



DMCA Takedown Guide

Has someone stolen your creative work, and posted it online without your permission? There are protections for your work under the DMCA (Digital Millennium Copyright Act).

What is a DMCA Takedown Notice?

You're scrolling through Instagram and suddenly you see your own artwork looking back at you. "Hey, wait!" you think, "I didn't give this person permission to post my work!" You DM the culprit, but they don't respond. Even if you don't have a copyright on the work, you have rights under the DMCA. Your next step is to file a DMCA Takedown notice.

The DMCA is a sort of safe harbor for website hosts from being sued for copyright infringement if the infringing material is posted by one of their users, and they follow a specific procedure to remove the material after getting notice of the infringement. This procedure is known as a DMCA Takedown.

When can you use a DMCA Takedown?

DMCA Takedowns are applicable when you own the copyright or have the right to assert infringement of a copyright you license.

But even if you don't have a copyright on the particular image or work that is being copied online. According to the [DMCA website](#):

"Although the DMCA is part of US Copyright law, a DMCA Takedown does not require the content to be copyrighted in order to process the takedown and for the content to be taken down by the website owner or OSP.

In other words, the fact the content is yours, or in the case of a photo or video the subject is you, can be sufficient enough to request a takedown AND for the content to be taken down."

There are two more considerations that determine if you have rights under the DMCA. First, the alleged infringement is not covered by an exception such as Fair Use or free speech laws. You must have good faith belief that alleged infringing use is not covered by any law which would permit its use. Second, although perhaps obvious, the content being infringed needs to be online. In other words, the work must be something in a digital format, such as a video, photograph or written text on a webpage.

How do you submit a DMCA Takedown?

The website owners must appoint a designated agent to receive notifications of claimed copyright infringement. To determine who the designated agent is, first, look on the site itself. Even if it's posted on the site, it may be difficult to find. Often this information is included under the 'Legal' section, 'Copyright Policy' section, or within the 'Terms of Services' section at the bottom of the home page.

The US Copyright Office also keeps a digital directory of designated agents for service of DMCA Takedown notices at <https://dmca.copyright.gov/osp/>. There, you can enter the URL and likely find the designated agent that way. Click on the Service Provider's name to see their DMCA designated agent.

Major websites and services like Instagram and YouTube make this process relatively simple with online forms and submissions.

How to file a DMCA Takedown with Instagram

Instagram has made it simple to notify their agent. Follow this link and use the online form to submit your DMCA Takedown:

https://help.instagram.com/contact/372592039493026?helpref=faq_content

Instagram has slightly different forms depending on whether the infringement is on a copyright or a trademark.

To submit a DMCA takedown notice for a copyright infringement, take the following steps:

1. Click **Copyright violation**
 - Click **Continue with your copyright report**
2. Click **“I found content which I believe infringes my copyright”**
 - Click **Continue with my copyright report**
3. Click **Provide your contact information**
 - Click **“Me or my organization,” “my client,” or “someone else.”**
 - **Fill-in the empty fields**
4. Click **Provide the content you want to report**
 - **Indicate which type of content you are reporting and provide the link**
 - **Select from the drop-down menu the reason for reporting this content**
5. Click **Provide your copyrighted work**
 - **Select from the drop-down menu the description which best describes your copyrighted work.**
 - **Provide a URL to an authorized example of your work, describe the work in detail, or attach an authorized example of the work if it isn't located online.**
6. Click **Confirm declaration statement**
 - **Read the statement and click Yes to agree**
7. Click **Send**

To submit a DMCA takedown notice for a trademark infringement, take the following steps:

1. Click **Trademark violation**
 - Click Continue with your trademark report
2. Click **“I found content which I believe infringes my trademark”**
 - Click Continue with my trademark report
3. Click **Provide your contact information**
 - Click “Me or my organization,” “my client,” or “someone else.”
 - Fill-in the empty fields
4. Click **Provide your trademark information**
 - Fill-in the empty fields
 - Provide a URL leading directly to the trademark registration, if possible, or attach a scanned copy or screenshot of your registration on the website or database of the applicable national or community intellectual property office.
5. Click **Provide the content you want to report**
 - Indicate which type of content you are reporting and provide the link
 - Describe how you believe this content infringes on your trademark
6. Click **Confirm declaration statement**
 - Read the statement and click **Yes** to agree
7. Click **Send**

How to file a DMCA Takedown with YouTube

Similar to Instagram, YouTube has made it easy to request a DMCA takedown through online form:

<https://support.google.com/youtube/answer/2807622?hl=en>

To submit a DMCA takedown notice on YouTube, take the following steps:

1. Click **Submit a copyright complaint**
 - Choose the appropriate issue (copyright/trademark infringement)
2. Indicate **who is affected**
 - “I am,” “My company, organization, or client,” or “another copyright owner.”
3. Fill-in all required fields, including:
 - URL of allegedly infringing video to be removed
 - A description of the work allegedly infringed (from drop-down menu)
 - Copyright owner name
 - Use the YouTube username or full legal name
 - Authority to make this complaint
 - Indicate “owner of copyright/trademark,” or “counsel for owner of copyright/trademark”
 - Your Full Legal Name
 - Street Address, City, State/Province, ZIP Code, Country, Phone number
4. Check the affirmation boxes on the bottom
 - Type in full name in the box above **Submit**
5. Click **Submit Complaint**

What needs to be in a DMCA Takedown notice?

By law, the DMCA takedown notice must contain the following:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright or intellectual property right that has been allegedly infringed upon;
2. Identification in sufficient detail of the material being infringed upon;
3. Identification of the material that is claimed to be infringing upon the intellectual property. Include information regarding the location of the infringing material with sufficient detail so that the web host is capable of finding and verifying its existence;
4. Contact information about the notifier including the name of the intellectual property owner, the name and title of the person contacting the web host on the owner's behalf, the address, telephone number and, if available, e-mail address;
5. A statement that the notifier has a good faith belief that the material is not authorized by the intellectual property or copyright owner, its agent, or the law; and
6. A statement made under penalty of perjury that the information provided is accurate and the notifying party is authorized to make the complaint on behalf of the intellectual property or copyright owner.

How do you respond to a DMCA takedown notice?

First, timely response is crucial. If the customer/user responds with a written counter-notice to the online service provider explaining that the take down was done in error, the online service provider must in turn notify the copyright holder of the counter notice. If the copyright holder does not file a lawsuit for copyright infringement within 14 calendar days after being served with the counter-notice, the online service provider may put the accused infringing material back up on the website.

Instagram

If you are responding to a takedown notice on Instagram, instructions on how to file the counter-notice will be included in the warning they send you, but otherwise you can contact the DMCA designated agent with your counter-notice

YouTube

To respond to a takedown notice on YouTube, copyright notices delivered to you appear on this page when you are signed into your account:

https://www.youtube.com/my_videos_copyright?vmo=copyright_strikes&ls=copyright_strikes . You can make your counter-notice here as well.

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