



**Patent and Trademark Office Request for Comment  
Future Strategies in Anticounterfeiting and Antipiracy**

RE: 88 Fed. Reg. 33872

Docket No. PTO-C-2023-0006

August 23, 2023

Google appreciates the opportunity to submit comments in connection with the U.S. Patent and Trademark Office (“USPTO” or “the Office”) Request for Comments in the Federal Register at 88 Fed. Reg. 33872 (May 25, 2023). At Google, we believe that the Internet is a force for creativity, commerce, and access to information. Online services help companies, large and small, provide new tools for creators amateur and professional, connect both businesses and creators with new audiences, and increase choice for consumers.

At the same time, a small percentage of bad actors misuse legitimate online services. We are proud of the work we have done to support the creative ecosystem and discourage infringing uses of our services and copyrighted works. Across our products, we invest significantly in technology, tools, and resources that prevent illicit content and products and services on our platforms and work with others to ensure our platforms remain a safe, secure, and open place to share and build businesses online. In response to questions ten through twelve, we are pleased to explain how we fight piracy and counterfeit goods across our services. We thank the Office for the opportunity to engage, and we look forward to working with you in the future.

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## **HOW GOOGLE FIGHTS PIRACY**

We understand that a key part of preserving and encouraging the creative economy is ensuring that creators have a way to manage their creative works online and counter bad actors seeking to infringe their intellectual property rights.

### ***Our anti-piracy principles***

There are five principles that guide our substantial investment in the fight against online copyright infringement:<sup>1</sup>

- 1. Create more and better legitimate alternatives.** For over two decades, we have observed that unmet consumer demand is a key driver of piracy. If demand is unmet by legitimate supply, users will seek pirated content. That is why one of the best ways to combat piracy is to provide better, more convenient, and legitimate alternatives. We

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<sup>1</sup>“Fighting Piracy - Protect Your Content with Google.” n.d. <https://fightingpiracy.withgoogle.com/>.

have developed products with compelling user experiences, like YouTube Music and YouTube TV, to generate revenue for creative industries and steer people toward legitimate alternatives.

2. **Follow the money.** Rogue sites that specialize in online piracy are commercial ventures, albeit illicit ones. The most effective way to combat them is to cut off their revenue streams. Google is a leader in rooting out and ejecting rogue sites from our advertising and payment services, and we help establish best practices across the industry.
3. **Be efficient, effective, and scalable.** Due to the size of the Internet and ever-changing business models for distributing illicit content, we strive to implement anti-piracy solutions that work at scale. For example, as early as 2010, we began making substantial investments in streamlining the copyright removal process for Search results. As a result, these improved procedures allow Google to process copyright removal requests for Search results at the rate of millions per week. We also have dedicated global Trust and Safety teams, who work with users, governments, and industry to ensure that illegal content is removed efficiently and at scale.
4. **Guard against abuse.** Unfortunately, we have seen certain actors abuse our takedown system as a pretext for censorship and anticompetitive behavior. We are committed to ensuring that we detect and reject bogus infringement allegations, such as removals for political or competitive reasons, even as we battle online piracy.
5. **Provide transparency.** We are committed to providing transparency across our services. We publish our Transparency Report, which discloses the number of requests we receive from rightsholders and governments to remove information from our services.<sup>2</sup>

## ***Implementation of our principles across services***

### **Copyright Removals at Google**

At Google and YouTube, we have developed a streamlined submission process for copyright takedowns, which allows rightsholders to submit copyright removal requests via easy-to-use web forms.<sup>3</sup> Today, hundreds of thousands of individuals and organizations across the globe have used our web forms to submit copyright removal requests. The information that the forms require is consistent with relevant notice-and-action provisions from copyright laws in many jurisdictions, and we continue to invest substantial resources and engineering efforts to improve our procedures for receiving and processing these requests. For example, in 2022 we were notified by over 57 thousand submitters of more than 680 million URLs and removed

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<sup>2</sup> “Google Transparency Report - Government requests to remove content.” n.d. <https://transparencyreport.google.com/government-removals/overview?hl=en>.

