

## Questions and Answers with Shawn J. Roberts

### *YouTube's growth burdened by infringement risks*

**Q:** How have Internet sites like YouTube affected laws and judgments concerning copyright?

**A:** The Internet has provided a much larger and more convenient platform for infringement of digital works. There are many sites in addition to YouTube which allow almost anyone with an Internet connection and basic computer proficiency to post video. While copyright infringement has always been an issue, new tools are available for displaying copyrighted content and cause more focus on copyright laws such as the Digital Millennium Copyright Act (DMCA).

**Q:** How will the lawsuits against YouTube affect its owner, Google? Will it make the company monitor copyright infringement more closely?

**A:** Google will need to monitor the site and also be certain to comply with the DMCA, including promptly restricting access to allegedly infringing material or remove the material from the site if they receive a notification claiming infringement from a copyright holder or the copyright holder's agent. However, it is reasonable to assume that Google was aware of the legal risks when it purchased YouTube in October 2006 and that it has made plans and established reserves to address the risk. One example is that Google was in negotiations with Viacom for some type of protected use and has actually partnered with some of the copyrighted-content providers, including a strategic partnership with NBC Universal, launched in June 2006.

**Q:** What are the consequences for an individual who uploads copyrighted material onto a Web site without permission?

**A:** An individual who posts copyrighted content on the Web without legal permission may be subjected to a copyright infringement lawsuit from the content-owner, subject to monetary damages and could have their Web site account privileges terminated.

**Q:** Why did the lawsuits against YouTube start appearing after the site was bought by Google?

**A:** While there were some lawsuits already on file before the purchase, there are probably a couple of reasons bigger ones started to appear: Google has deeper financial pockets than YouTube (reportedly \$11 billion in cash on its balance sheet) and the potential to expand the reach of YouTube, pushing the copyrighted content to an even larger audience. Also, if a copyright owner allows infringement to occur over a long enough period of time without taking legal action, the owner may lose some rights in copyrighted-content.

**Q:** Has the popularity of YouTube opened the door for even more sites that may benefit from using copyrighted material without permission?

**A:** YouTube has created opportunities through its visibility for other sites to offer a similar service to a wider audience. Some examples are Zango, [ymix.com](http://ymix.com), grouper and videoegg. If YouTube does not have a particular video clip, another site may. This also underscores the difficult line that Google/YouTube must walk in that it is the copyright-content (with its associated lawsuits) which drives a tremendous amount of traffic to YouTube, so while removal of this content may address some the legal issues, removal may lead to a decrease in traffic to the site.



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Today's Q&A is with an attorney who is a partner at [Brown & Roberts PC](http://Brown & Roberts PC) in Oklahoma City.

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