



# Global Information Industry Summit

9-11 September 2008 • Royal Garden Hotel • London

## Copyright 3.0: Promote and Monetize Your Content Without Sacrificing Your Rights!

### Moderator:

- Ed Colleran, Senior Director, International Relations, Copyright Clearance Center

### Panelists:

- David Mirchin, Partner, Meitar Liquornik Geva & Leshem Brandwein
- Greg Merkle, Vice President and Creative Director, Dow Jones Enterprise Media Group
- Ammy Vogtlander, Managing Director, BlueInsights



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## Backers of stronger copyright laws form lobby group

By [Anne Broache](#)

Staff Writer, CNET News.com

The New York Times  
nytimes.com

## Make Way for Copyright Chaos

By LAWRENCE LESSIG

Published: March 18, 2007

## Second Life gets its first copyright law suit

OUT-LAW News, 17/07/2007

AFX News Limited

## Apple, Microsoft threatened with possible digital copyright lawsuit

05.10.07, 4:03 PM ET

## RIAA sues 405 students for file-sharing

## Viacom suit may reshape copyright law

Media giant says Google infringes 'on a massive scale'

By Elise Ackerman

Mercury News

## Music group joins YouTube copyright lawsuit

Publishers worry songwriters won't get compensated for videos

updated 6:53 p.m. ET, Mon., Aug. 6, 2007

## Publishers sue Georgia State

## [Google targeting all the world's content and all your information](#)

Posted by Donna Beattie @ 1:02 pm

- Explosion of Internet use and content creation
  - 1.2 billion Internet users worldwide (up from 48 million in 1996)
  - Creation and use of content is exploding
    - 161 exabytes of digital content created and copied in 2006
    - Equal to 3 million times all the books ever written
    - IDC estimate for 2010: 988 exabytes
  - Today it takes 5 years to read the new scientific material produced every 24 hours
- Increasing pace of technological and business innovation
  - Easy-to-use software tools for creation and participation
  - Cost of copying and distribution is near zero
  - Increasing bandwidth
  - Growth of ad-supported business models
- Content and software now are inextricably linked through tools of value-added distribution and knowledge discovery



# Copyright 3.0

Issues to be explored

- Social media tools-what's new and where do we benefit
- Users freedom to create new content vs. the rights of the original content owner
- What are online communities doing with content?
- What impact is social media having on intellectual property
- What rights need to be considered
- Revenue and branding opportunities
- What's going on internationally?