<sup>3</sup> “Report Content On Google - Legal Help.” n.d. <https://support.google.com/legal/troubleshooter/1114905>.

more than 95% of them from Google Search (including more than 40% that we did not display on Search to begin with). We also enforce repeat infringer policies across our services, and take action (including account restrictions and terminations) when users have multiple copyright complaints against them.<sup>4</sup>

Google also operates our Trusted Copyright Removal Program (TCRP) for rightsholders with a proven track record of submitting accurate notices and a consistent need to submit large numbers of copyright removal requests. TCRP allows rightsholders or their enforcement agents to submit large volumes of such requests on a consistent basis for Search, Docs, Drive, Google Photos, Sites, and Google Cloud. There are more than 600 TCRP partners across our services.

### **Additional Measures to Fight Piracy**

We currently implement a number of additional measures across both Google and YouTube products and services to help prevent and limit online copyright piracy. We remain committed to continuing to invest in these efforts and ongoing collaboration with rightsholders, creators, and the user community.

#### *Google Search*

We have developed a number of new strategies that promote authorized works in our Search results. These include providing Knowledge Panels at or near the top of Search results and adding Watch and Listen Actions as features that direct users to legitimate sources of movies and music. And we have developed a “demotion signal” for Search that causes sites for which we have received a large number of valid removal notices to appear much lower in Search results. We also have a “still-in-theaters/prerelease” flag for copyright notices involving this category of content to enhance the Search demotion signal. Our experience shows that demoted sites lose an average of 89% of their clicks from Search. In addition to these efforts, we have made it much harder for sites to evade demotion by redirecting people to a new domain.

While we process copyright removal notices for a large number of web pages every year, many of them have never appeared in our Search results. This is because Search accepts notices for web pages that are not even in our index at the time of submission. Nevertheless, we will proactively block such web pages from appearing in our Search results and will apply these notices to our demotion signal. In 2022, more than 40% of the over 680 million URLs we received via our web form were not in our Search index and therefore, have never appeared in our Search results.

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<sup>4</sup> “How Google handles repeat infringement of copyright.” n.d.  
<https://support.google.com/legal/answer/11625144?hl=en>.

We have also voluntarily implemented a notice and takedown process that allows rightsholders to notify us of web pages offering software tools or physical devices that purport to circumvent technological protection measures. And rightsholders are able to pre-notify us of web pages that advertise they will illegally stream a live event in the future. Furthermore, we have taken steps to prevent terms closely associated with piracy from appearing in autocomplete and related searches.

In addition to these efforts, we have worked directly with photographers and the stock photography industry to improve image results in Search by encouraging people to view images in the context of the websites where they are found. We have also added licensing information and creator and credit metadata to image results in Search.

### *YouTube*

In 2007, YouTube launched Content ID, a first-of-its-kind copyright management system that helps rightsholders effectively manage their works on YouTube. Rightsholders or their agents who are granted access to Content ID, provide YouTube with reference files for the works they own, along with metadata such as the title and detailed ownership rights. Based on these references, YouTube creates digital "fingerprints" for the works in question and then scans the platform to determine when content in an uploaded video matches the reference content. Rightsholders instruct the system to either block, monetize, or track matching content. Content ID can also be used to scan YouTube live streams for reuses of rightsholders' copyrighted content, including live sporting events and music festivals, as well as pre-recorded content.

The system can address ownership conflicts and disputes among Content ID partners and uploaders. Over 99% of copyright issues on YouTube are handled through Content ID. And today, thousands of partners use Content ID to manage their rights effectively (including many third party vendors that manage smaller and independent creators who are otherwise not affiliated with more traditional, institutional rightsholders). These partners in turn represent several hundred thousand artists and creators. Content ID has proven to be an effective revenue generation tool for rightsholders, generating an entirely new income stream from monetized claims. As of December 2021, we have paid more than \$7.5 billion to rightsholders in ad revenue alone from content claimed and monetized through the tool.

