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MEGAUPLOAD LTD.

14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 OAKLAND DIVISION
18

19 MEGAUPLOAD LTD.,
20 Plaintiff,
21 v.
22 UNIVERSAL MUSIC GROUP, INC. and
DOES 1 to 100, inclusive,
23 Defendants.
24
25
26
27
28

Case No. CV-116216-CW

**DECLARATION OF KIM DOTCOM IN
SUPPORT OF PLAINTIFF'S *EX PARTE*
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE PRELIMINARY
INJUNCTION**

Date: December 14, 2011
Time: ___:___ A.M.
Dept: Courtroom 2, 4th Floor
Judge: The Hon. Claudia Wilken

Filed: December 12, 2011

1 I, Kim Dotcom, declare:

2 1. I am the Chief Innovation Officer of Plaintiff Megaupload Ltd. (“Megaupload”),
3 and have been employed at Megaupload since September 2005. In my capacity as Chief
4 Innovation Officer, I was in charge of producing the song and video at issue in this litigation,
5 known as the Megaupload Video. I make the following statements based upon my personal
6 knowledge, except to any extent otherwise specified. If called as a witness, I could and would
7 testify competently to the facts set forth herein.

8 **Megaupload & Its Cloud Storage/Data Transmission Services**

9 2. Megaupload is a leading provider of cloud storage and data transmission services.
10 Cloud storage is a model of networked online storage in which data is saved to an offsite storage
11 system maintained by a third party. Instead of storing information to your computer’s hard drive
12 or another storage device (like a USB stick), you save it to a remote database.

13 3. Megaupload offers both free and premium cloud storage/backup capacity, as well
14 as sophisticated uploading and downloading tools. Our services allow our users to conveniently
15 store and transmit any kind of data from anywhere, to anywhere. Our users use our services to,
16 among other things, send or receive files that are too large for email, backup their data remotely,
17 and access their data from a variety of computers or devices without carrying around a USB stick.
18 We currently have over 180 million registered users who rely on us for their day-to-day storage
19 and transmission needs, and people at 87 percent of the Fortune 500 companies have accounts
20 with us.

21 4. As an online service provider, Megaupload’s operations are fully compliant with
22 and protected by the Digital Millennium Copyright Act (DMCA), and we cooperate with rights-
23 holders to combat the abuse of the powerful tools that we provide.

24 **The Megaupload Video**

25 5. Megaupload carefully planned the creation and release of the Megaupload Video
26 to show the legitimacy and widespread use of the Megaupload service. To capitalize on the
27 narrow window of opportunity presented by the planned re-launch of our website, we invested
28 heavily in the development of the Megaupload Video to ensure that the music, number and

1 selection of celebrities, and design would appeal to a large audience that would then continue
2 virally to spread the word.

3 6. In or about September 2011, Megaupload entered into written agreements with
4 each of the persons who worked on or appeared in the Megaupload Video in order to ensure that
5 all of the intellectual property rights in the video would be owned by Megaupload. This included
6 a standard form Appearance Consent and Release Agreement (“ACRA”) signed by each of the
7 celebrities and artists who might appear or perform in it, including, among others,
8 Kim Kardashian, Sean Combs (p/k/a Diddy), Chris Brown, Will Adams (p/k/a will.i.am), Floyd
9 Mayweather, Jamie Foxx, Jonathan Smith (p/k/a Lil Jon), Brett Ratner, Serena Williams, Russell
10 Simmons, Carmelo Anthony, Kasseem Dean (p/k/a/ Swizz Beatz), Jaycean Taylor (p/k/a Game),
11 Kanye West, Mary J. Blige, Estelle Sarway (p/k/a Estelle), and Ciara Harris (p/k/a/ Ciara). A true
12 and correct copy of the ACRA signed by will.i.am, which is substantially the same as the ACRA
13 signed by all others appearing in the video, is attached as **Exhibit A**. The ACRA specified,
14 among other things, that Megaupload would be the “sole owner of the results and proceeds of the
15 Appearance,” and that the artist/celebrity waived “any interest I may have in and to the copyright
16 in connection therewith.”

17 7. The Megaupload Video features endorsements and performances by many of the
18 celebrities identified in Paragraph 6, above, all of whom executed and provided us with an
19 ACRA. This included Swizz Beatz, Kanye West, Mary J. Blige, Estelle, Ciara, Game, Carmelo
20 Anthony, Will.i.am, Kim Kardashian, Diddy, Floyd Mayweather, Jamie Foxx, Lil Jon, Brett
21 Ratner, Serena Williams, and Russell Simmons, who gave spoken endorsements. Musical
22 performers in the Megaupload Video included Printz Board and George Pajon Jr. of the Black
23 Eyed Peas band, as well as Macy Gray.

24 8. On or about December 9, 2011¹, in connection with the re-launch of our website,
25 Megaupload published the Megaupload Video on our website, located on the Internet at the URL
26 www.megaupload.com. A CD containing a true and correct copy of the Megaupload Video is
27

28 ¹ All dates identified herein are stated in reference to Pacific Standard Time.

1 attached as **Exhibit B**. Shortly thereafter, I, as the authorized agent for Megaupload, uploaded
2 the Megaupload Video to YouTube to promote its widespread availability on the leading video
3 site in the world, and to encourage viral redistribution and linking.

4 9. The Megaupload Video was, in fact, an immediate viral success. Numerous other
5 persons also uploaded it to YouTube and it was viewed by hundreds of thousands of visitors.
6 Indeed, on my upload alone, based on the statistics made available to me by YouTube, there were
7 285,956 views of the video. A true and correct copy of a printout of the statistics made available
8 to me by YouTube is attached hereto as **Exhibit C**.

9 10. Within hours, the video was the top trending topic on Twitter, and global news
10 media reported about and linked to the video utilizing YouTube's embedded video player. For
11 example, attached hereto as **Exhibit D** is a true and correct copy of information collected from
12 Twitter that I caused to be printed on December 13, 2011, showing three of many tweets
13 distributing links to the Megaupload Video on December 9, 2011, of 117,719, 111,362, and
14 491,040 followers, respectively.

15 **UMG's Takedown Notices**

16 11. On December 9, 2011, Megaupload learned that access to the Megaupload Video
17 on YouTube had been disabled as a result of one or more DMCA takedown notices YouTube had
18 received from Defendant Universal Music Group, Inc. ("UMG"). While Megaupload has not yet
19 been provided with a copy of the notice(s), it is my understanding that in connection therewith,
20 UMG affirmed, under penalty of perjury (pursuant to Section 512(c)(3) of the DMCA), that it is
21 authorized to act on behalf of the owner of the copyright in the Megaupload Video. Attached
22 hereto as **Exhibit E** is a true and correct copy of YouTube's DMCA notification form, available
23 at http://www.youtube.com/copyright_complaint_form, that I caused to be printed on December
24 13, 2011, reflecting that requirement.

25 12. However, Megaupload, not UMG, created the Megaupload Video and obtained an
26 ACRA from all recording artists featured therein, including those with recording or other
27 relationships with UMG. Further, the video was created out of completely new and original
28 music and imagery (without any use or even excerpts of pre-existing works) that were specifically

1 commissioned, written, and performed for Megaupload. Megaupload did not authorize UMG to
2 act on its behalf with respect to the Megaupload Video. Thus, any representation by UMG of
3 ownership in the copyrights to the Megaupload Video in its takedown notice was false.

4 13. I also understand that an attorney for will.i.am sent a DMCA notice and takedown
5 to YouTube in connection with the Megaupload Video. Megaupload has not been provided with
6 a copy of this notice, and thus we do not know what representations may have been made therein.
7 However, on December 12, 2011, I spoke directly with will.i.am about this issue, and he
8 personally advised me that he absolutely had not authorized the submission of any takedown
9 notice on his behalf.

10 14. YouTube's disabling of access to the Megaupload Video as a result of UMG's
11 takedown notice(s) occurred just as its viral distribution was starting to take off. As a result of the
12 takedown, anyone who clicked on a link to the video through the YouTube site, or through an
13 article or Twitter feed that embedded it, received a message that the video is not available due to a
14 UMG copyright claim. A true and correct copy of a screenshot of a webpage on the YouTube site
15 that shows that message, which I caused to be printed on December 13, 2011, is attached as
16 **Exhibit F**.

17 15. It is my understanding that when a video is taken down for reasons other than
18 alleged copyright infringement (e.g., a violation of YouTube's Terms of Service), a different
19 message is featured in place of the disabled video. A true and correct copy of a screenshot of a
20 webpage on the YouTube site that shows the message received when a takedown is based on a
21 TOS violation (which reads "This video has been removed because its content violated
22 YouTube's Terms of Service"), which I caused to be printed on December 13, 2011, is attached
23 as **Exhibit G**.

24 16. It is my understanding that, after submitting the initial takedown notice, UMG
25 continued to submit further takedown notices with respect to other instances of the Megaupload
26 Video on the Internet, including on YouTube and sites other than YouTube.

27 17. I understand that UMG continued to give notice to other sites, resulting in
28 displacement in numerous locations including Vimeo, Huffington Post, and many others.

1 Attached hereto as **Exhibit H** is a true and correct copy of a report on the Megaupload Video
2 collected from the Huffington Post that I caused to be printed on December 13, 2011. After an
3 initial article describing the video and providing a link to the video at the “vimeo.com” website,
4 the article adds this update: “The video has been pulled from Vimeo, making it seem as if UMG
5 has won the most recent round in the back-and-forth war over this video.” Consistent with that
6 update, the link to Vimeo now reports that “This video does not exist.”

7 18. Attached hereto as **Exhibit I** is a true and correct copy of information collected
8 from <http://imgur.com> that I caused to be printed on December 13, 2011, in which the
9 Megaupload Video is disabled after 26,622 views and replaced by a statement reading: “This
10 video contains content from UMG, who has blocked it on copyright grounds.” That statement is,
11 as described above, false.

12 19. I understand that UMG has also submitted takedown notices for news reports that
13 even discuss the Megaupload Video. Attached hereto as **Exhibit J** is a CD containing a true and
14 correct copy of Episode 391 of Tech News Today, a news show distributed over the Internet.
15 This episode of Tech News Today contains an approximately five-minute long discussion of the
16 dispute between Megaupload and UMG. The CD also contains a true and correct copy of this
17 excerpt (as a separate file), which begins at approximately minute 25 of the show. During the
18 discussion of UMG’s takedown, the questionable basis for UMG’s copyright claim, and
19 Megaupload’s lawsuit, Tech News Today displays some of the Megaupload Video. The Tech
20 News Today hosts, including Tom Merritt, continue to talk through the entire time the video is
21 shown; the Mega Song is audible during this discussion for less than a minute.