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## Contact Information

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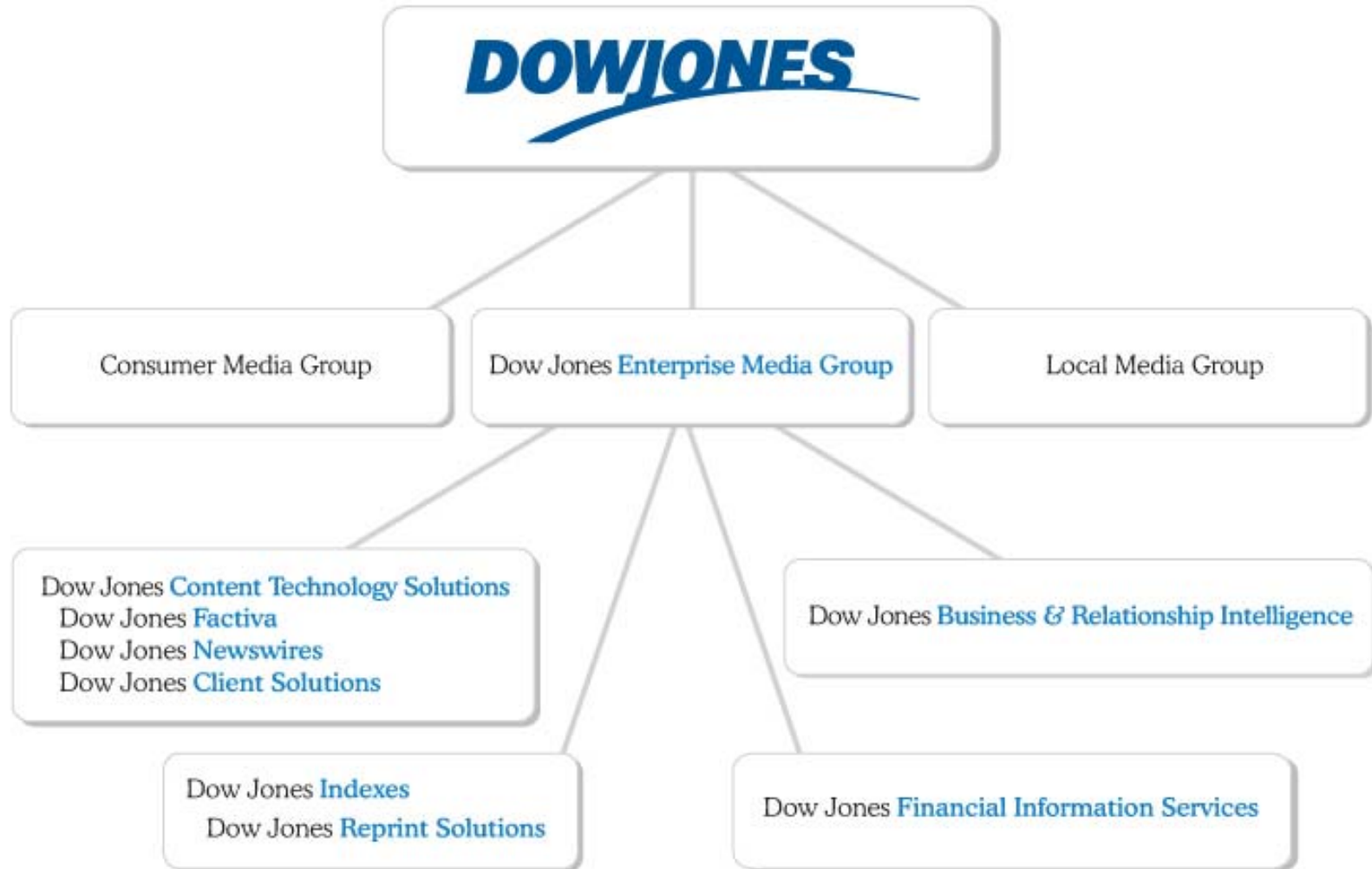
# Copyright 3.0: SIIA London 2008

**Greg Merkle**

**VP Creative Director**

Enterprise Media Group

# Dow Jones Enterprise Media Group



# Dow Jones Enterprise Media Group Mission

**To create and collect news and information, enriched by insight and technology, to make financial services and business professionals more productive and successful.**

**Powering the Intelligent Enterprise**

1 Start

2 Collect Sample Pages

3 **Select Content**


4 Preview Feed

5 Save Feed

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Click on the content you would like to include as a field. A field of content might be "Movie Title" or "Number of Results".

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[Clear all](#)[Clear](#) SPEAKERS[Clear](#) David Nicholas[Clear](#) Kate Noerr[Clear](#) Elizabeth Psihos[Clear](#) Isaac Sacolick[Save Field](#)**Content fields**Name [Edit](#)title [Edit](#)bio [Edit](#)

Poly Field

⚙️ Dapp creator options: [Edit Dapp](#) [Make public](#) [Delete Dapp](#)

Is this a Dapp for your site? [Expose semantics to search engines](#)

## Data Mapping



Screenshot 3 hours ago, <http://www.sii.net/giis/2008/speakers.asp>

### Dapp Description

SIIA Speakers

Tags  
SIIA , speakers

### Terms of Use

Content Owner  
[sii.net](http://sii.net)



Direct Permission Required

### Dapp Creator

[see all Dapps by gergle](#)

## < Choose another format

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Each Item in an RSS feed has a standard template (Title, Link, Summary, and Date). Choose the fields you want and preview the RSS feed below.

