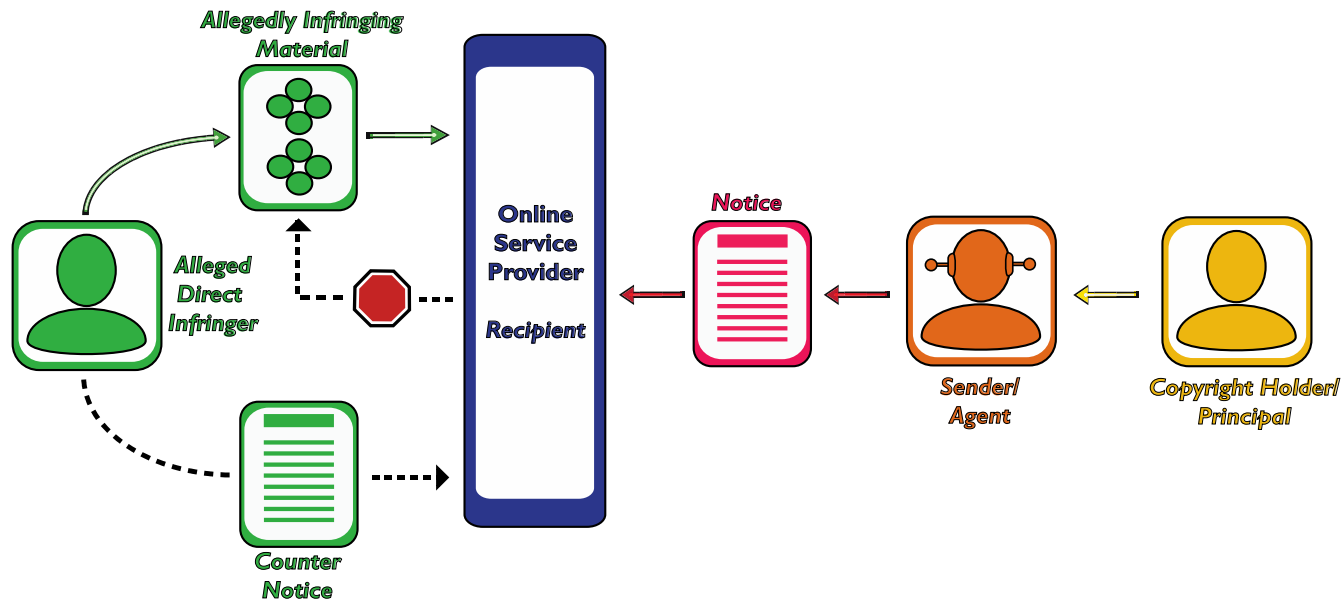


# The Next Great Copyright Act

## 18<sup>th</sup> Annual BCLT/BTLJ Symposium



April 3, 2014

Jennifer M. Urban, UC Berkeley  
Joe Karaganis, American Assembly  
Brianna L. Schofield, UC Berkeley  
Kristoff Grospe, American Assembly

# Notice and Takedown Project

- **Berkeley Law and American Assembly:**
  - Analysis of machine-coded and hand-coded Section 512 notices
  - Surveys and interviews with OSPs about their internal practices
- **Research Network**
  - [www.takedownproject.org](http://www.takedownproject.org)
- **Sponsors**
  - Alfred P. Sloan Foundation
  - Google Inc.

# Research Challenges

- **Lack of transparency**
- **Large volume of data**



# Coding Notices

**Takedown Coding Engine**

**Notice** **Allegedly Infringed Work** **Allegedly Infringing Material** **Target/Alleged Infringer** **Submit**

In this step you will code basic information about the Notice, including information about the Sender and the Recipient.

**Document Type**

Please record information about the type of document presented in the right pane.

Takedown Notice  
 Counter Notice  Response to Counter  
 Other

Describe:

**Notice Characteristics**

Please record information about the Notice itself, based on the information provided in the notice.

CE Notice ID:

Date:

CE Subject Class:

Subject/Re-Line:

How Sent:

Link count:

**Sender and Principal Characteristics**

Please record information about the Sender of the Notice and the Principal using information provided in the notice and brief web research. The Sender and Principal may be the same person/organization or they may be different.

