

SMACKDAB INC. OFFICIAL POLICY

# DMCA / COPYRIGHT POLICY

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SMACKDAB INC. DMCA / COPYRIGHT POLICY

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Smackdab Inc. ("Smackdab," "we," "us," or "our") respects the intellectual property rights of others and expects users of its services (the "Service") to do the same. It is our policy, in appropriate circumstances and at our discretion, to disable and/or terminate the accounts of users who repeatedly infringe the copyrights or other intellectual property rights of others.

In accordance with the Digital Millennium Copyright Act of 1998 ("DMCA"), Smackdab will respond expeditiously to claims of copyright infringement committed using the Service that are reported to Smackdab's Designated Copyright Agent identified below.

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## 1. NOTIFICATION OF CLAIMED INFRINGEMENT (DMCA TAKEDOWN NOTICE)

If you are a copyright owner, or are authorized to act on behalf of one, please report alleged copyright infringements taking place on or through the Service by completing the following DMCA Notice of Alleged Infringement ("Notice") and delivering it to Smackdab's Designated Copyright Agent.

To be effective, the Notice must be in writing and contain the following information (see 17 U.S.C. § 512(c) (3)):

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
1. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.

1. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Smackdab to locate the material (e.g., URL(s) or specific descriptions of where the material is located on the Service).
1. Information reasonably sufficient to permit Smackdab to contact you, such as an address, telephone number, and, if available, an electronic mail address.
1. A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
1. A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Deliver this Notice, with all items completed, to Smackdab's Designated Copyright Agent:

**Designated Copyright Agent:** Legal Department Smackdab Inc. 372 Live Oak Ln Marco Island, FL 34145  
Email: [copyright@smackdab.ai](mailto:copyright@smackdab.ai) Phone: +1 (239) 299-4616

**Please note:** Under Section 512(f) of the DMCA, any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability for damages. Do not submit notices unless you are sure that you are the copyright owner or authorized to act on their behalf. Smackdab reserves the right to ignore notices that do not substantially comply with the DMCA requirements.

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### 1.1 Response Timeline

Smackdab is committed to reviewing and responding to all properly submitted DMCA notices within 2-3 business days of receipt. We will take appropriate action, including removing or disabling access to the allegedly infringing material, when we determine that a notice substantially complies with the requirements of the DMCA. Each notice is time-stamped upon receipt, and all subsequent actions taken are documented with timestamps to maintain accurate records of our response.

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### 1.2 Standard of Review

Smackdab evaluates DMCA notices for "substantial compliance" with statutory requirements rather than technical perfection. This means that minor errors in a notice will not necessarily result in rejection if the notice provides sufficient information for Smackdab to identify the copyrighted work, locate the allegedly infringing material, and contact the relevant parties. However, notices that are materially deficient (e.g., lacking identification of the copyrighted work or location of the alleged infringement) cannot be processed until such information is provided.

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### 1.3 Fair Use Considerations

Smackdab recognizes that not all uses of copyrighted material constitute infringement. U.S. copyright law provides for "fair use" of copyrighted material for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. When evaluating DMCA notices, we take into consideration whether the use of the material in question may qualify as fair use. However, the ultimate determination of whether a particular use constitutes fair use is complex and typically requires judicial evaluation. If you believe your use of copyrighted material constitutes fair use, you may wish to include this information in a counter-notice (see Section 2).

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#### **1.4 Types of Protected Works**

This policy applies to all types of copyrightable works that may be used on or through the Service, including but not limited to:

- Literary works (e.g., articles, blog posts, documentation)
- Computer software and code
- Images, photographs, and graphics
- Videos and animations
- Audio recordings and music
- Databases and compilations
- Website content and user interfaces
- Other creative works fixed in a tangible medium of expression

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## **2. COUNTER-NOTIFICATION PROCEDURES**

If you believe that material you posted on the Service was removed or access disabled by mistake or misidentification, you may file a counter-notification ("Counter-Notice") with Smackdab's Designated Copyright Agent identified above.