22 20. I understand that UMG sent a DMCA takedown notice to YouTube, claiming that
23 Episode 391 of Tech News Today infringed its copyright due to its inclusion of portions of the
24 Megaupload Video. Attached hereto as **Exhibit K** is a true and correct copy of information from
25 YouTube that I caused to be printed on December 13, 2011, showing the entire Episode 391 of
26 Tech News Today was removed pursuant to a copyright claim by UMG. Attached hereto as
27 **Exhibit L** are true and correct copies of a printout of a blog post by Tom Merritt regarding the
28 matter that I caused to be printed on December 13, 2011. In the post, Mr. Merritt comments on

1 the takedown and states that Tech News Today had filed a counter-notice, in response to which
2 the episode initially was put back up but then taken down again, in response to which Tech News
3 Today filed another counter-notice. On the first few pages of Exhibit L, the printout reflects the
4 post before the link to the video is clicked. The second few pages of Exhibit L reflect the post
5 after the link to the video is clicked, at which point the screen displays the message: “Tech News
6 Today 391: Whe ...’ This video is no longer available due to a copyright claim by UMG.”

7 21. I understand that UMG has publicly acknowledged that it submitted the takedown
8 notices, but initially asserted it was justified because the Megaupload Video purportedly
9 contained an unauthorized performance by UMG recording artist Gin Wigmore. But
10 Ms. Wigmore did not appear in or author the Megaupload Video. Furthermore, the information
11 that Megaupload provided about the Megaupload Video in the publicly available “description
12 area” in connection with uploading it to YouTube stated that the vocals were by Printz Board,
13 Kim Dotcom and Macy Gray—not Gin Wigmore.

14 22. I am concerned that, given the multiple takedown notices, Megaupload’s user
15 account might be terminated on the basis that it has been identified as a repeat infringer.
16 YouTube’s DMCA Policy “provides for termination in appropriate circumstances of subscribers
17 who are repeat infringers.” Attached hereto as **Exhibit M** is a true and correct copy of
18 YouTube’s DMCA Policy, available at http://www.youtube.com/t/dmca_policy, that I caused to
19 be printed on December 13, 2011.

20 **Megaupload’s DMCA Counter-Notice**

21 23. On December 9, 2011, Megaupload sent YouTube a counter-notice pursuant to
22 Section 512(g) of the DMCA, certifying that the Megaupload Video had been removed or
23 disabled as a result of mistake or misidentification by UMG, and requesting that it be re-posted.
24 Attached as **Exhibit N** is a true and correct copy of our counter-notice.

25 24. However, as of December 13, 2011, the copies of the Megaupload Video that were
26 disabled/removed by YouTube have not been restored. Nor have we been notified that UMG has
27 retracted its incorrect notice. Attached as **Exhibit O** is a true and correct copy of YouTube’s
28 published policy encouraging and providing a process for retraction of mistaken DMCA notices,

1 which I caused to be printed on December 13, 2011. In the last five days since the counter-notice,
2 no retraction by UMG has occurred.

3 25. Based on my understanding of the DMCA's safe harbor provisions, the host who
4 receives a counter-notice does not receive protection under the DMCA against claims of its own
5 participation in infringement unless the host waits 10 business days to see if a lawsuit is filed by
6 the copyright claimant. Thus, even the copies of the video for which Megaupload submitted
7 counter-notices are not likely to be restored for at least 14 days, and are not likely to be restored
8 thereafter if UMG files a claim for copyright infringement against Megaupload in response to its
9 counter-notice, because under the structure of the DMCA, YouTube will remain at risk of liability
10 for infringement if it restores the copies after the claim is filed.

11 26. In addition, when UMG submitted DMCA takedown notices targeting the copies
12 of the Megaupload Video that were posted virally by other users, Megaupload did not even
13 receive notice of the takedown requests, because Megaupload was not the party who uploaded
14 them. Thus, as to all of those viral distributions (such as the ones at Huffington Post, Vimeo,
15 imgur.com, and other sites) Megaupload has no ability to provide counter-notices. Those links
16 and copies will remain down unless UMG retracts its DMCA notices.

17 **UMG's Actions Are Causing Megaupload Irreparable Injury**

18 27. Megaupload has developed innovative technologies that allow artists and owners
19 of content to monetize their creations every time they are downloaded online. Our efforts to
20 cooperate with content creators are opening up vast new opportunities for them to reach
21 consumers that they otherwise are missing with the traditional business models. This is one of the
22 key messages we were trying to convey through our current promotional campaign, in which we
23 have already invested over three million dollars in the production and launch of the Megaupload
24 Video.

25 28. UMG, however, has made no secret of its disdain for Megaupload, having publicly
26 stated in the past through its trade association, the RIAA, that it does not like Megaupload's
27 business model. Attached hereto as **Exhibit P** is a true and correct copy of an RIAA press release
28 that I caused to be printed on December 13, 2011, in which the RIAA makes disparaging

1 comments about Megaupload.

2 29. By sending sham takedown notices under the guise of the DMCA, UMG has
 3 chosen to sabotage Megaupload’s promotional campaign, effectively censoring our ability to
 4 convey our message with our own original content, including that a significant number of today’s
 5 top recording artists actively support our services.

6 30. The damage to Megaupload from UMG’s unlawful actions is substantial. This
 7 includes the destruction of our viral marketing campaign, with incalculable losses in the number
 8 of people who could have been reached, as a result of the disabling of access to the key locations
 9 on the Internet where the video was posted, including YouTube, the top video site in the world.

10 31. We have also suffered incalculable damage to our goodwill as a result of the
 11 message that users receive when they try to click on a link to the Megaupload Video that has been
 12 disabled: instead of being able to watch the video and hear a positive message about our
 13 company, users receive a false message accusing us of infringing UMG’s copyrights.

14 32. Unless UMG is enjoined from sending further takedown notices in relation to the
 15 Megaupload Video, the harm that Megaupload is suffering will never be corrected. That is
 16 because, as additional copies of the video crop up on the Internet, UMG can send additional
 17 takedown notices, effectively blocking the video wherever it appears and exposing users to the
 18 false message that we are infringers. Similarly, unless the copies that were taken down in
 19 response to the takedown notices that have already been sent are restored, links to those copies
 20 will remain “dead,” and anyone who clicks on them will continue to receive a message that we
 21 are infringers.

22 I declare under penalty of perjury under the laws of the United States of America and the
 23 State of California that the foregoing is true and correct, and that this declaration was executed
 24 this 14th day of December, 2011, in Hong Kong, China.

26 _____
 27 /s/ *Kim Dotcom*
 28 Kim Dotcom

EXHIBIT A

APPEARANCE CONSENT AND RELEASE AGREEMENT

Name: Will Adams

Program/Event: Megaupload Limited Website

Stage name/ Group/Artist Affiliation (if applicable): Will.i.am

Date: SEPT 28/11

Instrument/Singer/Dancer/Other: _____

I, the undersigned, in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and without further consideration, do hereby irrevocably grant to Megaupload Limited's, including, but not limited to, Megaupload Limited, its parent, subsidiary and affiliate companies, and their licensees, directors, employees, officers, successors, assigns, agents and those for whom they are acting ("Megaupload Limited"), my consent and the absolute, unrestricted right and permission to: (i) record and tape my performance, appearance, interview, or digital communications/content displayed by me on social networking and/or messaging-type services (individually and collectively referred to as "Appearance") made or created in connection with the above-referenced program/event ("Program"), and (ii) copyright, record, reproduce, broadcast, distribute, edit, publish, exhibit, disseminate, couple and use in any way throughout the universe and in perpetuity, the audio and/or visual portions of any videotape, film, pictures, negatives, prints, photographs, stills or other recordings of the Appearance, and any reproduction thereof, including the right to publish and perform master recordings featuring my voice for use through any medium or media now known or hereafter devised including, but not limited to, television (including, but not limited to, free, pay, pay-per-view, cable, broadcast, subscription, video on demand, near video on demand, interactive, satellite or community), non-theatrical television (including, but not limited to, hotels, institutions, military establishments, embassies, in-flight and on other transportation vessels), radio (including, but not limited to, digital/satellite and terrestrial radio), the Internet, wireless transmission, broadband, theatrical release, home video release (by way of any device now known or hereafter devised), digital transmissions to any interactive digital downloading and streaming media (including, but not limited to, CD-ROM and recordable DVD), and for advertising, publicity, promotion, trade, programming or any other lawful purpose whatsoever related thereto. I hereby further grant Megaupload Limited the right to use my name, likeness, and/or biography, taken from the Appearance or otherwise, in promotional materials of any kind in connection with the Program, and Megaupload Limited's networks and other services. The foregoing rights and permissions shall be exercisable in whole or in part, at the sole discretion of Megaupload Limited. I hereby agree that Megaupload Limited is the sole owner of the results and proceeds of the Appearance and I waive any interest I may have in and to the copyright in connection therewith.

I hereby agree to waive any right that I may have to inspect or approve any finished product, derivatives thereof, or any other subsequent uses made of the Appearance or Program by Megaupload Limited pursuant to this Appearance Consent and Release.

I acknowledge that Megaupload Limited is not a signatory to any union, guild, or collective bargaining agreement and that no payments by Megaupload Limited are due or will be due to myself or to any third party, including unions or guilds, resulting from my performance, appearance or interview in connection with the Program.

I hereby release, discharge and agree to defend and hold harmless Megaupload Limited, from any liability, loss, damage, (including consequential), costs, loss of services, claims, including, without limitation, any claim alleging libel, defamation, invasion of any right of privacy or publicity, personal injury, wrongful death, property damage or expenses (including without limitation, attorneys' fees and costs) arising from or related to the contents, production, broadcast or use of the Appearance, or use of any portrait, picture, recording (audio or visual) of me, or of any scene or sequence in which my likeness appears. I specifically agree to indemnify, defend and hold Megaupload Limited harmless from any liability arising or resulting from my actual and or alleged statements and/or actions made in connection with the Appearance.

I hereby acknowledge and agree that the terms of this Appearance Consent and Release are and shall be kept confidential. Accordingly, I agree that I shall not disclose the terms and provisions to any person or entity (excluding my legal and/or financial advisors, and their respective authorized agents and representatives) not a party hereto. I acknowledge and agree that any such disclosure may cause Megaupload Limited irreparable injury and damage to Megaupload Limited for which Megaupload Limited shall be entitled to seek and obtain injunctive or other equitable relief. The granting of such equitable relief shall not be construed as a waiver of any other rights of Megaupload Limited in law or equity.

By signing below, I hereby warrant that I am age eighteen (18) or older and have the power and right to grant the rights herein granted. I acknowledge that I have read and understand this Appearance Consent and Release prior to signing it and agree to the terms herein. If the undersigned is the representative (legal representative, parent or guardian) of the person named above, by signing below you represent and warrant that: (i) you are the authorized representative of person named above, (ii) you have the authority and right to bind the person named above to all of the terms and conditions set forth herein, (iii) you agree to such terms and conditions on behalf of the person named above, and (iv) you will indemnify and hold Megaupload Limited harmless from and against any claims challenging the authority of the undersigned to grant such rights for the above-named person. This Release may be executed by manual or facsimile signature, each of which shall be deemed an original.

