

Chilling Effects

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Monitoring the legal climate for Internet activity



[Chilling Effects Clearinghouse](#) > Notice Unavailable

Print-friendly

Notice Unavailable

DMCA (Copyright) Complaint to Google

Sent by: [Redacted]

To: Google

The cease-and-desist or legal threat you requested is not yet available.

Chilling Effects will post the notice after we process it.

Question: Why does a web host, blogging service provider, or search engine get DMCA takedown notices?

Answer: Many copyright claimants are making complaints under the Digital Millennium Copyright Act, Section 512(c)'s safe-harbor for hosts of "Information Residing on Systems or Networks At Direction of Users" or Section 512(d)'s safe-harbor for providers of "Information Location Tools." These safe harbors give providers immunity from liability for users' possible copyright infringement -- if they "expeditiously" remove material when they get complaints. Whether or not the provider would have been liable for infringement by users' materials it hosts or links to, the provider can avoid the possibility of a lawsuit for money damages by following the DMCA's takedown procedure when it gets a complaint. The person whose information was removed can file a [counter-notification](#) if he or she believes the complaint was erroneous.

Question: What does a service provider have to do in order to qualify for safe harbor protection?

Answer: In addition to [informing its customers of its policies](#), a service provider must follow the proper [notice and takedown procedures](#) and also meet several other requirements in order to qualify for exemption under the safe harbor provisions.

In order to facilitate the notification process in cases of infringement, ISPs which allow users to store information on their networks, such as a web hosting service, must designate an agent that will receive the notices from copyright owners that its network contains material which infringes their intellectual property rights. The service provider must then notify the Copyright Office of the agent's name and address and make that information publicly available on its web site. [512(c)(2)]

Finally, the service provider must not have knowledge that the material or activity is infringing or of the fact that the infringing material exists on its network. If it does discover such material before being contacted by the copyright owners, it is instructed to remove, or disable access to, the material itself. The service provider must not gain any financial benefit that is attributable to the infringing material.

Question: What are the provisions of 17 U.S.C. Section 512(c)(3) & 512(d)(3)?

Answer: Section 512(c)(3) sets out the elements for notification under the DMCA. Subsection A (17 U.S.C. 512(c)(3)(A)) states that to be effective a notification must include: 1) a physical/electronic signature of a person authorized to act on behalf of the owner of the infringed right; 2) identification of the copyrighted works claimed to have been infringed; 3) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to

Recent C&Ds

- [Photo DMCA \(Copyright\) Complaint to Google](#), *Stephanie Keith*, October 16, 2012
 - [UEJF Complains to Twitter of Anti-Semitic Tweets](#), *From: L'Union des Etudiants Juifs de France (UEJF), France*, *To: Twitter, Inc.*, October 23, 2012
 - [Pearson Hopes to Take Down Re-Posting of Beck Hopelessness Scale](#), *NCS Pearson, Inc.*, October 25, 2012
 - [Trademark Doping? C&D Issues for Unlicensed use of "Synthobolic"](#), *Rich Wyant*, October 25, 2012
 - [DtecNet DMCA \(Copyright\) Complaint to Google](#), *Lionsgate*, October 24, 2012
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be removed; 4) information reasonably sufficient to permit the service provider to contact the complaining party (e.g., the address, telephone number, or email address); 5) a statement that the complaining party has a good faith belief that use of the material is not authorized by the copyright owner; and 6) a statement that information in the complaint is accurate and that the complaining party is authorized to act on behalf of the copyright owner. Subsection B (17 U.S.C. 512(c)(3)(B)) states that if the complaining party does not substantially comply with these requirements the notice will not serve as actual notice for the purpose of Section 512.

Section 512(d)(3), which applies to "information location tools" such as search engines and directories, incorporates the above requirements; however, instead of the identification of the allegedly infringing material, the notification must identify the reference or link to the material claimed to be infringing.

Question: Does a service provider have to follow the safe harbor procedures?

Answer: No. An ISP may choose not to follow the DMCA takedown process, and do without the safe harbor. If it would not be liable under pre-DMCA copyright law (for example, because it is not contributorily or vicariously liable, or because there is no underlying copyright infringement), it can still raise those same defenses if it is sued.

Question: How do I file a DMCA counter-notice?

Answer: If you believe your material was removed because of mistake or misidentification, you can file a "counter notification" asking the service provider to put it back up. Chilling Effects offers a [form to build your own counter-notice](#).

