



**Meta Description:** What should you know about DMCA strikes, what to do about them, and how content-hosting sites manage these strikes? Here's all you need to know.

## What is a DMCA Strike?

The stuff of every creator's nightmares, DMCA strikes are often regarded as the bane of creatives on popular platforms regulated by US law. Getting a DMCA strike usually means a creator is a big step closer to losing thousands (or more often millions) of followers and, sometimes, all of the work of their lifetime.

As a result, you can understand why receiving a DMCA strike can be a prelude to sleepless nights for creators, or even the catalyst of platform-wide turmoil for entire creative communities.

If you are a creative and have never come across a DMCA strike or do not even know what it means, congratulations. This means you have managed to stay out of trouble so far and butterflies have yet to find a way into your innards (at least as it relates to copyrighted content).



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\*\* This article was assembled by [DMCA.com](https://DMCA.com) a private copyright services company.

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But that is no reason to grow overconfident. Copyright-related issues are very troublesome, and as most creators find out, a DMCA strike could hit you out of the blue when you least expect it. What should you know about DMCA strikes, what to do about them, and how content-hosting sites manage these strikes? Here's all you need to know.

## What is the DMCA?

The Digital Millennium Copyright Act (DMCA) follows from the creation of the internet. Before the internet, copyright laws existed to protect creative works from unauthorized access, distribution, performance, or any unsanctioned use. In fact, the US Copyright law predate the internet by almost 200 years, first published in the 18<sup>th</sup> century.

The DMCA became necessary during the 1990s, when the internet was really beginning to come into its own. With the creation of the internet and steady rise of peer-to-peer file sharing networks, it became easier than ever to access copyrighted material without the authority of the owner.

As a result, large industry organizations like the Recording Industry Association of America (RIAA) began to lobby for stronger protection of copyrighted works and the rights of copyright holders. The DMCA was the outcome of this agitation.

The DMCA provides a formal process through which copyright holders can enforce their rights against infringers. It was passed into law by the US Congress in 1998, and makes the unauthorized access and distribution of copyrighted works illegal. The Act applies to all persons who illegally access and distribute copyrighted works, as well as any platforms or individuals that facilitate illegal access to such works.

But the DMCA does not apply to internet service providers (ISPs) or their intermediaries. The thinking behind this is that ISPs cannot really be held accountable for providing general internet access without more. Those that are really on the hook under this Act are the individuals that illegally access protected content, and content-hosting platforms or tools that facilitate access to illegal content.

## How do creators use the DMCA?

Since the DMCA was specifically provided to protect copyright in creative works, it also provides a specific process to enforce these rights. [Section 512](#) of the DMCA enables copyright holders to file what is known as a "DMCA Takedown Notice".

The takedown notice is essentially a notification that can be sent to either a platform that hosts content, such as YouTube or Twitter, or a search engine, such as Google or



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Bing, or directly to an individual, requiring them to take down infringing content. Copyright holders can do this either by themselves or with the aid of agents such as DMCA.com. There are legal requirements for what a takedown notice must contain. This includes a statement:

- That the notice was filed in good faith;
- That all of the information in the notice is accurate;
- That, under penalty of perjury, the originator is acting with respect to their exclusive right currently being violated, or on behalf of such a person.

In addition, the takedown notice must identify the infringing content to which it relates, how the infringer has breached the owner's copyright, and provide contact details of the owner. Once a takedown notice is filed, the onus now shifts on the person notified to take appropriate action.

## The responsibility of content-hosting platforms

Content-hosting platforms are in a unique position when it comes to the DMCA. As a rule, it can be incredibly difficult for these platforms to moderate the content they host, especially when such content is user-generated. Going by the letter of the law, maintaining a platform where people can, and do, have access to copyright-infringing content is an offense under the DMCA.

However, when you consider how many millions of hours of content a platform like YouTube will have to wade through to properly identify and takedown copyrighted content on its own, it's clear this is impracticable. As a result, what the law does in response is to create a "safe harbor" in relation to these provisions for compliant platforms.

Essentially, in order to enjoy freedom from liability under the DMCA, content-hosting platforms must put in place a system to react immediately to takedown notices when filed, and remove infringing content when notified. In addition, they must ensure proper moderation of their platform to prevent repeat infringement of the copyright laws. Due to these responsibilities, many content-hosting platforms develop their own "repeat infringer policies", and most of these consist of dealing out DMCA strikes for each offense by an infringer.



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# When will a content-hosting platform issue a DMCA strike?

The purpose of DMCA strikes is to enable content-hosting platforms live up to their responsibilities under the DMCA and show they are not being negligent about their duties. Generally, a platform will issue a DMCA strike when, in their opinion, a DMCA takedown notice has been validly filed by a copyright holder.

