

November 28, 2011

Robert Kasunic
Deputy General Counsel
Copyright Office
GC/I&R
P.O. Box 70400
Washington, D.C. 20024

Re: Notice of Proposed rulemaking and request for comments: Designation of
Agent to Receive Notification of Claimed Infringement
RM 2011-6

Dear Mr. Kasunic:

Google Inc., submits these comments in connection with the above-reference NPRM. Google appreciates the efforts of the Copyright Office to make the notification system for the DMCA automated, transparent, and more efficient. The DMCA provides an important mechanism for copyright owners, service providers, and those who post copyrighted material on websites or on hosting platforms to address claims of infringement in a quick manner outside of the court system. Our comments focus on one issue raised by the NPRM, although there is a second issue for which we seek clarification.

1. Is a separate designation for each web address the most preferable means of organizing the directory of designated agents?

The NPRM asks whether having a separate designation for each web address is the most preferable means of organizing the directory of designated agents? We believe that the relevant business entity is the most preferable means of designating an agent, e.g., Google.com or YouTube.com. Subdomains and ccTLDs can be listed by the business entity and be searchable in the Copyright Office database of agents, but requiring a separate designated agent for each subdomain or ccTLD would be a major burden and would potentially risk omissions by accident. Many companies treat subdomains as part of a larger product group, and they may be folded into one or more products. Many times a single person is in charge of takedown notices for multiple products, and thus having a single agent, rather than separate ones for each subdomain, is the best way to ensure that takedown notices are routed to the person in charge. The same applies for ccTLDs, especially where there is no office in a particular country. In Google's experience, people in other countries have no problems sending a notice to Google.com, as compared, say to Google.il.

2. Contact Information for the Service Provider

The statute and the interim regulations currently require that service providers supply to the Copyright office the name, address, phone number, and electronic mail address of the agent. The NPRM proposes various clarifications, all of which appear sound, including allowing the listing of the designated agent's job title and an email address for the position, instead of listing the individual's name and individual email address. Reference to job title is helpful because misuse of personal contact information is unfortunately common.

We urge the Office, however, to also note that takedown notices sent to designated agents must be in the form of a written communication. We are concerned that the clarifications and the availability of a phone number do not lead to a requirement that service providers designate a specific person to be contacted for voice communication or that leaving of takedown notices be authorized via phone calls or voice mail. Accepting takedown requests via phone or voicemail would present a multitude of problems: for example, lack of documentation to send on to the alleged infringer, lack of signature, problems with verifying identity, detecting abuse, lack of accurate metrics, scalability, and potential differences of opinion about what was identified.

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Respectfully submitted,

William Patry
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Google Inc.