Print Name: Will Adams Date: 9/28/11 SS # or Tax ID: _____ Phone: _____

Signature: [Signature] Address: _____ D.O.B: _____

Signature of parent/guardian (if under 18) or other representative required below.

By: _____ 9/28/11 _____ / D.O.B _____
Print Name and Title (if applicable) Representative/Parent/Guardian Signature Date / D.O.B

EXHIBIT B

Fenwick
~~FENWICK & WEST LLP~~

MEGAUPLOAD LTD. v. UNIVERSAL MUSIC GROUP,
INC. et al.,

CD

MEGAUPLOAD DECLARATION RE DMCA PROCESS IN
SUPPORT OF PLAINTIFF'S EX PARTE APPLICATION
FOR TEMPORARY RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE PRELIMINARY INJUNCTION,

Exh. B

EXHIBIT C



Browse | Upload

MrKimDotcom

- Video Manager
- Video Editor
- Subscriptions
- Analytics
- Inbox (2)
- Account Settings

- History
- Uploaded
- Purchases
- Liked
- Content ID Matches
- Favorites
- Watch Later
- Playlists [+ New](#)

New! Try the new Video Manager

We've redesigned the Video Manager. Try it out and let us know what you think! [Learn more](#)

[Try it now »](#)

My Uploaded Videos (4)

[Add to](#) [Actions](#) | [View: All](#) | [Sort by: Newest added](#)




-  **The Mega Song**
The Mega Song produced for Megaupload by Kim Dotcom & Printz B...
December 7, 2011 07:08 PM [Public](#)
[Video disabled](#) [Matched third party content](#) [View Copyright Info](#)
Views: 285,956
Comments: 680
Responses: 0
[1477](#) [273](#)
-  **A DAY ON THE RING** [HD](#)
Kim Dotcom and Kimi Raikkonen on the Nürburgring Nordschleife. ...
November 18, 2011 04:03 AM [Private](#)
[Edit info](#) [Edit video](#) [Analytics](#) [Monetized](#)
Views: 21
Comments: 0
Responses: 0
[0](#) [0](#)
-  **Kim Dotcom gives firework to New Zealand** [HD](#)
2011 new years fireworks by Kim Dotcom gifted to Auckland, New...
September 17, 2011 07:10 PM [Public](#)
[Edit info](#) [Edit video](#) [Analytics](#) [Monetize](#)
Views: 1,537
Comments: 2
Responses: 0
[16](#) [0](#)



EXHIBIT D



SPINmagazine SPIN Media

Kanye, Chris Brown, Diddy, Alicia Keys & many more really love **Megaupload**... su.pr/2PbdqJ #shakingthehandthatstealsfromyou

8 Dec

close x



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 UT: 41.872617, -87.629381

Follow our tweets for the best music news, reviews, free downloads & more. Our iPad app SPIN Play is now available! Visit www.spin.com/ipad for more details. <http://www.spin.com>

7,525	1,175	117,878	6,644
Tweets	Following	Followers	Listed

+ Follow 



BoingBoing Boing Boing

Major artists record song to benefit **MegaUpload**, even as RIAA vilifies it as a "pirate site" goo.gl/GJM5Y

8 Dec

close x



Boing Boing
@BoingBoing view full profile →
 Directory of Wonderful Things

The official BoingBoing.net feed: headlines and links to each blog post, video, and feature we publish. <http://www.boingboing.net>

35,453	17	111,441	9,051
Tweets	Following	Followers	Listed

+ Follow 



elmundo.es elmundo.es

Megaupload es 'trending topic' por el apoyo de una serie de artistas en forma de canción elmundo.es/elmundo/2011/1...

8 Dec

close x



elmundo.es ✓
@elmundoes view full profile →
 Madrid, Spain

Líder mundial de información en castellano. También en Facebook: <http://www.facebook.com/mundo.es> <http://www.elmundo.es/>

13,194	183	491,619	9,558
Tweets	Following	Followers	Listed

+ Follow 

EXHIBIT E

Copyright Infringement Notification

What is the issue?

- Inappropriate content (Nudity, violence, etc.)
- I appear in this video without permission
- Abuse/Harrassment (Someone is attacking me)
- Privacy (Someone is using my image)
- Trademark infringement (Someone is using my trademark)
- Copyright infringement (Someone copied my creation)
- Other legal issue

Copyright infringement - Who is affected?

- I am!
- My company, organization, or client
- Another copyright owner

Videos to be removed

* URL of allegedly infringing video to be removed:

Describe the work allegedly infringed:

* Please select one:

[+ Add another video](#)

To submit a DMCA complaint, please complete the following required fields. † Claimant information will be published on the YouTube site in place of disabled content.

Tell us about yourself

* Copyright Owner Name (Company Name if applicable): †

* Your Full Legal Name (Aliases, usernames or initials not accepted):

* Your Title or Job Position (What is your authority to make this complaint?):

* Phone:

Fax:

Email Address: *insunlight@gmail.com*

* Street Address:

* City:

* State/Province:

* ZIP/Postal Code:

* Country:

By checking the following boxes, I state UNDER PENALTY OF PERJURY that:

- I am the owner, or an agent authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- I have a good faith belief that the use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- This notification is accurate.

* I acknowledge that under Section 512(f) any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability for damages.

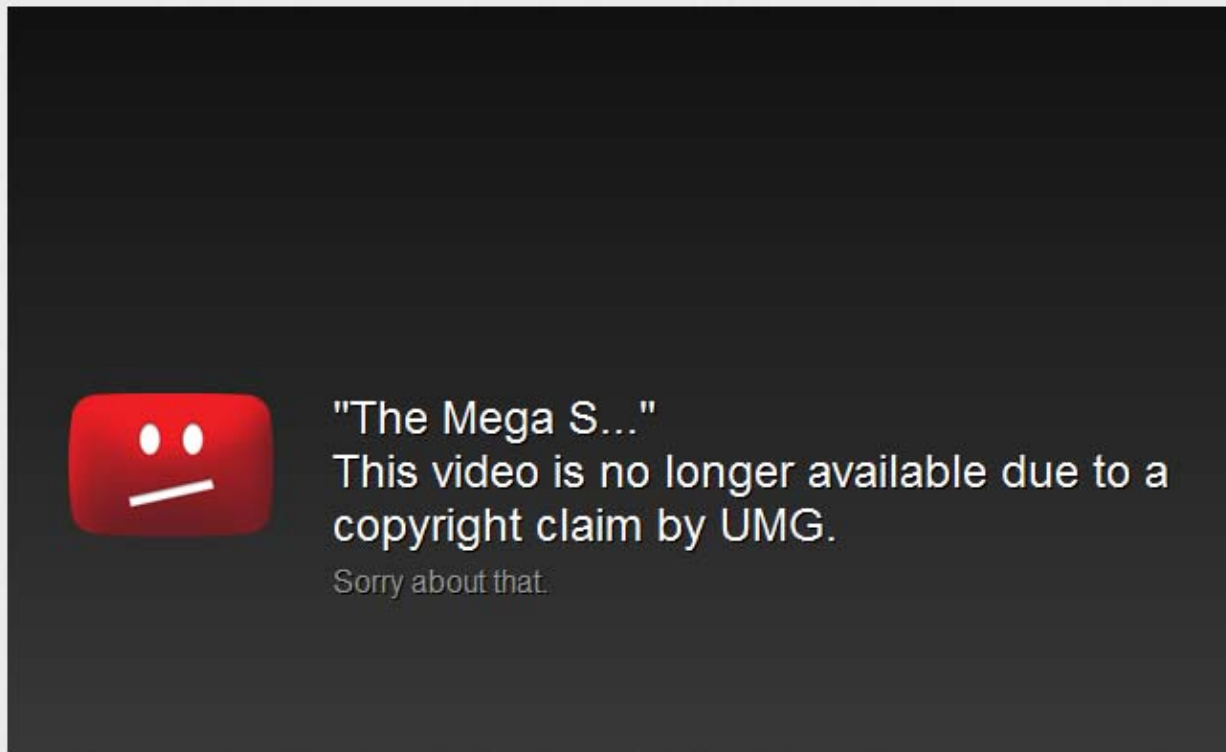
Typing your full name in this box will act as your digital signature.

*

* I understand that abuse of this tool will result in termination of my YouTube account.

[Submit Complaint](#)

EXHIBIT F



Like + Add to Share

EXHIBIT G



This video has been removed because its content violated YouTube's [Terms of Service](#).

Sorry about that.



Like



+ Add to

Share



EXHIBIT H

Starting at \$899. The new Aspire S3 Ultrabook™. 13.3" LED screen. Instant On. Instant Connect. 2nd gen Intel® Core™ i5 processor. Buy now.

December 14, 2011

HUFF POST ENTERTAINMENT

THE INTERNET NEWSPAPER: NEWS BLOGS VIDEO COMMUNITY

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Megaupload Music Video: Kanye West, Kim Kardashian, Will.i.am Star (VIDEO)



First Posted: 12/10/11 02:19 PM ET | Updated: 12/11/11 11:51 PM ET

React > Inspiring Funny Hot Scary Outrageous Amazing Weird Crazy

Follow > Kanye West, Celebrities, Kim Kardashian, Music, Megaupload Music Video, Megaupload Video, Universal Music Group, Will.I.Am, Diddy, Megaupload, Snoop Dogg, Torrents, Entertainment News

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UPDATE: The video has been pulled from Vimeo, making it seem as if UMG has won the most recent round in the back-and-forth war over this video.

PREVIOUSLY: If you feel a tinge of guilt every time you illegally download one of your favorite artist's songs from a torrent site, you can now breathe a little easier. As it turns out, some of today's biggest stars are big fans of file sharing technology themselves.

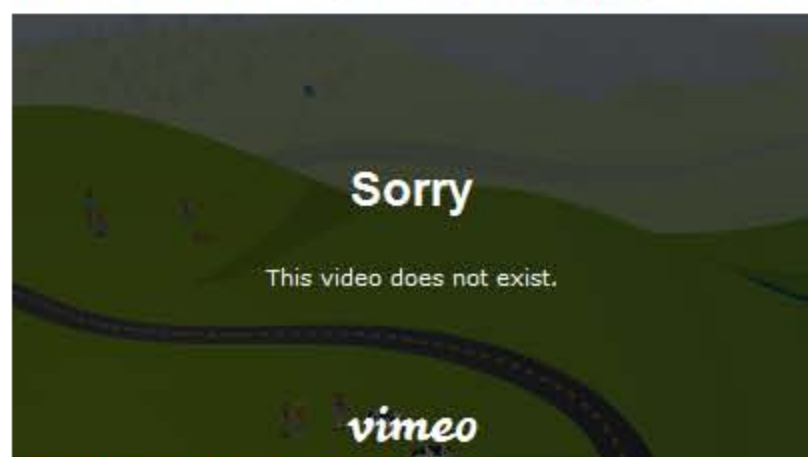
In what is the most curious cause célèbre in the benefit single field of late, major artists such as Kanye West, Diddy, Alicia Keys, Snoop Dogg and

even Kim Kardashian have joined their voices together for a song in support of **Megaupload**, the file sharing service that moves content in massive blocks across the web.