▼ Choose Content

Item Title

Item Text  Name  
 Title  
 Bio

Date Published

Fix Dates (experimental)

► Set Input

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<http://www.dapper.net/transform.php?dappName=SIIASpeakers>

▼ Preview

**George Beckerman**  
Managing Director, Washington Office, Marlin & Associates

**Diane Burley**  
Industry Specialist, Nstein Technologies

**Ed Colleran**  
Senior Director, Rightsholder Relations, Copyright Clearance Center

**David Craig**  
Chief Strategy Officer, Thomson Reuters

**Roby Fife**

**pipes** siaa speakers Layout Expand All Collapse All Back to My Pipes New Save Save a copy Properties...

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- Fetch CSV
- Feed Auto-Discover
- Fetch Feed
- Fetch Data
- Fetch Page
- Fetch Site Feed
- Flickr
- Google Base
- Item Builder
- Yahoo! Local
- Yahoo! Search

**User Inputs**

**Operators**

- Url
- String
- Date
- Location
- Number
- Favorites
- My pipes
- Deprecated

**Fetch Feed** ? ×

- URL
- http://www.dapper.net/transform.pl

**Location Extractor** ? ×

**Pipe Output**

**Debugger: Pipe Output (25 items)**

Time taken: 0.281963s [Refresh](#)

- Colin Hughes
  - y:title Colin Hughes
  - y:id
  - title Colin Hughes
  - description Managing Director, Guardian Professional
- Hugo Dixon
  - y:title Hugo Dixon
  - y:id
  - title Hugo Dixon
  - description Editor-in-Chief and Chairman, Breakingviews.com www.breakingviews.com
- Pierre Louette
  - y:title Pierre Louette
  - y:id
  - title Pierre Louette
  - description CEO Agence France Presse
- Andrew Neil
  - y:title Andrew Neil
  - y:id
  - title Andrew Neil
  - description Magazine Publisher and BBC Broadcaster
- Simon Alterman
- Robert Andrews

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- [Charlene Li's Blog: N... \(1\)](#)
- [Factiva - dj \(88\)](#)
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- ☆ **Colin Hughes** - Colin Hughes Managing Director, Guardian Professional, Colin Hughes, Managing 11:21
- ☆ **Untitled** - Colin Hughes is Managing Director of Guardian Professional, the B2B division of Guardian 11:21
- ☆ **Hugo Dixon** - Hugo Dixon Editor-in-Chief and Chairman, Breakingviews.com www.breakingviews.com, 11:21
- ☆ **Untitled** - Hugo Dixon founded breakingviews in 1999. He is editor-in-chief and chairman. Before 11:21
- ☆ **Pierre Louette** - Pierre Louette CEO Agence France Presse, Pierre Louette, CEO Agence France Presse 11:21
- ☆ **Untitled** - Born in 1962, Pierre Louette studied political sciences and law and is a graduate of the 11:21
- ☆ **Andrew Neil** - Andrew Neil Magazine Publisher and BBC Broadcaster, Andrew Neil, Magazine Publisher 11:21
- ☆ **Untitled** - Andrew Neil is a newspaper editor, publisher, broadcaster and business consultant on media 11:21
- ☆ **Untitled** - SPEAKERS, MODORATORS & PANELISTS 11:21
- ☆ **Simon Alterman** - Simon Alterman Senior Vice President, Strategy & Business Development Dow Jones 11:21

**Simon Alterman**

Simon Alterman Senior Vice President, Strategy & Business Development Dow Jones & Company, Simon Alterman, Senior Vice President, Strategy & Business Development Dow Jones & Company

