21 reasonably limited in temporal scope.

22 Subject to and without waiving any of the foregoing objections, Defendants will meet and  
23 confer with opposing counsel regarding an appropriate scope of information to be produced in  
24 response to this Request.

25 **DOCUMENT REQUEST NO. 20:**

26 **Documents sufficient to identify each User that either attempted to upload a video**  
27 **but was prevented from doing so by operation of the Content ID System or uploaded a**  
28 **video that was subsequently deleted or removed by operation of the Content ID System,**  
**Including the User’s name, username, email address, IP address, affiliation, any other**  
**unique identifier used internally by YouTube or Google tied to a User, when the User**  
**attempted to upload a video or had a video deleted or removed (including each video if**  
**there is more than one for each User), whether the User was enrolled in the Account**  
**Monetization Program and/or the YouTube Partner Program, and the copyrighted work**  
**that was detected by the Content ID System.**

**RESPONSE TO DOCUMENTS REQUEST NO. 20:**

Defendants object to this Request because it calls for the production of materials relevant to a putative class of plaintiffs that has not been certified by the Court. Defendants object to this Request on the grounds that it is overly broad and unduly burdensome, and not relevant to any party's claim or defense or proportional to the needs of the case. Defendants also object to this Request as not reasonably limited in temporal scope. Defendants further object to this Request because it seeks detailed technical information the aggregation and/or production of which would be highly burdensome in ways that are disproportionate to the legitimate needs of the case. To the extent this Request seeks materials relating to third parties, Defendants object on the grounds that this Request calls for the production of materials not relevant to Plaintiff's claims and for the production of proprietary, confidential, or trade secret documents without the entry of a protective order.

In addition, Defendants object to this Request to the extent that its expansive scope seeks personal identifying information concerning numerous YouTube users and may implicate the privacy rights of users who are entitled to protection under various consumer privacy laws in the U.S. and internationally. Affected users should also be afforded an opportunity to object to disclosure of their personal identifying information, and such an opportunity may be required as a matter of law.

Subject to and without waiving any of the foregoing objections, Defendants will meet and confer with opposing counsel regarding an appropriate scope of information to be produced in response to this Request.

**DOCUMENT REQUEST NO. 21:**

**All Documents Concerning the Content ID System's processes for identifying matches for copyrighted works and recognizing third party performances of copyrighted works, Including any changes to the processes, any evaluations of the efficacy or accuracy of the processes, and any complaints or comments Concerning the efficacy or accuracy of the processes.**

1 this Request on the grounds that it is vague and ambiguous in its use of the terms “notices” and  
2 “accumulated” and “identified in.” Defendants further object to this Request as overly broad,  
3 unduly burdensome, and not relevant to any party’s claim or defense or proportional to the needs  
4 of the case.

5 Defendants object that this Request is compound to the extent that it contains multiple  
6 sub-parts. Defendants further object to the extent that this Request calls for the production of  
7 proprietary, confidential, or trade secret information that has little or no connection to the parties’  
8 claims and defenses in this action, imposing a further burden on Defendants that is out of line  
9 with Plaintiff’s legitimate needs. Defendants further object that this Request seeks documents  
10 that are protected by the attorney-client privilege, the attorney work-product doctrine, or both.

11 In addition, Defendants object to this Request to the extent that its expansive scope  
12 seeks personal identifying information concerning numerous YouTube users and may implicate  
13 the privacy rights of users who are entitled to protection under various consumer privacy laws in  
14 the U.S. and internationally. Affected users should also be afforded an opportunity to object to  
15 disclosure of their personal identifying information, and such an opportunity may be required as  
16 a matter of law.

17 Subject to and without waiving any of the foregoing objections, Defendants will meet and  
18 confer with opposing counsel regarding an appropriate scope of information to be produced in  
19 response to this Request.