Principal:

Agent (Organization):

Attorney (Individual):

City:

State:

Zip:

Country:

**Sender's Role**

Please select the box which applies to the Sender of the Notice.

Principal  Agent of Principal  
 Appears Unconnected to Work

Describe:

Cannot Determine:

Describe:

Other:

Describe:

**The Above Address Is for:**

Please select the box that applies to the address captured above.

Principal  Agent of Principal  
 Appears Unconnected to Work

Describe:

Cannot Determine:

Describe:

Other:

Describe:

Please amend this information, if necessary, with the correct country for the Principal.

Principal's Country:

Please amend this information, if necessary, with the correct country for the Agent.

Agent's Country:

**Original Notice:**

```
field_form_version:1
field_location_or_region:US
field_submitter_first_name:Mark
field_submitter_last_name:McDevitt
field_submitter_company:Recording Industry Association of America, Inc.
field_copyright_owner:RIAA member companies (EMI Music North America, Sony Music Entertainment, U
field_group_0_work_description:10 years-wasteland
field_group_0_infringement_url_0:http://www.4share.com/mp3/1cd13l3q/10_Years_-_Wasteland.html
field_group_0_infringement_url_1:http://www.monova.org/torrent/5513973/10_Years_-_Wasteland.html
field_group_0_infringement_url_2:http://audio.net/ringtone/10+Years+WastelandTring+4033116
field_group_0_infringement_url_3:http://www.4share.com/mp3/0c3b2e29/12_Stones_-_Adrenaline.htm
field_group_0_infringement_url_4:http://audio.net/ringtone/10+Years+WastelandTring+24536071
field_group_0_infringement_url_5:http://frensy.se/torrent/10+years+wasteland+svcd+2005+mv+NDM
field_group_0_infringement_url_6:http://mp3juices.com/search/Wasteland+10+Years+
field_group_0_infringement_url_7:http://mp3juices.com/search/10%20Years%20Wasteland4
field_group_0_infringement_url_8:http://www.torrentdownloads.me/torrent/272385/10+Years+Wastela
field_group_1_work_description:12 stones-adrenaline
field_group_1_infringement_url_0:http://audio.net/ringtone/12+Stones/Adrenaline/12s
field_group_1_infringement_url_1:http://www.4share.com/mp3/mf6R6/12_Stones_-_Adrenaline.htm
field_group_1_infringement_url_2:http://www.4share.com/mp3/0c3b2e29/12_Stones_-_Adrenaline.htm
field_group_2_work_description:12 stones-anthem for the undertog
field_group_2_infringement_url_0:http://www.torrentdownloads.me/torrent/2544245/12+stones+anthem
field_group_2_infringement_url_1:http://www.torrentdownloads.me/torrent/2565939/12+stones+anthem
field_group_2_infringement_url_2:http://frensy.se/torrent/12+stones+anthem+for+the+undertog+prer
field_group_2_infringement_url_3:http://www.torrentdownloads.me/torrent/2548931/12+stones+anthem
field_group_2_infringement_url_4:http://www.torrentdownloads.me/torrent/1876086/12+stones+anthem
field_group_2_infringement_url_5:http://www.torrentdownloads.me/torrent/507840/12+stones+anthem
field_group_2_infringement_url_6:http://tpb.piraten.lu/torrent/457374/12_Stones_-_Anthem_For_The_
field_group_2_infringement_url_7:http://www.torrentdownloads.me/torrent/2567656/12+stones+anthem
field_group_2_infringement_url_8:http://www.torrentdownloads.me/torrent/3147899/12+stones+anthem
field_group_2_infringement_url_9:http://tpb.piraten.lu/torrent/4988450/
field_group_2_infringement_url_10:http://frensy.se/torrent/12+stones+anthem+for+the+undertog+prer
field_group_2_infringement_url_11:http://tpb.piraten.lu/torrent/396456/
field_group_2_infringement_url_12:http://www.torrentdownloads.me/torrent/2563114/12+stones+anthem
field_group_2_infringement_url_13:http://www.torrentdownloads.me/torrent/2551900/12+stones+anthem
field_group_2_infringement_url_14:https://audio.net/ringtone/12%20Stones/Anthem%20For%20The%20
field_group_2_infringement_url_15:http://www.torrentdownloads.me/torrent/255321/12+Stones+Anthem
field_group_2_infringement_url_16:http://www.torrentdownloads.me/torrent/257394/12+Stones+Anthem
field_group_2_infringement_url_17:http://www.torrentdownloads.me/torrent/2571994/12+stones+anthem
field_group_2_infringement_url_18:http://www.torrentdownloads.me/torrent/3204796/12+stones+anthem
field_group_2_infringement_url_19:http://www.torrentdownloads.me/search/10/12+Stones+anthem+for
field_group_2_infringement_url_20:http://www.4share.com/mp3/9eekv-rw/12_stones_anthem_for_t
field_group_2_infringement_url_21:http://www.torrentdownloads.me/torrent/18524926/12+Stones+An
field_group_2_infringement_url_22:http://frensy.se/torrent/12+Stones+Anthem+For+The+Undertog+Pr
field_group_2_infringement_url_23:http://audio.net/ringtone/12+Stones+Anthem+For+The+Undertog+Pr
field_group_2_infringement_url_24:http://www.torrentdownloads.me/search/10/12+stones+anthem+for
field_group_2_infringement_url_25:http://www.torrentdownloads.me/torrent/2569680/12+stones+anthem
field_group_2_infringement_url_26:http://frensy.se/torrent/12+Stones+Anthem+For+The+Undertog+Pr
field_group_2_infringement_url_27:http://frensy.se/torrent/12+Stones+Anthem+For+The+Undertog+Pr
field_group_3_work_description:12 stones-broken
field_group_3_infringement_url_0:http://www.monova.org/torrent/5513960/12_Stones_-_Broken.html
field_group_3_infringement_url_1:http://www.4share.com/mp3/0DWE9U/12_stones_-_broken.html
field_group_3_infringement_url_2:http://www.torrentdownloads.me/search/10/12+stones+broken
field_group_3_infringement_url_3:http://www.4share.com/mp3/0DWE9U/12_Stones_-_Broken.htm
field_group_3_infringement_url_4:http://www.torrentdownloads.me/search/10/broken+12+stones+
field_group_3_infringement_url_5:http://www.4share.com/mp3/0DWE9U/12_Stones_-_Broken.htm
field_group_3_infringement_url_6:http://www.4share.com/mp3/9TgLU6/7/Broken_Road_-_12_Stones_
field_group_3_infringement_url_7:http://www.4share.com/mp3/RZVYD/12_stones_-_broken.html
field_group_4_work_description:12 stones-lie to me
field_group_4_infringement_url_0:http://mp3juices.com/search/Lie-to-me-audio-12-stones
field_group_4_infringement_url_1:http://mp3juices.com/mp3/download/716264/m4/12+Stones+L+
field_group_4_infringement_url_2:http://mp3juices.com/search/12+Stones-Lie-to-Me/5
field_group_4_infringement_url_3:http://www.4share.com/mp3/NAFCm5/Lie_to_me_-_12_Stones.htm
field_group_5_work_description:12 stones-the way i feel
field_group_5_infringement_url_0:http://thepiratebay.in/torrent/5476033/
field_group_5_infringement_url_1:http://www.monova.org/torrent/3616134/12_Stones_-_The_Way_I_Fe
field_group_5_infringement_url_2:http://thepiratebay.se/torrent/5476033/
field_group_6_infringement_url_0:http://thepiratebay.se/torrent/8474370/12+Stones+We+Are+One+WB8
field_group_6_infringement_url_1:http://audio.net/ringtone/12+Stones+We+Are+One+WB8+10631008
field_group_6_infringement_url_2:http://tpb.piraten.lu/torrent/6166855/
field_group_6_infringement_url_3:http://mp3juices.com/search/We+are+one-12+stones/3
field_group_6_infringement_url_4:http://mp3juices.com/search/We+are+one-12+stones/5
field_group_6_infringement_url_5:http://mp3juices.com/search/12_stones_we_are_one.html
field_group_7_work_description:12 stones-we are one
field_group_7_infringement_url_0:http://mp3juices.com/search/birthday-sing-2-chainz2
```