- ☆ [Add star](#) [Share](#) [Share with note](#) [Email](#) [Add tags](#)
- ☆ **Untitled** - As Senior Vice President, Strategy & Business Development, Simon Alterman is responsible for 11:21
- ☆ **Robert Andrews** - Robert Andrews Editor, UK - ContentNext, Robert Andrews, Editor, UK - ContentNext 11:21
- ☆ **Untitled** - Robert Andrews has reported on digital media and technology for 13 years. A former BBC 11:21
- ☆ **Joachim Bartels** - Joachim Bartels Chairman, Intrepid Explorers, Inc., Joachim Bartels, Chairman, Intrepid 11:21
- ☆ **Untitled** - Joachim C. Bartels is an information specialist with over 40 years of global business 11:21
- ☆ **George Beckerman** - George Beckerman Managing Director, Washington Office, Marlin & Associates, 11:21
- ☆ **Untitled** - George Beckerman provides strategic consulting and investment banking services, world-wide, 11:21
- ☆ **Diane Burley** - Diane Burley Industry Specialist, Nstein Technologies, Diane Burley, Industry Specialist, 11:21
- ☆ **Untitled** - Diane Burley is an online publishing specialist who knows how to transition print-centric 11:21
- ☆ **Untitled** - Stephen Cohen Principal Consultant, Media & Entertainment Consulting Group, Satyam 11:21
- ☆ **Untitled** - Stephen Cohen is Principal Consultant in the Media and Entertainment Practice of Satyam 11:21

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Senior Vice President, Strategy and Business ...

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- Untitled - KEYNOTE SPEAKERS
- Colin Hughes - Colin Hughes Managing Director, Guardian
- Untitled - Colin Hughes is Managing Director of Guardian
- Hugo Dixon - Hugo Dixon Editor-in-Chief and Chairman,
- Untitled - Hugo Dixon founded breakingviews in 1999. He is
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- Simon Alterman - Simon Alterman Senior Vice President, Strategy &
- Untitled Search for this executive & Business
- Rob Search in sidebar - ContentNext, Robert
- Untitled - Robert Andrews has reported on digital media and
- Joachim Bartels - Joachim Bartels Chairman, Intrepid Explorers, Inc.,
- Untitled - Joachim C. Bartels is an information specialist with over 40
- George Beckerman - George Beckerman Managing Director,
- Untitled - George Beckerman provides strategic consulting and
- Diane Burley - Diane Burley Industry Specialist, Nstein Technologies,
- Untitled - Diane Burley is an online publishing specialist who knows
- Untitled - Stephen Cohen Principal Consultant, Media &
- Untitled - Stephen Cohen is Principal Consultant in the Media and
- Ed Colleran - Ed Colleran Senior Director, RightsHolder Relations

Previous item Next item

Account Search

Executive

Simon Alterman Search

▼ Results

**Simon Alterman**  
Senior Vice President, Strategy and Business ...



## Simon Alterman

**Current Position:** Senior Vice President, Strategy and Business Development - Enterprise Media Group, Dow Jones & Company, Inc.

**Profile Updated:** August 3rd 2007

**Connect:** [Connect to this executive](#)

### Professional Biography

Organization	Position
Dow Jones & Company, Inc.	Senior Vice President, Strategy and Business Development - Enterprise Media Group
Reuters Group plc	Bureau Chief
Factiva, Inc.	Vice President, Content
Cambridge University	Degree in Modern and Medieval Languages and Linguistics

### Recent articles about this executive

**Articles** 5 of 5 articles

[Dow Jones Restructures Enterprise Media Group](#)

January 10th 2007 - KLFY

[Dow Jones Restructures Enterprise Media Group](#)

January 10th 2007 - PR Newswire

[Factiva Expands Taxonomy Warehouse Partner Network](#)

December 13th 2006 - PR Newswire

[Factiva's New Taxonomy Warehouse Drives Better Information Asset Management](#)

October 23rd 2006 - PR Newswire

[The Economist Group, Fast Search & Transfer and Holtzbrinck Publishing Headline the Inaugural Global Information Industr](#)