20 **DOCUMENT REQUEST NO. 27:**

21 **All Documents Concerning Takedown Notices You have received Concerning videos**  
22 **posted to Your platform, Including:**

23 **a) The Takedown Notice submitted;**

24 **b) Any changes to the Takedown Notice;**

25 **c) Any Communications Concerning the Takedown Notice, Including with the issuer**  
26 **of the Takedown Notice and with any targets of the Takedown Notice;**

27 **d) The disposition of the Takedown Notice, Including whether a Copyright Strike**  
28 **was issued, whether the video that was the subject of the Takedown Notice was**



1 removed, and any changes to the allocation of revenue associated with the video that  
2 was the subject of the Takedown Notice.

3 **RESPONSE TO DOCUMENTS REQUEST NO. 27:**

4 Defendants further object to this Request because it calls for the production of materials  
5 relevant to a putative class of plaintiffs that has not been certified by the Court. Defendants also  
6 object to this Request on the grounds that it is unduly burdensome, overly broad (especially  
7 insofar as it demands that Defendants produce “all” documents), and not relevant to any party’s  
8 claim or defense or proportional to the needs of the case. Defendants further object to this  
9 Request because it seeks detailed technical information the aggregation and/or production of  
10 which would be highly burdensome in ways that are disproportionate to the legitimate needs of  
11 the case.

12 Defendants object that this Request is compound and structurally confusing. Defendants  
13 further object that this Request seeks documents that are protected by the attorney-client  
14 privilege, the attorney work-product doctrine, or both.

15 In addition, Defendants object to this Request to the extent that its expansive scope seeks  
16 personal identifying information concerning numerous YouTube users and may implicate the  
17 privacy rights of users who are entitled to protection under various consumer privacy laws in the  
18 U.S. and internationally. Affected users should also be afforded an opportunity to object to  
19 disclosure of their personal identifying information, and such an opportunity may be required as  
20 a matter of law.

21 Subject to and without waiving any of the foregoing objections, Defendants will meet and  
22 confer with opposing counsel regarding an appropriate scope of information to be produced in  
23 response to this Request.

24 **DOCUMENT REQUEST NO. 28:**

25 **All databases Concerning Takedown Notices and Documents sufficient to show all**  
26 **fields in any databases Concerning Takedown Notices, Including a description of the**  
27 **nature of each field.**  
28

**RESPONSE TO DOCUMENTS REQUEST NO. 28:**

Defendants object to this Request because it calls for the production of materials relevant to a putative class of plaintiffs that has not been certified by the Court. Defendants also object to this Request on the grounds that it is unduly burdensome, overly broad (especially insofar as it demands that Defendants produce “all” databases), and not relevant to any party’s claim or defense or proportional to the needs of the case.

In addition, Defendants object to this Request to the extent that its expansive scope seeks personal identifying information concerning numerous YouTube users and may implicate the privacy rights of users who are entitled to protection under various consumer privacy laws in the U.S. and internationally. Affected users should also be afforded an opportunity to object to disclosure of their personal identifying information, and such an opportunity may be required as a matter of law.

**DOCUMENT REQUEST NO. 29:**

**All Removed Takedown Notice Videos.**

**RESPONSE TO DOCUMENTS REQUEST NO. 29:**

Defendants object to this Request because it calls for the production of materials relevant to a putative class of plaintiffs that has not been certified by the Court. Defendants also object to this Request on the grounds that it is vague, ambiguous, unduly burdensome, overly broad (especially insofar as it demands that Defendants produce “all” videos, regardless of their relevance to the parties’ claims or defenses), and not relevant to any party’s claim or defense or proportional to the needs of the case. In particular, the request is vague and ambiguous in its use of the undefined term “Takedown Notice Videos.”

**DOCUMENT REQUEST NO. 30:**

**Documents sufficient to show the following information for all Removed Takedown Notice Videos:**

**a. The date(s) uploaded, the number of copies made, the date each copy was made, the location of each copy;**

**b. the metadata included with each video (Including before and after each video was uploaded) and whether that metadata was supplied by the User or You;**

1 protective order. Defendants object to this Request because it calls for the production of  
2 materials relevant to a putative class of plaintiffs that has not been certified by the Court.

