

Draft
Subject to Legal Review for Accuracy, Clarity, and Consistency
October 18, 2005

[month and day], 2005

H.E. Maqbool Bin Ali Sultan
Minister of Commerce and Industry
Ministry of Commerce and Industry
Sultanate of Oman

Dear Mr. Minister,

In connection with the signing on this date of the United States-Oman Free Trade Agreement (the "Agreement"), I have the honor to confirm the following understanding reached by the Governments of the United States and the Sultanate of Oman regarding the Agreement:

In meeting the obligations of Article 15.10.29(ix), the United States shall apply the pertinent provisions of its law¹ and Oman shall adopt requirements for: (a) effective written notice to service providers with respect to materials that are claimed to be infringing, and (b) effective written counter-notification by those whose material is removed or disabled and who claim that it was disabled through mistake or misidentification, as set forth in this letter. Effective written notice means notice that substantially complies with the elements listed in section (a) of this letter, and effective written counter-notification means counter-notification that substantially complies with the elements listed in section (b) of this letter.

- (a) Effective Written Notice, by a Copyright² Owner or Person Authorized to Act on Behalf of an Owner of an Exclusive Right, to a Service Provider's Publicly Designated Representative³

In order for a notice to a service provider to comply with the relevant requirements set out in Article 15.10.29(ix), that notice must be a written communication, which may be provided electronically, that includes substantially the following:

¹ 17 U.S.C. 512(C)(3)(A) and 512(g)(3).

² All references to copyright in this letter are understood to include related rights, and all references to works are understood to include the subject matter of related rights.

³ The Parties understand that a representative is publicly designated to receive notification on behalf of a service provider if the representative's name, physical and electronic address, and telephone number are posted on a publicly accessible portion of the service provider's website, and also in a register accessible to the public through the Internet, or designated in another form or manner appropriate for Oman.

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1. the identity, address, telephone number, and electronic mail address of the complaining party (or its authorized agent);
2. information reasonably sufficient to enable the service provider to identify the copyrighted work(s)⁴ claimed to have been infringed;
3. information reasonably sufficient to permit the service provider to identify and locate the material residing on a system or network controlled or operated by it or for it that is claimed to be infringing, or to be the subject of infringing activity, and that is to be removed, or access to which is to be disabled;⁵
4. a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
5. a statement that the information in the notice is accurate;
6. a statement with sufficient indicia of reliability (such as a statement under penalty of perjury or equivalent legal sanctions) that the complaining party is the holder of an exclusive right that is allegedly infringed, or is authorized to act on the owner's behalf; and
7. the signature of the person giving notice.⁶

(b) Effective Written Counter-Notification by a Subscriber⁷ Whose Material Was Removed or Disabled as a Result of Mistake or Misidentification of Material

In order for a counter-notification to a service provider to comply with the relevant requirements set out in Article 15.10.29 (ix), that counter-notification must be a written communication, which may be provided electronically, that includes substantially the following:

⁴ If multiple copyrighted works at, or linked to from, a single online site on a system or network controlled or operated by or for the service provider are covered by a single notification, a representative list of such works at, or linked to from, that site may be provided.

⁵ In the case of notices regarding an information location tool pursuant to paragraph (b)(i)(D) of Article 15.10.29, the information provided must be reasonably sufficient to permit the service provider to locate the reference or link residing on a system or network controlled or operated by or for it, except that in the case of a notice regarding a substantial number of references or links at a single online site residing on a system or network controlled or operated by or for the service provider, a representative list of such references or links at the site may be provided, if accompanied by information sufficient to permit the service provider to locate the references or links.

⁶ A signature transmitted as part of an electronic communication satisfies this requirement.

⁷ All references to "subscriber" in this letter refer to the person whose material has been removed or disabled by a service provider as a result of an effective notice described in part (a) of this letter.

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1. the identity, address, and telephone number of the subscriber;
2. the identity of the material that has been removed or to which access has been disabled;
3. the location at which the material appeared before it was removed or access to it was disabled;
4. a statement with sufficient indicia of reliability (such as a statement under penalty of perjury or equivalent legal sanctions) that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material;
5. a statement that the subscriber agrees to be subject to orders of any court that has jurisdiction over the place where the subscriber's address is located, or, if that address is located outside the Party's territory, any other court with jurisdiction over any place in the Party's territory where the service provider may be found, and in which a copyright infringement suit could be brought with respect to the alleged infringement;
6. a statement that the subscriber will accept service of process in any such suit; and
7. the signature of the subscriber.⁸

I have the honor to propose that this understanding shall be treated as an integral part of the Agreement. I have the further honor to propose that this letter and your letter in reply confirming that you share this understanding shall constitute an agreement between our two Governments, to enter into force on the date of entry into force of the Agreement.