In addition, we created the Copyright Match Tool, which brings the power of Content ID matching technology to even more creators and rightsholders. Creators using the Copyright Match Tool simply need to be the first to upload a video to YouTube, and then they are shown subsequent re-uploads of those videos. For each video match, the Copyright Match Tool shows the user information on total views, the channel that uploaded it, what percentage of the video is made of their content, and a collection of representative screenshots of the video. From this interface, rightsholders can choose to leave a video up, request removal, archive the match, or contact the uploader. Creators who choose not to distribute their content on the platform can use our private upload feature in conjunction with the Copyright Match Tool to

help them effectively manage their content on YouTube. As of December 2021, over 2 million channels had access to the Copyright Match Tool.

We also offer a Content Verification Program for creators and rightsholders who have a regular need to submit high volumes of copyright removal notices and have demonstrated high accuracy in their prior submissions. This program makes it easier to search YouTube and quickly identify allegedly infringing videos.

We have invested in innovative approaches to combat stream ripping, including through improvements to technical infrastructure; working together with third parties, with whom we have run various technical experiments and explorations, and other legal means, such as sending cease-and-desist letters and filing domain name disputes to prevent use of YouTube's trademarks or confusingly similar marks in association with stream-ripping sites. And in 2020, in collaboration with rightsholders, we updated our Community Guidelines to prohibit videos that show viewers how to use apps, websites, or other information technology to gain unauthorized free access to audio content, audiovisual content, full video games, software, or streaming services that normally require payment.

Finally, we partner with rightsholders of all types — music, film, TV, sports, news, and more — to make their content available to YouTube users through a variety of means. YouTube Music, YouTube TV, and YouTube Movies (in addition to our main YouTube platform) all provide users with access to content provided by our direct partners, who share in the revenues we generate.

### *Google Ads*

We have invested in measures to ensure our ad services are not used to support infringing activity, including a partnership with the Trustworthy Accountability Group's (TAG) that has earned Google TAG's Certified Against Piracy Seal. In 2022, we blocked and removed 83.7 million ads because they violated our policies related to copyrighted content.<sup>5</sup> We also process and ensure that websites on the UK's Police Intellectual Property Crime Unit's infringing website list that violate our policies do not have access to our ads services.

In addition, we have an advertiser identity verification program that requires advertisers to verify information about their businesses, where they operate from and what they're selling or promoting.<sup>6</sup> This transparency helps users learn more about the company behind a specific ad and enables them to view all other ads from an advertiser in our new Ads Transparency Center<sup>7</sup>

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<sup>5</sup> "Ads Safety Report: 2022." 2022.

[https://services.google.com/fh/files/misc/2022\\_google\\_ads\\_safety\\_report.pdf](https://services.google.com/fh/files/misc/2022_google_ads_safety_report.pdf).

<sup>6</sup> Canfield, John. 2020. "Increasing Transparency through Advertiser Identity Verification." Google, April 23, 2020. <https://blog.google/products/ads/advertiser-identity-verification-for-transparency/>.

<sup>7</sup> "Ads transparency for a safe and open internet." n.d. <https://adstransparency.google.com/?region=US>

It also helps differentiate advertisers in the ecosystem, while limiting the ability of bad actors to misrepresent themselves. We now verify advertisers in more than 240 countries.<sup>8</sup>

### *Google Play*

Our policies prohibit apps that infringe copyright, encourage illegal streaming, or attempt to deceive users by impersonating other apps. Creators and rightsholders can also notify us about content on Play that infringes their rights.<sup>9</sup>

### *Google Cloud*

As we do for Search, we have a program for Cloud that allows rightsholders to submit a pre-notification for URLs promoting unauthorized live streaming of upcoming events. We have also established a Trusted Copyright Removal Program to expedite removals of live stream events for rightsholders with an express need for this type of enforcement.<sup>10</sup>

## **Counterfeit Removals at Google**

While counterfeiting is not a new problem, as with any new technology, the Internet creates new complexities. As a result, many stakeholders have a role to play in resolving this issue. We take the issue of counterfeits very seriously and have long standing policies and measures to combat counterfeits across its products. Due to the different nature of the products Google offers, our approach varies depending on the platform. We remain committed to finding fit-for-purpose solutions to prevent bad actors from taking advantage of our products and services.