What's particularly interesting about the song is that those singing on the track are doing so despite the fact that the major label record industry reviles Megaupload for the ease with which its music can be pirated by those using the web service. In fact, UMG, which owns labels to which Diddy, Will.i.am and Kanye are all signed, moved to have the video removed from YouTube, with a back and forth on copyright issues ensuing, [TorrentFreak reports](#).

While the video doesn't explicitly have the artists giving the thumbs up to piracy -- "When I got to send files across the globe, I use Megaupload," Will.i.am says in the song -- there should be little doubt that they're aware of the struggle between their labels and the web service.

For much more on the issue, [click over to TorrentFreak](#); check out the video below.



Block This from TorrentFreak on Vimeo.

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EXHIBIT I



This video contains content from UMG, who has blocked it on copyright grounds.

Today's best images

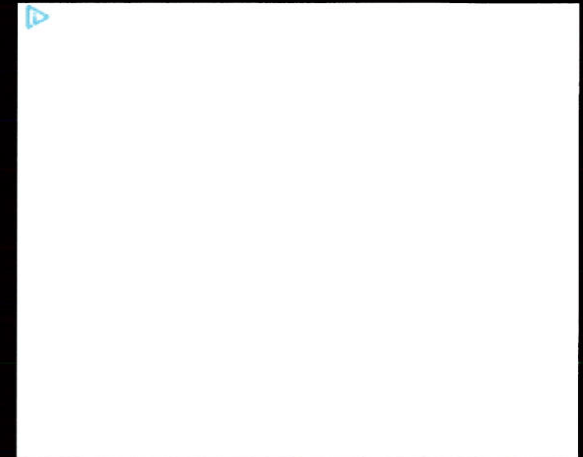


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EXHIBIT J

Fenwick
FENWICK & WEST LLP

MEGAUPLOAD LTD. v. UNIVERSAL MUSIC GROUP,
INC. et al.,

CD

MEGAUPLOAD DECLARATION RE DMCA PROCESS IN
SUPPORT OF PLAINTIFF'S EX PARTE APPLICATION
FOR TEMPORARY RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE PRELIMINARY INJUNCTION,

Exh. J

EXHIBIT K

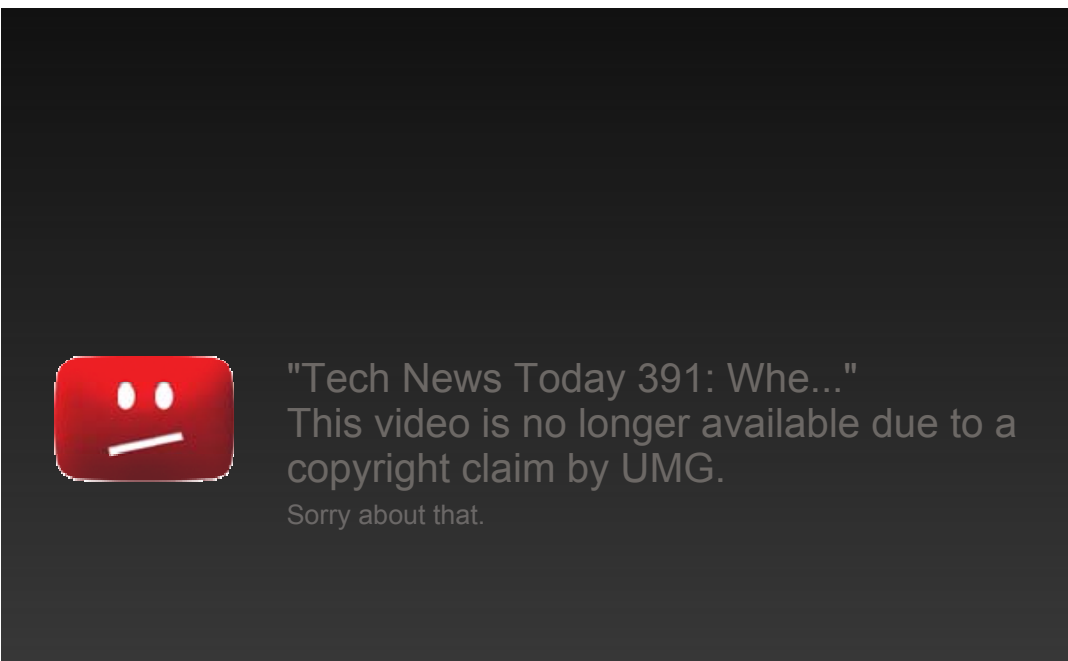


EXHIBIT L



Search Google+

JOIN GOOGLE+ Tom Merritt is using Google+. Join Google+ to connect with the people who matter most.



Tom Merritt - Yesterday 8:09 PM (edited) - Public
Tech News Today blocked for commenting on Megaupload video

Some of you may have heard of the Megaupload video which Universal Music Group has had removed from YouTube. Megaupload claims it is entirely their property. UMG seems to believe it violates their copyright and has twice ordered it removed from YouTube.

On Tech News Today we exercised our fair use rights to comment on the story by playing some of the video. Our episode has now been removed from YouTube at UMG's request.

Even if UMG does have a copyright issue in the Megaupload video, they do not have the right to silence commentary on their actions.

We are filing a counter-notice and will see what happens.

This is the blocked video:

<http://www.youtube.com/watch?v=mSCIhwHQlbs&context=C2e951AD0EgsToPDskLdcoEdhZ8Ad-GNtXlePI4e>

The uncensored episode is here: <http://twit.tv/show/tech-news-today/391>

Update: We counter-noticed last night, the show was restored but then it was reviewed and taken down again. We filed another counter-notice and the episode is still down.

Tech News Today 391: Where Do You Park Your Jet?



youtube.com - Hosts: Tom Merritt, Iyaz Akhtar and Nicole Lee
Verizon buying Netflix? Andy Lees booted from Windows Phone, AT&T calls the whole T-Mobile thing off, and...

+263

119 shares - Alec Perkins, Chris Keane, Clinton Block, David Tsui, Jeremy Powlus and 114 more

107 comments



Jeff McGovern - Incredible.
Dec 12, 2011



Daryl Dennis - There is always those who can not take criticism.
Dec 12, 2011



Sarah Houghton - Good for you for filing a counter-notice.
Dec 12, 2011 +6



Jonathan Slater - wow UMG sounds like a bunch of Ass-hats.
Dec 12, 2011 +6

























Robert Simpson - hahahahaha... ass-hats. Now there's a visual term. Yup, I think it suits. ;)
Dec 12, 2011



Eshaan Mathur - wow they really don't understand what 'fair use' means.
Dec 12, 2011

Send feedback

-
-  **Adam Paulauski** - +[Tom Merritt](#) leading the charge for Fair Use!!! Fight for our freedom's Tom, fight!
Dec 12, 2011 **+12**
-
-  **Dan Klimuk** - Sounds like someone at UMG discovered that someone else pissed in his corn flakes this morning.
Dec 12, 2011
-
-  **Jabari Arnold** - I hope you prevail in the counter-notice!
Dec 12, 2011
-
-  **Chris Eads** - I wish there was some way to hurt UMG's ability to issue DMCA takedown notices as a result of this sort of obvious abuse, but about the best anybody can hope for is that the counter-notice succeeds.
Dec 12, 2011 **+2**
-
-  **Andrew Melder** - Fight the good fight Tom!
Dec 12, 2011 **+2**
-
-  **david haley** - wait, what? UMG blocked NEWS FEED? are you flipping kidding me?!?!
Dec 12, 2011
-
-  **Greg M** - Has Twit ever bothered to issue counter notices to YouTube? If so has any resulted in a reversal. I doubt it.
Dec 12, 2011
-
-  **Jacob Law** - Not blocked here in the UK... Yeaaaaaah
Dec 12, 2011
-
-  **Tom Merritt** - We'll see the counter-notice has been filed claiming a fair use right to show the work for commentary and criticism.
Dec 12, 2011 **+8**
-
-  **Robert Le Blah** - This is so anti-awesome. I certainly hope UMG loses big.
Dec 12, 2011
-
-  **Robert Le Blah** - So what could possibly go wrong with SOPA?
Dec 12, 2011
-
-  **Tom Merritt** - Well props to YouTube, the video is back up after the counter-notice went through.
Dec 12, 2011 **+34**
-
-  **Edrei Zahari** - Is it so bad now that commentary can be censored because it talks about copyright violations?
Dec 12, 2011
-
-  **Greg M** - Ya just noticed it. Dam for a change they were quick fixing the problem.
Dec 12, 2011
-
-  **Edrei Zahari** - Yay for the video being up. Problem is, how was it that it was taken down to begin with?
Dec 12, 2011
-
-  **Christian Jay Marshall** - bahhhh nevermind!!!! errrr!!
Dec 12, 2011
-
-  **George Vink** - Well very good thing that it is back up. I always get ticked when I hear stories like this. UMG makes me nauseous.
Dec 12, 2011
-
-  **Greg M** - Automated script which compares fingerprints of submitted works which are supposedly deemed copyright work by the submitter. If a match is found the system automatically flags the video.
Dec 12, 2011
-
-  **J. David Curlee** - I'm betting +[Greg M](#) is right on this. Otherwise the counter notice wouldn't have gone through so quick. If it were deliberate 'assiness', it would have taken longer. What's the total turn-around on this +[Tom Merritt](#) ?
Dec 12, 2011
-
-  **Tom Merritt** - Right Greg M which raises the question of whether this video should be under UMG control since Megaupload claims to own it.
Dec 12, 2011
-
-  **david haley** - itsssss baaaaaakk! woot win for TNT!
Dec 12, 2011
-
-  **Sean Houser** - I often post Rock Band gameplay videos on YouTube, and they occasionally are taken down. My process is to then immediately send a boilerplate counter-notice citing Fair Use. In my experience the videos then become available again immediately.

To me this means that YouTube automatically takes sides with the user and the burden of proof is on the claimant, but only if the user pushes back. They seem to err on the side of caution once a user makes a counter-claim and allow the video, kind of

[Send feedback](#)

like how Microsoft treats those who claim they've been wrongfully flagged by Windows Genuine Advantage as counterfeiting a Windows OS.

My point is that maybe we shouldn't give too much credit to YouTube. This just seems to be a case of the squeaky wheel getting the grease, while other obvious Fair Use continues to be blindly and blithely blocked from existence.