August 8th 2006 - PR Newswire

Thank you

Greg Merkle

[greg.merkle@dowjones.com](mailto:greg.merkle@dowjones.com)

# *Website Liability for User-Generated Content: How to Operate a Site and Stay out of Jail*

David Mirchin

Chair of Information Technology & Licensing  
Practice

Meitar, Liquornik Geva & Leshem Brandwein  
[dmirchin@meitar.com](mailto:dmirchin@meitar.com)



# Speed Dating



# Our Speed Date

- Website Liability for User-Uploaded Copyright Infringements
- Website Liability for User-Uploaded Trademark Infringements (Counterfeit Goods)
- Business Context
- Comparison of EU and US Statutory Structure
- New Case Law in EU and US
- Comparative View: How the US and EU are diverging

# I. Business Context: Typical of New business models

- For many of the companies in the audience
- Combination of proprietary content, licensed content, and user-generated content
- UGC: Blogs; talkbacks; posted videos, music, etc.

# Seeking Alpha—Blogs of Financial Commentary

Address <http://seekingalpha.com/>

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### Market Currents

**8 Sep, 8:53 PM** Asian markets open down, primarily correcting yesterday's exuberance in the banking sector. Nikkei **-1.35%**. Shanghai **-2.68%**. Seoul **-1.17%**.

**8 Sep, 6:02 PM** Some analysts say Apple's (AAPL) Tuesday event won't be about the products its unveils, but about Steve Jobs's appearance. As long he shows up, looks healthy and emcees - it doesn't matter what he unveils.

**8 Sep, 5:11 PM** As Fannie Mae (FNM) and Freddie Mac

### Opinion & Analysis

## Oil Drops - But OPEC Looms

by William Patalon III | about: USO, DBO, USL

At the OPEC meetings tomorrow, look for oil-producing countries to try to 'boost prices with rhetoric'.

► **MySpace: Nine Countries Account for 95% of Ad Revenue**

by Erick Schonfeld | about: GOOG, NWS

► **When Do the Euro and Pound Become Value Plays?**

by Kathy Lien | about: ERO, GBB

► **Google Boosts Newspapers With Online Archive Search**

### Bailout: The Day After

► **Unintended Consequences of the Fannie / Freddie Bailout [David Enke]**

► **Impact on Forex, M&A [Kathy Lien]**

► **10 Banks That Will Be Hurt by the Takeover [Contraband]**

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WORLD  
LAW OFFICES

- My perspective: representing proprietary publishers
- Sites which license all content (classical.com)
- sites which generate their own content and host “controlled/edited” user generated content (Seeking Alpha)
- sites which host user-generated content (Metacafe for videos; eSnips for variety of content types)



# Israel is a small country



# Highly influenced by

- Foreign Statutes and case law
- In Internet area, particularly from:
- United States
- Canada
- EU
- Australia
- New Zealand



# II. Statutory Structure-- US and EU

	US DMCA	US Sec. 230 of CDA	EU e-Commerce Dir.
Type of Violation Covered	Copyright	Defamation	All violations
Specific Procedures?	Yes Timelines Filings Notice and Takedown	No—Blanket Immunity for website (almost--until Roommates.com case this year)	No (except Finland, which has a notice and takedown)

**MG&LB**

**LAW OFFICES**



# No obligation to monitor your site

- Article 15, EU e-Commerce Directive
- No obligation to monitor information which the site transmits or store
- No obligation to actively seek facts or circumstances including illegal activity

# III. What has happened in reality in the last year?

- EU has been very sympathetic to the requirement that sites need to monitor

# Copyright cases in EU

- Zadig v. Google (France, Oct 2007)
- Google Video is liable for infringing video even though they took it down
- “From the moment of first notification, Google is under an obligation to implement the technical means to prevent the reappearance of the video.”