We take a range of approaches to combating counterfeits on our platforms and services. We have dedicated considerable human and engineering resources across the company and developed measures to address counterfeits on our platforms. And we engage with various stakeholders in combating counterfeits. Working with the White House's Office of the U.S. Intellectual Property Enforcement Coordinator, the Interactive Advertising Bureau (IAB), and other leading ad networks, we participated in a set of voluntary Best Practices and Guidelines for Ad Networks to Address Piracy and Counterfeiting. We have similarly worked with the European Commission, along with key players in the advertising ecosystem, to participate in the Memorandum of Understanding on Online Advertising and Intellectual Property Rights.<sup>11</sup> As a major brand owner, Google is a member of a number of brand owner trade associations, including the International AntiCounterfeiting Coalition, the International Trademark

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<sup>8</sup> Borgia, Alejandro. "Our 2022 Ads Safety Report." Google, March 29, 2023. <https://blog.google/products/ads-commerce/our-2022-ads-safety-report/>.

<sup>9</sup> "Report a Policy Violation - Play Console Help." n.d. <https://support.google.com/googleplay/android-developer/answer/1085703?hl=en>.

<sup>10</sup> "Trusted Copyright Removal Programme guidelines: Google Compute Engine." n.d. <https://support.google.com/legal/answer/12022066?hl=en-GB>.

<sup>11</sup> "MoU on Online Advertising and IPR - signatories." February 25, 2018. [https://single-market-economy.ec.europa.eu/news/advertising-sector-joins-forces-fight-against-counterfeiting-and-piracy-2018-02-25\\_en](https://single-market-economy.ec.europa.eu/news/advertising-sector-joins-forces-fight-against-counterfeiting-and-piracy-2018-02-25_en).

Association, and the European trade association MARQUES. Google's participation in these industry groups provides valuable opportunities to work together on enforcement strategy, knowledge sharing, and training.

## **Measures to Combat Counterfeits Across our Services**

### *Google Ads*

We have clear policies against using Google Ads to promote counterfeit goods and dedicate considerable human and engineering resources across the company to develop and implement proactive and reactive measures to root out counterfeit from Google Ads.<sup>12</sup>

As part of this effort, we have developed highly effective machine learning (ML) models and automated enforcement mechanisms to prevent counterfeits on Google Ads. With these tools, we are able to proactively detect fraudulent actors so swiftly that the ads in those accounts never go live and users don't see them. In fact, over 99% of the accounts we terminate on counterfeit grounds are detected by these tools, and we're constantly updating these ML models to make them even more effective and stay ahead of abuse trends. Due to these ongoing efforts and continuous improvements, many counterfeiters are unable to circumvent our detection methods and stop using Google Ads.

For ads that manage to bypass our proactive tools, we provide a way for brand owners and consumers to notify us through a reporting form, and we generally respond to valid complaints within 24 hours.<sup>13</sup> This means in most instances terminating the advertiser's account and disabling the domain so the advertiser and site are banned from Google Ads.

### *Google Shopping*

Google Shopping allows consumers to browse products from merchants who have chosen to feature their products on Google Shopping. As with Google Ads, we have clear policies against counterfeits on Google Shopping and take proactive measures to combat counterfeits.<sup>14</sup> In addition, merchants must provide high quality data feeds about the products they are offering on our platforms. This has the practical effect of helping to filter out some bad actors, including counterfeiters.

If a counterfeiter manages to bypass our proactive measures, as with Google Ads, we provide a way for brand owners and consumers to notify us using a reporting form.<sup>15</sup> In response to a valid complaint, we take action against the merchant within 24 hours, often terminating the merchant's account. For large marketplace or aggregator websites, it would be overreaching

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<sup>12</sup> "Counterfeit Goods - Advertising Policies Help." n.d. <https://support.google.com/adspolicy/answer/176017?hl=en>.