Yes, I'm a little bitter.

Dec 12, 2011 [+4](#)



[Edrei Zahari](#) - If it was a false positive, then this isn't so bad. Regardless of whether UMG controls it or not, it's just a system working to what it was programmed for and UMG had nothing to do with it.

Dec 12, 2011



[Leonardo Perez](#) - No great lost in my view.

Dec 12, 2011



[Greg M](#) - [+Tom Merritt](#) exactly UMG has not proven in court that indeed Megaupload has violated copyright on a passage in the commercial which UMG is the copyright holder. Like SOPA this does not require a legal ruling first.

Dec 12, 2011



[Patrick Steele](#) - This is why Youtube's method of pulling anything with a claim is stupid. Make them show proof before pulling it.

Dec 12, 2011



[Joefrey Kibuule](#) - [+Patrick Steele](#) YouTube forcing copyright owners to "prove" that their content is stolen basically turns them into a court, where they have to check and make sure arguments are valid, and they lose their safe harbor privilege. Plus, such a system would cost WAY too much money.

Dec 12, 2011



[Anthony Lauer](#) - In order for Youtube get that "Safe Harbor" protection they need to be this proactive.

Dec 12, 2011



[Michael McGimpsey](#) - WOW UMG have totally lost the plot.

Dec 12, 2011



[Patrick Steele](#) - But this method obviously doesn't work either. Why can't there be a third party that handles it?

Dec 12, 2011



[Mahesh Hariharan](#) - The "rights" holders have too much power even under the DMCA as this instance clearly shows. I fail to understand the need for even more draconian laws like SOPA and PIPA. I am just glad there is at least some sliver of due process under DMCA. Hopefully, this incident does more than shine the light on the problems.

Dec 12, 2011



[Ran Bar-Levi](#) - Plays fine now, an hour ago I got the notice

Dec 12, 2011



[Ryan Thompson](#) - Ah, the DMCA used as a means of censorship. How can Universal argue that MegaUpload is hurting the artists when the artist embrace the service.

Dec 12, 2011



[Ian Murphy](#) - [+Tom Merritt](#) doesn't this happen a lot? Suppose that shouldn't stop you fighting back when it does.

Dec 12, 2011



[Patrick Steele](#) - I know it happens to Leo a lot. I don't think he bothers to fight it when it happens.

Dec 12, 2011



[Andrew Martonik](#) - Glad you guys are fighting this. UMG is being ridiculous.

Dec 12, 2011



[Wayne Hornsey](#) - I've only seen MegaUploads side of the argument, which is obviously a little biased, does anyone know in which way UMG claim to own the content? Or are they just over-reaching with what they see to be the "protections" they offer artists who are signed with them?

Dec 12, 2011 [+2](#)



[TRENT PALMER](#) - If copyright notices are going to be acted upon so swiftly, then there should be a way hit back hard rather than merely protest the take down.

There should be enough of a penalty to justify a counter suit market.

Yesterday 12:53 AM



[Tom Foyle](#) - LOL

Yesterday 12:57 AM



Arno Schmidt - This happens when due process is "too much trouble".
Yesterday 1:19 AM +2



Martin Fischer - I think it is time to boycott UMG by stop buying anything related to them.
Yesterday 1:27 AM



Dejan Milojević - IMO the point is that there should be some kind of evidence for every copyright claim. I know that there are millions of videos which are illegally uploaded (or something like that), but I can not understand the opposite approach either. A clear evidence should be (publicly) presented before any removal of the material takes place. It shouldn't be that far from criminal law... Until there are evidences, one can not be arrested. Until someone is sentenced, he is a free person.

It is a funny coincidence that I have experienced similar claim for (only) one of my Youtube videos on the same day I watched this TNT episode...

The video is not completely blocked but it is in such status that it will contain adds during the reproduction... Why? This Youtube account is made for a local city choir (I am a member) and all of the 25 videos are the music performed by the choir. Videos are recorded by the 3rd party and we have their consent for publishing the material. The recording took place in a local theater and the music we perform is classical, traditional and church a-capella songs.

The copyright complain was filed by Music Publishing Rights Collecting Society. It sounds quite serious. Right? Well, not really. It's made to look that way so you wouldn't complain back. Anyway, I found that their homepage is a facebook profile. The Info section you can see in the following picture: <http://imgur.com/7BkXw>

When I read the first part, "You get the pleasure of posting videos

We get the pleasure of making money from your videos

It's a win-win situation :)", I knew that this is a joke.

C'mon. Somebody is playing around and marking videos as illegal (or something like that) almost like on lottery and gets the money from the adds. Is that really legal? Do they own any copyrights or are just falsely claiming so? But more importantly, how can we protect ourselves? We can't. As long as Youtube is allowing the material to be marked as inappropriate without any evidence.

Therefore, if UMG has something against the Megaupload video, it has to be presented to the Megaupload. That's my reasoning. I understood, from what I read on the topic, that they haven't got any response from UMG directly or via Youtube...

Yesterday 1:30 AM +1



Ben Miller - i can see the video here in austria
Yesterday 2:14 AM



Johan Bruné - Exactly, the whole process is automated and UMG is unlikely to even be aware which clips are taken down based on their claims. But this is also exactly why this system is so incredibly wrong. It does not take into account any exemptions. There is no penalty for the "copyright holders" if they make any false claims. SOPA-like rules have already been in effect on Youtube and other automated sites for a while with many thousands of examples where it went wrong, including artists getting their own content taken down.

Yesterday 2:16 AM



Ben Miller - if its automated its even more terrifying. Just put up a takedown request and it starts crawling around the web like an automated, uncontrolled virus or worm of censorship.

Yesterday 2:22 AM



Pete Jago - Mega uh oh!
Yesterday 2:35 AM



Graeme Ellis - The auto-"you're a pirate" matic process youtube has to use is terrible. I've seen old video game play removed because of "copyright". How do they copyright game play that a person played and recorded himself?

Yesterday 2:45 AM



Doipayon Halder - And btw MegaUpload gets more publicity anyways. Yay.

Yesterday 2:48 AM



Ben Miller - yep, [#streisand](#)
Yesterday 2:50 AM



Jay Agony - UMG - [#douchebags](#). You can even ask +[John C Dvorak](#) about this.

Yesterday 3:53 AM



Angus Thermopile - Glad you're standing up to them as best you can TWiT. :)

Yesterday 4:14 AM



Jeff DuVall - +1 for standing up for your journalistic rights.

Yesterday 4:29 AM



Daniel Adinolfi - Give 'em hell. Fight legal fire with legal fire, letting the system work like it was designed to, even if the system is far from perfect.

Yesterday 4:41 AM

Send feedback



Rob Huston - YouTube really needs to flag accounts like yours as known/trusted journalists, make a good faith assumption that what you do is fair use, and prevent automatic takedowns of your commentary.

When Universal files a claim against such a flagged journalist, they should have to go through a second step that says, "you are filling a complaint against a verified journalist's account: are you absolutely certain this isn't fair use?"
Yesterday 4:42 AM [+7](#)



Leslie Davis - Thanks for posting! Universal needs to stop trying to get their hands in everyone's pocket!
Yesterday 5:37 AM



Andrew Birch - It's working here in Australia!
Yesterday 5:41 AM



Travis Nauman - Anger -_-
Man, I really hope SOPA doesn't pass
Yesterday 5:47 AM



Travis Epperson - I really hope megauploads takes legal action against UMG. It's going to take a good ruling to scare these companies into thinking twice before widely claiming works, and automating take down notices.
Yesterday 6:16 AM



Aaron Sher - Sadly, good rulings are few and far between these days.
Yesterday 6:17 AM



Umbrae Soulsbane - And SOPA is set to pass on Thursday. How timely...
Yesterday 7:07 AM



Steven Styffe - This frustrates me. I hate big corporations, but more importantly, I hate big music labels that pull down people's videos off the Internet, even if it was free speech. This is why we can't let SOPA pass!!
Yesterday 7:20 AM



Matthew Reiner - This is a huge opportunity both for TWIT.TV to get some huge publicity as well as to help bring this issue to the forefront: the current system is abused, and the internet as we know it cannot tolerate it being taken even further. Lead the change, please!
Yesterday 7:23 AM



Ernest W - May UMG find all their artists leaving them in the age of artist being able to self publish music in this digital age. UMG, as middle men, is supposed to increase the exposure of their artistes to their fans, aren't you?

Fear the iYaz and Denise H.
Yesterday 8:02 AM



Joaquim Baeta - Fight! (It's back up now.)
Yesterday 8:29 AM



Sharto Pagan - Kudos...keep them on their toes...
Yesterday 8:39 AM



Ernest W - Er, they don't have toes, +**Sharto Pagan**.
Keep 'em on their Cloven Hoofs.
Yesterday 8:49 AM [+2](#)



Joseph Agosto - Aw Snap.
Yesterday 9:39 AM



Ronald Hennessy - Unelegant Corporate Music Scum.
Yesterday 10:44 AM



Ernest W - **Unstable Mental Group**
Yesterday 10:59 AM




Scott Abrams - Screw them!
Yesterday 11:04 AM




Sean Nelson - Seems like a good rewrite of the DMCA would be to allow the initial Takedown procedure to go like this:


1. Takedown notice is sent to content provider. Video comes down.
2. Content Creator sends counter notice. Video comes back.
3. Takedown notice #2 is sent. A hearing is set to have a judge determine if the takedown is warranted.
4. Publishers or Rightsholders who are repeatedly on the losing end of this process are fined enough to cover the cost of the due process.

Yesterday 11:31 AM


 **Leigh Koven** - Anyone else notice it seems to be down again?
Yesterday 12:26 PM


 **ZZ Szabo** - I was just about to say that +**Leigh Koven** . Down from the Great White North looking down!
Yesterday 12:29 PM


 **Robert Anhalt** - Time to start posting YouTube videos with the same title, but it's a rickroll.
Yesterday 1:32 PM


 **Vincent Brown** - Standard Google behaviour on YouTube is to fulfill the request first and then let the posting account apply for a review. Often they don't even review it.