# Tiscali (Scarlet) ISP— Belgium 2007

- Belgian ISP liable for infringing copyright material on its site
- Court suggested: should use Audible Magic

# DailyMotion (France, 2007)

- Video hosting site
- Court: “there’s a link between infringing content and advertising revenue”
- Daily Motion put in place the circumstances permitting posting of infringing content
- Held: Must monitor

# Trademark Infringements in EU: Rolex v. eBay (Germany, 2007)

- eBay liable for trademark infringement even though it was just hosting the content

# Louis Vuitton v. France eBay (June 2008)

- eBay France to pay €40Million for sale of counterfeit goods by its sellers (users)
- Prohibits eBay from selling four perfumes—Christian Dior, Kenzo, Givenchy and Guerlain
- Post the decision on its website for 3 weeks
- Publish in three newspapers of Louis Vuitton's choosing

# United States: Copyright Infringements

## *Io Group v. Veoh (Aug 27 2008)*

- Infringing videos uploaded to Veoh
- Pornographic videos
- Io sued
- Court held: Veoh was immune from damages under the safe harbor of the DMCA

- Court was impressed by Veoh's actions against infringement:
- 1. Registered agent with US Copyright Office to receive notices of infringement
- 2. Reminded users during upload: "Don't upload infringing material"
- 3. Users uploading infringements: first warned, then terminated

# Veoh ruling

- 4. Disabled access to infringing material (and on users' hard drives)
- 5. Used hashing to create a digital fingerprint so identical files couldn't be re-uploaded by other users

# Trademark Infringements: Tiffany v. eBay



- Although eBay knew about substantial amounts of counterfeit products on the eBay site, it didn't know which specific listings or sellers were responsible for counterfeits until Tiffany notified them
- Excellent summary by SIIA's Keith Kupferschmid in Information Today

# Tiffany v. eBay

- Judge impressed by eBay's actions:
- Verified Rights Owner program (VeRO)
- Allows rights owners (like Tiffany) to send eBay a Notice of Claim of Infringement (like DMCA notice)
- 75% of reported listings are removed within 12 hours

- “fraud engine” can search for words like “pirated” or “counterfeit”
- Company pages permit Tiffany to tell about their products, and gives hints to identify infringing goods
- When uploading Tiffany goods, eBay included a warning: “make sure it is authentic”
- Only US sellers could sell on the US eBay site (what’s the idea? US sellers are less likely to sell counterfeit goods?)

# Lessons and recommendations

- United States: debate how involved to be?
- Is it better to just respond to takedown notices or take more active steps
- Veoh and Tiffany cases: Better to take active steps
- Veoh did manual “spot checks” for infringements
- Good faith matters
- Register copyright agent with US copyright office

- Don't need to do everything possible (e.g., to prevent re-registrations under different email addresses)

# Europe

- Moving much closer toward requiring to monitor, for copyright infringements or trademark infringements
- Explore whether software or filtering is possible, such as Audible Magic
- But this is expensive
- User-uploading sites: creating SHA-1 hashes for removed content. Inexpensive and easy (eSnips did)

# Recommendations (cont'd)

- Permitting copyright owners to access and take down infringing content
- YouTube: split revenue on infringing material, rather than send takedown notice
- Insurance for directors & officers—can cover claims



# Good to be an ISP in Israel!

## US

- No exemption if: “aware of facts and circumstances from which infringing activity is apparent”
- So—should YouTube have known of all the infringing Viacom clips?

- Israel
- No exemption:
- Only for actual knowledge material was infringing when posted



# Limitation on ISP exemption

- US
- No exemption if receive a financial benefit
- Israel
- No limitation

# Does content remain on site?

- US
- No. If, following counter-notice, original complainant sues, ISP has no liability if it takes content down
- Israel
- Yes. If poster intends to go to court, then ISP should not remove the content
- If cannot find the poster, the material stays up

**Speed Date: Thank You!**  
**[dmirchin@meitar.com](mailto:dmirchin@meitar.com)**