- **6 months** of Chilling Effects data from May 1, 2013 – October 31, 2013
- **Largest Submitters:** Google, Twitter, <10 others who submit to CE regularly
- **288,675** Notices
- **11,142,136** Allegedly Infringed Works
- **108,331,663** Allegedly Infringing Links

# Coding

## Coding Pane

## Takedown Notice

### Takedown Coding Engine

Notice **Allegedly Infringing Work** **Allegedly Infringing Material** **Target/Alleged Infringer** **Submit**

In this step you will code basic information about the Notice, including information about the Sender and the Recipient.

#### Document Type

Please record information about the type of document presented in the right pane.

- Takedown Notice  
 Counter Notice  Response to Counter  
 Other  
Describe:

#### Notice Characteristics

Please record information about the Notice itself, based on the information provided in the notice.

CE Notice ID:   
Date:   
CE Subject Class:   
Subject/Re-Line:   
How Sent:   
Link count:

#### Sender and Principal Characteristics

Please record information about the Sender of the Notice and the Principal using information provided in the notice and brief web research. The Sender and Principal may be the same person/organization or they may be different.

Principal:   
Agent (Organization):   
Attorney (Individual):   
City:   
State:   
Zip:   
Country:

#### Sender's Role

Please select the box which applies to the Sender of the Notice.

- Principal  Agent of Principal  
 Appears Unconnected to Work  
Describe:   
 Cannot Determine:  
Describe:   
 Other:  
Describe:

#### The Above Address Is For:

Please select the box that applies to the address captured above.

- Principal  Agent of Principal  
 Appears Unconnected to Work  
Describe:   
 Cannot Determine:  
Describe:   
 Other:  
Describe:

Please amend this information, if necessary, with the correct country for the Principal.

Principal's Country:

#### Original Notice:

```
field_form_version:1
field_location_or_region:US
field_submitter_first_name:Mark
field_submitter_last_name:McDevitt
field_submitter_company:Recording Industry Association of America, Inc.
field_copyright_owner:RIAA member companies (EMI Music North America, Sony Music Entertainment, Universal Music Group, Warner Music Group and their associated record labels)
field_group_0_work_description:10 years-wasteland

field_group_0_infringement_url_0:http://www.4shared.com/mp3/-eInU3Rq10_Years_-_Wasteland.html
field_group_0_infringement_url_1:http://www.monova.org/torrent/5513973/10_Years_-_Wasteland.html
field_group_0_infringement_url_2:http://audioko.net/ringtones/10+Years+Wasteland?ring=4033116
field_group_0_infringement_url_3:http://www.4shared.com/mp3/9519ZAR10_Years+Wasteland.html
field_group_0_infringement_url_4:http://audioko.net/ringtones/10+Years+Wasteland?ring=24536071
field_group_0_infringement_url_5:http://fenopy.se/torrent/10+years+wasteland+svcd+2005+riva/NDMwNT41w
field_group_0_infringement_url_6:http://mp3juices.com/search/Wasteland-10+years/5
field_group_0_infringement_url_7:http://mp3juices.com/search/10%20years%20Wasteland/4
field_group_0_infringement_url_8:http://www.torrentdownloads.me/torrent/2723385/10+Years+Wasteland
field_group_1_work_description:12 stones-adrenaline

field_group_1_infringement_url_0:http://audioko.net/ringtones/12+Stones+Adrenaline?close
field_group_1_infringement_url_1:http://www.monova.org/torrent/12%20Stones+_+Adrenaline.html
field_group_1_infringement_url_2:http://www.4shared.com/mp3/qc0be29/12_Stones+_+Adrenaline.html
field_group_1_infringement_url_3:http://www.4shared.com/mp3/GM94830F/12_Stones+_+Adrenaline.html
field_group_2_work_description:12 stones-anthem for the underdog

field_group_2_infringement_url_0:http://www.torrentdownloads.me/torrent/2546245/12+stones+anthem+for+the+underdog+2007+ft+rit
field_group_2_infringement_url_1:http://www.torrentdownloads.me/torrent/2565929/12+stones+anthem+for+the+underdog+prworld+out+aug/NDU1Nz40Q
field_group_2_infringement_url_2:http://www.torrentdownloads.me/torrent/2548931/12+stones+anthem+for+the+underdog+retail+2007+rtb
field_group_2_infringement_url_3:http://www.torrentdownloads.me/torrent/1876086/12+stones+anthem+for+the+underdog+retail+2007+rtb
field_group_2_infringement_url_4:http://www.torrentdownloads.me/torrent/2507840/12+stones+anthem+for+the+underdog+hassles+(Fac)+2007
field_group_2_infringement_url_5:http://tpb.piraten.lu/torrent/4573741/12_Stones_-_Anthem_For_The_Underdog(2007)-Wicked_Trix
field_group_2_infringement_url_7:http://www.torrentdownloads.me/torrent/2567656/12+stones+anthem+for+the+underdog+prworld+2007+ft+rit
field_group_2_infringement_url_8:http://www.torrentdownloads.me/torrent/2147699/12+Stones+Anthem+For+The+Underdog+(Promo)+2007+ft+rit
field_group_2_infringement_url_9:http://tpb.piraten.lu/torrent/4998450/
field_group_2_infringement_url_10:http://fenopy.se/torrent/12+stones+anthem+for+the+underdog+prworld+biz/NDU1Nz40Q
field_group_2_infringement_url_11:http://tpb.piraten.lu/torrent/3964906/
field_group_2_infringement_url_12:http://www.torrentdownloads.me/torrent/2563114/12+stones+anthem+for+the+underdog+prworld+out+aug
field_group_2_infringement_url_13:http://www.torrentdownloads.me/torrent/2551906/12+stones+anthem+for+the+underdog+2007+rtb
field_group_2_infringement_url_14:http://audioko.net/ringtones/12%20Stones+Anthem+2007+ft+rit+207The+209Underdog?ring=17680115
field_group_2_infringement_url_15:http://www.torrentdownloads.me/torrent/2555221/12+Stones+Anthem+For+The+Underdog+Prworld+Biz
field_group_2_infringement_url_16:http://www.torrentdownloads.me/torrent/2577342/12+Stones+Anthem+For+The+Underdog+2007+Rto
