

Meta Description: Yout's lawsuit against the RIAA has revived a question whether stream-ripping tools breach protections under the DMCA. Here's what we think about it.

Yout Files Lawsuit Against RIAA in Stream-Ripping Tool Rematch

The Recording Industry Association of America (RIAA) has been quite busy this year, and once again, it finds itself in the center of a DMCA storm. In 2019 and in [October this year](#), while causing turbulence elsewhere, the RIAA sent a couple of DMCA notices to Google and Github, which affected Yout and YouTube-DL, respectively.

However, both notices depart from what you would usually expect from a DMCA takedown. Rather than claim that a specific piece or pieces of copyrighted content were being infringed upon, the complaint was that Yout and YouTube-DL were *potentially* used to download copyrighted content.

The section of the DMCA under which the notices were sent make it illegal to offer software that is primarily designed to circumvent copyright protections. This is big as the section is controversial for potentially stifling innovation, and has drawn criticism from industry watchdogs due to this.

The RIAA has gotten used to throwing its weight around in recent years, and as usual, its notices elicited a response, leading to the removal of both Yout and [YouTube-DL](#) from the respective platforms. However, one outcome the RIAA likely didn't expect was that it would be facing a lawsuit for its troubles.

In October this year, Yout and its legal team [filed a complaint](#) in federal court against the trade association. The complaint, which claims that the RIAA has abused the DMCA with its notice, sets the stage for a copyright battle reminiscent of the RIAA's previously successful campaigns against Napster, Grokster and [YouTube-MP3.org](#).

The big question now, as it was then, is this – should the creator of software that may potentially be used to infringe copyright be responsible when that happens?

RIAA's takedown notices

Yout and YouTube-DL fall within a category of tools that offer “stream-ripping” services. These essentially enable users rip audio and video content from temporary streams so they can access this content at their own time and pace. The tools have found a wide variety of use cases, most popular of which has been their use in grabbing content off YouTube and other websites that offer streamed content.



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by [DMCA.com](#) a private copyright services company.

This article is available at [DMCA.com/articles](#).

Obviously, this has been source of nightmares for the music industry. Tools such as Yout and YouTube-DL potentially allow users access unlimited numbers of copyrighted content. As a result, various stream-ripping sites have come under the fire of the music industry. This has led to some of the largest enforcement actions in history, including the RIAA's famous (or infamous) enforcement action against [tens of thousands of private individuals](#).

This is the context in which RIAA's DMCA notices against Yout and YouTube-DL were sent. [According to the notice](#) sent by RIAA to Github, "the clear purpose of [the YouTube-DL] source code is to circumvent the technological protection measures used by authorized streaming services such as YouTube." They claim these tools allow users circumvent YouTube's "rolling cipher" anti-downloading software, thus enabling users "reproduce and distribute music videos and sound recordings owned [their] member companies without authorization for such use."

The notices sent to Google against Yout were in much the same spirit. Soon after receiving RIAA's notice, Github removed several repositories on its platform that contained projects related to YouTube-DL. But this was met with a public outcry that has since [resulted in the reversal](#) of the move.

Yout has enjoyed no such reversal though. After Google received RIAA's notice, the search giant de-listed Yout from its platform in a move that has now motivated Yout's lawsuit.

Enabling infringement and anti-circumvention

What stands out immediately about RIAA's notices is the law under which the notices were brought. Usually, takedown notices are sent under [section 512](#) of the Digital Millennium Copyright Act (DMCA). The section empowers owners of copyrighted content to issue a notice against any person to take down infringing content or against a platform hosting such infringing content. They can do this personally or through expert agents such as DMCA.com.

Instead, the notices were sent under the provisions of [section 1201](#) of the Act, which were designed to tackle software that enables copyright infringement. This is a big source of contention though, because there's a clear difference between software that could *potentially* be used to download protected content and software that is *specifically designed* for that purpose.

The verbatim of section 1201 seems to suggest that the focus of that section was software made to circumvent copyright-related technological protections. But there's a big question whether that's the case here. YouTube-DL is a line of code that lets people do a lot of things, including downloading streamed content. As supporters of the tool



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by [DMCA.com](#) a private copyright services company.

This article is available at [DMCA.com/articles](#).

argue, YouTube-DL serves many purposes, including use by [archivists, researchers and journalists](#). The tool can be used to download videos in the public domain, such as government works, and videos under a Creative Commons License. The tool is also a popular option for creators who want to make backups of their own videos off hosting sites.

Yout is also a browser add-on that allows users record the streamed videos while connected to the internet, and then create a copy of the videos for later consumption. The tool is also subject to a wide range of uses similar to YouTube-DL.

Another important question is whether RIAA's complaint is accurate in its claim that these stream-ripping tools were made to circumvent, or actually do circumvent, anti-download software. Both Yout and supporters of YouTube-DL have argued that their tools cannot actually download content with anti-circumvention software. According to Yout, "any digital mechanism in place designed as anti-circumvention technology stops Yout users from recording and saving that protected work..."

Time-shifting, place-shifting or something else?

Yout has argued that its software does not encourage infringing of copyright. Rather, it allows users shift their consumption of publicly-available content on the internet. They say this is no different from recording a program on your VCR so you can watch it later, at your own convenience. Thus, they simply enable "time-shifting" of this content.

This argument is not new, as it was the crux of the famous 1984 lawsuit between [Sony Corp. of America v Universal City Studios](#), where the phrase first came to light. The argument then was that VCRs led to breach of copyright because they enabled "unauthorized reproductions" of Universal Studios content.

But the time-shifting argument may not entirely apply here. The entire point of YouTube, or most content-hosting sites, is that the content is always there, ready for you to watch whenever you want. So, there's no real need for you to record the content because you're at work or otherwise occupied. Besides, the time-shifting argument largely succeeded for Sony because it didn't enable reproduction of copies that can be widely distributed. In this case, a stream-rip becomes a file on your computer that can then be shared or reproduced at will. So, in this case, it's more like "place-shifting", as the folks at Copyright Lately [note](#).

The US Supreme Court has [held previously](#), in the RIAA's case against Grokster, that platforms that enable peer-to-peer sharing of potentially infringing content may be liable under section 1201. Then again, that may not fully apply here since neither Yout nor YouTube-DL host copyrighted content in any sufficient quantities that might amount to infringement.



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by [DMCA.com](#) a private copyright services company.

This article is available at [DMCA.com/articles](#).

Malicious enforcement?

Yout's lawsuit claims that RIAA's notices were filed with "intent and actual malice", with the cardinal purpose of harming Yout's business. It complains that the notice has led to its being de-listed from Google and has tarnished its reputation as a purveyor of illegal software. If the court agrees with Yout's arguments, we may be seeing a decision similar to what was given in the lawsuit filed by Akilah Obviously against Sargon of Arkad.

Whatever the court does decide however, it is clear that its decision will have severe implications for stream-ripping in the future. As industry watchdog, Electronic Frontier Foundation, already argues, the RIAA's reliance on section 1201 "sets a very dangerous precedent" and this makes it "extremely easy for copyright holders to remove software tools from the internet based only on the argument that those tools could be used for copyright infringement."

There's definitely a case to be made for the potential of such complaints to stifle innovation just because it might lead to infringement of copyright. Perhaps a better position would be to push for controls that ensure copyrighted content remains protected. All of this goes to show that Yout's lawsuit will be one to be watched very closely.



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by DMCA.com a private copyright services company.

This article is available at DMCA.com/articles.