To be effective, a Counter-Notice must be a written communication that includes substantially the following (see 17 U.S.C. § 512(g)(3)):

1. Your physical or electronic signature.
1. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access disabled.

1. A statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material.
1. Your name, address, telephone number, and email address.
1. A statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located (or if your address is outside the United States, for any judicial district in which Smackdab may be found), and that you will accept service of process from the person who provided the original infringement notification or an agent of such person.

Upon receipt of a valid Counter-Notice, Smackdab will promptly provide the person who filed the original Notice with a copy of the Counter-Notice and inform them that Smackdab will replace the removed material or cease disabling access to it in 10 business days. Smackdab will replace the removed material and cease disabling access to it not less than 10, nor more than 14, business days following receipt of the Counter-Notice, unless our Designated Copyright Agent first receives notice from the person who submitted the original Notice that such person has filed an action seeking a court order to restrain the user from engaging in infringing activity relating to the material on our system or network.

**Please note:** Under Section 512(f) of the DMCA, any person who knowingly materially misrepresents that material or activity was removed or disabled by mistake or misidentification may be subject to liability for damages.

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## 2.1 Accessibility Accommodations

Smackdab is committed to ensuring that individuals with disabilities can access and use our DMCA notice and counter-notice procedures. If you require assistance or accommodation in submitting a DMCA notice or counter-notice due to a disability, please contact us at [accessibility@smackdab.ai](mailto:accessibility@smackdab.ai) or call +1 (239) 299-4616. We will work with you to provide alternative accessible means of submitting your notice or counter-notice.

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## 3. REPEAT INFRINGER POLICY

In accordance with the DMCA and other applicable law, Smackdab has adopted and implements a policy of terminating, in appropriate circumstances, the accounts of users who are deemed to be repeat infringers. For purposes of this policy, a "repeat infringer" is a user who has been the subject of three (3) or more valid DMCA notices within any 12-month period.

Smackdab implements a graduated response system as follows:

1. **First Valid Notice:** The user will receive a warning notification regarding the alleged infringement and a copy of this policy.
1. **Second Valid Notice:** The user will receive a second warning and a temporary suspension of specific features or functionality of the Service for a period of 14 days.

1. **Third Valid Notice within 12 months:** The user's account may be terminated, and the user may be prohibited from creating a new account for a period of time.

Notwithstanding the foregoing, Smackdab reserves the right to suspend or terminate accounts in response to fewer than three notices in cases of egregious infringement, or to extend the account review process in appropriate circumstances. Smackdab may also at its sole discretion limit access to the Service and/or terminate the accounts of any users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

Smackdab maintains internal records of all DMCA notices and counter-notices for a period of at least three (3) years to ensure proper implementation of this repeat infringer policy.

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## 4. COPYRIGHT AGENT REGISTRATION

Smackdab maintains an active registration of its Designated Copyright Agent with the U.S. Copyright Office as required by the DMCA. This registration is regularly renewed every three years in accordance with U.S. Copyright Office regulations (37 C.F.R. § 201.38). Smackdab regularly verifies that all contact information for its Designated Agent remains current and accurate, and promptly updates this information with the U.S. Copyright Office whenever changes occur.

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## 5. ACTUAL KNOWLEDGE AND RED FLAG AWARENESS

In addition to responding to formal DMCA notices, Smackdab may remove or disable access to material when we have actual knowledge of infringing activity or when the circumstances make infringing activity apparent ("red flag" knowledge), even in the absence of a formal DMCA notice. Users should report any suspected infringement through the channels provided in this policy.

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## 6. TECHNICAL MEASURES

Smackdab employs various technical measures to help identify and address potential copyright infringement on our Service. These measures may include:

1. **Content Identification Systems:** Automated tools that can help identify potentially infringing content based on digital fingerprinting or other matching technologies.
1. **Upload Filters:** Systems that scan and analyze content at the time of upload to flag potentially infringing material for review.
1. **Repeat Infringer Tracking:** Technical systems to track and enforce our repeat infringer policy.
1. **Access Controls:** Technical restrictions that limit the ability to share or distribute certain types of content.