I've had trolls tell Google I used their content in my videos and so Google pastes commercials all over my video. My question is, where is the revenue from these ads going?
Yesterday 1:37 PM


 **John riopel** - Does UGM have more better things to do than false DMCA takedown notices. Unfortunately counter-notice Take forever for YT Staff to respond to take action to get your video back online
Yesterday 2:26 PM

 **Jordan Bitz** - Call them out on TNT
Yesterday 2:29 PM


 **Vincent Brown** - +**John riopel** I've personally been waiting 2 + years, but hey, who's counting.
Yesterday 4:05 PM


 **Ken Peleshok** - I wasn't sure if UMG had a case against mega upload or were they just being lame. Now I'm convinced they're just lame. Fight the good fight.
Yesterday 6:19 PM (edited)


 **Ken Peleshok** - Out of curiosity, how many people are watching from youtube? Is that a significant part of your audience?
Yesterday 6:21 PM

 **Rob Jennings** - UMG probably saw the video in general play, how ever they setup up youtube to look and pull anything related and pull yours, which still gives them NO!! fucking reason!! BS!!!!
Yesterday 7:05 PM


 **Jamie Genet** - Revolting behaviour. Nail them TNT!
Yesterday 8:00 PM +1


 **Droo Zilla** - Get lawyers and hit these bastards where it hurts.
Yesterday 8:01 PM


 **Shannon Morse** - Sooo by UMG's standards... this means that ANY news source can be forced to remove their videos, censored, for covering a topic with said video. Ugh.
Yesterday 8:05 PM


 **Brian Curley** - fix this naio !
Yesterday 8:06 PM +1

 **Robert Paxton** - the DMCA is (exploitative Deleted) this kind of think just makes me really angry
Yesterday 8:07 PM


 **Robert Anhalt** - +**Droo Zilla** Yeah! Hire expensive lawyers with TWITs limitless funding! o_o
Yesterday 8:08 PM


 **Ken Fromchicago** - Basic question: What's the penalty for a false (whether intentional or accidental) take-down notice?
Yesterday 8:10 PM

 **Mike Roberts** - Check Twitter, #FreeTNT
Yesterday 8:11 PM +1

 **Mark Alan** - I would like to make the groundless claim that all UMG media violates a copyright I hold. I expect all UMG media to be removed immediately from the entire internet and without scrutinizing the validity of my claim or the terrorists/pirates /naughty college students win.
Yesterday 8:12 PM +1

 **Viny Valdez** - What a shame. #FreeTNT! Inkscape was very useful: <http://i.imgur.com/T31J8.png>
Yesterday 8:17 PM

 **Sharon McFalls** - That is crazy what you are news organization they can't do that to you that isn't right
Yesterday 8:19 PM

 **Robert Anhalt** - +**Ken Fromchicago** None. What makes you think there would be?
Yesterday 8:19 PM

Send feedback



Ken Fromchicago - [+Robert Anhalt](#) legal concept known as "checks and balances". If you keep filing a false police report there's penalty you can be charged with.

Yesterday 8:22 PM



Matthew Fraser - Screw UMG. [#FreeTNT](#)

Yesterday 8:25 PM [+1](#)



Bill Morgan - UMG and the rest of the copyright trolls don't appear to listen to anyone, don't appear to think there is anything wrong with suing their own customers, and they do appear to have a solid long term lease on our federal government.

How can we get their attention? Is there any proof they aren't space aliens?

Do we really have to wait for an entire generation of glitz executives to die or retire?

Who ARE these guys??

Yesterday 8:28 PM



Charles Colp - Seems it is back down again....glad you had another way to release it where many of us are left with no recourse...

Yesterday 8:34 PM



Andrew Thompson - Perhaps it is time to call in TWIT's lawyers, Denise Howell, Evan Brown, et all....

Yesterday 9:16 PM



James Sexton - EVERYONE with a youtube account that doesn't like what UMG is doing needs to do commentary on Megauploads video right now and upload it to their account. Make sure to post at the beginning of your video:

Fair-use Notice & License:

This is a transformative work and constitutes a fair-use of any copyrighted material as provided for in section 107 of the US copyright law. "Your video title here" by YourNameHere is licensed under a Creative Commons BY-NC-3.0 License permitting non-commercial sharing with attribution. Find out more about fair use at the Center for Social Media and more about fan based transformative works at the Organization for Transformative Works.

I have used the above text on video that contains "copyrighted" music and not had the sound or video removed. Before I started posting that text above I had sound or video removed. I then countered with the above in rebuttal and had all my stuff up and working again.

BTW, the ONLY thing UMG understands is their pocketbook, and hitting them there is the only thing that will stop the abuse.

Yesterday 9:35 PM [+1](#)



Wicked Proxy - I made a video about Youtube's fair use policy some time ago. I was a little upset at that time because several of Leo's shows had been taken down. Made entirely on my PS3. <http://youtu.be/eF12zifQUcg>

Yesterday 11:35 PM



Steve Smith - This is why people need to vote out politicians with no understanding of new media. Unfortunately, the big companies will go out of a business unless they decide to update their business plan. I love watching TNT, and I find it a shame that a news show would be censored, but then again, I am Canadian, and it is American to censor. Want more proof, look at the differences in the rating systems.

12:50 AM



Search Google+

JOIN GOOGLE+ Tom Merritt is using Google+. Join Google+ to connect with the people who matter most.



Tom Merritt - Yesterday 8:09 PM (edited) - Public

Tech News Today blocked for commenting on Megaupload video

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This is the blocked video:

<http://www.youtube.com/watch?v=mSCIhwHQlbs&context=C2e951ADOEgsToPDskLdcoEdhZ8Ad-GNtxlePI4e> ✓

The uncensored episode is here: <http://twit.tv/show/tech-news-today/391> ✓

Update: We counter-noticed last night, the show was restored but then it was reviewed and taken down again. We filed another counter-notice and the episode is still down.

[Tech News Today 391: Where Do You Park Your Jet?](#) ✓



[youtube.com](#) ✓ - Hosts: Tom Merritt, Iyaz Akhtar and Nicole Lee
Verizon buying Netflix? Andy Lees booted from Windows Phone, AT&T calls the whole T-Mobile thing off, and...

+263

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Dec 12, 2011



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Dec 12, 2011



Fshaan Mathur - wow they really don't understand what 'fair use' means



Adam Paulauski - +**Tom Merritt** leading the charge for Fair Use!!! Fight for our freedom's Tom, fight!
Dec 12, 2011 **+12**



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Jabari Arnold - I hope you prevail in the counter-notice!
Dec 12, 2011



Chris Eads - I wish there was some way to hurt UMG's ability to issue DMCA takedown notices as a result of this sort of obvious abuse, but about the best anybody can hope for is that the counter-notice succeeds.
Dec 12, 2011 **+2**



Andrew Melder - Fight the good fight Tom!
Dec 12, 2011 **+2**



david haley - wait, what? UMG blocked NEWS FEED? are you flipping kidding me?!?!
Dec 12, 2011



Greg M - Has Twit ever bothered to issue counter notices to YouTube? If so has any resulted in a reversal. I doubt it.
Dec 12, 2011



Jacob Law - Not blocked here in the UK... Yeaaaaaaah
Dec 12, 2011



Tom Merritt - We'll see the counter-notice has been filed claiming a fair use right to show the work for commentary and criticism.
Dec 12, 2011 **+8**



Robert Le Blah - This is so anti-awesome. I certainly hope UMG loses big.
Dec 12, 2011



Robert Le Blah - So what could possibly go wrong with SOPA?
Dec 12, 2011



Tom Merritt - Well props to YouTube, the video is back up after the counter-notice went through.
Dec 12, 2011 **+35**



Edrei Zahari - Is it so bad now that commentary can be censored because it talks about copyright violations?
Dec 12, 2011



Greg M - Ya just noticed it. Dam for a change they were quick fixing the problem.
Dec 12, 2011



Edrei Zahari - Yay for the video being up. Problem is, how was it that it was taken down to begin with?
Dec 12, 2011



Christian Jay Marshall - bahhhh nevermind!!!! errrr!!
Dec 12, 2011



George Vink - Well very good thing that it is back up. I always get ticked when I hear stories like this. UMG makes me nauseous.
Dec 12, 2011



Greg M - Automated script which compares fingerprints of submitted works which are supposedly deemed copyright work by the submitter. If a match is found the system automatically flags the video.
Dec 12, 2011



J. David Curlee - I'm betting +**Greg M** is right on this. Otherwise the counter notice wouldn't have gone through so quick. If it were deliberate 'assiness', it would have taken longer. What's the total turn-around on this +**Tom Merritt** ?
Dec 12, 2011



Tom Merritt - Right Greg M which raises the question of whether this video should be under UMG control since Megaupload claims to own it.
Dec 12, 2011



david haley - itsssss baaaaaakk! woot win for TNT!
Dec 12, 2011



Sean Houser - I often post Rock Band gameplay videos on YouTube, and they occasionally are taken down. My process is to then immediately send a boilerplate counter-notice citing Fair Use. In my experience the videos then become available again immediately.

To me this means that YouTube automatically takes sides with the user and the burden of proof is on the claimant, but only if the user pushes back. They seem to err on the side of caution once a user makes a counter-claim and allow the video, kind of like how Microsoft treats those who claim they've been wrongfully flagged by Windows Genuine Advantage as counterfeiting a Windows OS.

My point is that maybe we shouldn't give too much credit to YouTube. This just seems to be a case of the squeaky wheel getting the grease, while other obvious Fair Use continues to be blindly and blithely blocked from existence.

Yes, I'm a little bitter.

Dec 12, 2011 +4



Edrei Zahari - If it was a false positive, then this isn't so bad. Regardless of whether UMG controls it or not, it's just a system working to what it was programmed for and UMG had nothing to do with it.

Dec 12, 2011



Leonardo Perez - No great lost in my view.

Dec 12, 2011



Greg M - +**Tom Merritt** exactly UMG has not proven in court that indeed Megaupload has violated copyright on a passage in the commercial which UMG is the copyright holder. Like SOPA this does not require a legal ruling first.

Dec 12, 2011



Patrick Steele - This is why Youtube's method of pulling anything with a claim is stupid. Make them show proof before pulling it.

Dec 12, 2011



Joefrey Kibuule - +**Patrick Steele** YouTube forcing copyright owners to "prove" that their content is stolen basically turns them into a court, where they have to check and make sure arguments are valid, and they lose their safe harbor privilege. Plus, such a system would cost WAY too much money.

Dec 12, 2011



Anthony Lauer - In order for Youtube get that "Safe Harbor" protection they need to be this proactive.

Dec 12, 2011



Michael McGimpsey - WOW UMG have totally lost the plot.

Dec 12, 2011



Patrick Steele - But this method obviously doesn't work either. Why can't there be a third party that handles it?

Dec 12, 2011



Mahesh Hariharan - The "rights" holders have too much power even under the DMCA as this instance clearly shows. I fail to understand the need for even more draconian laws like SOPA and PIPA. I am just glad there is at least some sliver of due process under DMCA. Hopefully, this incident does more than shine the light on the problems.

Dec 12, 2011



Ran Bar-Levi - Plays fine now, an hour ago I got the notice

Dec 12, 2011



Ryan Thompson - Ah, the DMCA used as a means of censorship. How can Universal argue that MegaUpload is hurting the artists when the artist embrace the service.

Dec 12, 2011



Ian Murphy - +**Tom Merritt** doesn't this happen a lot? Suppose that shouldn't stop you fighting back when it does.

