

November 28th, 2011

Maria A. Pallante
Register of Copyrights
United States Copyright Office
Washington DC 2004

Re: Comments on the Proposed Revisions to 37 CFR §201.38

These comments are submitted by MiMTiD Corp. a leading U.S. Based Content Protection Company, David Wallace Cox, President.

We write to express our support for the proposed revisions to 37 CFR §201.38.

On behalf of major U.S. Corporations, our Company, MiMTiD Corp. transmits DMCA compliant notices to thousands of repeat infringing websites dedicated to copyright infringement on a monthly basis. Most provide no Designated Agent to receive such notifications and simply ignore these notices. We also transmit DMCA compliant notices to among others, major U.S. search engines including Google, Yahoo and Bing concerning search links to these repeat offending websites, as provided for in the DMCA.

From what we understand, Google takes it upon itself to conduct a manual investigation of each infringing link identified and ultimately decides, using unpublished criteria, whether or not Google agrees with the copyright owner that the link is indeed an infringement of the relevant copyright owner's rights. As noted above, all notices sent by MiMTiD on behalf of copyright owners are DMCA compliant, so they satisfy the extensive, carefully-crafted criteria that Congress established for a notice to be valid.

The DMCA also provides other built-in safeguards and checks and balances, such as a counter-notice process for a party to object to the removal of its content and penalties against copyright owners that abuse the notice process. Nonetheless, Google inserts itself as an extra-statutory, self-appointed arbiter of the validity of DMCA-compliant notices that Congress has already determined as valid under the statute. If Google does not unilaterally agree that the links submitted in a take

down notices are infringing, under whatever standard it chooses to use, Google informs the copyright owner or its agent as follows: "In accordance with the Digital Millennium Copyright Act, we have completed processing your infringement complaint. ... At this time, Google has decided not to take action on these URLs: [list of ignored links]".

We believe Google's self-appointed arbiter role is improper because it interferes with the carefully crafted and balanced statutory process, causes undue delay, and deprives copyright owners of their right to have infringing content removed expeditiously on the basis of their valid take down notices, as expressly contemplated by the DMCA statute. It is our position that any website that intentionally delays processing DMCA-compliant infringement notices for any reason cannot be said to be acting "expeditiously" and therefore does not satisfy the requirements for safe harbor eligibility set forth in the Digital Millennium Copyright Act.

Furthermore, when Google does remove these noticed, infringing links from the Google index, Google readily admits that they do not contact these repeat infringing websites dedicated to copyright infringement, which would enable due process and comply with the DMCA's carefully crafted counter-notice process because these websites have not designated an agent.

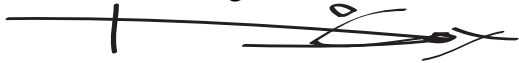
Much debate has taken place concerning "lack of due process" associated with recent attempts by law enforcement to mitigate the illegal and systematic monetization of intellectual property through advertising and illegal counterfeiting taking place on the internet. What is particularly troubling about these actioned search engine notices is that the search engines, no doubt one of the primary beneficiaries of the Safe Harbors and the principal opponents to changes to existing statute, are making no efforts themselves to enable the DMCA's carefully crafted counter-notice process, thus depriving these websites of due process under the law, creating a confusing if not contradictory environment for those seeking relief under the statute.

Therefore, we support the proposal to require "Designation of Agent To Receive

Notification of Claimed Infringement", which we believe will enable the DMCA to function as contemplated by Congress by eliminating confusion and inefficiencies, enabling a party to object to the removal of the content and the alleged infringing links from search, enabling these websites to pursue penalties against copyright owners that abuse the notice process and requiring websites seeking to receive the benefits of section 512 to be required to file designation of an agent.

We appreciate the opportunity to submit these comments.

Best Regards,

A handwritten signature in black ink, appearing to read 'David Wallace Cox', is written over a horizontal line.

David Wallace Cox

MiMTiD Corp.