

## Copyright Amendment (Online Infringement) Bill 2015

Softensify Pty Ltd submission

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We believe that disabling access to websites is too stringent a measure as it will block users from accessing non-infringing content on those websites. The DMCA take down mechanism already exists as a measure that facilitates the removal of copyright infringing content on a case by case basis. If a website actively implements the DMCA (or similar) take down mechanism and removes copyright infringing content when requested to, it should not be blocked.

In the UK, a similar bill was implemented in 2010, and since then 109 sites have been blocked because of copyright issues<sup>1</sup>. However, as of April, 03 2015, 58 of the 92 that were still active (63%) stated that they were implementing take down policies. Additionally, 43 of these 58 (74%) had less than 10% of pages requested to be removed from Google search results by copyright holders<sup>2</sup>. Hence, it is likely that these a large proportion of the content these websites host does not infringe copyright and blocking them has disallowed users from accessing non-infringing content.

We believe that access to a website should only be disabled after copyright holders have provided evidence that the website in question does not remove copyright infringing content upon request and hence does not follow the DMCA take down policy.

We would like to suggest the following changes to the Copyright Amendment (Online Infringement) Bill 2015.

Right holders are required to:

1. provide evidence that they sent take down notices to the website to remove infringing content and that it was not removed in a timely manner before filing an application to disable access to that website
2. provide evidence that the content in question belongs to them<sup>3</sup>

### **Additional measures:**

Take down notice schemes have an inherent limitation – there is a time lag between when the notice is sent and when infringing content is removed from Google search results (approximately 6 hours<sup>4</sup>) and/or when it is removed from a torrent site (up to 4 days).

We have developed a service that will assist in overcoming this limitation: <http://www.torrenttags.com>. Here, copyright holders can declare ownership of the content that they don't want to be distributed via torrents. After we receive this information (which is equivalent to a DMCA notice), users of BitTorrent can check torrent files for claims in our database immediately, without any time lags.

<sup>1</sup> [http://en.wikipedia.org/wiki/List\\_of\\_websites\\_blocked\\_in\\_the\\_United\\_Kingdom](http://en.wikipedia.org/wiki/List_of_websites_blocked_in_the_United_Kingdom)

<sup>2</sup> <http://www.google.com/transparencyreport/removals/copyright/domains/?r=all-time>

<sup>3</sup> Dallas Buyers Club, LLC v iiNet Limited & Ors case

<https://www.comcourts.gov.au/file/Federal/P/NSD1051/2014/actions>, finding out who have rights for the movie in Australia took two days

<sup>4</sup> [http://www.google.com/transparencyreport/removals/copyright/faq/#response\\_time](http://www.google.com/transparencyreport/removals/copyright/faq/#response_time)