Step 3: Dispute the Copyright Notification

Once that you have determined that your video is in fact fair use, in order to get it restored you will need to dispute the copyright notice. This will be done differently depending on how your video was blocked.

Disputing a Content ID Match - View video tutorial

If your video was blocked by YouTube's automatic Content ID system, you will need to dispute the content identification. To do this, follow the following steps.

1. Go to your **Video Manager** page.
2. Click on **Copyright Notices** in the left side bar.
3. Find the video you wish to dispute, and click on the copyright status of the video, where it says something like, "**Video blocked in some countries,**" or "**Matched third party content.**" Note: As far as I know, the new "I acknowledge" button doesn't really do anything, so it doesn't matter if you click it or not.
4. Scroll down to the bottom of the page, and click the link that says **"I believe this copyright claim is not valid."**

5. From the list of reasons, select **"My use of the content meets the legal requirements for fair use or fair dealing under applicable copyright laws"** (or whatever other option is more suited to your situation). If you believe the Content ID match is simply wrong and your video does not contain any copyrighted content or the particular claimant does not own the copyright to it, select the option that best expresses the reason for your dispute.

6. On the next page, check the box for **"I am sure..."** and click continue.
7. On the next page, type a brief explanation of why you think your video is fair use. When disputing content ID blocks on my anime music videos, I usually say something like, **"This video is fair use under U.S. copyright law because it is noncommercial and transformative in nature, uses no more of the original than necessary, and has no negative effect on the market for the original work."**

8. **Type your full name** (your actual name not your YouTube username) into the signature box.
9. Check the box where it says you have a **good faith belief** that the material was disabled as a result of mistake or misidentification and click continue.

10. On the dispute summary page, click the **continue** button, and then click **ok** when it asks you to confirm.

11. Your video should then be automatically restored and should be viewable more or less immediately, though you may need to refresh the page a few times for it to work.

Go back to your **Video Manager** page and click on the video's copyright status again, and it should say that you disputed the claim, and it should give a date
one month
from the day your filed your dispute, by which the copyright holder must review your dispute and decide whether to release their claim or reinstate it.

If the copyright claimant reinstates their claim, your video will be re-blocked or monetized, depending on the policy set by the Content ID system. Until October 2012, this used to be the end of the line and the user was left without further recourse. Recently however, YouTube has implemented a new **appeals process**, under which you can file a second dispute against a reinstated claim and force the copyright claimant to either release the claim or resort to the DMCA notice and counter-notice process described below.

Appealing a Reinstated Content ID Claim (new as of October 2012) - View video tutorial

The appeals process is basically just a second dispute, telling the copyright claimant you are *r eally serious*
that your video is not infringing their copyright. While it is yet another hoop to jump through to fight a false copyright claim, it is an improvement over the old system, which gave users essentially no recourse at this point.

1. If a disputed Content ID claim against a video has been reinstated by the copyright claimant, below the message on the Content ID match page saying the claim has been reinstated, there should be a link that says **"I want to appeal a reinstated claim."** Click this link and go through the process, following the instructions on each page.

2. If you have not previously done so, you will be required to **verify** your YouTube account with a cell phone number capable of receiving text messages before you can proceed with the appeal. If you do not have a cell phone or your cell phone provider is not supported, you may need to buy a prepaid phone from a supported provider to use to verify your account. Once you enter your cell phone number, YouTube will send a verification code via text message to the phone, which you should then enter in the box provided to verify your account.

3. Once you have verified your account, you will be required to enter your **contact information**
(note: this will be provided to the copyright claimant) and provide a more
detailed explanation

of why your believe your video is not infringing. If you originally disputed the Content ID claim based on fair use, YouTube is going to make you prove you actually understand fair use by typing out a brief explanation of how your video meets each of the four factors of the statutory fair use test (see the previous section of this tutorial for descriptions of what each factor means). If you originally disputed the claim by saying you have a license to use the content in your video, you will be asked to provide a link to a license contract or other documentation that you have permission to use the content, which you can cut and paste into the provided text box.

4. Check the acknowledgment at the bottom of the page, type your legal name as your signature, and click **Appeal** to submit your appeal.