<sup>13</sup> "Google Ads, Counterfeit Goods Complaint." n.d. [http://services.google.com/inquiry/aw\\_counterfeit](http://services.google.com/inquiry/aw_counterfeit).

<sup>14</sup> "Counterfeit Products - Google Merchant Center Help." n.d. <https://support.google.com/merchants/answer/6149993?hl=en>.

<sup>15</sup> "Report a Legal Issue in Shopping Ads and Listings - Legal Help." n.d. [https://support.google.com/legal/contact/TM\\_CF\\_Shopping?product=productsearch](https://support.google.com/legal/contact/TM_CF_Shopping?product=productsearch).

to terminate an entire account. Rather, we terminate the policy violating sub-account or remove all of the bad ads and implement blocks to prevent resubmission of similar ads.

### *YouTube*

We also have strong anti-counterfeit policies for YouTube.<sup>16</sup> These policies are accompanied by an easy to use reporting form.<sup>17</sup> If we receive a valid complaint, we swiftly remove the content and if the account holder is primarily using the platform to promote the sale of counterfeit goods, we terminate their account.

### *Google Search*

Similar to our other products, brand owners can notify us using a reporting form and we will take action to remove a web page from Search results if it is selling counterfeit goods.<sup>18</sup> This information from brand owners is important as there is no central repository or way for Google's systems to understand who holds the trademark for every product that appears on the web or what products that are purportedly genuine are in fact counterfeit. Through our removals process, we may identify sites found to be consistently selling counterfeit goods.<sup>19</sup> We use these insights to update our ranking systems and limit the visibility of these sites in Search. Our approach leverages the demotion signal similar to how we combat piracy on our platform. We also continue to invest in technology to fight against spam in Search, including those selling counterfeit goods.<sup>20</sup>

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## **GOOGLE'S EFFORTS TO INCREASE TRANSPARENCY AND COMBAT ABUSE**

Google regularly issues transparency reports reflecting data from the notices we receive pursuant to our policies prohibiting intellectual property infringement on our services. We started this practice for Google Search for copyright removals in 2012 and published our first counterfeit transparency report in 2020.<sup>21,22</sup> Additionally, we work with outside organizations to ensure our processes are transparent, accessible, and observable.

### *Transparency Measures*

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<sup>16</sup> "Legal Policies - YouTube Help." n.d. <https://support.google.com/youtube/answer/2801979?hl=en>.

<sup>17</sup> "Counterfeit - YouTube Help." n.d.

[https://support.google.com/youtube/contact/counterfeit\\_complaint?hl=en](https://support.google.com/youtube/contact/counterfeit_complaint?hl=en).

<sup>18</sup> "Report Counterfeit Goods." n.d.

[https://support.google.com/legal/contact/CF\\_websearch\\_form?product=websearch&uraw=](https://support.google.com/legal/contact/CF_websearch_form?product=websearch&uraw=)

<sup>19</sup> "Google Search Counterfeit goods policy." n.d. <https://support.google.com/legal/answer/9865051>.

<sup>20</sup> "Google - Content delistings due to counterfeit." 2022.

[https://storage.googleapis.com/transparencyreport/report-downloads/counterfeit-delistings\\_2021-6-1\\_2022-5-31\\_en\\_v1.pdf](https://storage.googleapis.com/transparencyreport/report-downloads/counterfeit-delistings_2021-6-1_2022-5-31_en_v1.pdf).

<sup>21</sup> "Google Transparency Report - Copyright removal request data." n.d.

<https://transparencyreport.google.com/copyright/explore?hl=en>.

<sup>22</sup> "Google - Content delistings due to counterfeit." 2022.

[https://storage.googleapis.com/transparencyreport/report-downloads/counterfeit-delistings\\_2021-6-1\\_2022-5-31\\_en\\_v1.pdf](https://storage.googleapis.com/transparencyreport/report-downloads/counterfeit-delistings_2021-6-1_2022-5-31_en_v1.pdf).



