How BSU Responds to Allegations of On-Line Infringement of Copyright

The University will follow the following process if it receives a notice from a copyright owner alleging an infringement:

1. The University will decide whether it can -- and wishes to -- use the DMCA process.
2. If the University qualifies for the DMCA process and wishes to follow the law's detailed procedures, it will respond to the notice by giving notice to the owner of the page, taking down the allegedly infringing material.

If the page owner files a counter-notification, the University will respond to the counter-notification and repost the material unless the complainer files an action to obtain a restraining order.

3. If the University cannot or chooses not to use the DMCA process, it will respond the way it has responded to any allegation of infringement prior to passage of the DMCA.

The material below explains these and related matters in greater detail.
Designating an Agent to Receive Notices

To use the DMCA process, the University is required to make it easy for copyright owners to provide information about alleged infringements. To meet this responsibility, the University has publicly designated an agent to receive such information (see 37 CFR 201.38). The University's agent is registered with the U.S. Copyright Office, and the listing of agents is available on-line at http://www.loc.gov/copyright/onlinesp/list/index.html. The University's agent is:

c/o Patrick Cronin
Claimed Copyright Infringement
Bridgewater State University
131 Summer St, Bridgewater, MA 02325
(tel) 508.531.1236
(fax) 508.531.1774
pcronin@bridgew.edu

The agent, in consultation with the Chief Information Officer (CIO), will make the determinations described below regarding responses to complaints alleging copyright infringement, including whether the institution wishes to use the DMCA procedures and whether a notice received is sufficient under the law.

Linking to copyright policy and education materials

The DMCA requires that the University provide information to all of its Internet-service users accurately describing and urging compliance with copyright law. The University has established policy on this topic (see, for example, policy on respect for copyrights of digital materials and software at https://my.bridgew.edu/departments/it/Shared%20Documents/Policies/Copyright.pdf), and it provides links to educational resources on copyright. It periodically calls attention to both.

DMCA process and other means of responding to complaints of copyright infringement

The University may use the Digital Millennium Copyright Act (DMCA) process for handling allegations of copyright violations within the University's domain if it is acting as a content-neutral Internet service provider (ISP) and not as a content provider. The University assumes editorial responsibility for official BSU web sites and official BSU on-line resources, which are defined as the official web pages or on-line materials of University schools, departments, divisions and other units. For these sites and resources, BSU is the content provider and not a content-neutral ISP. You may also find within the BSU domain -- signified by the address "bridgew.edu" or within the range of Internet protocol addresses assigned to the Bridgewater State University -- web sites or on-line materials over which the University has no editorial responsibility or control. Such sites include but are not limited to the web pages or other on-line
materials of individual faculty members or students, individual class sites and materials, and the web pages or on-line materials of student organizations and other organizations not formally a part of the University. For these sites and materials, BSU is a content-neutral ISP and may choose to use the DMCA process for handling copyright-infringement complaints.

Choice of Response to Copyright Complaints

*Even if the University is eligible to use the DMCA-defined processes, which are entirely voluntary for both copyright owners and ISPs, there may be times when it will not use them,* especially when alternatives will more quickly resolve the matter to the satisfaction of all parties. If the University chooses the DMCA-defined processes, it will follow the sequence of steps described in the next two sections.

DMCA Processes: Take-down and Notice

The DMCA-defined processes involve the following steps on the part of the University:

*The University will evaluate the notice* to be sure it substantially conforms to the statutory requirements: The notice must have all of the following:

1. A physical or digital *signature* of the owner of an exclusive copyright right (i.e., the copyright owner himself or the owner's exclusive licensee of the right(s) to reproduce, distribute, display, perform or create derivatives) or the owner's authorized agent;
2. A *description of the works* claimed to be infringed;
3. A *description of the allegedly infringing works*, sufficient to enable the agent to find them;
4. Sufficient *information* to enable the agent to contact the complainer;
5. A statement that the complainer believes in good faith that the use of the material is not authorized by the owner, the owner's agent or the law; and
6. A statement that the information in the notice is accurate and, under penalty of perjury, that the complainer is authorized to act on behalf of the owner of one or more exclusive copyright rights.

If the notice substantially conforms, *the University will notify the page owner* of the allegation of infringement and will secure voluntary take-down of the work or disable access.

If the notice fails substantially to conform, but the problems are all with requirements 1, 5 or 6 above, the University will contact the copyright owner and try to get the necessary information. The University may do this by supplying the complainer with a copy of or a reference to Section 512 (c) (3) (A) (for notices alleging that content infringes) or Section 512 (d) (3) (for notices that allege that information location tools such as links contribute to infringement of a work).
If the complainer sends the rest of the information, the University will notify the page owner of the allegation of infringement and secure voluntary take-down of the work or disable access to the work.

If the complainer does not respond, or if the notice is nonconforming with respect to requirements 2, 3 or 4, the University may ignore the notice, but will retain it along with a copy of any correspondence attempting to obtain more information to demonstrate that the University did not receive a conforming notice and did what is required to try to get one.

DMCA Processes: Counter-notification

After the page owner voluntarily takes down the page or the University arranges to disable access to it, the University may receive a substantially conforming counter-notification from the page owner.

Counter-notices can only claim two things: (i) that the copyright owner is mistaken and that the work is lawfully posted or (ii) that the work has been misidentified. A page owner may assert that a use of another's work qualifies as a fair use and so the copyright owner is "mistaken" in characterizing it as infringing.

Counter-notices from page owners must contain all of the following:

1. A physical or digital signature of the page owner;
2. A description of the material removed and its location before it was removed;
3. A statement that the page owner believes in good faith that the material was removed by mistake or because it was misidentified;
4. The page owner's name, address and phone number and his or her consent to jurisdiction of the Federal District Court for that address or any Federal District Court if the address is foreign; and
5. A statement that the page owner will accept service of process from the complainer.

Under the DMCA, the University will not be liable to the owner of the page for any harm he or she might suffer because of its actions in disabling access to a page so long as it:

- Takes reasonable steps to notify the page owner about the allegations in a conforming notice that it has received;
- Promptly sends a copy of any substantially conforming counter-notification to the complainer indicating that it will restore access in 10 business days; and
- Restores access to the allegedly infringing work within 10 to 14 business days after the day it receives the counter-notification, unless it first receives a notice from the complainer that he or she has filed an action seeking a court order to restrain the page owner.

If the University receives notice that the complainer has filed an action seeking a court order to restrain the page owner, the University will not repost the allegedly infringing work. It will
forward the notice to the page owner and to the Office of the General Counsel for response as appropriate.

Developed by Information Technology, Bridgewater State University
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