5. It should now bring you back to the Content ID matches screen. Your video should be viewable again pending the copyright claimant's response to your appeal. As with the original Content ID dispute, they will now have one month to respond (though it will probably be sooner), this time by either **releasing their claim** or **filing a formal DMCA takedown notice** . If they do the latter, your video will be removed once more and there will be a copyright strike issued against your account, just as if the video had been blocked by a DMCA notice to begin with. While this may seem like a bad thing, the advantage of this (compared to the way things used to work) is that it also gives you recourse to the DMCA counter-notice process, which is described below. If you still disagree with the copyright claim, you can file a DMCA counter-notice and have your video restored, in which case the copyright claimant will have to actually sue you in order to get the video removed permanently. See the next section of this tutorial for instructions on how to do that.

One final note about the new appeals process. YouTube has stated that this process will not necessarily be available for every video with a reinstated Content ID claim. You may not be able to appeal reinstated claims if you have outstanding DMCA copyright strikes on your account. Also, from what I have learned, the appeals process does not appear to be available for claims that were reinstated prior to fall of 2012. Assuming that you are otherwise in good copyright standing and the claim was reinstated after YouTube implemented the new policy, the appeals process should be available on all new reinstated claims.

For more information about the new appeals process, please see this YouTube help page , YouTube's
blog post
about the changes, and
my blog post
giving my initial reaction to the new system.

Filing a DMCA Counter-notice - View video tutorial

A DMCA takedown notice is a formal notice of copyright infringement by a copyright owner. You should know if your video was taken down as a result of a DMCA takedown notice because you would have gotten an email from YouTube saying that there is now a "strike" against your account, which will also show up in your
Account Status
page. If this is the case, in order to get your video restored, you will have to file a formal DMCA counter-notice
with YouTube.

There are two ways to submit a counter-notice. **(1)** The easiest and best way is to use **YouTube's webform for submitting counter-notices**
(accessed via your Video Manager page).
(2)
You can also email your counter-notice to
copyright@youtube.com
. If you choose to write a counter-notice yourself and submit it by email, ChillingEffects has an excellent
Counter-notice generator
, which you can use to generate a counter-notice to email to YouTube.

1. Using YouTube's Counter-Notice Webform (Recommended Method)

The best method to submit counter-notices to YouTube is to use the handy webform YouTube has provided for this purpose.

1. Go to YouTube's counter-notice webform, which you can reach by going to your **Video Manager**
page or your
Copyright Notices
page and clicking on the link next to the video that was taken down.

2. Fill in all the required information. This includes your YouTube screen name, your true legal name and true residential address **(note: this information will be sent to the copyright claimant)** , the email address associated with your YouTube account, the URL of the removed video, and the required statements swearing that your counter-notice is not fraudulent and consenting to the jurisdiction of your local federal district court.

3. **Make sure to provide a justification for why you believe your video is fair use in the "message to YouTube" box.** If you do not provide YouTube with a justification stating why you are filing the counter-notice, YouTube will reject your counter-notice without even forwarding it to the copyright holder. This message must

be specific to your video . A generic statement describing fair use in general will not suffice. You have to describe why YOUR VIDEO is fair use, or else YouTube will reject your counter-notice. A good basic fair use rationale could be something like,
"This video is fair use under U.S. copyright law because it is (1) non-commercial, (2) transformative in nature, (3) uses no more of the original work than necessary for the video's purpose, and (4) does not compete with the original work and could have no negative affect on its market."

4. Though not required, it is a good idea to include this same statement in the "message to the party that made the copyright claim" box, so they know your reasons for filing a counter-notice as well.
5. Type your first and last name at the end as your electronic signature and click submit.

2. Alternate Method: Write your own counter-notice

Note: Since YouTube changed submitting DMCA counter-notices to be done through your video manager page, I'm not entirely sure if this method still works.

If you do not wish to use YouTube's webform or you are submitting a counter-notice to a website other than YouTube, you can email a counter-notice to the site's copyright compliance address (in the case of YouTube, copyright@youtube.com). The Digital Millennium Copyright Act (DMCA) requires that a counter-notice contain the following specific elements, which are described on YouTube's help page here :

1. Identification of the **specific URLs of material that YouTube has removed** or to which YouTube has disabled access.

2. Your full **name**, **address**, **telephone number,** and **email address**, and the **username** of your YouTube account.

