

Today a bunch of the filings from the Viacom/Google/YouTube lawsuit were made public today. Here is a techcrunch link to all the [goodies if you would like to read them](#).

Lots of folks have commented about the comments and responses from both the Google and Viacom sides. Each basically said the other side was wrong. No surprises there.

What has surprised me is that Google/YouTube didn't deny any of what I thought was the important stuff. Then again, Viacom, from what I read (and I admit I didn't read every word) didn't make a big deal of what I thought was the biggest deal.

What was the big deal ?

In the DMCA it is clear that hosting companies are not supposed to know what is on their sites. The logic in the DMCA was: If you don't know what is on the site, you can't be responsible for policing it. That is up to the people who upload and who own the copyrighted content. YouTube knew what was on their site.

What caught my eye as "game over" material in the quotes from YouTube founder emails was the constant decision making process over what videos should stay and what should be removed. They talked in one case about a guy uploading a ton of Family Guy videos and what they should do about it. Another stated "if we reject this we need to reject all the copyrighted ones". Another asked "can't we keep it up a little longer".

No question they monitored the site and knew what content was on the site. They knew what was attracting users. They knew what would grow the site so they could be acquired.

They monitored the site and they made decisions based on financial gain.

Game over.