

Exhibit 2

to the Declaration of Catherine Hartman

Public Redacted Version

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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MARIA SCHNEIDER, UNIGLOBE  
ENTERTAINMENT, LLC, and  
AST PUBLISHING LTD.,  
individually and on behalf  
of all others similarly  
situated;

Plaintiffs,

vs.

Case No. 3:20-cv-04423-JD

YOUTUBE, LLC; and GOOGLE  
LLC;

Defendants.

\_\_\_\_\_/

C O N F I D E N T I A L  
DEPOSITION OF CHRIS TING  
SAN FRANCISCO, CALIFORNIA  
WEDNESDAY, JUNE 29, 2022

STENOGRAPHICALLY REPORTED BY:

ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR

CSR LICENSE NO. 9830

JOB NO. 846000

1 the claimant who has not provided a full copy of the  
2 work, we may still find that there is a strong  
3 likelihood of copyright exception.

4 MS. O'KEEFE: Okay.

5 Q Have you ever found a DMCA takedown notice to  
6 be insufficient where you did not have -- strike that.

7 Have you ever found a DMCA takedown notice to  
8 be insufficient on the basis of an exception for fair  
9 use where you did not have a complete copy of the  
10 copyrighted work?

11 MR. WILLEN: Objection to the form.

12 THE WITNESS: I'm sorry. There -- there are  
13 multiple parts to that -- that question. Could you  
14 repeat it one more time, please.

15 MS. O'KEEFE: Q. Have you ever found a DMCA  
16 takedown notice to be insufficient on the basis of an  
17 exception for fair use where you did not have a  
18 complete copy of the copyrighted work?

19 MR. WILLEN: Same objection.

20 THE WITNESS: So in the case where we have  
21 received a DMCA takedown request, it may be incomplete  
22 for varieties of reasons. It may have failed the  
23 statutory requirements.

24 In the case that it is a -- it meets the  
25 statutory requirements, but we feel that there is a --

1 after reviewing for -- under our -- our review  
2 protocol for checking for copyright exceptions, we --  
3 we may find that the takedown request -- we -- we may  
4 ask the claimants to consider some copyright exception  
5 and ask them to consider things like whether the --  
6 the work is transformed.

7 MS. O'KEEFE: Q. So you engage in back and  
8 forth with the claimant over the contours of the fair  
9 use exception?

10 MR. WILLEN: Objection to the form.

11 THE WITNESS: We -- we merely ask -- after  
12 we've done our own analysis on potential copyright  
13 exception or the likelihood of potential copyright  
14 exception existing in a -- yes, the likelihood of  
15 potential copyright exception existing, we merely ask  
16 the claimant to consider whether they thought about  
17 things like the four factors.

18 MS. O'KEEFE: Okay.

19 Q And do you identify those four factors for  
20 the claimant when you ask that question?

21 A We -- we have a response where we ask them to  
22 consider things like whether the work has -- the new  
23 work has a different meaning than the original work,  
24 and ask them to consider how much of their work has  
25 been used in the -- in the new work.

1 Q Okay. Do you have canned responses that bear  
2 on fair use?

3 A This response to them describing is a canned  
4 response.

5 Q How many canned responses do you have that  
6 bear on fair use?

7 MR. WILLEN: Objection to the form.

8 THE WITNESS: I -- I don't recall at this  
9 point.

10 MS. O'KEEFE: Q. Is it more than one?

11 A I -- I believe it's more than one.

12 Q Is it more than five?

13 A I -- I'm not sure about that.

14 Q In your canned response that bears on fair  
15 use, do you advise the DMCA claimant that they could  
16 face civil penalties if they make an unjustified DMCA  
17 takedown claim?

18 A I -- I don't recall the exact text of the  
19 canned response. So if -- if -- if you're asking  
20 what's in the canned response, I'm not sure if that --  
21 that is in there.

22 Q You had stated that the second factor was how  
23 much of the work was used.

24 Please describe for me the physical steps  
25 that you take in interacting with your user interface

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