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HEADLINE: INTERNET FREEDOM IS PUT TO THE TEST;
VIACOM SUIT CLAIMS YOUTUBE VIOLATES COPYRIGHT LAWS

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The notion of the Internet as a free ride, a place in cyberspace where almost anything is available for nothing, might at last be put to a real test.

After weeks of fruitless negotiations, the media conglomerate Viacom - owner of MTV, Nickelodeon, Comedy Central and Paramount Pictures - sued Google and its wildly popular video-sharing site YouTube yesterday for what it claims is copyright infringement.

Viacom, which is seeking \$1 billion in damages, said in its suit that YouTube has benefited from what it called "massive intentional" violations of copyrights of Viacom-owned videos.

The lawsuit represents the biggest face-off between old and new media since the Recording Industry Association of America forced Napster to shut down its song-trading system in 2001. And it could force changes in the delivery of the Internet's biggest draw, its free content, analysts say.

Or it could be a negotiating tactic: Media companies have watched with both fascination and fear as YouTube, which was purchased by search-engine giant Google in November for \$1.76 billion, has exploded into a hugely popular online destination, where millions of people view and post videos and short films ranging from the mundane to the bizarre.

The lawsuit likely is one of many to come, said Bruce Sunstein, co-founder of the intellectual property law firm Bromberg & Sunstein in Boston.

"Finding a way of peaceful coexistence is quite a struggle," Sunstein said. "Google's motto is 'Don't be evil,' and you could argue that with YouTube that motto is wearing a little thin."

In a statement, Viacom said YouTube "is a significant, for-profit organization that has built a lucrative business out of exploiting the devotion of fans to others' creative works in order to enrich itself," adding that YouTube and Google "actively engage in, promote and induce this infringement."

Viacom, which last month demanded that Google take down more than 100,000 of its videos from YouTube, is asking the U.S. District Court for the Southern District of New York for an injunction that would bar Google and YouTube from persisting in what it says are the infringing activities.

Google issued a statement saying it had not been served with the lawsuit but was "confident that YouTube has respected the legal rights of copyright holders."

In its own statement, YouTube pointed out that its video-sharing system actually benefits copyright owners because it exposes their material to a huge audience:

"YouTube is great for users and offers real opportunities to rights holders: the opportunity to interact with users; to promote their content to a young and growing audience; and to tap into the online-advertising market."

Many Internet aficionados sided with YouTube, and said Viacom's lawsuit would probably not have a revolutionary impact on the Internet as a whole.

Jeff Jarvis, who blogs about media at Buzzmachine.com and is director of the interactive journalism program the City University of New York's Graduate School of Journalism, yesterday posted an entry in which he called the Viacom lawsuit "boneheaded." But he wrote in an e-mail later that he did not think it meant "the beginning of the end of the free Internet."

"There are too many smart media companies that realize the value of your fans recommending you," Jarvis wrote. He compared Viacom's move to the RIAA's legal efforts against Napster, which agreed to pay more than \$26 million to settle its disputes with music publishers and songwriters.

"This is very much like the music industry except that this time, the companies are not marching in lockstep over the cliff," Jarvis wrote. "This time, there are a lot of smart companies that are trying to take advantage of the fact that their fans are recommending and distributing them to more fans. Viacom is standing pretty much alone."

But Jonathan Dube, vice president of the Online News Association and editorial director of the Canadian Broadcasting Corp.'s Web site, CBC.ca, said Viacom is "simply trying to protect its content and control its ability to profit from it."

Viacom, which also owns BET, VH1, Nick at Nite, CMT: Country Music Television, Spike TV, TV Land and about 120 other networks around the world, is still making its content available to users who visit those Web sites, Dube said, but on its own terms.

"Users can watch clips on Viacom's sites - such as from Comedy Central's The Daily Show with Jon Stewart - and even take the code and embed it on their own sites, similar to YouTube," Dube said. "It's still too early to tell exactly what content people will be willing to pay for and what content will end up purely free."

John K. Hartman, a journalism professor at Central Michigan University, said the Viacom/YouTube imbroglio could be a harbinger of other developments

"We are not far away from Google, Yahoo buying newspaper chains to control content and ads and eliminate suits," said Hartman.

"The Internet," he said, "wants to be free."

W. Joseph Campbell, an associate professor in the School of Communication at American University in Washington, said he was having trouble believing that Viacom's suit against YouTube "will prove to be a major impediment for a resource as dynamic and swiftly changing as the Internet."

However, he said, "It does seem as if we're becoming farther removed all the time from the prospect of 'Googlezon' dominance."