3. The statement: **"I consent to the jurisdiction of the Federal District Court for the district in which my address is located, or if my address is outside of the United States, the judicial district in which YouTube is located, and will accept service of process from the claimant."**
4. The statement: **"I swear, under penalty of perjury, that I have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled."**
5. Signature. A scanned physical signature or a valid electronic signature will be accepted.

Note: YouTube also requires a statement of the rationale behind your counter-notice, or else they will reject the counter-notice. In the case of a fair use claim, a statement like that above saying why your video is fair use should be sufficient. Your rationale must be specific to your video , and not merely a generalized statement about fair use. YouTube also requires that counter-notices sent by email use the following subject line: **"YouTube DMCA Counter-Notification."**

If you do wish to write your own counter-notice, a sample counter-notification may be found at: http://www.chillingeffects.org/dmca/counter512.pdf . (That link is actually another counter-notice generator, which you can use to create a counter-notice when you can then email to YouTube.)

What Happens Next

Once you have submitted a counter-notification, the copyright owner has 10-14 business days to respond and notify YouTube that they plan to file a lawsuit seeking an injunction prohibiting you from posting your video (in most cases, highly unlikely). If they fail to do this within the allotted time (YouTube's policy says 10 days even though the law gives them up to 14), YouTube will restore your video. In my personal experience, this whole process takes about three weeks.

Please be aware that after you file a counter-notice, the only way the copyright owner can keep your video off YouTube is to sue you. While no regular YouTube user has yet been sued over a YouTube video, there is a possibility that filing a counter-notice could provoke them into filing a lawsuit. Please keep this risk in mind when deciding whether or not to file a counter-notice.

Troubleshooting

- **I filed a DMCA counter-notice through YouTube's webform, and I never received any confirmation message. It has been several weeks and nothing has happened.**

It seems that sometimes DMCA counter-notices submitted through YouTube's webform just get lost in the system. If this happens to you and you do not receive any kind of confirmation from YouTube within a few days, try submitting it again through the email method, by emailing all the same information in your counter-notice to **copyright@youtube.com**, using the subject line, "YouTube DMCA Counter-Notification."

- **I filed a DMCA counter-notice, but it was rejected with a message saying "*Based on the information you have provided, it appears that you do not have the necessary rights***

to post the content on YouTube. Therefore, we regretfully cannot honor this counter-notification. It has not been forwarded to the original claimant, and we will not be able to restore your video."

In my experience, this message results from one of two things: either (1) you already deleted the video you are attempting to file a counter-notice on; or (2) you failed to fill out the "message to YouTube" box in the counter-notice form and include an explanation for why your video is not infringing. If the first is true, I'm afraid you're simply out of luck, as YouTube will not process counter-notices on videos you have already deleted yourself. **Never delete videos you plan to file a copyright dispute on!**

If the second is true, simply re-submit the counter-notice form, and include in the "message to YouTube" box a brief explanation for why your video is not infringing, ***that is specific to YOUR video.*** Generic statements about fair use are not sufficient. You have to explain why **YOUR VIDEO** specifically is fair use. For example, a statement like, "*This video qualifies as fair use under U.S. copyright law because it (1) makes transformative use of the content in question, adding new message and meaning to the original; (2) is non-commercial in nature; and (3) does not harm the market for the original*" should be sufficient.

One final note

The DMCA requires copyright owners to certify that they have a "good faith belief" that the material in question is infringing when filing a DMCA takedown notice. If a copyright owner files a takedown notice against a video that is clearly fair use or otherwise obviously non-infringing, they could be liable for fraudulent misrepresentation of the video's copyright status under the DMCA. There is at least one legal precedent (the case *Lenz v. Universal* in California) where a judge has ruled that a copyright owner could be held liable for issuing a fraudulent takedown notice against a 30-second home video of a toddler dancing to a Prince song being played on the radio. While the final outcome of the case has yet to be determined, this raises the possibility that if your video is falsely taken down even though it was obviously fair use, you could sue the copyright owner for damages. Please consult your attorney if you would like to pursue this option.