

TO: Etsy, Inc., Marketing Executive

FROM: Gail A. Murray, Creator/Seller

DATE: July 6, 2023

SUBJECT: Etsy's Copyright Infringement Complaint Policy

I sell copyrighted products on my Etsy Shop, "Bookaroni," and I am a stakeholder who is invested in Etsy's policies.

Etsy's Intellectual Property (IP) Policy and the Burden of Proof

My concern extends to the Etsy policy in which the seller is "guilty until proven innocent." An alleged alternative IP owner is able to make a false statement to Etsy via a copyright infringement notice resulting in immediate penalty to a seller. Copyright infringement reports automatically pull alleged items off of the seller's online shop for a minimum of ten days. (Etsy)

Counter Notice Requirements

Etsy's IP policy states that the counter notice may only characterize the complainant's notice as either "a mistake or misidentification of the materials." (Etsy) This is problematic because it is possible that a competitor assumed the risk of state or federal prosecution of perjury in order to stifle the seller's sales. Etsy is shifting the legal cost and burden of proof to the seller by instructing the seller that they should "contact an attorney before submitting a counter notice to Etsy." This policy also includes the threat of "account termination or other legal consequences" if the seller files a counter notice without expensive legal advice. (Etsy, DMCA...)

Policy Revision Needed

It is detrimental to the seller's rights to shift copyright infringement penalties outside of the due process of the state. I urge Etsy to revoke their automated ten-day suspension. Etsy's policy of immediately suspending the product from the seller's shop without notice denies proper due process. Beneficiaries such as sellers, buyers and stockholders are deprived of an uncontrolled aggregate of potential profit and value. (LII) Etsy should instead require the complainant to file a formal complaint with the Copyright Claims Board (CCB) (U.S. Copyright Office.) prior to filing copyright infringement complaints on the "Etsy Reporting Portal."

Works Cited

- “DMCA Notice Requirements - Our House Rules.” *Etsy*, 16 June 2023, www.etsy.com/legal/ip-dmca/. Accessed 6 July 2023.
- “Fifth Amendment.” *Legal Information Institute (LII)*, www.law.cornell.edu/wex/fifth_amendment. Accessed 6 July 2023.
- “Intellectual Property Policy - Our House Rules.” *Etsy*, 15 June 2023, www.etsy.com/legal/policy/intellectual-property-policy/1106143401341. Accessed 6 July 2023.
- U.S. Copyright Office. “The Copyright Claims Board (CCB).” *Copyright Claims Board*, ccb.gov/. Accessed 6 July 2023.
- U.S. Copyright Office. *U.S. Copyright Office Fair Use Index*, Feb. 2023, www.copyright.gov/fair-use/. Accessed 6 July 2023.