

tumblr

Copyright and Trademark
Transparency Report

July — Dec 2019

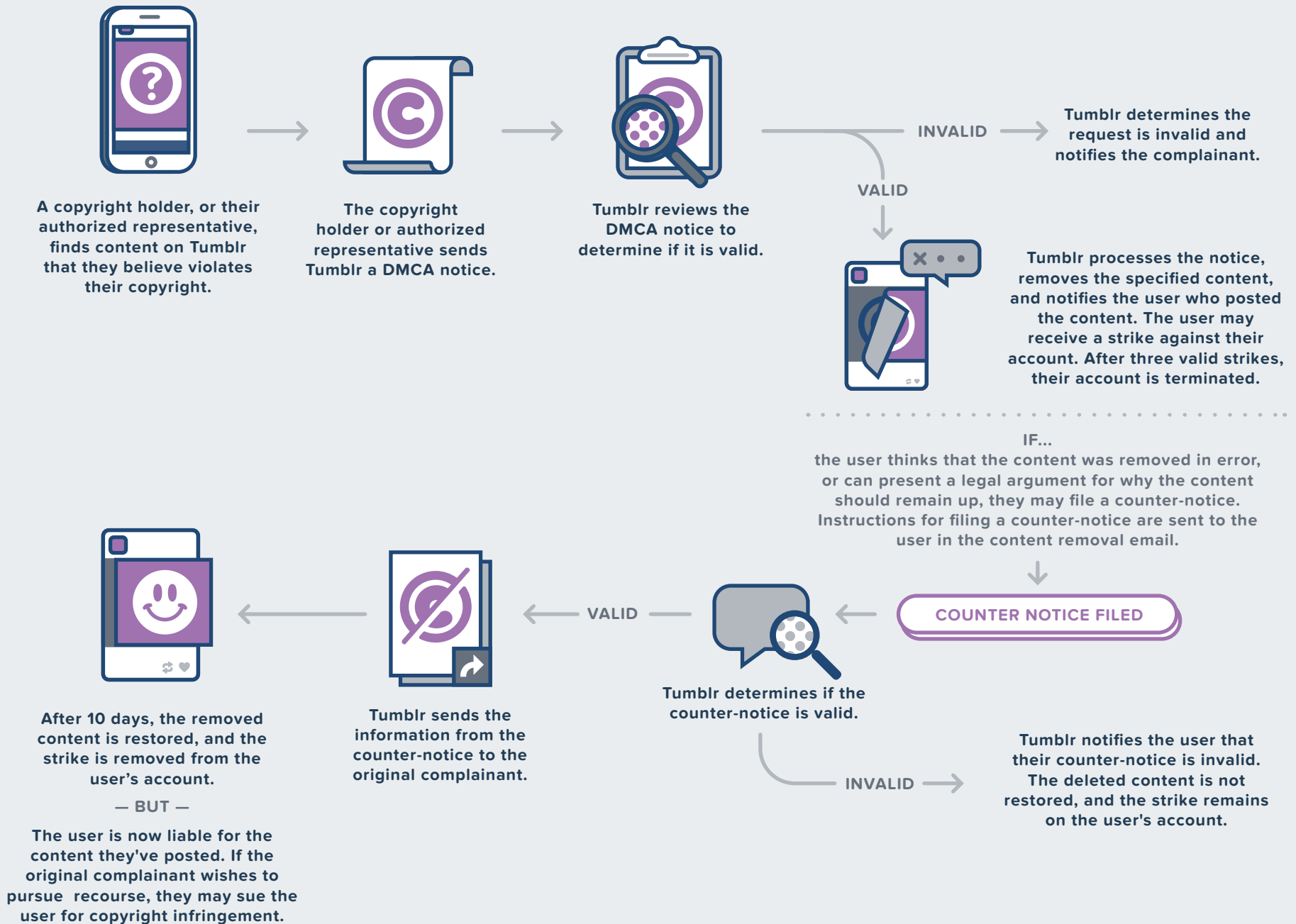
Introduction

Welcome to the tenth edition of Tumblr’s copyright and trademark transparency report, covering the number and nature of takedown requests we received from July through December of 2019.

Copyright disputes are complex affairs, so once again we’ll take some time to guide you, step-by-step, through the mechanics of a Digital Millennium Copyright Act takedown order. We made a flowchart and everything.

Enjoy.