For more information on the DMCA Safe Harbors, see the FAQs on [DMCA Safe Harbor Provisions](#). For more information on Copyright and defenses to copyright infringement, see [Copyright](#).

Cease and Desist? What is this site?

The Chilling Effects Clearinghouse collects and analyzes legal complaints about online activity, helping Internet users to know their rights and understand the law. Chilling Effects welcomes submission of letters from individuals and from Internet service providers and hosts. These submissions enable us to study the prevalence of legal threats and allow Internet users to see the source of content removals.

Chilling Effects aims to support lawful online activity against the chill of unwarranted legal threats. We are excited about the new opportunities the Internet offers individuals to express their views, parody politicians, celebrate favorite stars, or criticize businesses, but concerned that not everyone feels the same way. Study to date suggests that cease and desist letters often silence Internet users, whether or not their claims have legal merit. The Chilling Effects project seeks to document that "chill" and inform C&D recipients of their legal rights in response.

The Chilling Effects clearinghouse is a database of cease and desist notices (C&Ds) sent to Internet users, legal interpretation of those notices, Frequently Asked Questions about parts of the law that affect online activity, and related news and resources. If you have received a cease and desist, we invite you to [add it to our database](#).

You can use this site in many different ways: choose a [topic area](#) and explore its homepage and [FAQs](#); [search the database](#) for C&Ds similar to one you've received or sent; [submit your own notice](#) for law students at the participating clinics to analyze.

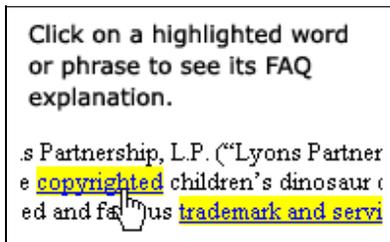
The site's centerpiece is the database of annotated cease-

News

- [Craig Brittain of "Is Anybody Down?" Tries To Censor Popehat Posts About Him By Filing a Transparent,](#) Ken, *Popehat.com*, November 4, 2012
- [Google engineers policing governments trying to police Internet,](#) Melissa Harris, *Chicago Tribune*, October 19, 2012
- [Another French Request To Twitter Re: Anti-Semitic Content,](#) Adam Holland, *Chilling Effects*, October 26, 2012
- [Twitter's Country-Specific Content Blocking Raises Questions about the Efficacy of Geolocation,](#) Marketa Trimble, *Eric Goldman's Tech & Marketing Law Blog*, October 25, 2012
- [Facebook Asked to Close Page Compiling Details of Undercover Officers,](#) Australian Broadcasting Company, *abc.au.net*, October 21, 2012

and-desist notices:

Clinical law students review the notices submitted and link their legalese to explanatory FAQs. As the number of notices grows, so will the selection of [FAQs](#), which can be read either alongside the notices or on their own.



Below each annotated notice is a series of questions and answers explaining the legal terms.

FAQ: Questions and Answers

[\[back to notice text\]](#)

Question: What does copyright protect?

Answer: Copyright gives authors and artists certain exclusive writings and creations. In order for material to be copyrightable original and must be in a fixed medium.



2012 [more](#)

Related Resources

- [Charts and Statistics](#), *Chilling Effects Clearinghouse* (charts)
- [Build Your Own DMCA Counter-Notice](#) (form)
- [Legal Scholarship Using Chilling Effects](#) (bibliography)
- [Chilling Effects Search Comparator](#),
- [Online Media Legal Network](#) (resource)

[more](#)

Site Organization

The Chilling Effects clearinghouse is organized by [topic area](#). Some topics are related to types of activity, such as fan fiction and reverse engineering, others to areas of law, such as copyright and trademark. Within each topic, you will find the linked notices, FAQs, related news, and resources such as statutes and articles.

We invite you to report your own notice to the database ([received](#) or [sent](#)), [search](#) or browse the database, or read "Weather Reports" on the legal climate for Internet activity -- compiled based on the notices submitted.

Search

The Chilling Effects clearinghouse offers two types of searches:

[Quick Search](#), the box in the left corner of each index page, searches for words or "quoted phrases" among topics, FAQs, news, resources, and the subject lines of C&D notices.

[Search the Database](#), linked from the header bar, offers a more detailed search of our database of cease-and-desist notices.

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