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Google in talks to buy YouTube AD GOLD MINE OR COPYRIGHT NIGHTMARE?

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By Elise Ackerman and Ryan Blitstein

Google has \$10 billion in cash and an online video-sharing service that ranks a distant third. YouTube has the No. 1 video-sharing service and bandwidth bills that are burning up its bank account.

Put them together and you have either a golden opportunity for online advertising or a ticking copyright bomb set to blow up in Google's face.

It's a possibility that preoccupied part of Silicon Valley on Friday as news broke that the world's biggest Internet advertising company was in talks to acquire the hottest online video company for a reported \$1.6 billion.

Neither Google nor YouTube would comment on the talks, which were first reported by the TechCrunch blog and could still fall apart. Viacom, News Corp., Microsoft and Yahoo are also said to be interested in the San Mateo start-up.

But there is one big obstacle. Everyone wants YouTube's traffic -- the site screens more than 100 million videos a day -- and the potential for advertising riches. But no one wants what could be a Napster-style legal mess.

Indeed, it's unclear to what extent YouTube's wild popularity is directly dependent on the copyrighted material easily available on the site -- ranging from bootleg musical performances to excerpts of television shows to unlicensed use of recorded music as soundtracks for home videos.

"I don't know why Google would be buying YouTube," said attorney Chris Castle, one of many veterans of the Napster wars. "They can't just go in and buy a copyright infringement machine. They are a publicly traded company. They have obligations to their stockholders and they have obligations under the law."

Doug Morris, chief executive of Vivendi's Universal Music Group, has told investors that YouTube and MySpace, the second most-popular video-sharing site, "owe us tens of millions of dollars" for infringing copyrights.

At the same time, Universal Music Group and Sony BMG Music Entertainment are reported to have discussed distribution deals with YouTube, which could ease some copyright concerns. "You have to wonder what the risk ultimately will be from the liability standpoint" of acquiring YouTube, said Bart Myers, an executive at Guba, a YouTube competitor.

YouTube lets users upload any video they want to share, and makes it easy for others to play it with almost any Web browser. Though YouTube's terms of use ask people not to submit copyrighted material, the service does not use technology to identify copyrighted music.

Mountain View-based Google says it does use such filters on its video site in combination with humans who are hired to spot copyright-infringing material. YouTube has said it will start using audio-identification technology as part of a distribution deal it signed with Warner Music last month.

Both Audible Magic of Los Gatos and Gracenote of Emeryville sell sophisticated audio-recognition software that matches the digital fingerprint of a song with large databases of copyrighted music.

John Bernoff, an analyst with Forrester Research, said Google has the engineering talent to solve YouTube's copyright problem, while YouTube could provide Google with social-networking cachet that it currently lacks.

According to Nielsen /NetRatings, Google's video service attracted a unique audience of about 13 million people in August 2006 compared with more than 34 million for YouTube.

"There is a good deal of logic for Google to buy YouTube," said Glover Lawrence, an investment banker with McNamee Lawrence. "There is the potential for developing real community, which Google is not known for."

Over the past year, Google has opened its checkbook to get access to online communities in order to sell ads. Last December, Google paid \$1 billion for a stake in AOL. In August, Google said it had committed to pay \$900 million to MySpace over three years.

Google's negotiations with the 20-month-old YouTube underscore the value large companies are seeing in young social-networking sites.

Last month, sources confirmed that Yahoo had been seeking to purchase Facebook, a social-networking site based in Palo Alto that is popular with college students. News Corp. bought MySpace last year for \$580 million.