Sincerely,

Robert J. Portman
United States Trade Representative

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[Month and day], 2005

The Honorable Robert J. Portman
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Portman,

I have the honor to acknowledge receipt of your letter of this date, which reads as follows:

“In connection with the signing on this date of the United States-Oman Free Trade Agreement (the “Agreement”), I have the honor to confirm the following understanding reached by the Governments of the United States and the Sultanate of Oman regarding the Agreement:

In meeting the obligations of Article 15.10.29(ix), the United States shall apply the pertinent provisions of its law⁹ and Oman shall adopt requirements for: (a) effective written notice to service providers with respect to materials that are claimed to be infringing, and (b) effective written counter-notification by those whose material is removed or disabled and who claim that it was disabled through mistake or misidentification, as set forth in this letter. Effective written notice means notice that substantially complies with the elements listed in section (a) of this letter, and effective written counter-notification means counter-notification that substantially complies with the elements listed in section (b) of this letter.

- (a) Effective Written Notice, by a Copyright¹⁰ Owner or Person Authorized to Act on Behalf of an Owner of an Exclusive Right, to a Service Provider’s Publicly Designated Representative¹¹

In order for a notice to a service provider to comply with the relevant requirements set out in Article 15.10.29(ix), that notice must be a written communication, which may be provided electronically, that includes substantially the following:

⁹ 17 U.S.C. 512(C)(3)(A) and 512(g)(3).

¹⁰ All references to copyright in this letter are understood to include related rights, and all references to works are understood to include the subject matter of related rights.

¹¹ The Parties understand that a representative is publicly designated to receive notification on behalf of a service provider if the representative’s name, physical and electronic address, and telephone number are posted on a publicly accessible portion of the service provider’s website, and also in a register accessible to the public through the Internet, or designated in another form or manner appropriate for Oman.

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1. the identity, address, telephone number, and electronic mail address of the complaining party (or its authorized agent);
 2. information reasonably sufficient to enable the service provider to identify the copyrighted work(s)¹² claimed to have been infringed;
 3. information reasonably sufficient to permit the service provider to identify and locate the material residing on a system or network controlled or operated by it or for it that is claimed to be infringing, or to be the subject of infringing activity, and that is to be removed, or access to which is to be disabled;¹³
 4. a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
 5. a statement that the information in the notice is accurate;
 6. a statement with sufficient indicia of reliability (such as a statement under penalty of perjury or equivalent legal sanctions) that the complaining party is the holder of an exclusive right that is allegedly infringed, or is authorized to act on the owner's behalf; and
 7. the signature of the person giving notice.¹⁴
- (b) Effective Written Counter-Notification by a Subscriber¹⁵ Whose Material Was Removed or Disabled as a Result of Mistake or Misidentification of Material

In order for a counter-notification to a service provider to comply with the relevant requirements set out in Article 15.10.29 (ix), that counter-notification

¹² If multiple copyrighted works at, or linked to from, a single online site on a system or network controlled or operated by or for the service provider are covered by a single notification, a representative list of such works at, or linked to from, that site may be provided.

¹³ In the case of notices regarding an information location tool pursuant to paragraph (b)(i)(D) of Article 15.10.29, the information provided must be reasonably sufficient to permit the service provider to locate the reference or link residing on a system or network controlled or operated by or for it, except that in the case of a notice regarding a substantial number of references or links at a single online site residing on a system or network controlled or operated by or for the service provider, a representative list of such references or links at the site may be provided, if accompanied by information sufficient to permit the service provider to locate the references or links.

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1. the identity, address, and telephone number of the subscriber;
2. the identity of the material that has been removed or to which access has been disabled;
3. the location at which the material appeared before it was removed or access to it was disabled;
4. a statement with sufficient indicia of reliability (such as a statement under penalty of perjury or equivalent legal sanctions) that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material;
5. a statement that the subscriber agrees to be subject to orders of any court that has jurisdiction over the place where the subscriber's address is located, or, if that address is located outside the Party's territory, any other court with jurisdiction over any place in the Party's territory where the service provider may be found, and in which a copyright infringement suit could be brought with respect to the alleged infringement;
6. a statement that the subscriber will accept service of process in any such suit; and
7. the signature of the subscriber.¹⁶

I have the honor to propose that this understanding shall be treated as an integral part of the Agreement. I have the further honor to propose that this letter and your letter in reply confirming that you share this understanding shall constitute an agreement between our two Governments, to enter into force on the date of entry into force of the Agreement.”

¹⁶ A signature transmitted as part of an electronic communication satisfies this requirement.

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I have the honor to confirm that my Government shares the understanding expressed in your letter and to confirm that this understanding shall be treated as an integral part of the Agreement. I have the further honor to confirm that your letter and this reply shall constitute an agreement between our two Governments, to enter into force on the date of entry into force of the Agreement.

Sincerely,

Maqbool Bin Ali Sultan
Minister of Commerce and Industry