1. **Maintaining the Google Transparency Report.** Google’s Transparency Report has also proven useful in detecting abusive notices, as journalists, webmasters, and other interested members of the public have examined the data made available there.<sup>23</sup>
  - a. Copyright Removals: Updated daily, the site shows the aggregate number of web pages we have been asked to remove, as well as who submitted the notices on behalf of which rightsholders and for which websites.<sup>24</sup>
  - b. Counterfeit Removals: Updated annually, we publish our removal report in an accessible PDF.<sup>25</sup>
2. **Sharing information from legal notices with Lumen.** Google provides information from individual copyright and counterfeit removal notices that we receive for Search results to the nonprofit organization Lumen, which is a project of Harvard’s Berkman Klein Center for Internet & Society. By collating removal notices from a number of sources, including Google, Lumen fosters research and examination of takedown practices and trends.<sup>26</sup>
3. **Notifying webmasters of removals.** Website operators who use Google’s Search Console are notified whenever a web page on their domain receives a takedown notice.<sup>27</sup> Webmasters who do not use the Search Console can find copyright removal notices their domain has received within the Transparency Report. For counterfeit removal notices, they can be found in the Lumen Database. These tools empower webmasters to submit a counter notice (copyright) or an appeal (counterfeit) if they determine that a page on their site has been removed from Google Search results due to an erroneous removal notice.
4. **Informing users when results have been removed from their Search results.** When people perform a search where results have been removed due to a copyright or counterfeit complaint, Google displays the following notice:
  - a. Copyright Removals: *“In response to a complaint we received under the US Digital Millennium Copyright Act, we have removed 1 result(s) from this page. If you wish, you may read the DMCA complaint that caused the removal(s) at [LumenDatabase.org](https://lumendatabase.org/).”*
  - b. Counterfeit Removals: *“In response to a legal request submitted to Google, we have removed \_\_ result(s) from this page. If you wish, you may read more about the request at [LumenDatabase.org](https://lumendatabase.org/).”*

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<sup>23</sup> “Google Transparency Report.” n.d. <https://transparencyreport.google.com/>.

<sup>24</sup> “Google Transparency Report - Content delistings due to copyright” n.d. <https://transparencyreport.google.com/copyright/overview>.

<sup>25</sup> “Google Transparency Report - PDF Download Center” n.d. <https://transparencyreport.google.com/report-downloads?hl=en>.

<sup>26</sup> “Lumen.” 2023. <https://lumendatabase.org/>.

<sup>27</sup> “Google Search Console.” n.d. [https://search.google.com/search-console/welcome?hl=en&utm\\_source=wmx&utm\\_medium=deprecati on-pane&utm\\_content=home](https://search.google.com/search-console/welcome?hl=en&utm_source=wmx&utm_medium=deprecati on-pane&utm_content=home).

## **How Google Responds to Invalid Notices of Infringement**

Recognizing that abuse and misuse of our anti-piracy and anti-counterfeit tools can stifle legitimate speech, expression, and commercial activity, we have dedicated teams working to detect and prevent such abuse and misuse. We rely on a combination of humans and technology to detect suspicious behavior, request additional information where necessary, and provide users with the robust ability to contest the removal of their content through counter notice and appeals processes. When it comes to our Trusted Copyright Removal Program, we have terminated or suspended partners from the program for repeatedly sending invalid or incomplete notices through our high-volume submission mechanisms. In addition, we have built transparency tools so that the community can identify and appeal invalid takedown requests. Inaccurate or abusive notices can be challenging, and we take our commitment to guard against abuse seriously. This is why we continue to invest more resources to address this issue.

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### **CONCLUSION**

Through continued innovation and partnership, Google is committed to investing in new tools and processes to combat the ever-evolving challenge of piracy and counterfeits. While no solution is perfect, we strive to find solutions that are fit-for-purpose and transparent. We appreciate the opportunity to share our perspective and experience, and we look forward to continued engagement with the Office on this topic.