3 Subject to and without waiving any of the foregoing objections, at a date agreed upon by  
4 the parties, Defendants will produce YouTube's agreement with the American Society of  
5 Composers, Authors and Publishers. To the extent Plaintiff believes any further response to this  
6 Request is necessary, Defendants will meet and confer with opposing counsel regarding an  
7 appropriate scope of information to be produced in response to this Request.

8 **DOCUMENT REQUEST NO. 69:**

9 **All Document or data retention policies applying to or Concerning the following:**

10 **a) Takedown Notices;**

11 **b) The Content ID System;**

12 **c) Videos posted to Your platform, Including any videos that a User chose to**  
13 **remove;**

14 **d) Policies related to copyright;**

15 **e) Repeat Infringers;**

16 **f) Access to Content ID.**

17  
18 **RESPONSE TO DOCUMENTS REQUEST NO. 69:**

19 Defendants object to this Request on the grounds that it is vague, ambiguous, unduly  
20 burdensome, overly broad (especially insofar as it demands that Defendants produce "[a]ll"  
21 documents or policies), and not relevant to any party's claim or defense or proportional to the  
22 needs of the case. In particular, the Request is vague and ambiguous in its use of the phrase  
23 "Your platform" and "[a]ccess to Content ID." Defendants further object that this Request is  
24 compound and structurally confusing.

25 Defendants also object that this Request seeks documents that are protected by the  
26 attorney-client privilege, the attorney work-product doctrine, or both. Defendants further object  
27 to the extent that this Request calls for the production of proprietary, confidential, or trade secret  
28

1 information that has little or no connection to the parties' claims and defenses in this action,  
2 imposing a further burden on Defendants that is out of line with Plaintiff's legitimate needs.

3 **DOCUMENT REQUEST NO. 70:**

4 **All Documents You intend to use in support of Your affirmative defenses.**

5 **RESPONSE TO DOCUMENTS REQUEST NO. 70:**

6 Defendants object to this Request on the grounds that it is overly broad insofar as it  
7 demands that Defendants produce "[a]ll" documents. Defendants also object that this Request is  
8 premature and assumes a factual predicate for which there is no record support at this time,  
9 namely that Plaintiffs have provided discovery sufficient to enable Defendants to respond to this  
10 Request. Such a Request is particularly premature given that Plaintiffs have not yet identified the  
11 allegedly infringing content at issue. Without this, Defendants cannot conclusively identify every  
12 basis for their entitlement to one or more of their affirmative defenses or produce "[a]ll  
13 [d]ocuments" regarding the same. Defendants will supplement their response when discovery is  
14 complete, if and when Plaintiffs identify the copyrighted works and allegedly infringing content  
15 at issue and once Defendants have had an opportunity to investigate Plaintiffs' specific claims of  
16 infringement.

17 Defendants further object to the extent that this Request calls for the production of  
18 proprietary, confidential, or trade secret information that has little or no connection to the parties'  
19 claims and defenses in this action, imposing a further burden on Defendants that is out of line  
20 with Plaintiff's legitimate needs.

21 Subject to and without waiving any of the foregoing objections, at a date agreed upon by  
22 the parties, Defendants will produce reasonably accessible non-privileged documents located  
23 through an inquiry proportionate to the needs of the case, including documents that relate to  
24 Defendants' DMCA safe harbor defenses, as well as on the Copyright Misuse, Estoppel, and  
25 Unclean Hands defenses.

26 **DOCUMENT REQUEST NO. 71:**

27 **All Documents supporting Your claim that "Pirate Monitor has misused the**  
28 **YouTube service and engaged in a fraudulent scheme to obtain access to YouTube's**  
**copyright management systems," as stated in Paragraph 1 of Your Counterclaims.**