Dec 12, 2011



Patrick Steele - I know it happens to Leo a lot. I don't think he bothers to fight it when it happens.

Dec 12, 2011



Andrew Martonik - Glad you guys are fighting this. UMG is being ridiculous.

Dec 12, 2011



Wayne Hornsey - I've only seen MegaUploads side of the argument, which is obviously a little biased, does anyone know in which way UMG claim to own the content? Or are they just over-reaching with what they see to be the "protections" they offer artists who are signed with them?

Dec 12, 2011 +2



TRENT PALMER - If copyright notices are going to be acted upon so swiftly, then there should be a way hit back hard rather than merely protest the take down.

There should be enough of a penalty to justify a counter suit market.

Yesterday 12:53 AM



Arno Schmidt - This happens when due process is "too much trouble".
Yesterday 1:19 AM +2



Martin Fischer - I think it is time to boycott UMG by stop buying anything related to them.
Yesterday 1:27 AM



Dejan Milojević - IMO the point is that there should be some kind of evidence for every copyright claim. I know that there are millions of videos which are illegally uploaded (or something like that), but I can not understand the opposite approach either. A clear evidence should be (publicly) presented before any removal of the material takes place. It shouldn't be that far from criminal law... Until there are evidences, one can not be arrested. Until someone is sentenced, he is a free person.

It is a funny coincidence that I have experienced similar claim for (only) one of my Youtube videos on the same day I watched this TNT episode...

The video is not completely blocked but it is in such status that it will contain adds during the reproduction... Why?

This Youtube account is made for a local city choir (I am a member) and all of the 25 videos are the music performed by the choir. Videos are recorded by the 3rd party and we have their consent for publishing the material. The recording took place in a local theater and the music we perform is classical, traditional and church a-capella songs.

The copyright complain was filed by Music Publishing Rights Collecting Society. It sounds quite serious. Right? Well, not really. It's made to look that way so you wouldn't complain back. Anyway, I found that their homepage is a facebook profile. The Info section you can see in the following picture: <http://imgur.com/7BkXw>

When I read the first part, "You get the pleasure of posting videos

We get the pleasure of making money from your videos

It's a win-win situation :)", I knew that this is a joke.

C'mon. Somebody is playing around and marking videos as illegal (or something like that) almost like on lottery and gets the money from the adds. Is that really legal? Do they own any copyrights or are just falsely claiming so? But more importantly, how can we protect ourselves? We can't. As long as Youtube is allowing the material to be marked as inappropriate without any evidence.

Therefore, if UMG has something against the Megaupload video, it has to be presented to the Megaupload. That's my reasoning. I understood, from what I read on the topic, that they haven't got any response from UMG directly or via Youtube...

Yesterday 1:30 AM +1



Ben Miller - i can see the video here in austria
Yesterday 2:14 AM



Johan Bruné - Exactly, the whole process is automated and UMG is unlikely to even be aware which clips are taken down based on their claims. But this is also exactly why this system is so incredibly wrong. It does not take into account any exemptions. There is no penalty for the "copyright holders" if they make any false claims. SOPA-like rules have already been in effect on Youtube and other automated sites for a while with many thousands of examples where it went wrong, including artists getting their own content taken down.

Yesterday 2:16 AM



Ben Miller - if its automated its even more terrifying. Just put up a takedown request and it starts crawling around the web like an automated, uncontrolled virus or worm of censorship.

Yesterday 2:22 AM



Pete Jago - Mega uh oh!
Yesterday 2:35 AM



Graeme Ellis - The auto-"you're a pirate" matic process youtube has to use is terrible. I've seen old video game play removed because of "copyright". How do they copyright game play that a person played and recorded himself?

Yesterday 2:45 AM



Doipayon Halder - And btw MegaUpload gets more publicity anyways. Yay.
Yesterday 2:48 AM



Ben Miller - yep, #streisand
Yesterday 2:50 AM



Jay Agony - UMG - #douchebags. You can even ask +[John C Dvorak](#) about this.
Yesterday 3:53 AM



Angus Thermopile - Glad you're standing up to them as best you can TWiT. :)
Yesterday 4:14 AM



Jeff DuVall - +1 for standing up for your journalistic rights.
Yesterday 4:29 AM

is far from perfect.
Yesterday 4:41 AM



Rob Huston - YouTube really needs to flag accounts like yours as known/trusted journalists, make a good faith assumption that what you do is fair use, and prevent automatic takedowns of your commentary.

When Universal files a claim against such a flagged journalist, they should have to go through a second step that says, "you are filling a complaint against a verified journalist's account: are you absolutely certain this isn't fair use?"

Yesterday 4:42 AM +7



Leslie Davis - Thanks for posting! Universal needs to stop trying to get their hands in everyone's pocket!

Yesterday 5:37 AM



Andrew Birch - It's working here in Australia!

Yesterday 5:41 AM



Travis Nauman - Anger -_-

Man, I really hope SOPA doesn't pass

Yesterday 5:47 AM



Travis Epperson - I really hope megauploads takes legal action against UMG. It's going to take a good ruling to scare these companies into thinking twice before widely claiming works, and automating take down notices.

Yesterday 6:16 AM



Aaron Sher - Sadly, good rulings are few and far between these days.

Yesterday 6:17 AM



Umbræ Soulsbane - And SOPA is set to pass on Thursday. How timely...

Yesterday 7:07 AM



Steven Styffe - This frustrates me. I hate big corporations, but more importantly, I hate big music labels that pull down people's videos off the Internet, even if it was free speech. This is why we can't let SOPA pass!!

Yesterday 7:20 AM



Matthew Reiner - This is a huge opportunity both for TWiT.TV to get some huge publicity as well as to help bring this issue to the forefront: the current system is abused, and the internet as we know it cannot tolerate it being taken even further. Lead the change, please!

Yesterday 7:23 AM



Ernest W - May UMG find all their artists leaving them in the age of artist being able to self publish music in this digital age. UMG, as middle men, is supposed to increase the exposure of their artistes to their fans, aren't you?

Fear the iYaz and Denise H.

Yesterday 8:02 AM



Joaquim Baeta - Fight! (It's back up now.)

Yesterday 8:29 AM



Sharto Pagan - Kudos...keep them on their toes....

Yesterday 8:39 AM



Ernest W - Er, they don't have toes, +**Sharto Pagan**.

Keep 'em on their Cloven Hoofs.

Yesterday 8:49 AM +2



Joseph Agosto - Aw Snap.

Yesterday 9:39 AM



Ronald Hennessy - Unelegant Corporate Music Scum.

Yesterday 10:44 AM



Ernest W - **Unstable Mental Group**

Yesterday 10:59 AM



Scott Abrams - Screw them!


Yesterday 11:04 AM




Sean Nelson - Seems like a good rewrite of the DMCA would be to allow the initial Takedown procedure to go like this:


1. Takedown notice is sent to content provider. Video comes down.
2. Content Creator sends counter notice. Video comes back.

the process.
Yesterday 11:31 AM +1


 [Leigh Koven](#) - Anyone else notice it seems to be down again?
Yesterday 12:26 PM


 [ZZ Szabo](#) - I was just about to say that [+Leigh Koven](#) . Down from the Great White North looking down!
Yesterday 12:29 PM


 [Robert Anhalt](#) - Time to start posting YouTube videos with the same title, but it's a rickroll.
Yesterday 1:32 PM


 [Vincent Brown](#) - Standard Google behaviour on YouTube is to fulfill the request first and then let the posting account apply for a review. Often they don't even review it.


I've had trolls tell Google I used their content in my videos and so Google pastes commercials all over my video. My question is, where is the revenue from these ads going?
Yesterday 1:37 PM


 [John riopel](#) - Does UGM have more better things to do than false DMCA takedown notices. Unfortunately counter-notice Take forever for YT Staff to respond to take action to get your video back online
Yesterday 2:26 PM

 [Jordan Bitz](#) - Call them out on TNT
Yesterday 2:29 PM


 [Vincent Brown](#) - [+John riopel](#) I've personally been waiting 2 + years, but hey, who's counting.
Yesterday 4:05 PM


 [Ken Peleshok](#) - I wasn't sure if UMG had a case against mega upload or were they just being lame. Now I'm convinced they're just lame. Fight the good fight.
Yesterday 6:19 PM (edited)

 [Ken Peleshok](#) - Out of curiosity, how many people are watching from youtube? Is that a significant part of your audience?
Yesterday 6:21 PM

 [Rob Jennings](#) - UMG probably saw the video in general play, how ever they setup up youtube to look and pull anything related and pull yours, which still gives them NO!! fucking reason!! BS!!!!
Yesterday 7:05 PM


 [Jamie Genet](#) - Revolting behaviour. Nail them TNT!
Yesterday 8:00 PM +1


 [Droo Zilla](#) - Get lawyers and hit these bastards where it hurts.
Yesterday 8:01 PM


 [Shannon Morse](#) - Sooo by UMG's standards... this means that ANY news source can be forced to remove their videos, censored, for covering a topic with said video. Ugh.
Yesterday 8:05 PM


 [Brian Curley](#) - fix this naio !
Yesterday 8:06 PM +1



 [Robert Paxton](#) - the DMCA is (exploitative Deleted) this kind of think just makes me really angry
Yesterday 8:07 PM

 [Robert Anhalt](#) - [+Droo Zilla](#) Yeah! Hire expensive lawyers with TWiTs limitless funding! o_o
Yesterday 8:08 PM

 [Ken Fromchicago](#) - Basic question: What's the penalty for a false (whether intentional or accidental) take-down notice?
Yesterday 8:10 PM

 [Mike Roberts](#) - Check Twitter, [#FreeTNT](#)
Yesterday 8:11 PM +1

 [Mark Alan](#) - I would like to make the groundless claim that all UMG media violates a copyright I hold. I expect all UMG media to be removed immediately from the entire internet and without scrutinizing the validity of my claim or the terrorists/pirates/naughty college students win.
Yesterday 8:12 PM +1

 [Vinny Valdez](#) - What a shame. [#FreeTNT!](#) Inkscape was very useful: <http://i.imgur.com/T31J8.png> 
Yesterday 8:17 PM



Robert Anhalt - +**Ken Fromchicago** None. What makes you think there would be?
Yesterday 8:19 PM



Ken Fromchicago - +**Robert Anhalt** legal concept known as "checks and balances". If you keep filing a false police report there's penalty you can be charged with.
Yesterday 8:22 PM



Matthew Fraser - Screw UMG. #FreeTNT
Yesterday 8:25 PM +1



Bill Morgan - UMG and the rest of the copyright trolls don't appear to listen to anyone, don't appear to think there is anything wrong with suing their own customers, and they do appear to have a solid long term lease on our federal government.

How can we get their attention? Is there any proof they aren't space aliens?

Do we really have to wait for an entire generation of glitz executives to die or retire?

Who ARE these guys??