While these technical measures are designed to assist in copyright protection, they are not infallible. We continually evaluate and improve these systems to better protect intellectual property rights while respecting legitimate uses of copyrighted material.

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## 7. INTERNATIONAL COPYRIGHT PROTECTION

While the DMCA is a U.S. law, Smackdab respects the intellectual property rights of copyright owners worldwide. Copyright owners outside the United States may submit notices following the same process outlined in Section 1, and Smackdab will respond appropriately in accordance with the laws of the United States and, where applicable, relevant international copyright treaties and conventions. Copyright owners from countries that are signatories to the Berne Convention or other international copyright agreements may enforce their rights through this policy.

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### 7.1 Jurisdictional Scope

All copyright disputes involving Smackdab's Service will be governed by U.S. federal copyright law and the DMCA, regardless of where the copyright owner or user is located. This is consistent with Smackdab's Terms of Service, which specify U.S. law as the governing law for all disputes involving the Service. However, Smackdab will also respect copyright protections available under international treaties to which the United States is a party, such as the Berne Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

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## 8. ABUSIVE NOTICES AND MISREPRESENTATIONS

Smackdab takes misuse of the DMCA notice and counter-notice procedures seriously. We reserve the right to suspend or terminate the accounts of users who submit notices or counter-notices containing material misrepresentations or that are otherwise abusive. Users who repeatedly submit DMCA notices or counter-notices that are subsequently found to be invalid or frivolous may be charged for administrative costs incurred by Smackdab in processing such notices and may lose the privilege of submitting future notices through our system.

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## 9. RECORD-KEEPING

Smackdab maintains records of all DMCA notices and counter-notices received, along with the actions taken in response, for a period of at least three (3) years. Each notice and counter-notice is time-stamped upon receipt, and all subsequent actions taken are documented with timestamps. These records help us implement our repeat infringer policy, identify patterns of abusive notices, and demonstrate our compliance with the DMCA's safe harbor provisions.

Our record-keeping system includes:

1. Complete copies of all notices and counter-notices received
1. Documentation of our review and determination regarding each notice
1. Records of all communications with the parties involved
1. Timestamped logs of all actions taken in response to notices
1. Documentation of repeat infringer policy implementation

These records are maintained in secure systems with appropriate access controls to protect the privacy and security of the information.

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## **10. USER EDUCATION**

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### **10.1 Copyright Basics**

Copyright is a form of legal protection for original works of authorship fixed in a tangible medium of expression. Copyright protection covers both published and unpublished works, including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture.

Copyright owners have the exclusive right to:

- Reproduce the work
- Prepare derivative works
- Distribute copies
- Perform the work publicly
- Display the work publicly
- Perform sound recordings publicly by means of digital audio transmission

Using someone else's copyrighted work without permission may constitute copyright infringement, unless the use qualifies as fair use or falls under another exception to copyright protection.

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### **10.2 Best Practices for Users**

To avoid copyright infringement when using the Service:

- Create and share only original content that you have created yourself
- Obtain proper permissions or licenses before using others' copyrighted materials

- Provide proper attribution when permitted to use others' content
- Respect the terms of any licenses associated with content you use
- Consider whether your use of copyrighted material may qualify as fair use

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## 11. MODIFICATION OF THIS POLICY

Smackdab reserves the right to modify this DMCA/Copyright Policy at any time by posting a revised version on our website. The modified policy will be effective upon posting, and your continued use of the Service after any modification constitutes your acceptance of the modified policy. We encourage you to review this policy periodically for any updates.

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## 12. DISCLAIMER

This policy is provided for informational purposes only and does not constitute legal advice. Please consult with qualified legal counsel regarding your rights and obligations under the DMCA and copyright law. Nothing in this policy is intended to replace or supersede the provisions of the DMCA or other applicable laws.

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## 13. CONTACT INFORMATION

If you have any questions about this DMCA/Copyright Policy, please contact us at:

**Email:** [legal@smackdab.ai](mailto:legal@smackdab.ai) **Mail:** Smackdab Inc. ATTN: Legal Department 372 Live Oak Ln Marco Island, FL 34145 United States **Phone:** +1 (239) 299-4616

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