field_group_2_infringement_url_17:http://www.torrentdownloads.me/torrent/2571894/12+stones+anthem+for+the+underdog
field_group_2_infringement_url_18:http://www.torrentdownloads.me/torrent/3204796/12+stones+anthem+for+the+underdog(2007)+wicked+trix
field_group_2_infringement_url_19:http://www.torrentdownloads.me/search/all/12+Stones+anthem+For+The+Underdog+prworld+2007+ft+rit
field_group_2_infringement_url_20:http://www.4shared.com/mp3/mack+rv/12_stones_anthem_for_the_underdog.html
field_group_2_infringement_url_21:http://www.torrentdownloads.me/torrent/1652494263/12+Stones+Anthem+For+The+Underdog+2007+by+ocldm
field_group_2_infringement_url_22:http://fenopy.se/torrent/12+Stones+Anthem+For+The+Underdog+Prworld+2007+FT/NDM0MDk0kQ
field_group_2_infringement_url_23:http://audioko.net/ringtones/12+Stones+Anthem+For+The+Underdog?ring=25793660
field_group_2_infringement_url_24:http://www.torrentdownloads.me/search/all/12+stones+anthem+for+the+underdog+prworld+out+aug/
field_group_2_infringement_url_25:http://www.torrentdownloads.me/torrent/2569680/12+stones+anthem+for+the+underdog+prworld+biz
field_group_2_infringement_url_26:http://fenopy.se/torrent/12+Stones+Anthem+For+The+Underdog+prworld+2007+FT/NDU307LUdA
field_group_2_infringement_url_27:http://fenopy.se/torrent/12+Stones+Anthem+For+The+Underdog+Prworld+2007+FT/NDU30DQzQg
field_group_3_work_description:12 stones-broken

field_group_3_infringement_url_0:http://www.monova.org/torrent/5513960/12_Stones_-_Broken.html
field_group_3_infringement_url_1:http://www.4shared.com/mp3/U0W19Uu/12_stones_-_broken.htm%2525252525253fabovComments=true%25272527
field_group_3_infringement_url_2:http://www.torrentdownloads.me/search/all/12+stones+broken.html
field_group_3_infringement_url_3:http://www.4shared.com/mp3/D_DBHF_12_Stones_-_Broken.htm
field_group_3_infringement_url_4:http://www.torrentdownloads.me/search/all/broken+12+stones+broken.html
field_group_3_infringement_url_5:http://www.4shared.com/mp3/dyQV4/12_Stones_-_Broken.html
field_group_3_infringement_url_6:http://www.4shared.com/mp3/xTgLU67/Broken_Road_-_12_Stones_1_.html?start=&redirectAfterSignout=true
field_group_3_infringement_url_7:http://www.4shared.com/mp3/8ZVly1DW/12_stones_-_broken.html
field_group_4_work_description:12 stones-lie to me

field_group_4_infringement_url_0:http://mp3juices.com/search/Lie-to-me-acoustic-12-stones
field_group_4_infringement_url_1:http://www.monova.org/torrent/276C4f/mu/12+Stones+_+Lie+To+Me+(Lyrics).html
field_group_4_infringement_url_2:http://mp3juices.com/search/12+Stones+Lie+to+Me/5
field_group_4_infringement_url_3:http://www.4shared.com/mp3/AKfCmsa/Lie_to_me_-_12_Stones.htm
field_group_5_work_description:12 stones-the way i feel

field_group_5_infringement_url_0:http://thepiratebay.in/torrent/5476033/
field_group_5_infringement_url_1:http://www.monova.org/torrent/2615134/12_Stones_-_The_Way_I_Feel_Single_-_256kpbs_m3p.html
field_group_5_infringement_url_2:http://thepiratebay.es/torrent/5476033/
field_group_6_work_description:12 stones-we are one

field_group_6_infringement_url_0:http://thepiratebay.es/torrent/5474375/12_Stones-We_Are_One-WEB-2010-SOM
field_group_6_infringement_url_1:http://audioko.net/ringtones/12+Stones-We-Are-One+ring=10631008
field_group_6_infringement_url_2:http://tpb.piraten.lu/torrent/6106855/
field_group_6_infringement_url_3:http://mp3juices.com/search/We-are-one-12-stones/3
field_group_6_infringement_url_4:http://mp3juices.com/search/We-are-one-12-stones/5
field_group_6_infringement_url_5:http://mp3juices.com/search/We-are-one.html
field_group_7_work_description:12 stones-birthday song
```

