LEGAL KITTY™ CHEAT SHEET

DMCA Takedowns & Counter-Notices

How a takedown works, when to fight one, and when sending one backfires.

KEY PRINCIPLES

1 **A takedown is a sworn notice.**
It needs a good-faith belief the use isn't authorized, plus a statement, under penalty of perjury, of authority to act (17 U.S.C. §512(c)(3)).

2 **Fair use comes first.**
Copyright holders must "consider fair use before sending a takedown notification" (Lenz, 9th Cir. 2016). Ignoring it can mean §512(f) damages.

3 **Knowing lies cost money.**
Anyone who "knowingly materially misrepresents" infringement, or a mistake, owes the resulting damages, costs and attorneys' fees (§512(f)).

4 **A counter-notice restores content, with strings.**
Platforms restore in 10–14 business days unless the claimant sues. You consent to federal court jurisdiction. YouTube: three strikes in 90 days risks termination.

KEY EXAMPLES

Real decisions, from primary sources

Lenz v. Universal
9th Cir. 2016

Universal sent a takedown over a 29-second video of kids dancing to Prince's "Let's Go Crazy." It had to consider fair use first.

FOR YOU **Check fair use before you file a claim.**

Hosseinzadeh v. Klein
S.D.N.Y. 2017

Ethan and Hila Klein's reaction video, with clips cut in among criticism, was fair use as a matter of law.

FOR YOU **Commentary throughout, not just clips.**

Online Policy Group v. Diebold
N.D. Cal. 2004

Diebold sent takedowns over leaked voting-machine emails. It knowingly misrepresented infringement, at least for clearly fair-use parts.

FOR YOU **Takedowns to silence criticism can backfire.**

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KEY CLAUSES

Red flag, green flag

Push back on the red. Ask for the green.

	RED FLAG · PUSH BACK	GREEN FLAG · ASK FOR
MUSIC	"Royalty-free" track, no license saved	License file saved for every video
REACTIONS	Long clips, little commentary	Short clips, real commentary throughout
SENDING	Bulk takedowns, no fair-use check	Fair use considered and noted first
AGENTS	Agency files claims in your name	Written authority; you approve each claim
COUNTERING	Counter-notice on material you copied	Counter only with a real basis
STRIKES	Strike notice ignored	90-day window tracked; resolve or contest

Built from 17 U.S.C. §512, the cases and YouTube policy. Sources: see the source map. Teaching examples, not forms.

GO DEEPER

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Related guide: DM **COPYRIGHT**
This sheet: DM **TAKEDOWN**

Don't sign it till you read it.

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