



## White House and Ad Networks Release Best Practices for Discouraging Piracy and Counterfeiting

The White House's Office of the U.S. Intellectual Property Enforcement Coordinator, the Interactive Advertising Bureau (IAB), and leading ad networks including Google, Yahoo!, Microsoft, and AOL have created self-regulatory [guidelines and best practices](#) for ad networks to address piracy and counterfeiting.

The guidelines require ad networks to establish and post policies prohibiting websites that are principally dedicated to selling counterfeit goods or engaging in copyright piracy from participating in an ad network's advertising programs. The guidelines were designed to reduce the financial incentives for pirate sites by eliminating their revenue supply.

The guidelines also establish procedures and provide a sample form for content owners to notify ad networks of websites engaging in piracy and counterfeiting, stating that "rights holders are in the best position to identify and evaluate infringement of their intellectual property."

The guidelines require participating companies to (among other things) take the following actions:

- (a) Maintain policies prohibiting websites that are principally dedicated to selling counterfeit goods or engaging in copyright piracy and have no substantial non-infringing uses from participating in the ad network's advertising programs and post such policies on the ad network's website.
- (b) Maintain and post the new best practices guidelines on the ad network's website.
- (c) Accept and process sufficiently detailed notices from rights holders or their designated agents regarding websites participating in the ad network alleged to be principally dedicated to selling counterfeit goods or engaging in copyright piracy and to have no substantial non-infringing uses. To enable ad networks to respond most effectively, such notices should provide information outlined in the sample form.
- (d) Publicly post on the ad network's website the contact information for its designated agent for receiving such notices from rights holders or their designated agents.
- (e) Upon receipt of a valid notice, perform an appropriate investigation into the complaint, including a determination of whether the website has a direct contractual relationship with the ad network. An ad network may take steps including but not limited to requesting that the website no longer sell counterfeit goods or engage in copyright piracy, ceasing to place advertisements on that website (or pages within that website) until it is verified that the website (or pages within the website) is no longer selling counterfeit goods or engaging in copyright piracy, or removing the website from the ad network.
- (f) Upon receipt of a valid notice, ad networks may consider any credible evidence provided by the accused website that it is not principally dedicated to selling counterfeit goods or engaging in copyright piracy or has substantial non-infringing uses. Such credible evidence may take the form of a counter-notice containing the elements set forth in the Digital Millennium Copyright Act (17 U.S.C. § 512(g) (3)). Ad networks may also consider any response by the rights holder to credible evidence provided by the accused website in defense of its conduct.

The guidelines state that they are not intended to impose a duty on any ad network to monitor its network to identify websites engaging in piracy or counterfeiting, and the voluntary best practices "should not, and cannot, be used in

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any way as the basis for any legal liability or the loss of any applicable immunity or 'safe harbor' from such liability."

The term "ad networks" encompasses only services whose primary business is to broker for compensation the placement of website display advertisements and does not include services that are ad-serving platforms or ad exchanges.

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### *Advanced Media and Technology Department*

KENNETH A. ADLER	KADLER@LOEB.COM	212.407.4284
ROBERT M. ANDALMAN	RANDALMAN@LOEB.COM	312.464.3168
ALISA C. BERGSTEIN	ABERGSTEIN@LOEB.COM	312.464.3155
IVY KAGAN BIERMAN	IBIERMAN@LOEB.COM	310.282.2327
CHRISTIAN D. CARBONE	CCARBONE@LOEB.COM	212.407.4852
TAMARA CARMICHAEL	TCARMICHAEL@LOEB.COM	212.407.4225
MARC CHAMLIN	MCHAMLIN@LOEB.COM	212.407.4855
MARGARET CHARENDOFF	MCHARENDOFF@LOEB.COM	212.407.4069
CRAIG A. EMANUEL	CEMANUEL@LOEB.COM	310.282.2262
KENNETH R. FLORIN	KFLORIN@LOEB.COM	212.407.4966
DANIEL D. FROHLING	DFROHLING@LOEB.COM	312.464.3122
NOREEN P. GOSSELIN	NGOSSELIN@LOEB.COM	312.464.3179
DAVID W. GRACE	DGRACE@LOEB.COM	310.282.2108
THOMAS A. GUIDA	TGUIDA@LOEB.COM	212.407.4011
NATHAN J. HOLE	NHOLE@LOEB.COM	312.464.3110
MELANIE J. HOWARD	MHOWARD@LOEB.COM	310.282.2143
MICHAEL W. JAHNKE	MJAHNKE@LOEB.COM	212.407.4285
THOMAS P. JIRGAL	TJIRGAL@LOEB.COM	312.464.3150
IEUAN JOLLY	IJOLLY@LOEB.COM	212.407.4810
JULIE E. LAND	JLAND@LOEB.COM	312.464.3161
JESSICA B. LEE	JBLEE@LOEB.COM	212.407.4073
MICHAEL MALLOW	MMALLOW@LOEB.COM	310.282.2287
KATHERINE THERESE MASON	KMASON@LOEB.COM	212.407.4898

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DOUGLAS N. MASTERS	DMASTERS@LOEB.COM	312.464.3144
NERISSA COYLE MCGINN	NMCGINN@LOEB.COM	312.464.3130
ANNE KENNEDY MCGUIRE	AMCGUIRE@LOEB.COM	212.407.4143
DANIEL G. MURPHY	DMURPHY@LOEB.COM	310.282.2215
BRIAN NIXON	BNIXON@LOEB.COM	202.618.5013
ANGELA PROVENCIO	APROVENCIO@LOEB.COM	312.464.3123
CHRISTINE M. REILLY	CREILLY@LOEB.COM	310.282.2361
KELI M. ROGERS-LOPEZ	KROGERS-LOPEZ@LOEB.COM	310.282.2306
SETH A. ROSE	SROSE@LOEB.COM	312.464.3177
ROBERT MICHAEL SANCHEZ	RSANCHEZ@LOEB.COM	212.407.4173
ALISON POLLOCK SCHWARTZ	ASCHWARTZ@LOEB.COM	312.464.3169
STEVE A. SEMERDJIAN	SSEMERDJIAN@LOEB.COM	212.407.4218
BARRY I. SLOTNICK	BSLOTNICK@LOEB.COM	212.407.4162
REGAN A. SMITH	RASMITH@LOEB.COM	312.464.3137
BRIAN R. SOCOLOW	BSOCOLOW@LOEB.COM	212.407.4872
WALTER STEIMEL, JR.	WSTEIMEL@LOEB.COM	202.618.5015
AKIBA STERN	ASTERN@LOEB.COM	212.407.4235
JAMES D. TAYLOR	JTAYLOR@LOEB.COM	212.407.4895
MICHAEL A. THURMAN	MTHURMAN@LOEB.COM	310.282.2122
JILL WESTMORELAND	JWESTMORELAND@LOEB.COM	212.407.4019
DEBRA A. WHITE	DWHITE@LOEB.COM	212.407.4216
MICHAEL P. ZWEIG	MZWEIG@LOEB.COM	212.407.4960