Admin New coding Sign Out

Hide URLs

Allegedly Infringing Material randomly selected from the Notice for coding

# OSP Survey and Interview Responses

- Preliminary findings - survey and interview process is ongoing
- Challenge
  - OSPs fear transparency may lead to “increased potential of being subject to a lawsuit” and will bring “floods of notices”

# Standardization of Form Notices

- OSPs report that form notice result in:
  - Some say “significant decrease,” others say “dramatic increase”
  - Increased compliance with statutory requirements
  - Question whether the quality of the underlying claim is also improved

# Notice and “Staydown”

- Would require filtering
  - Not practically or financially feasible for many OSPs
  - Cannot account for fair use



# Abusive or Erroneous Notices

- Requests to remove non-infringing content; suppressing free expression
- “...impact in particular cases on legitimate speech can be serious”

# Ineffective Counter-Notice Provisions

- Intimidating requirements with potential for large statutory damages
- Insufficient legal disincentives to filing abusive or erroneous notices
- “...essentially eviscerates the whole idea of a counter-notice”

# Benefits of Notice and Takedown

- Safe harbor is the “foundational legal enabler of online services”
  - Is “woven in” to the “fabric of how [OSPs] function”
- Clear standards and procedures for responsibility



Samuelson Law, Technology  
& Public Policy Clinic



Jennifer M. Urban, UC Berkeley  
jurban@law.berkeley.edu

Joe Karaganis, American Assembly  
jk2991@columbia.edu

Brianna L. Schofield, UC Berkeley  
brianna.schofield@law.berkeley.edu

Kristoff Grospe, American Assembly  
keg2137@columbia.edu