

X-STREAM SERVICES CUSTOMER DMCA INFORMATION (UPDATED FEB. 12, 2016)

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OVERVIEW

The Digital Millennium Copyright Act (DMCA) is a federal law that seeks to balance the rights of owners and users of copyrighted digital material. Under this law, there are two types of copyright infringement claims that may affect X-Stream Services customers:

The first and most common type involves the illegal transfer or sharing of copyrighted materials over X-Stream Services network.

The second type involves the illegal placement or posting of copyrighted materials on X-Stream Services servers or hosted websites.

To avoid legal liability when customers repeatedly infringe copyrights, Internet service providers like X-Stream Services must, according to the DMCA, implement a notification and termination policy.

Of course, ***we do not want to terminate the service of any customer***, which is why we forward notices that we receive from copyright owners to our customers, so they can either take steps to stop the noted sharing or posting of copyrighted files, or if they believe the notice is in error, contact the copyright owner and dispute the claim.

(i) CONDITIONS FOR ELIGIBILITY.—

(1) ACCOMMODATION OF TECHNOLOGY. — The limitations on liability established by this section shall apply to a service provider only if the service provider —

(A) has adopted and reasonably implemented, and informs subscribers and account holders of the service provider's system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider's system or network who are repeat infringers ... X-STREAM SERVICES CUSTOMER DMCA INFORMATION.

NOTIFICATION PROCESS

While the specifics may vary from one individual to the next, the steps in the notification process for ***illegal transfer or sharing of copyrighted material*** generally follow this pattern:

An owner of copyrighted material detects what it considers to be the illegal sharing or posting of copyrighted materials by an IP (Internet Protocol) address associated with X-Stream Services.

The copyright owner, under penalty of perjury, notifies X-Stream Services of the suspected activity, identifying the material in question, the IP address, and the date and time of the offense.

X-Stream Services checks its records to determine which customer was assigned the IP address in question on the date and time of the alleged copyright infringement.

X-Stream Services does NOT share the customer's name or any other personal information with the copyright owner. *Instead*, X-Stream Services notifies the customer of the allegation in the following manner: Customer will be notified by e-mail if possible and by telephone call to the number on record.

After reading and acknowledging the notification, the customer decides how to proceed: by taking no further action; or by disputing the notice; or by deleting the questionable files and securing his/her computer.

- Customers who receive but choose to ignore multiple DMCA notices from X-Stream Services *may* have their Internet service terminated, consistent with the terms of X-Stream Services Residential Services Agreement and Acceptable Use Policy. **However, X-Stream Services does NOT have a rigid, one-size-fits-all termination rule.** Instead, we treat each case individually and work with our customers to resolve allegations of copyright infringement long before we ever consider terminating service. If X-Stream Services continues to receive copyright infringement notices, after the Eighth notice and non-compliance the customer will have services terminated until such a time the customer can provide evidence of removal of illegal downloaded material or comply with the content owner instructions.

The notification process for ***illegal posting of copyrighted materials on X-Stream Services-hosted websites*** is very similar to the process described above, with the notable exception that at, anytime during this process, X-Stream Services may remove or disable access to the posted material in question.

DISPUTE PROCEDURES

The information on this page is provided to you for informational purposes only and is not intended as legal advice. If you believe your rights under United States copyright law have been infringed or are different from those stated herein, you may wish to consult with your attorney.

FILE SHARING

If you receive a notice from X-Stream Services about illegal file sharing and you believe the copyright owner has accused you in error, you may:

Correspond with the copyright owner at the address provided in the notification you received

And send a copy of that correspondence to X-Stream Services designated agent, listed below.

If you take these steps, you should be aware that the copyright owner will be aware of your identity and may elect to initiate legal action against you, including but not limited to a copyright infringement lawsuit seeking money damages.

POSTED MATERIALS

If you receive a notice from X-Stream Services about copyright infringement related to material that you allegedly placed on X-Stream Services hosted websites and you believe the copyright holder has accused you in error, you may file a DMCA [counter-notification form](#) with X-Stream Services designated agent, listed below.

To be effective, a counter-notification must be a *written* communication provided to X-Stream Services designated agent and it must include the following information:

. A physical or electronic signature of the customer listed on the account.

Identification of the material that has been removed or to which access has been disabled, as well as the location at which the material appeared before it was removed or access to it was disabled.

