

TESTIMONY OF

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**Justin.tv**

HEARING ON

“PIRACY OF LIVE SPORTS BROADCASTING OVER THE INTERNET”

BEFORE THE

COMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES

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## Introduction

Chairman Conyers, Ranking Member Smith, and members of the House Judiciary Committee, thank you for allowing me to testify before you today to provide information about Justin.tv.

Justin.tv is a privately owned start-up technology company headquartered in San Francisco, California. The company was founded in October 2006 by four co-founders: Justin Kan (Seattle, WA), Emmett Shear (Seattle, WA), Michael Seibel (East Brunswick, NJ), and Kyle Vogt (Shawnee, KS). We have raised capital from a combination of private and institutional investors, and we currently employ thirty-two people who all live in the San Francisco Bay Area.

## Company Purpose

Justin.tv is, first and foremost, a technology company. We provide a platform that empowers people to create and share live video online. Our platform is the modern equivalent of the town square, but instead of standing on a soapbox to be heard by a few passers-by, a Justin.tv user can broadcast his or her message to the world. Our vision is to make live video part of the everyday Internet experience in the same way that Flickr, The Huffington Post, and YouTube have brought online images, news and video clips into the mainstream. In the near future, your cell phone, your gaming console, and your video camera will all be able to broadcast to the Internet using Justin.tv. Furthermore, users will be able to build businesses on Justin.tv by creating pay-per-view and subscription live videos. In a time of traditional media consolidation, Justin.tv is providing an important alternative platform for the distribution and monetization of live video content.

## General Use Cases

Our technology supports a wide variety of uses. It enables individuals to meet new people and keep in touch with their friends, event organizers to reach an online audience, advertisers to create entertaining content for their target customers, and content owners to expand their distribution across the Internet. Our goal is to provide a live video platform that meets the needs of everyone, from individuals, to small organizations, to large corporations.

## Specific Use Cases

In addition to content created by everyday users to share with their friends, there are also many examples of premium content being distributed on Justin.tv. G4tv, a Comcast-owned cable network, syndicated their coverage of E3, the largest gaming conference in the world, on Justin.tv. Justin.tv allowed G4tv to increase its online audience by 400% at a drastically reduced cost. Microsoft produced a 10-episode live show on Justin.tv named “The PC Hookup Show.” This project was part of a Microsoft advertising campaign and drew over two million viewers in just five weeks. The Jonas Brothers, a wildly popular band, drew over one million views in one hour to an online chat that gave fans a unique opportunity to interact with the band directly from any location in the world. The live viewers of all of these broadcasts had a unique opportunity to be entertained by premium live content on Justin.tv.

These are just some of the examples of premium content on Justin.tv that drew successful reactions from our users, others include: a weekly broadcast from Alex Bogusky, Principal of the famous advertising firm Crispin, Porter + Bogusky, dubbed “Fearless Q&A;” a promotional broadcast with Adidas and Derrick Rose of the Chicago Bulls that led to a significant increase in e-commerce sales for Eastbay, their distribution partner; and Michael Jackson’s funeral, an event

that touched nearly everyone in America and abroad, for which Justin.tv provided a central meeting place to share the experience. Every type of content is represented on Justin.tv, from technology conferences such as StartupSchool and Demo, to web-based shows from companies like Mevio, including “Press Pause” and “Rad on the Web,” to still-undiscovered content from creative people who could easily be your neighbors or mine.

## Technology

As a platform provider, Justin.tv is content agnostic. We provide the technology that enables any user to create and share live video with any other person online. In October 2009, our network delivered over forty-seven million hours of live video to over thirty million viewers around the world. We have the capacity to simultaneously serve over one million viewers watching over ten thousand live videos. To accomplish this feat, we have invested significant time and money in building proprietary software to manage the distribution of live streams and serve large volumes of page views.

## Our Anti-Piracy Efforts

As with many technologies created to advance the public good, Justin.tv’s technology can also sometimes be used by individuals to violate the rights of third parties. Such abusive actions do not mean that the underlying technology is responsible for the bad actor. This is not uniquely an issue for Justin.tv; every computer that allows a user to access the Internet can be used to reproduce or distribute unauthorized impressions of copyrighted materials. We are mindful both of the ways in which Justin.tv’s live streaming video platform can be used for legitimate purposes and the ways consumers can misuse the technology. To minimize the appearance of

unauthorized content on Justin.tv, we work diligently and in conjunction with rights owners to limit those abuses.

### **The Digital Millennium Copyright Act**

At peak usage, Justin.tv's users can view the equivalent of 16,946 standard DVDs per hour. Further, Justin.tv is online twenty-four hours a day, seven days a week. Needless to say, this makes it impossible for Justin.tv to monitor its users' broadcasts. The law recognizes this impossibility. The Digital Millennium Copyright Act ("DMCA"), codified at 17 U.S.C. § 512, provides online service providers such as Justin.tv with a safe harbor from copyright infringement liability in the event that users of the site stream unauthorized content. Justin.tv complies with the DMCA and therefore qualifies for the safe harbor from infringement liability that it provides. Among other things, this means that when a copyright owner requests that Justin.tv remove allegedly infringing content, Justin.tv does so expeditiously, with no questions asked.

