

Standardization of DMCA Notices

Feedback from Grassroots
Members of the Copyright Alliance
to USPTO Multistakeholder Forum
Berkeley, CA | May 8, 2014

The Current Environment From An “Indie” Perspective

- Many artists are **actively using the DMCA** notice & takedown system, though some have given up out of frustration.
- Standardization is a welcome **first step**, but artists surveyed expressed skepticism that such efforts will have a noticeable effect unless coupled with **collaborative efforts** to address issues such as **repetitive reposting**.
- Standardization efforts should at a minimum address **3 components**:
 1. Info requested from users during upload process;
 2. Creation of standardized interactive forms to be used on websites with UGC components;
 3. Standardization of announcement provided to users visiting a site when a work is taken down in a way that does not stigmatize artists.

Goals for Standardization

- Reduce the overall number of notices sent and that need to be acted upon by sites by ensuring that users of UGC sites are aware of their rights and obligations when uploading works
- Increase accuracy of notices sent by © owners, and reduce burden on © owners, by providing easy to use, standardized forms that can be easily implemented by a variety of sites
- Ensure that interactions are positive and not stigmatizing for any party
- Provide sufficient information for all parties to be able to easily verify status of works and to interact as required, while maintaining privacy as to the public

Current Challenges Observed

- The notice process is time consuming. Some sites:
 - Have significantly more requirements to be certified to take down a work than to upload a work
 - Obscure the contact information for service providers
 - Display pop-up and other types of advertisements during submission process
 - Require copyright owners to become “members” of the site
 - Require repetitive entry of information/captcha codes
 - Make it difficult to identify their DMCA agent
- Few sites confirm receipt of notice and only some sites notify © owners of removal of the infringing content
- Not all large sites use “Content-ID” type programs
- SME’s have difficulty qualifying for trusted sender programs

Upload Screen v. Takedown Screen

Upload - YouTube 4/29/14

Upload

SELECT FILES TO UPLOAD

Or drag and drop video files

Public ▾

CREATE VIDEOS

- Webcam capture
Record
- Photo slideshow
Create
- Google+ Hangouts On Air
Broadcast
- Video editor
Edit

HELP AND SUGGESTIONS

Want to upload videos longer than 15 minutes? [Increase your limit.](#)

By uploading, you acknowledge that your use of YouTube is subject to the [Terms of Service](#) and [Community Guidelines](#).

Please be sure not to violate others' copyright or privacy rights. [Learn more](#)

[Uploading Instructions](#) | [Troubleshooting](#) | [Mobile Uploads](#)

www.youtube.com/copyright_complaint_form

Copyright Infringement Notification

What is the issue?

- Inappropriate content (Nudity, violence, etc.)
- I appear in this video without permission
- Abuse/Harassment (Someone is attacking me)
- Privacy (Someone is using my image)
- Trademark infringement (Someone is using my trademark)
- Copyright infringement (Someone copied my creation)
- Other legal issue (including the circumvention of technological measures, such as providing keygens or serial numbers)

Copyright infringement - Who is affected?

- I am!
- My company, organization, or client
- Another copyright owner

Videos to be removed

- URL of allegedly infringing video to be removed:
- Describe the work allegedly infringed:
• Please select one:

+ Add another video

To submit a DMCA complaint, please complete the following required fields.

Tell us about yourself

- Copyright Owner Name (Company Name):
Claimant information will be published on the YouTube site in place of disabled content.
- Your Full Legal Name (A first and a last name, not a company name):
- Your Title or Job Position (What is your authority to make this complaint?):
- Phone: Fax:
- Street Address:
- City:
- State/Province: • ZIP/Postal Code:
- Country:

Email Address:

By checking the following boxes, I state that:

- I have a manner complained of is not authorized by the copyright owner, its agent, or the law;
- This notification is accurate; and
- UNDER PENALTY OF PERJURY, I am authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- I acknowledge that under Section 512(f) of the DMCA any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability for damages.
- I understand that abuse of this tool will result in termination of my YouTube account.

Typing your full name in this box will act as your digital signature.

•

Ideas To Harmonize Upload & Takedown Screens

(based on prior illustration)

Thanks for sharing your work with our viewers. To make sure we can do so seamlessly, and can help facilitate should any questions arise please tell us about yourself.

- Copyright Owner Name (XYZusername or full legal name):
- Your Full Legal Name (A first and a last name, not a company name):
- Authority to upload this material:
- Phone/Fax/Email Address/
- Street Address/City/State/Province/ZIP/Postal Code/Country

- By checking the following boxes, I state that:
 - I either own the copyright to this material or I have a good faith belief that the use of the material is authorized by the copyright owner, its agent, or the law;
 - I acknowledge that under Section 106 of the Copyright Act (17 U.S.C. §106) the copyright owner has the exclusive right to do and to authorize the reproduction, preparation of derivative works, distribution, public performance, public display and public performance by means of a digital audio retransmission of a work. I further acknowledge that if I violate any of these rights, I might be liable for copyright infringement pursuant to Section 501(a) (17 U.S.C. §501(a));
 - I have read [XYZ's Copyright Policy](#) and understand that if I repeatedly upload copyright protected works without the authorization of the copyright owner, its agent or the law, my account might be terminated; and
 - I declare under penalty of perjury that the foregoing is true and correct.