How we handle copyright infringement notifications under the Digital Millennium Copyright Act (DMCA)



Overview of all DMCA notices received, July to December 2019

From July through December 2019, we received 2,889 DMCA notices and determined that 85% (2,462) were valid¹. In response to valid notices, Tumblr:

- Removed 17,059 pieces of content
- Removed 9,456 posts (0.000003% of posts on Tumblr)
- Terminated 971 blogs in accordance with our policy against repeat copyright infringement²

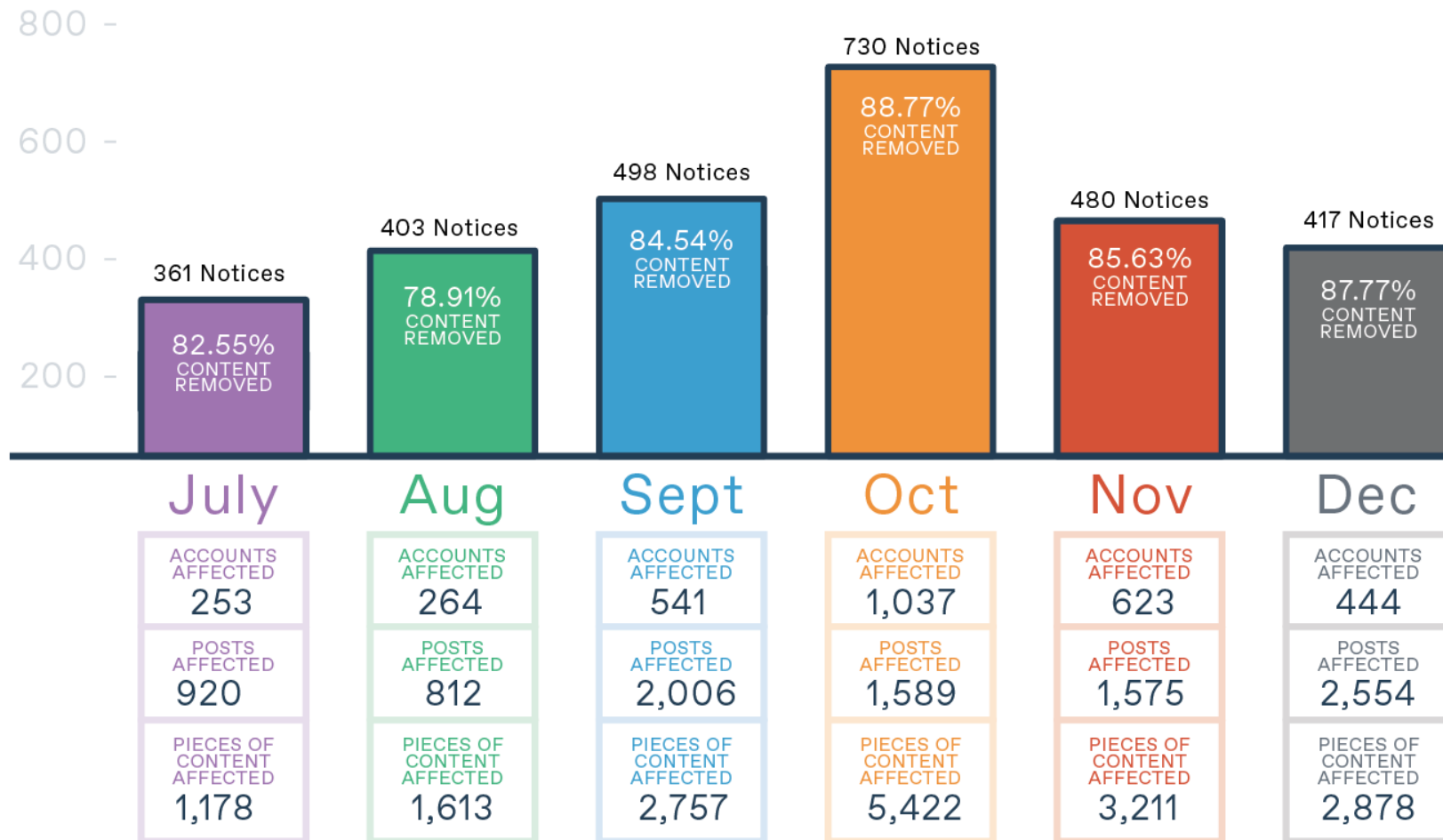
As a U.S. company, Tumblr requires that all copyright notices be submitted in accordance with the DMCA. When we receive non-compliant requests (including foreign requests), we ask the complainant to resubmit their request in accordance with the statute.

