

The Digital Millennium Copyright Act or “the DMCA” includes a provision of copyright law which provides a process for copyright owners to notify online service providers that a website they are hosting is displaying infringing material. Through this process, you can request for the service provider to remove the material. Below are step-by-step instructions for submitting a DMCA Takedown Notice.

MAKE SURE IT IS A COPYRIGHT VIOLATION

It is important to note that when you submit a DMCA Takedown Notice, you are required to swear under penalty of perjury that you are the rightful copyright owner of the work and that the information you are providing is accurate. If you are unsure of whether or not you are the copyright owner, see PPA’s [works-made-for-hire FAQs](#). If you did not create the image(s) in question in a works-made-for-hire situation and you did not sign anything transferring your copyright to another party, you are most likely the copyright owner.

You are also required by case law to consider whether or not the particular unauthorized use was a “fair use.” See this [information on fair use](#) provided by the U.S. Copyright Office to determine if the unauthorized use of your work could be deemed a “fair use”.

If you are indeed the copyright owner of the work and, after consideration, you do not think it is a “fair use” of your work, then it is probably okay to proceed with the takedown notice.

IDENTIFY THE WEBSITE HOST

If the infringement occurred on a popular social media site, most likely that social media company is the online service provider.

If the infringement is on a different type of website, there is most likely a third-party website host. The simplest way to identify the host is to input the URL of the website into an online website hosting search platform – there are many websites that offer this service at no charge. One of the simplest websites to use is www.Wholshostingthis.com because the site provides the name of the host without a lot of additional information. Simply copy the URL of the infringing website and paste it into the search bar on Wholshostingthis.com.

FIGURE OUT THE BEST WAY TO SUBMIT THE TAKEDOWN NOTICE TO THIS PARTICULAR HOSTING COMPANY

If this is a social media infringement, all of the major social media companies provide an online form for submitting these reports. See below:

[Facebook Copyright Report Form](#)

[Instagram Copyright Report Form](#)

[Twitter Copyright Report Form](#)

[Pinterest Copyright Report Form](#)

Per the DMCA, U.S.-based online service providers should have a designated agent on staff to process takedown notices and should make this information accessible. To identify the best way to file a notice, perform a basic online search. You should search “DMCA [Company Name]” or “Copyright Policy [Company Name]”. It is common for online service providers to offer an online form for reporting the copyright violation. Otherwise, they should provide contact information for their designated agent.

For example, Go Daddy is a common hosting provider which provides an online reporting form and contact information for their designated agent [here](#).

If you cannot find the correct information through a basic online search (such as a search through Google, Yahoo or Bing), you can search through the U.S. Copyright Office's [Directory of Service Provider Agents for Notification of Claims of Infringement](#).

If you still cannot find the information, you may want to conduct a more advanced domain search at www.Wholes.com/whois where you will find more advanced information about the domain name registration. Here you can often find contact information for the abuse agent or at least contact information for the registrant's email through which you can inform him or her of the infringement.

SUBMIT THE TAKEDOWN NOTICE

If an online form is provided, you should use it. It will be the fastest way to get the request processed. Simply fill out and submit the form. Be careful to be thorough and accurate.

If an email address or mailing address is provided, use PPA's [sample DMCA letter](#) as a guide to draft a letter and send it to the agent. If you are sending by mail, use certified mail so that you receive a mail receipt. Keep the receipt for your records.

If a phone number is provided, it is okay to use that to follow-up with the agent, but you should send written notice first. A written statement is always required.

NEXT STEPS

Per the DMCA, the online service provider should "respond expeditiously" to take the material down or block access to it. There is no exact time requirement. After about ten days, it may be a good idea to follow-up.

Although not common, sometimes the infringer will submit a counter-notification to your takedown notice. If this happens, it means the infringer has now sworn under penalty of perjury that the material was removed or disabled through mistake or misidentification. At this point, unless you file an action seeking a court order against the subscriber, the service provider must put the material back up within 10-14 days of receiving the counter notification. Basically, you have ten days to file a legal action or the material will most likely go back up on the website. If you would like to consider legal action at this point, you should consult with a local intellectual property attorney.

If the online service provider does not take any action after receiving notice, they may now have liability in the infringement (as well as the infringer) which could be pursued through legal action.