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CEASE AND DESIST AND PRESERVATION DEMAND

Via Email and First-Class Mail

April 19, 2023

Copyright Manager
Google LLC
1600 Amphitheater Parkway
Mountain View, California 94043
dmca-agent@google.com

Re: Fraudulent Takedown Notices For ytmp3.nu

Dear Google Copyright Manager,

This law firm is international legal counsel to the ytmp3.nu website (the “Website” or “Our Client”). Please direct all further correspondence regarding this matter to my attention.

We write to you on behalf of Our Client because it appears that Google has become an unwitting tool used by third-parties to engage in fraudulent and unfair business practices that are causing Our Client significant damages. Our Client is prepared to take immediate legal action against these third parties and, unless Google complies with Our Client’s demands herein, Our Client will consider Google to be acting in concert with these third parties in their fraudulent activities and reserves all rights as against Google.

You are hereby put on notice that third parties are using your automated DMCA takedown notice systems to issue fake and fraudulent takedown notices to remove legitimate competitors from Google Search results. Specifically, it appears that Our Client’s competitors have been impersonating purported copyright holders to submit takedown notices to Google to have Our Client and the Website de-listed from Google Search.

A selection of some of these takedown notices are archived by the Lumen database and are clearly fraudulent. For example:

- <https://www.lumendatabase.org/notices/33406213#> – A notice purportedly sent by “Hale Hoola Hamakua” based in Jamaica. No such party appears to exist, nor does it own the copyright to the content purportedly creating the basis for the notice (which is apparently owned by VP Records). Most importantly, the takedown notice does not seek to de-list a

copy of the copyrighted work on the Website, but instead simply de-list the Website in its entirety by requesting the de-listing of its front page.

- <https://www.lumendatabase.org/notices/33400619> – This notice does not even list the copyrighted work allegedly being infringed, but nonetheless seeks to de-list the entirety of the Website.

I should note that the legal basis for the takedown notices – namely that the Website purportedly circumvents security measures – is patently untrue. Our Client’s Website does not circumvent any security measures. The Website is simply a general-purpose downloading tool that automates a process that any individual can perform easily with just a few clicks.

It is readily apparent that these notices, and many others against the Website, are not coming from legitimate copyright owners. Instead, Our Client’s competitors are submitting fraudulent takedown notices to Google in order to damage Our Client and its Website. These actions are in clear violation of the Digital Millennium Copyright Act, Title 17 of the United States Code, Section 512(f), prohibiting the submission of fraudulent takedown notices.

All of this is particularly concerning because it is clear that Google is doing nothing to verify the identity of the persons submitting these fraudulent takedown notices. Google is acting on clearly fraudulent takedowns, allowing these bad actors to take control of Google’s systems on an automated basis, and harm third-parties like Our Client.

Unfortunately, this is far from the first time that Google has allowed this same kind of fraud to run rampant on its systems. As just one example, last year the game developer Bungie was forced to file suit to protect itself and its rights arising from obviously fraudulent takedown notices processed through Google. *See Bungie, Inc. v. Nicholas Minor a/k/a “Lord Nazo”*, Case No. 2:33-cv-371 (W.D. Washington).

By knowingly allowing, accepting, and processing fraudulent takedown notices, especially after specific notice, Google is aiding and abetting the fraud of the submitters of the notices and subjecting itself to potential liability.

Accordingly, Our Client demands the following:

1. That Google take immediate steps to ascertain and verify the identity of persons submitting takedown notices before taking action on the same, and provide the documentation and information obtained as part of that verification process to the parties that are intended to be subjected to such takedown notice, including such submitter’s name, email address, IP address, and any other information collected as part of a reasonable verification process.
2. That Google immediately implement a litigation hold with regards to all information relevant to all takedown notices submitted regarding or in connection with Our Client and/or the Website.

Without limiting the generality of the foregoing: We demand that Google preserve all documents, tangible things, and electronically stored information potentially relevant to the issues in this matter, including, without limitation, all documents, tangible things and electronically stored information concerning or relating to the takedown notices submitted regarding or in connection with Our Client and/or the Website. This demand applies to Google and its predecessors, successors, parents, subsidiaries, divisions or affiliates, and their respective officers, directors, agents, attorneys, accountants, employees, partners, attorneys or other persons occupying similar positions or performing similar functions.

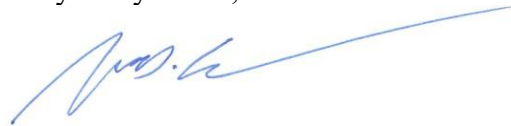
Note that adequate preservation of documents and information requires more than simply refraining from efforts to destroy or dispose of such evidence. Google must also intervene to prevent loss due to routing operations and employ proper techniques and protocols suited to protection of the information. Alteration and erasure may result from failure to act diligently and responsibly to prevent loss or corruption of information.

Please confirm in writing within ten (10) business days of the date hereof that Google has taken the steps outlined above to limit future fraudulent uses of its systems and that Google has preserved all the data and information demanded. Google's failure to comply with Our Client's demands will leave Our Client little choice but to seek formal legal remedies.

Should you wish to discuss this matter directly, you may reach me at 617-928-1804 or at vgurvits@bostonlawgroup.com.

This correspondence is not intended to constitute a full statement of all facts, rights, or claims relating to this matter, nor is it intended as a waiver, release, or relinquishment of any rights or remedies available to Our Client, whether legal or equitable, all of which are hereby expressly reserved. Without limiting the generality of the foregoing, nothing in this correspondence is intended to act as, nor shall it be deemed to act as, Our Client's consent to jurisdiction in the United States.

Very Truly Yours,



Val Gurvits, Esq.