

## Abuse Division – Legal Reports

To make a Copyright Infringement claim for Purposes of Title 17, Section 512, of The United States Code, please read and follow the instructions below.

- A. A Notification of Claimed Infringement must meet the following requirements in order to be effective and properly acknowledged:
- It must be a written communication.
  - It must be sent via postal mail to Abuse Division.
  - It must include the following:
    - a. A physical or electronic signature of a person (Complaining Party) authorized to act on behalf of the owner of an exclusive right that is claimed to be infringed.
    - b. Identification of the copyrighted work claimed to have been infringed, or if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
    - c. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
    - d. Information reasonably sufficient to permit the service provider to contact the Complaining Party, such as an address, telephone number, and, if available, an e-mail address at which the complaining party may be contacted.
    - e. A statement that the Complaining Party has a good faith belief that use of the material, in the manner complained of, is not authorized by the copyright owner, its agent, or the law.
    - f. A statement that the information in the notification is accurate, and under penalty of perjury, that the Complaining Party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- B. Cingular, Inc. will do the following when a Complaining Party provides a Notification of Claimed Infringement in compliance with the guidelines outlined above:
- a. Expeditiously remove or disable access to the material that is claimed to be infringing.
  - b. Take reasonable steps to notify the alleged infringer (Subscriber) of the infringement claim(s), and that the material claimed to be infringing has been removed or that access to the material has been disabled.

The Subscriber party, upon receipt of notice from Cingular, Inc. that a claim of infringement has been made and that the material on said Subscriber's account has been removed or that access to it has been disabled, the Subscriber party may provide a Counter Notification by following the instructions.

A Counter Notification must meet the following requirements in order to order to be effective and properly acknowledged:

- a. It must be a written communication.
- b. It must be sent to the Abuse Division.
- c. It must include the following:
  - i. A physical or electronic signature of the Subscriber.
  - ii. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.
  - iii. A statement, under penalty of perjury, that the Subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.
  - iv. The Subscriber's name, address, and telephone number, and a statement that the Subscriber consents to the jurisdiction of Federal District Court for the judicial district in which the Subscriber's address is located, or if the Subscriber's address is outside of the United States, for any judicial district in which Cingular, Inc may be found, and that the Subscriber will accept service of process from the person who provided notification or an agent of such person.

Cingular, Inc. will do the following upon receipt of a Counter Notification from the Subscriber containing the information as outlined above:

- a. Promptly provide the Complaining Party with a copy of the Counter Notification.
- b. Inform the Complaining Party that it will replace the removed material or cease disabling access to it within ten (10) business days following receipt of the Counter Notice.
- c. Replace the removed material or cease disabling access to the material in not less than ten (10), nor more than fourteen (14), business days following receipt of the Counter Notice, provided the Abuse Division of Cingular, Inc. has not received notice from the Complaining Party that an action has been filed seeking a court order to restrain the Subscriber from engaging in infringing activity relating to the material on Cingular, Inc. network or system.

**CAUTION: Pursuant to Title 17, Section 512(f) of the United States Code, any person who knowingly materially misrepresents that material or activity is infringing, or that material or activity was removed or disabled by mistake or misidentification, shall be liable for any damages, including costs and attorney's fees, incurred by the alleged infringer, by any copyright owner or copyright owner's authorized licensee, or by a service provider, who is injured by such misrepresentation, as the result of the Cingular, Inc. relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it.**