To be clear, any site that hosts user-generated content relies upon the DMCA for protection. For example, every major professional American sports league has a website that features message boards on which fans can discuss and share information about their favorite teams. However, there is always the possibility that a fan could upload an image, or the entire text of a newspaper article, without authorization. My own review of the sites of the four major American sports leagues revealed that every one of their websites includes a reference to the DMCA in their Terms of Use, indicating that they all appreciate the necessity of relying upon the DMCA for protection against users who might misuse their sites.

While the DMCA effectively protects Justin.tv from liability, Justin.tv wants to ensure that unauthorized content does not appear on Justin.tv. Therefore, Justin.tv takes a number of steps beyond those required by the DMCA to facilitate the detection and removal of any unauthorized content:

- Including in our Terms of Service, to which anyone accessing our site is bound, an explicit prohibition on broadcasting unauthorized content that infringes the rights of others. Users of the Justin.tv service also agree, through their acceptance of our Terms of Service, that they will not, among other things, “use the Justin.tv Service for any purposes other than to disseminate or receive original or appropriately licensed content and/or to access the Justin.tv Service as such services are offered by Justin.tv.”<sup>1</sup>
- Including in the broadcasting interface a clear statement that broadcasting unauthorized or infringing content is prohibited, and referring again to our Terms of Service.
- Exeditiously removing from the site content identified as unauthorized in a notice that complies with the requirements of the DMCA;
- Enforcing a repeat infringer policy and terminating the accounts of users who are found to have repeatedly uploaded unauthorized content. While our standard is a “Three Strikes and You’re Out” policy, we have enforced stricter policies upon request;
- Providing copyright owners with access to our Copyright Protection System, an online tool that permits them to monitor our site and directly initiate the takedown of content they claim is being transmitted without authorization. This tool permits copyright owners to automatically and almost immediately remove their content from Justin.tv without having to notify Justin.tv. Because this system is automated, we also allow content owners to request that takedowns accomplished via their tool give users fewer than three strikes before their accounts are terminated;
- “Fingerprinting” our content in real time and working with Vobile, one of the world’s leading content monitoring companies, to identify content that is infringing. We have developed, with Vobile, a commercially-viable system that

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<sup>1</sup> Justin.tv Terms of Service, Section 8.1, available at [http://www.justin.tv/user/terms\\_of\\_service](http://www.justin.tv/user/terms_of_service) (emphasis added).

permits even unauthorized content on Justin.tv that is not immediately detected by a copyright owner to be identified and removed automatically from Justin.tv; and

- Working with representatives of the major sports leagues, other live-sports programmers and other content owners to develop both a working relationship and additional means of identifying and stopping piracy, including blocking IP addresses of infringers upon request and blocking certain websites from embedding Justin.tv content.

The removal of content at an owner's written request and the implementation of a repeat infringer policy are required by the DMCA. Everything else we have done, including providing copyright owners with our self-service Copyright Protection System and developing, at our own expense, content filtering technology, has been in an effort to protect the rights of content owners to ensure that our technology and third-party content is not misused.

Empowering copyright owners to remove content from our platform, without review, facilitates the rapid removal of unauthorized content from Justin.tv, which is critical for owners of the rights to live sports programming. The following organizations are some of the active users of our Copyright Protection System: NFL, NBA, MLB, NHL, MLS, ATP, USGA, UFC, WWE, NBC, Fox, CBS, ABC, Comcast, DirectTV and Disney.

Our decision to go above and beyond the requirements of the DMCA and provide copyright owners with the ability to directly remove unauthorized material from Justin.tv has not yet become standard in the live video industry. Others may not be interested in giving content owners this level of control, but Justin.tv believes strongly in the importance of allowing copyright owners the ability to protect their rights.

## Professional Sports Industry

We are sensitive to the concerns expressed by our colleagues at the sports leagues. We have amicably worked with representatives from many sports leagues, as well as other major entertainment and broadcasting entities, to address their concerns about piracy. While some of our agreements are protected by confidentiality provisions, we have entered memoranda of understanding with a major American sports league, as well as Fox, regarding Justin.tv's anti-piracy measures. We have also had constructive discussions about similar agreements with the NFL, UFC, MLB, MLS and NHL and hope to enter agreements with them soon. Just as importantly, we continue to evaluate our platform to find other ways to prevent misuse.

## Conclusion

We support efforts to address the unauthorized online display of live sports programming as well as any other copyrighted content. Justin.tv's goal is to democratize the power of live video – the misuse of Justin.tv's technology only slows our progress toward that goal. We trust that this Committee and Congress will recognize and protect the legitimate interests of technology companies that provide citizens with tools to share their voices with the world while addressing the valid concerns of copyright owners.

We are available to assist the Judiciary Committee as it explores the issue of live sports programming retransmitted over the Internet, and are happy to answer any questions you may have.