A statement under penalty of perjury that the customer has “a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.”

The customer’s name, address, and telephone number, and a statement that the customer consents to the jurisdiction of Federal District Court for the judicial district in which the customer’s address is located, or if the customer’s address is outside of the United States, for any judicial district in which the service provider may be found, and that the subscriber will accept service of process from the person who provided notification or an agent of such person.

When you send the DMCA counter-notification to X-Stream Services, we will forward it intact to the copyright owner and/or its agent. The copyright owner and/or its agent will then be aware of your identity and may elect to initiate legal action against you including, but not limited to, a copyright infringement lawsuit seeking money damages. By submitting this counter-notification to X-Stream Services, you expressly acknowledge that you understand and accept the forwarding of this counter-notification to the complaining party, and you expressly agree that X-Stream Services will not be a party to any disputes or lawsuits regarding alleged copyright infringement.

X-STREAM SERVICES DESIGNATED AGENT

Jason Doughty

X-Stream Services

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Hinton, OK 73047

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405-542-3211

FREQUENTLY ASKED QUESTIONS

I have no idea how this could have happened. I've never downloaded an illegal version of copyrighted material. How could I have received this notification?

Someone else, inside or outside your home, may have uploaded or downloaded the material in question using your service. Consider the following steps.

1. Check computers and other devices in your home for the copyrighted material listed in the letter you received. If you find that material on one of your devices, delete it, determine how it got there, and take steps to help prevent it from happening again, as detailed below.
1. Make sure that your Internet connection is secure, especially if you use a wireless router. To secure your connection, check your router, ensure that the connection to it is encrypted, password protected, or limited to use by computers that you know and have authorized. For best results, consult the documentation that came with your router. Additionally, because wireless routers typically come with standard usernames and passwords – such as "admin" and "password" – you should make sure that you change these to new usernames and passwords known only to you.
1. Make sure that anyone who has access to your Internet service is not illegally transferring copyrighted material.
1. Your computer may be uploading copyrighted material to others without your knowledge. Many file-sharing software packages are configured so that any files in your "shared folder" are automatically uploaded and provided to anyone who requests them. If your computer has copyrighted material in a shared or otherwise accessible folder, move that material to a secure folder.

Why did I receive the notice if my current IP address does not match the one listed on the notice?

The IP address associated with your account changes from time to time. At the time the copyrighted material in question was being transferred, the IP address in the notice you received was associated with your account.

What do I do now? How do I resolve this matter?

You should delete the files in question and take steps to ensure that additional copyrighted material is not illegally downloaded to or shared from your computer. See suggestions above. Alternatively, you can dispute the notice following the procedures listed earlier in this document.

The information attached to X-Stream Services notification proposes that I pay a settlement to the agent in order to avoid further legal action. Should I pay them?

A decision whether or not to settle a copyright infringement allegation is a legal matter between you and/or your attorney and the copyright holder. X-STREAM SERVICES CUSTOMER DMCA INFORMATION (UPDATED FEB. 14, 2011) 6

FREQUENTLY ASKED QUESTIONS (cont'd)

Am I in trouble? What is going to happen to me?

Unless the notification you received indicates otherwise, X-Stream Services will take no further action if you take the appropriate steps to ensure this does not happen again.

How did you determine that my computer was transferring copyrighted material?

We did not make that determination. We received a notice from a copyright owner, indicating that an IP (Internet Protocol) address associated with X-Stream Services was or appeared to be engaged in the illegal sharing of the copyright owner's material. Checking our records, we determined that the IP address identified by the copyright owner was associated with your account at the time of the alleged infringement. We have NOT shared your name or any other personal information with the copyright owner, but we are sharing the notification with you, as part of our policy on such matters.

Does this mean that I can't download music or movie files?

There are a variety of Web sources from which music and movie files can be downloaded *legally*.

You say I must delete the copies of the listed, copyrighted material. How do I do this?

Most computer systems have a "search" function you can use that allows you to search your files by name. If you do not know how to use this feature, you should check your user manual for instructions. If, on your first search, you do not find the copyrighted material you are looking for, try searching for one particular word in the title of the work.

What can I do to dispute the alleged infringement?

Please see our dispute procedures, listed earlier in this document.

If my Internet service is terminated, how long before I can have it reconnected?

X-Stream Services standard policy allows customers whose Internet service was terminated for the reasons described in this document to have that service re-connected after six months.