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Seeing Red: NASA Hit with Bogus Copyright Claim Over Mars Rover Video

Keywords

Online copyright enforcement, Digital Millennium Copyright Act (DMCA)

SEEING RED: NASA HIT WITH BOGUS COPYRIGHT CLAIM OVER MARS ROVER VIDEO

by Priya Mahajan

The following blog post was originally published on www.ipbrief.net on August 10, 2012.

Just this Monday (August 6, 2012), NASA landed the Mars rover Curiosity on the red planet for an exploratory mission. Shortly after the rover's landing, NASA posted a video of the historic event.

After NASA uploaded the video depicting the Curiosity's touchdown on Mars, the clip was curiously taken down from YouTube because of alleged copyright violations. The video was replaced with a message: "This video contains content from Scripps Local News, who has blocked it on copyright grounds. Sorry about that." As a federal agency, NASA's works are in the public domain. NASA's video, which was posted on the federal agency's official YouTube channel, was taken down and temporarily blocked because of a copyright claim by a private news source. Despite the fact that the landing of the multi-billion dollar mission was paid for with taxpayer money, the public was unable to access the official content for a few hours.

Online copyright enforcement has its share of problems. YouTube's system of reporting infringement is highly user-friendly, which often leads to widespread abuse. YouTube removes videos for three possible reasons: (1) terms of service violations (2) Content ID matches (3) Digital Millennium Copyright Act (DMCA) takedown notices. The NASA video takedown was likely due to a Content ID match or a DMCA takedown notice.

The third possible reason, a DMCA takedown notice, is a result of the submission of a formal notice(s) of copyright infringement. After a video is removed by a DMCA takedown notice, the video uploader must submit a counter-notice to YouTube, proving that the uploader owns the rights to the video. The uploader must jump through hoops to prove the validity of the counter-notice. In order to be valid, the counter-notice must include the uploader's contact information, a statement consenting to the jurisdiction of the federal

district court if the alleged copyright owner decides to bring suit, a statement that the "material was removed or disabled as a result of a mistake or misidentification," and the uploader's physical or electronic signature. During this time, the video is unavailable for viewing. If the alleged copyright owner does not file a copyright infringement lawsuit against the uploader within two weeks of receiving the counter-notice, the video is restored. However, if the alleged copyright owner decides to sue the uploader, the video stays down until the lawsuit is resolved.

After the controversy, a NASA spokesman announced that the federal agency's content is erroneously taken down around once a month. Requests by the agency to YouTube to fix the problem have been futile. Until YouTube changes its policies on reporting copyright infringement and removing videos, true copyright owners and those that contribute to the public domain will be forced to defend their content against frivolous copyright claims.