Yesterday 8:28 PM



Charles Colp - Seems it is back down again....glad you had another way to release it where many of us are left with no recourse...
Yesterday 8:34 PM



Andrew Thompson - Perhaps it is time to call in TWIT's lawyers, Denise Howell, Evan Brown, et all....
Yesterday 9:16 PM



James Sexton - EVERYONE with a youtube account that doesn't like what UMG is doing needs to do commentary on Megauploads video right now and upload it to their account. Make sure to post at the beginning of your video:

Fair-use Notice & License:


This is a transformative work and constitutes a fair-use of any copyrighted material as provided for in section 107 of the US copyright law. "Your video title here" by YourNameHere is licensed under a Creative Commons BY-NC-3.0 License permitting non-commercial sharing with attribution. Find out more about fair use at the Center for Social Media and more about fan based transformative works at the Organization for Transformative Works.

I have used the above text on video that contains "copyrighted" music and not had the sound or video removed. Before I started posting that text above I had sound or video removed. I then countered with the above in rebuttal and had all my stuff up and working again.

BTW, the ONLY thing UMG understands is their pocketbook, and hitting them there is the only thing that will stop the abuse.

Yesterday 9:35 PM +1



Wicked Proxy - I made a video about Youtube's fair use policy some time ago. I was a little upset at that time because several of Leo's shows had been taken down. Made entirely on my PS3. <http://youtu.be/eFI2zifQUcg> 
Yesterday 11:35 PM



Steve Smith - This is why people need to vote out politicians with no understanding of new media. Unfortunately, the big companies will go out of a business unless they decide to update their business plan. I love watching TNT, and I find it a shame that a news show would be censored, but then again, I am Canadian, and it is American to censor. Want more proof, look at the differences in the rating systems.
12:50 AM




Shane Girodat - It will only get worse with SOPA. They will be able to shutdown the whole twit.tv  domain.
1:06 AM

EXHIBIT M

[Copyright Center](#)

Copyright Infringement Notification

[Content Owners](#)

To report abuse, harassment, inappropriate content, or privacy complaints, please visit the [Help Center](#).

[Copyright Infringement Notification](#)

To send us a complaint regarding circumvention of technological measures, promotion of piracy or other legal issues, please visit [this page](#).

[Content Verification Program](#)

For information on copyright, visit the [Copyright Tips](#) page.

[Retractions](#)

Copyright Infringement Notification

[Content ID](#)

To file a copyright infringement notification with us, you will need to send a written communication that includes substantially the following (please consult your legal counsel or see Section 512(c)(3) of the Digital Millennium Copyright Act to confirm these requirements):

[YouTube Users](#)

[What happened to my video?](#)

- i. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- ii. 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.
- iii. 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. **Providing URLs in the body of an email is the best way to help us locate content quickly.**
- iv. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
- v. 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.
- vi. 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.

[Why do I have a strike on my account?](#)

[Why was my account suspended?](#)

[What is my account status?](#)

To expedite our ability to process your request, such written notice should be sent to our designated agent via our online copyright complaint form below. You will need a YouTube account in order to utilize this tool.

[Copyright Complaint Webform](#)

[Copyright Education](#)

[What is copyright?](#)

If there are many videos to be removed, or you expect to have an ongoing need to remove potentially infringing content from YouTube, we suggest that you sign up for our [Content Verification Program](#), which electronically notifies us, removing any room for error. YouTube also offers industry-leading [Content Identification and Management tools](#).

[Copyright School](#)

If you prefer to contact us via postal mail, email, or fax, you may do so [here](#).

[Using copyrighted material in your video](#)

Please note that under Section 512(f) any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability for damages. **Don't make false claims!**

[Creative Commons](#)

Please also note that the information provided in this legal notice may be forwarded to the person who provided the allegedly infringing content.

[Frequently asked questions](#)

Claimant information will be published on the YouTube site in place of disabled content.

[Further resources](#)

Retractions

After submitting a copyright infringement notification, copyright owners may realize they misidentified content or they may otherwise change their mind. YouTube is therefore always glad to honor retractions of copyright claims from the party who originally submitted them. For more information on how to do so, go to the [Retractions](#) page.

Counter-Notification

If you elect to send us a counter notice, please go to the [Copyright Counter-notice page](#) to access the instructions.

Please note that under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity was removed or disabled by mistake or misidentification may be subject to liability. Please also be advised that we enforce a policy that provides for the termination in appropriate circumstances of subscribers who are **repeat** infringers.

EXHIBIT N



✓ Your claim dispute has been submitted.

Dispute Status: Submitted

User Name: MrKimDotcom
Video ID: K9caPFPQUNs

1.This video does not feature the third-party copyrighted material at issue. My video was misidentified as containing this material.

Signature
Kim Dotcom

Statement of Good Faith
I have a good faith belief that the material was disabled as a result of a mistake or misidentification, and that I am not intentionally abusing this dispute process.

The video with the copyright claim
[The Mega Song](#)



Added: December 7, 2011 07:08 PM



EXHIBIT O

[Copyright Center](#)

Retractions

Content Owners

[Copyright Infringement Notification](#)
[Content Verification Program](#)

Retractions

[Content ID](#)

YouTube Users

[What happened to my video?](#)
[Why do I have a strike on my account?](#)
[Why was my account suspended?](#)
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Copyright Education

[What is copyright?](#)
[Copyright School](#)
[Using copyrighted material in your video](#)
[Creative Commons](#)
[Frequently asked questions](#)
[Further resources](#)

After submitting a copyright infringement notification, copyright owners may realize that they misidentified content or they may otherwise change their mind. YouTube is therefore always glad to honor retractions of copyright claims from the party who originally submitted them.

If you're a content owner, please make sure you send us the following information if you wish to retract a claim:

1. A statement of retraction (such as "I hereby retract my claim of copyright infringement")
2. The complete and specific URL of the video in question (this looks like <http://www.youtube.com/watch?v=XXXXXXXX>)
3. An electronic signature (typing your full legal name will do)

If you're a user affected by a copyright claim, you may reach out to the copyright owner directly in search of a retraction. Here's how you may do so:

- If the claimant has a YouTube account, the easiest way to contact him or her is through YouTube's [private messaging feature](#).
- Please have the claimant contact us directly at copyright@youtube.com with all the items listed above.

Please note that we will not process retractions that are not sent from the same alias that submitted the original claim.

EXHIBIT P



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JAN FEB MAR APR MAY JUN JUL AUG SEP **OCT** NOV DEC

RIAA Highlights Russian Service VKontakte, Others In Report To U.S. Government About Markets Rife With Music Theft

Megaupload, China's Sohoo/Sogou MP3 Also Named

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WASHINGTON (Oct. 26) – In a filing with the U.S. Trade Representative's (USTR) office today, the Recording Industry Association of America (RIAA) outlined how Russian social network site VKontakte and its unlicensed music service is increasingly undermining the growth of the international legitimate music marketplace.

As part of its submission on "notorious markets" -- both physical and online markets whose businesses are primarily driven by the illegal sales or downloads of unauthorized music -- the music trade association highlighted Russia's most popular online social network.

According to the RIAA's filing, the service's music functionality is "specifically designed to enable members to upload music and video files, hundreds of thousands of which contain unlicensed copyright works. Its dedicated content search engine enables other members to search and instantly stream unlicensed music and movies, giving VKontakte an unfair competitive edge over other social networks that do not offer free access to unlicensed material." VKontakte has more than 120 million users, currently ranking among the most visited sites in Russia and is among the 50 most visited in the world, according to online rankings.

The RIAA highlighted other services and markets in its report, including China's Sohoo/Sogou, which operates a service called "Sogou MP3" that provides easy, quick access to links -- for streaming or download -- of music files from unlicensed sources. Sogou is no neutral or passive search engine that simply delivers results at the request of its users. Rather, it is actively involved in the manipulation of its database of unlicensed music by, for example, creating various categories of charts including "Albums Top100", "New Songs Top100", "Songs Top100", "New Single Pre-Release", "US/Europe Chart", "Japan/Korea Chart", "UK Chart" or "US Billboard Chart."

"What's particularly offensive about some of these companies is that they intentionally launch music services without any form of licensing as a cynical ploy to gain market share and make more money on the back of artists, labels, songwriters and everyone else involved in the music community," said Neil Turkewitz, Executive Vice President, International. "Some of the firms we've highlighted have even announced plans to launch U.S.-based IPOs. No company dependent on a theft-based business model deserves the backing of the U.S. capital markets or the approval of the financial regulatory agencies."

Also included in the RIAA filing -- online content distribution hubs (sometimes known as "cyberlockers") that are extensively involved in the storage and trading of copyrighted works. Notorious services such as MegaUpload thumb their noses at international laws, all while pocketing significant advertising revenues from trafficking in free, unlicensed copyrighted materials. The services are directly engaged in the storage and distribution of infringing materials without having employed reasonably available tools or practices to limit their role in such illegal activity. For many of these services, there would be no economic viability in the absence of engaging in digital theft. In its filing, the RIAA singled out MegaUpload and other similar hubs as "notorious markets" rife with illegal music, movies and other copyrighted works.

A full copy of the RIAA's submission to USTR is available upon request.

CONTACTS: Jonathan Lamy (jlamy@riaa.com), Cara Duckworth (cduckworth@riaa.com) or Liz Kennedy (lkennedy@riaa.com): 202-775-0101

####

The Recording Industry Association of America (RIAA) is the trade organization that supports and promotes the creative and financial vitality of the major music companies. Its members are the music labels that comprise the most vibrant record industry in the world. RIAA® members create, manufacture and/or distribute approximately 85% of all legitimate recorded music produced and sold in the United States.

In support of this mission, the RIAA works to protect the intellectual property and First Amendment rights of artists and music labels; conduct consumer, industry and technical research; and monitor and review state and federal laws, regulations and policies. The RIAA® also certifies Gold®, Platinum®, Multi-Platinum™ and Diamond sales awards as well as Los Premios De Oro y Platino™, an award celebrating Latin music sales.

Contact:

Jonathan Lamy
Cara Duckworth
Liz Kennedy
202/775-0101

RIAA ON TWITTER



@LamarSmithTX21 bends over backwards to be responsive on changes to improve #SOPA. CEA predictably demagogues. SHOCKING



Another co-sponsor signs on to #PROTECT IP. Sen. Barbara Boxer. <http://t.co/qmxap6LZ> 40 Senators and counting...



"They should go after the ppl that r violating the law" Dear E. Schmidt. We can't. Sites r overseas & beyond reach of US law. Help pls?#SOPA



Who has most credibility on 1st Amendment issues? I'll take Floyd Abrams. He makes case for rogue sites bills in WP: <http://t.co/VdmFY0U4>



Recording Industry In Numbers 2011
Now available here

RIAA's Shipment Statistics Database

LEARN MORE

LOG IN