¹ Tumblr processes notices pursuant to the DMCA. Under the DMCA there are a number of conditions a complaining party must satisfy:

1. Identification of the work or material being infringed.
2. Identification of the material that is claimed to be infringing, including its location, with sufficient detail so that we are capable of finding it and verifying its existence.
3. Contact information for the notifying party, including name, address, telephone number, and email address.
4. A statement made under penalty of perjury that the information provided in the notice is accurate and that the complainant is authorized to make the complaint on behalf of the copyright owner.
5. A statement that the complainant has a good faith belief that the material is not authorized by the copyright owner, its agent or law.
6. The complainant's physical or electronic signature.

² We are now disclosing the total number of blogs terminated for repeat copyright infringement. In reports prior to the Jul 1 - Dec 31 2018 period, we have disclosed the total number of accounts terminated. Since each account can include multiple blogs, we believe our new reporting methodology is more accurate and transparent.

Overview of all DMCA notices received, July to December 2019



Overview of all DMCA counter-notices received, July through December 2019

From July through December 2019, we received a total of 3 valid³ counter-notices from users requesting the restoration of content that had been removed pursuant to a DMCA takedown notice. This affected a total of 3 accounts and resulted in the restoration of 4 posts. Of the 9,456 posts that were removed pursuant to a takedown notice, 0.0004% were restored using the counter-notice process.

³ In accordance with the statute, a valid counter-notice must contain:

- The user's physical or electronic signature
- The user's name, address, and phone number
- Identification of the material and its location before it was removed
- A statement under penalty of perjury that the material was removed by mistake or misidentification
- The user's consent to the jurisdiction of a federal court in the district where the user lives (or the federal district court located in New York County, New York, if the user lives outside of the U.S.)
- The user's consent to accept service of process from the party who submitted the takedown notice

In addition to the statutory requirements, we sometimes ask for the legal or factual basis for filing the counter-notification

	# of Valid Counter Notices	# Accounts Affected with Restored Content	# of Posts Restored	# of Pieces of Content Restored
July	0	0	0	0
Aug	0	0	0	0
Sept	2	2	3	6
Oct	1	1	1	1
Nov	0	0	0	0
Dec	0	0	0	0
TOTAL	3	3	4	7

Overview of all trademark complaints received, July through December 2019

Handling trademark issues (either potential infringement or instances of confusion) is complex, especially for neutral platforms like Tumblr, and consequently requires additional analysis as compared to copyright infringement. We first require documentation of a live federal or international trademark registration—often the name of a business or brand or its logo.⁴ We then look at a variety of factors to determine if reported content or a URL is misleading to users or causes confusion, and what action to take in these cases. Among them:

- How the reported term is being used
- Content found on the blog
- The registered goods and services
- Landscape of similar marks related to the reported term
- When the reported term was first used

	# of Requests	# of URLs Affected	% Blogs Terminated	% Blog Content Removed	% URLs Changed
July	23	19	42.11%	26.32%	5.26%
Aug	18	17	17.65%	0%	17.65%
Sept	24	25	60%	36%	12%
Oct	17	24	50%	12.5%	12.5%
Nov	19	19	63.16%	15.79%	5.26%
Dec	18	17	58.82%	29.41%	5.88%
TOTAL	119	121	49.59%	20.66%	9.92%

⁴ In rare cases we make exceptions to this requirement, such as when a name or phrase is exceptionally distinctive or famous.

Overview of all trademark complaints received, July through December 2019

Based on our findings, we may prescribe one or more of the following actions:

- If a user is using a misleading URL, we may require them to change it. We notify the URL holder and give them an opportunity to change the URL on their own before we change the URL to something generic on their behalf.
- Alternatively, we may request that a user include a disclaimer on their blog.
- Sometimes, we remove specific posts that are using a term to create confusion. Like all content takedowns on the site, we always notify the user when we remove any of their content, and include as much information as possible regarding the claim made against their post.

From July through December 2019, we received a total of 119 trademark complaints relating to 121 accounts on Tumblr. Of those 121 accounts, 60 accounts (50%) were terminated, 12 accounts (10%) were required to modify their blog URLs and content was removed from 25 accounts.

Possible Emerging Trends

In the course of comparing our numbers from this period (July through December 2019) to those from previous periods, we noticed the following trends:

- We received significantly fewer DMCA takedown notices over this period, with a slight decrease in the percentage that were valid.
- We have seen a decrease in the number of valid counter-notices that we have received from users requesting the restoration of content that had been removed pursuant to a DMCA takedown notice.
- We have seen a slight decrease in the number of trademark complaints we've received over the past reporting period, although the percentage of those complaints resulting in action against a blog or account has remained consistent.

We've now come to the end of our tenth copyright and trademark transparency report. If you enjoyed it, we encourage you to explore our archives and dive as deeply into these numbers as you like.