



# Copyright

Law 115 | Week 4 | Lecture 7  
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# Agenda

1. OTW Fair Use Test Suite Discussion
2. DMCA
  - a. Overview
  - b. Technical Protection
  - c. Notice and Takedown
3. Two Tales of Copyright Online

# OTW Fair Use Test Suite

OTW Fair Use Test Suite:

<http://transformativeworks.org/projects/vidtestsuite>

1. Explain the fair use case for the vid “The Price.” What is the vidder using the copyrighted works to provide commentary on?
2. The vidder has her own thoughts here:  
<http://thingswithwings.dreamwidth.org/145564.html>.
3. Which of the videos shown on the suite do you think is the best example for fair use of the video clips? Why?
4. Which of the videos shown on the suite do you think is the best example for fair use of the music? Why?

# DMCA: Overview

- Development of the internet
- Digitized content available all over the world
- Passwords to access works
- New business models (intermediaries) and inadequate indirect liability theories
- The unappealing defendant
- WIPO Article 11 and 12



# DMCA: Overview

Internet Service Providers (ISPs) can take advantage of the safe harbor provisions of the DMCA if...

1. They “adopt and reasonably implement” a policy of terminating subscribers who are “repeat infringers,”
2. Do not interfere with “standard technical measures” used by copyright owners
3. Register a Designated Agent to receive notices with the Copyright Office

# DMCA: Technical Protection



DRM = digital rights management

1. Criminalizes **production and dissemination** of technology, devices, or services intended to circumvent measures that control access to copyrighted works
2. Criminalizes the **act of circumventing** an access control, whether or not there is actual infringement of copyright itself

These are new claims DISTINCT from copyright claims (i.e., proof of copyright infringement is NOT prerequisite to claim)



# DMCA: Notice and Takedown

Takedown notices must meet the following requirements→

1. In writing
2. Provided to designated agent
3. Include 7 specific items



# DMCA: Notice and Takedown

DMCA Counter Notice = method by which a user can have content that is wrongfully removed with a DMCA takedown notice put back up

- Critical for fair use situations
- Requires 5 elements
- ISP must replace the material unless the copyright owner takes legal action



# Two Tales of Copyright Online

- YouTube Copyright School: <http://youtu.be/lnzDjH1-9Ns>
- Public Knowledge's Response: <http://youtu.be/sdVWW8qMwfU>



# More Resources

- Center for Social Media Best Practices for Online Video: <http://www.centerforsocialmedia.org/fair-use/related-materials/codes/code-best-practices-fair-use-online-video>
- Organization for Transformative Works: <http://transformativeworks.org>
- EFF Guide to YouTube Removals: <https://www.eff.org/issues/intellectual-property/guide-to-youtube-removals>
- Stanford Fair Use Center: <http://fairuse.stanford.edu>