

Copyright Alert System – The “Six Strikes” Warning System

By Andrew Martin

The Center for Copyright Information (“CCI”) and its partners, the Recording Industry Association of America (“RIAA”), Motion Picture Association of America (“MPAA”), and leading U.S. Internet Service Providers (“ISPs”) soon will implement a system designed to reduce illegal file sharing of copyrighted works. The Copyright Alert System (“CAS”), also referred to as the “Six Strikes” system, is a subscriber notice system in which the ISPs will monitor Internet traffic to identify illegal downloads of copyrighted works. When the ISP discovers that a user’s account is being used to illegally download copyrighted content, the ISP will send a warning to that user letting him or her know that the ISP has identified potentially infringing downloading conduct on the part of the subscriber. If the conduct continues, the ISP will send successively sterner warnings before it implements “mitigation measures,” such as slowing down Internet access to that user.

CCI’s [suggested alert process](#) describes the following six alerts:

First Alert: ISP sends an alert to a subscriber notifying him/her that the account may have been misused or involved in copyright infringement. This alert also will include some educational component to help the subscriber avoid copyright infringement in the future.

Second Alert: The subscriber will get a second similar alert that will underscore the educational message.

Third Alert: The third alert will be similar, again, to the first two, except here the subscriber must affirm his/her receipt of the alert after being redirected to a landing page or clicking a pop-up confirmation.

Fourth Alert: Another alert that requires affirmation of receipt by the user.

Fifth Alert: It is at the fifth alert that the ISP has the ability to engage in Mitigation Measures, which may include:

- temporary reductions of Internet speeds,
- redirection to a landing page until the subscriber contacts the ISP to discuss the matter or reviews and responds to some educational information about copyright, or
- other measures that the ISP may deem necessary to help resolve the matter.

Sixth Alert: The ISP will send yet another alert and can implement another Mitigation Measure if the subscriber’s account again appears to have been used for copyright infringement.

There is no requirement that the ISP terminate access to the Internet, though the ISPs customer agreements likely allow such termination if the ISP wishes to move in that direction. Subscribers will have the right to request an independent review before a Mitigation Measure is taken. The review process is to be managed by the American Arbitration Association.



About the author Andrew Martin:

As an associate attorney with extensive prior experience advising information technology start-ups, Andrew’s practice focuses on finding solutions for his clients’ intellectual property issues. Due to his extensive experience in the software and technology industries, Andrew understands both the practical and legal issues involved in IP licensing agreements and disputes. In addition to licensing, Andrew helps his clients find new ways to use existing technologies to assist his clients in areas such as data privacy compliance. Andrew uses his diverse background which includes founding a record label and working for a world-wide concert promoter when counseling the firm’s entertainment clients.

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