

# DEPARTMENT OF COMMERCE MULTISTAKEHOLDER FORUM



## IMPROVING THE OPERATION OF THE DMCA NOTICE AND TAKEDOWN SYSTEM

**FIRST PUBLIC MEETING**  
**March 20, 2014**



# Agenda

- First Session:
  - High Level Principles
  - Substantive Topics for Future Discussion
- Second Session:
  - Process and Framework



# A. High Level Principles

- Multistakeholder-driven
  - Open
  - Transparent
  - Consensus-Based
- Focus on operation of notice and takedown system within confines of existing DMCA provisions
- Proposals for legislative change will not be discussed



## B. Potential Topics for Consideration

- Topic 1. Improving the Efficiency of the Notice and Takedown System
- Topic 2. Minimizing Inaccurate Notices and Abuse of the Process
- Topic 3. Difficulties Faced by Individuals and/or Small and Medium-Sized Enterprises (SMEs)

*These topics and questions are meant to facilitate discussion and do not reflect the views or endorsement of the Department of Commerce.*



# Topic 1. Improving the Efficiency of the Notice and Takedown System

- Would standardized notice formats or templates provide effective efficiencies for both notice senders and recipients?
- Some service providers use systems designed for “trusted” or “verified” submitters, which enhance the efficiency and speed of takedown. Can this practice be expanded for greater utilization?

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# Topic 1. Improving the Efficiency of the Notice and Takedown System

- Can stakeholders develop and deploy effective means of minimizing the reposting or automated repopulation of previously taken-down infringing material, and if so, how?
- What role can educational efforts play in the notice and takedown operations, including with respect to users who are uploading or downloading infringing materials and users identifying legitimate content?

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# Topic 1. Improving the Efficiency of the Notice and Takedown System

- Are there existing successful practices that can be drawn on for guidance?
- In what other ways can best practices be developed to increase operational efficiency, including reducing volume of notices, through cooperation, communications, and technology?
- Should there be different solutions for different types of stakeholders?

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## Topic 2. Minimizing Inaccurate Notices and Abuse of the Process

- What best practices could be developed for sending, accepting, and responding to electronic notices to ensure the accuracy of notices and remedy erroneous notices?
- Can potential legitimate uses (e.g. fair use, political speech) be better accommodated in the notice and takedown process, and if so, how?

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## Topic 2. Minimizing Inaccurate Notices and Abuse of the Process

- Would the establishment of right holder points of contact be a valuable tool for those who believe their files have been removed in error or for other purposes?
- What role can educational efforts play, including with assisting users in understanding why content has been taken down and the available options (e.g. counternotices)?

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## Topic 2. Minimizing Inaccurate Notices and Abuse of the Process

- In what other ways can best practices be developed to minimize inaccuracies and abuse of the system, through cooperation, communications, and technology?
- Should there be different solutions for different types of stakeholders?

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## Topic 3. Difficulties Faced by Individuals and/or SMEs

- What role can educational efforts play for individuals and small and medium-sized enterprises (SMEs), right holders and service providers that will make the process of notice and takedown easier?
- In what other ways can specific best practices be developed to address the specific needs and problems faced by individuals and SME users?

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# Data Analytics Support

USPTO's Office of the Chief Economist is available to provide support on data-related questions

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## C. Process and Framework for the Ongoing Work of the Forum

- **Plenary Sessions**
- **Working Groups**
  - **Topics**
  - **Composition**
  - **Process**
  - **Participants**

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# Plenary Sessions

- Meet approximately every six weeks
- Alternate between Alexandria, VA & San Jose, CA
- Open to the public, webcast with remote participation
- Discussions of and decisions made at plenary sessions on Working Group proposals

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# Working Groups for Identified Topics

Working Groups to be created for each of the topics decided upon in the morning session

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# Working Groups: Proposed Composition

- 9-12 representatives from relevant constituencies
- Alternates permitted for each representative
- Co-chairs selected from Working Group members
- USPTO/NTIA may observe Working Group meetings but will not participate
- Encourage participants who possess operational expertise

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# Working Groups: Proposed Process

- Working Groups meet in between and on the day of Plenary sessions
- Interim meetings to occur at the direction of the individual Working Group members
- Interim meetings to be in person to extent feasible
- Working Groups will report results and recommendations to Plenary, but will not make final decisions
- Chatham House Rule (meeting content is reported, but identity and affiliation of speakers are not revealed)
- Nothing is agreed until everything is agreed

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# Working Groups: Proposed Constituencies

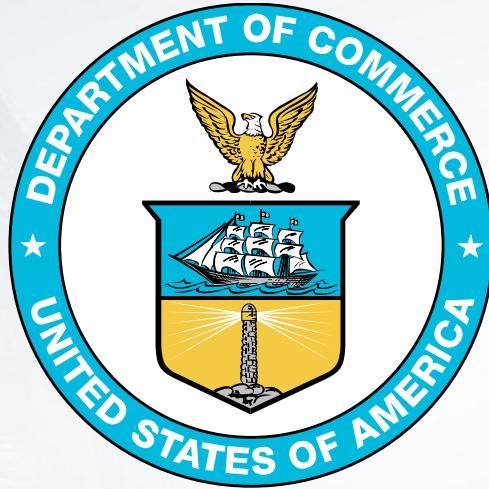
- 3-4 Reps from ISPs (at least one individual or representative from SME)
- 3-4 Reps from right holders (at least one individual or representative from SME)
- 2-3 Reps from consumer and public interest groups
- 1 Rep from enforcement vendors

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# Internet Policy Task Force



For Additional Information:

<http://www.ntia.doc.gov/category/copyright>

<http://www.uspto.gov/ip/global/copyrights/index.jsp>

Sign up for the USPTO's Copyright Alerts at <http://enews.uspto.gov>