
Digital Millennium Copyright Act & FAQ

DMCA stands for **Digital Millennium Copyright Act**. A summary is available at:

<http://www.copyright.gov/legislation/dmca.pdf> [1]

It is U.S. federal law that allows a holder of a copyright to inform an entity that it has violated the copyright and that the offending entity must take certain action. ("You're downloading the movie I sell for money. Cut it out. Now!")

When a copyright holder or their representative determines that a Tufts owned IP address is the source of a violation, they will send a complaint to the Tufts University's DMCA Agent at DMCA-Agent@tufts.edu. Tufts has registered Akiyo Fujii, Deputy General Counsel for Business Affairs, Office of University Counsel, as the university's DMCA agent. All DMCA complaints are directed to Office of University Counsel but they are processed by TTS Service Desk or by TTS Information Security. Everyone who processes DMCA complaints at Tufts does so on behalf of the Office of University Counsel.

How It Works

A company working on behalf of the copyright holder will look for places that are hosting and sharing copyrighted information on the Internet or for those who are downloading from these sites. When they are able to locate the copyrighted material on the Internet, they record the date/time and IP address where they located the copyrighted material or the date/time and IP address of those involved with downloading the copyrighted material. They research the IP address ownership information, and they determine the entity responsible for the IP address in question. They locate the DMCA agent for that entity, and they send the violation notice including the IP address, the date/time of the violation, and the copyrighted materials that are involved.

Types of DMCA Notices

Tufts receives two kinds of DMCA Violation Complaints on a regular basis. They are Takedown Notices and Settlement Letters. Two other kinds of DMCA-related communications are Preservation Requests, and Subpoenas. These last two are not routinely received.

1. **Takedown Notice:** A takedown notice directs Tufts to contact the offender to remove content (such as movies or music) from the network, and from the offending device(s).
 - The representative of the copyright holder sends the takedown notice to the registered DMCA agent responsible for the IP address that was illegally sharing the copyrighted material.
 - **When Tufts receives a takedown notice we do the following:**

- Locate the device that was doing the sharing or locate the user who had the IP address that was downloading the materials
- Direct the responsible party to remove the copyrighted content from their device(s) and allow Tufts to verify it has been removed
- Direct the responsible party to remove the software that was sharing or downloading the content illegally and allow Tufts to verify it has been removed
- Inform the user that they should not be sharing or downloading copyrighted content illegally
- Tufts will also consider disciplinary actions in accordance with Tufts Policies and the relevant Handbooks

2. **Settlement Letter:** A settlement letter threatens further legal action if a violator does not make a payment to settle the issue with the complainant.

- Although a settlement letter implies that a complaint is finished, a careful reading of the letter usually reveals that further legal action may still be pursued by the complainant. The copyright holder maintains their right to take legal action even if the settlement is paid.
- Settlement letters are often sent by holders of copyrights for pornographic material because it is assumed the offending person would rather pay a fee instead of taking the risk that others will learn that they had these materials due to a public court case.
- **When Tufts receives a settlement letter we do the following:**
 - Locate the device that was doing the sharing or locate the user who had the IP address that was downloading the materials
 - Inform the user of the copyright violation and give them the settlement letter
 - Direct the responsible party to remove the copyrighted content from their device(s) and allow Tufts to verify it has been removed
 - Direct the responsible party to remove the software that was sharing or downloading the content illegally and allow Tufts to verify it has been removed
 - Inform the user that they should not be sharing or downloading copyrighted content illegally
 - Tufts will also consider disciplinary actions in accordance with Tufts Policies and the relevant Handbooks
- **When a person receives a settlement letter s/he should contact their personal attorney** for advice on paying the settlement and for other potential legal actions. Tufts University will not pay the fine or provide legal advice to the copyright infringer.

DMCA FAQ's

1. How can sharing music get me in trouble?

File sharing of music, movies, and other media of which you do not own the copyright can put you at risk for loss of network connectivity, for disciplinary actions through the Dean of Students office, HR, or the University, for being named in a takedown notice or settlement letter by a copyright holder, and/or for facing criminal charges. Average out of court settlements for settlement letters are between \$3,000 and \$5,000 nationwide.

2. How does Tufts find out about my file sharing or download activities? Do you monitor what I'm doing on the Internet?

Nearly every day, Tufts receives a number of "takedown notices." These are issued by the copyright holder or their agents. These notices require that we contact the offending file sharer or downloader and have the offending file(s) removed. Tufts Technology Service (TTS) does not actively monitor your internet traffic for content. The only time attention may be drawn to your device(s) would be if you are passing large amounts of data out of the network, your device is reported to us as launching malicious activity, or if your device is reportedly sharing out copyrighted material. In all of these cases, we only confirm the information given to us is correct by matching your device to logs that are created automatically. You will then be subject to the school's and/or University's discipline actions.

3. As a student, what happens if I'm caught file sharing or illegally downloading copyright materials?

The first time any of your devices is reported to be file sharing or downloading content illegally your network connection will be temporarily restricted. TTS will lodge a formal written complaint with the Dean of Students' office, and you will be issued a Warning. Any additional times that your device(s) are reported to be file sharing, your network connection will be restricted and will remain restricted until you meet with a staff member in the Dean of Student Affairs Office. For more information about proceedings relating to copyright infringement, please consult the Community Standards website and Student Code of Conduct [2].

4. What if I didn't know I was sharing files or my device was used to download copyright materials?

As a user of the Tufts network, you are responsible for all traffic to and from devices that you own or that are assigned to you. If you allow a visitor or friend to use your device and they install and use file sharing programs or download copyright materials and an infringement is reported, you are still responsible and accountable for the violation. A good rule of thumb is to never allow others to use your devices or prohibit guests from installing anything on your devices. If you are not sure what is running on your device or have reason to believe that your device may be sharing files and need help, please contact the 24x7 TTS Service Desk at 617-627-3376 or visit one of the TTS Walk-up Support centers located on each campus. These locations are: Boston-Health Sciences on the 5th floor of Sackler; Boston-SMFA in MacLab B211c, Grafton in the Frank Lowe Library, and Medford in Eaton Hall. For more information on hours, services, and locations go to the TTS website at <http://it.tufts.edu> [3]. One of our Student Computing Consultants would be happy to take a look at it for you!

Links:

[1] www.copyright.gov/legislation/dmca.pdf

[2] <http://go.tufts.edu/CommunityStandards> , <http://students.tufts.edu/student-affairs/student-code-conduct>

[3] <http://it.tufts.edu>