- Typing your full name in this box will act as your digital signature.
- Enter today's date.

Challenges in DMCA Notice Process Illustrated (1/3)

#1-Pirate Site lists of links

#2-Click and go to cyberlocker

#3-Stream link with ads for Charmin and a Sex Site

The image shows a screenshot of a website titled "The Guest House" with a list of links to various streaming services. Red arrows point from yellow callout boxes to specific elements: #1 points to the list of links, #2 points to a "CLICK TO VIEW" button, and #3 points to a play button icon. A small inset shows a "Charmin UltraSoft" advertisement.

#4-Click DMCA at bottom of page and full-screen ad appears

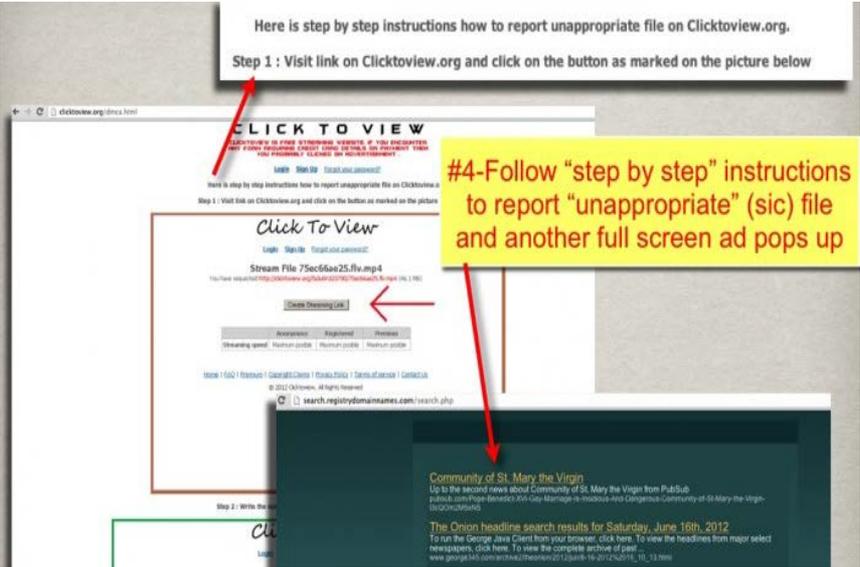
The image shows a screenshot of a website footer with a table of points and a "DMCA" link circled in red. Below the footer, a full-screen advertisement for "Beauty World News" is displayed, featuring a woman's face and a large circular graphic.

points:	No	Yes
deleted?	60 days after last stream	(1 full stream of a file over 30MB=1 point) (1 full stream of a file over 30MB=1 point) 60 days after last stream

Home | FAQ | Premium | **DMCA** | Privacy Policy | Terms of service | Contact Us
© 2012-2013 ClicktoView, All Rights Reserved

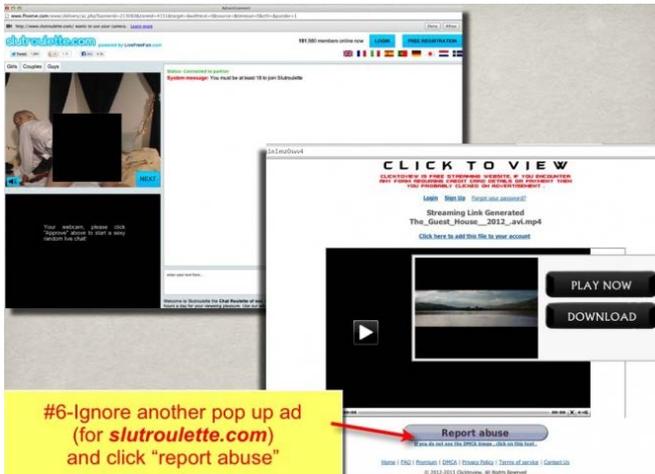
Images courtesy of: Ellen Seidler | Vox Indie

Challenges in DMCA Notice Process Illustrated (2/3)

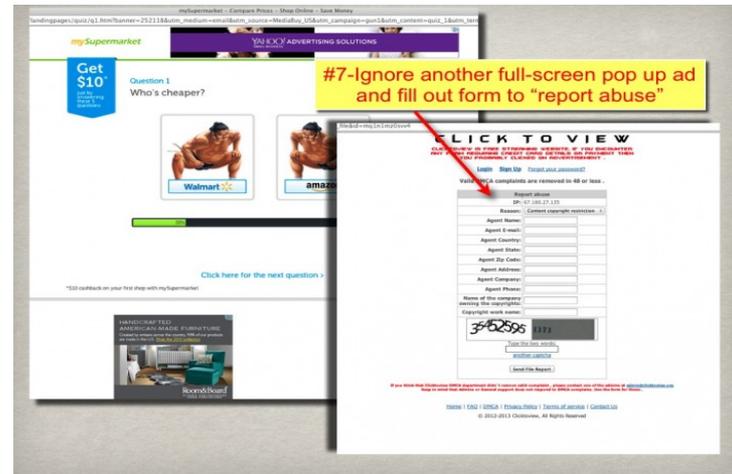


Images courtesy of: Ellen Seidler | Vox Indie

Challenges in DMCA Notice Process Illustrated (3/3)