Here's how DMCA strikes work. Most content-hosting platforms require their users to comply with the rules of the platform. This includes respecting the copyright laws, especially as it relates to publication, accessing, and distribution of protected content. These platforms usually have policies that state clearly what can lead to a DMCA strike, when a strike will be issued, and how many strikes you get before being kicked off the platform permanently.

Most platforms give users up to three strikes before banning the user completely. But the good news is you will generally have an opportunity to respond to each takedown notice to justify your use of the copyrighted material before a decision is made.

To ensure that they are accurately identifying and removing copyrighted content, many platforms rely on digital tools to assess takedown notices and check whether copyright was truly infringed. If their findings return positive, they'll issue a strike, and depending on how many you've racked up already, you may be banned completely.

Yep, it truly is as scary as it sounds. That's why if you are certain that you never infringed on copyrighted content, despite what a takedown notice says, you should fight the notice (or strike) if you want to stay on the platform.

## How content platforms manage DMCA compliance

Each platform has different rules for how they manage DMCA compliance and issue strikes. Here, we'll focus on how Twitch, Facebook, Twitter, and YouTube administer DMCA compliance.

### Twitch

Twitch has faced a lot of controversy recently regarding its DMCA compliance process. The platform was the subject of thousands of RIAA complaints that made a mess of its internal process, and that's putting it mildly.



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In any case, [Twitch explains](#) that its policy is to clear DMCA takedown notices that fully comply with the DMCA. This includes unilaterally terminating the accounts of those determined to be repeat infringers, and pursuing liability action against people that send false or malicious notices. Here's what the process looks like:

- Twitch's process begins with the reception of a written DMCA notice by a copyright holder. The notice must fully comply with the requirements listed above
- The alleged infringer may reply with counter-notification that swears the flagged content was removed as a result of mistake, misidentification, or any other legal defense
- A copyright holder may retract their DMCA notice, either in response to the counter notification, or on their own
- Although it's not expressly stated in the policy, Twitch typically issues informal strikes for each offense that is established. But there's no indication as to how many strikes may lie. This means a creator may be permanently banned after just their second offense.

## Facebook

Facebook dedicates an [extensive resource](#) to help users understand how the copyright laws work, and how the platform enforces these laws. Here's what you can expect from the process:

- A copyright holder may file a "copyright claim" indicating what content infringed on their copyright and who the alleged infringer is. Facebook however warns that they will provide all of the information that an owner submits to the alleged infringer
- Facebook will investigate the report and remove any infringing content indicated in it.
- The alleged infringer may submit a counter-notification "if the content was removed under the notice and counter-notice procedures of the DMCA"
- The copyright owner may choose to withdraw the notice instead
- Repeat infringers may have their account disabled, or their page or group removed. They may also limit the alleged infringer's ability to post or otherwise interact with their account.

## Twitter

Twitter allows aggrieved copyright holders file a "copyright complaint" when they believe their protected works have been illegally accessed, distributed, or published.

[The process](#) involves:



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- Submitting a copyright claim with Twitter. Although Twitter advises owners that they may explore sending the alleged infringer a Direct Message to try and resolve the issue first, since false takedown notices may attract liability under the DMCA
- Twitter will generally notify the alleged infringer of the complaint, and will forward a full copy of notice to them, while also informing them of their right to file a “counter-notice”
- Twitter will either remove the offending content or limit engagement with the tweet by “withholding” it
- Accounts that receive multiple copyright complaints may be locked or suspended by Twitter. Again, there is no indication of exactly how many complaints will lead to suspension or permanent removal.

## YouTube

YouTube has perhaps the clearest copyright complaints process. The platform also implements copyright management tools such as [Content ID](#) matching technology and the [Copyright Match Tool](#). This makes [YouTube’s process](#) a bit more fact-oriented than the others.

- The process starts when a copyright holder submits a DMCA notice. They can do this either by completing YouTube’s DMCA webform, using the Copyright Match Tool, or activating Content ID. However, only the webform is available to all users. To use more advanced tools, the owner must display a history of successful DMCA takedowns using the webform
- Owners have a variety of options when it comes to what action they want YouTube to take. This is especially the case when using advanced tools. Possible actions range from having the offending content removed, simply archiving the match so they can take action later, block a video from being viewed, or even monetize the video by running ads against it
- When a complaint is submitted through the webform, YouTube takes down the video and applies a [copyright strike](#). Any user that gets three copyright strikes within 90 days will have their account terminated. However, alleged infringers are also given tools to respond, including submitting a counter-notification, requesting a retraction, or waiting for the strike to expire after 90 days.
- With Content ID, no copyright strike will be issued. The owner will only get access to the other reliefs identified above.

## Conclusion



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Clearly, DMCA strikes are no jokes. Content-hosting platforms are eager to enjoy the safe harbor provisions of the DMCA, and if that comes at the expense of a creator who was less than careful about copyrights, so be it. As a result, it falls to you to do everything you can to stay within the copyright laws so you don't get into trouble.



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