

Viacom replays copyright claims in YouTube appeal

SAN FRANCISCO (AP) -- Viacom Inc. is seeking to overturn a court decision that dismissed its claims of copyright abuse against YouTube even though the Internet video site used to show thousands of pirated clips.

The challenge filed Friday in a federal appeals court in New York had been expected since a June ruling rebuffed Viacom's copyright infringement lawsuit against YouTube and its owner, Google Inc.

Viacom's renewed effort to collect more than \$1 billion in alleged damages from Google is the latest twist in a closely watched legal battle that has already dragged on for nearly four years. Oral argument on the appeal probably won't happen until at least next summer.

The case revolves around the premise that YouTube became the world's leading online video channel after its 2005 inception by turning a blind eye to the rampant piracy on its site. Viacom argued that YouTube's founders realized the copyright-protected clips from shows such as Viacom's "The Daily Show" attracted far more viewers than the amateur video of cute kittens and angst-ridden teenagers.

Piracy was so prevalent at YouTube in its early years that Google branded the video-sharing site as "a `rogue enabler' of content theft" before it bought the service in 2006, according to internal documents unearthed in the lawsuit.

The unauthorized material stored on YouTube included tens of thousands of clips from Viacom programs shown on MTV, Comedy Central and Nickelodeon.

Underscoring its resolve, Viacom hired well-known attorney Theodore Olson to steer the challenge in the 2nd U.S. Circuit Court of Appeals. He served as U.S. solicitor general during the first term of President George W. Bush.

"We are appealing a very bad decision, which would have serious repercussions for our economy and for the creative works for people who spend time trying to enrich our lives," Olson said in an interview.

YouTube is confident the lower-court ruling that cleared the service will be upheld. "We regret that Viacom continues to drag out this case," spokesman Aaron Zamost said.

Viacom's appeal will hinge on its argument that YouTube doesn't qualify for the protections allowed under a 12-year-old law that insulates Internet services from copyright claims as long as they promptly remove illegal content after being

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notified of a violation.

U.S. District Judge Louis Stanton concluded that YouTube had complied with the Digital Millennium Copyright Act, absolving it of legal liability for the theft of its users. He dismissed Viacom's lawsuit before a trial.

But Viacom contends YouTube doesn't fall under the law's "safe harbor" provision because its founders - Chad Hurley, Steve Chen and Jawed Karim - welcomed the piracy as a way of expanding its audience and increasing the chances that they could get rich quick by selling the site to a larger company. The founders cashed in when Google bought YouTube for \$1.76 billion four years ago.

None of them is still in leadership positions at YouTube, which now receives about 35 hours of video every minute. The site relies on technology developed by Google to identify and block unauthorized content.

Viacom's appeal cites evidence that YouTube could have done more to prevent pirated clips from appearing on its site, but held off on imposing tougher controls because the site's managers knew viewership would plunge without the copyright-protected material.

Granting YouTube immunity under the 1998 copyright law would be "absurd, disquieting and disruptive," Olson wrote in Viacom's 61-page appeal.

But Internet service providers and free-speech groups believe more damage would be done if YouTube loses its tussle with Viacom. They fear a ruling against YouTube would undercut the digital copyright act and make it more difficult for people to express themselves online, because service providers fearing lawsuits would block controversial, but legal content.

Shares in New York-based Viacom fell 25 cents to close at \$39.80, while shares in Google, which is based in Mountain View, Calif., gained \$1.18 to close at \$573.

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