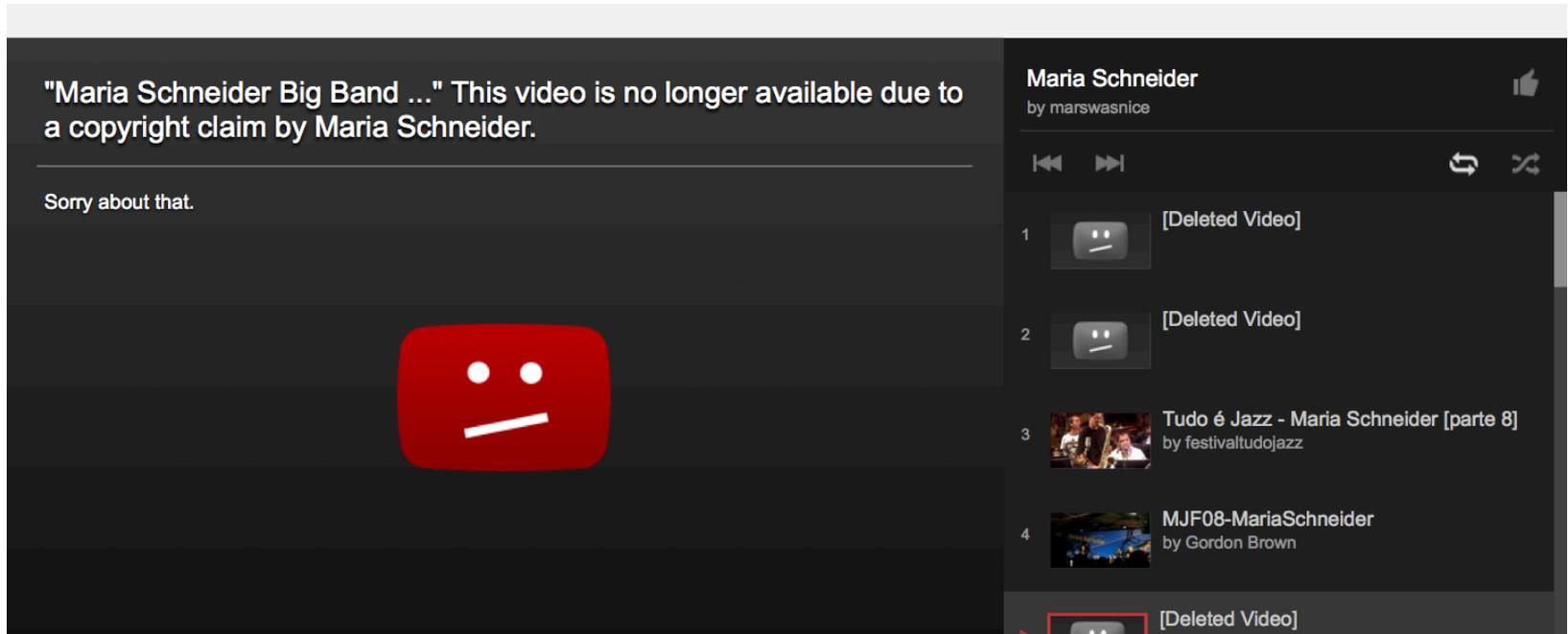


#6-Ignore another pop up ad (for slutroulette.com) and click "report abuse"



Images courtesy of:
Ellen Seidler | Vox Indie

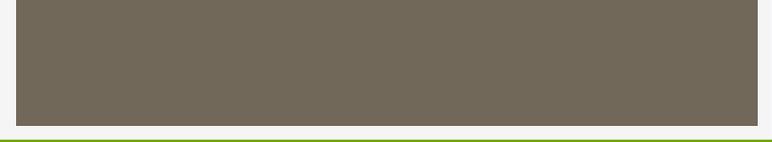
Stigmatizing Post-Takedown Announcement



As referenced by Composer/Conductor/Producer Maria Schneider in her testimony before U.S. House Judiciary Subcommittee on Courts, Intellectual Property and the Internet on March 13, 2014.

Some Starting Points For Consideration

- Harmonize information shared during upload and takedown processes to encourage greater awareness
- Aim for standard plug ins to relieve implementation burden on sites
- Create a standard DMCA Notice Button with a standard location
- Make DMCA agents' information available including a mailing address, email, fax and phone number
- Notify copyright owner of receipt of notice and of content removal
- Create clearinghouse where status of action can be checked
- Create a *fast lane* DMCA process for frequent and reliable notice submitters
- For such submitters, create a standard interactive form to submit notices with DMCA required questions posed in common English and an auto-fill option linked to the ©owner's account that is auto-filled with name, address and metadata or other info provided about the copyrighted work so only links need to be added
- Allow creators to open a "takedown" account that enables removal of links en masse



THANK YOU.