

Washington, D.C.
September 14, 2004

H.E. Abdulla Hassan Saif
Minister of Finance and National Economy
Kingdom of Bahrain

Dear Minister Saif:

I have the honor to confirm the following understanding reached between the delegations of the United States of America and the Kingdom of Bahrain in the course of negotiations regarding Chapter Fourteen (Intellectual Property Rights) of the Free Trade Agreement (“Agreement”) between our Governments signed this day:

In meeting the obligations of Article 14.10.29(b)(ix), Bahrain agrees to 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 removed or disabled through mistake or misidentification, as set forth below. Substantial compliance with the elements listed below shall be deemed to be effective written notice or counter-notification.

(a) *Model of an effective notice, by a copyright¹ owner or person authorized to act on behalf of an owner of an exclusive right, to a service provider’s publicly designated representative²*

In order for a notice to a service provider to comply with Article 14.10.29(b)(ix), it must be a written or electronic communication that includes substantially the following items:

1. The identity, address, telephone number, and electronic mail address of the complaining party (or its authorized agent).
2. Information that is reasonably sufficient to enable the service provider to identify the copyrighted work(s)³ claimed to have been infringed.

¹ 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.

² It is understood 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 public register publicly accessible through the Internet or such other form or manner appropriate for Bahrain.

3. Information that is reasonably sufficient to permit the service provider to identify and locate the material that is 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.⁴
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 owner of an exclusive right that is allegedly infringed or is authorized to act on the owner's behalf.
7. The signature of the person giving notice.⁵

(b) *Model of an Effective Counter-Notification by a Subscriber⁶ 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 Article 14.10.29(b)(ix), it must be a written or electronic communication that includes substantially the following items:

1. The identity, address, telephone number, and electronic mail address of the subscriber.

³ 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.

⁴ In the case of notices regarding an information location tool under subparagraph (b)(i)(D) of Article 14.10.29, 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.

⁵ A signature transmitted as part of an electronic communication satisfies this requirement.

⁶ 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 paragraph (a) of this letter.

2. Identification 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 of the Party's territory, any other court with jurisdiction over any place in the Party's territory in which 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.
7. The signature of the subscriber.⁷

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an integral part of the Agreement.

Sincerely,

Robert B. Zoellick

⁷ A signature transmitted as part of an electronic communication satisfies this requirement.

September 14, 2004

Washington, D.C.

The Honorable Robert B. Zoellick
United States Trade Representative

Dear Ambassador Zoellick:

I have the honor to confirm receipt of your letter of today's date, which reads as follows:

“I have the honor to confirm the following understanding reached between the delegations of the United States of America and the Kingdom of Bahrain in the course of negotiations regarding Chapter Fourteen (Intellectual Property Rights) of the Free Trade Agreement between our Governments signed this day:

In meeting the obligations of Article 14.10.29(b)(ix), Bahrain agrees to 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 removed or disabled through mistake or misidentification, as set forth below. Substantial compliance with the elements listed below shall be deemed to be effective written notice or counter-notification.

(a) *Model of an effective notice, by a copyright⁸ owner or person authorized to act on behalf of an owner of an exclusive right, to a service provider's publicly designated representative⁹*

⁸ 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.

⁹ It is understood 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 public register publicly accessible through the Internet or such other form or manner appropriate for Bahrain.

In order for a notice to a service provider to comply with Article 14.10.29(b)(ix), it must be a written or electronic communication that includes substantially the following items:

1. The identity, address, telephone number, and electronic mail address of the complaining party (or its authorized agent).
2. Information that is reasonably sufficient to enable the service provider to identify the copyrighted work(s)¹⁰ claimed to have been infringed.
3. Information that is reasonably sufficient to permit the service provider to identify and locate the material that is 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.¹¹
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 owner of an exclusive right that is allegedly infringed or is authorized to act on the owner's behalf.
7. The signature of the person giving notice.¹²

¹⁰ 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.

¹¹ In the case of notices regarding an information location tool under subparagraph (b)(i)(D) of Article 14.10.29, 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.

¹² A signature transmitted as part of an electronic communication satisfies this requirement.

(b) *Model of an Effective Counter-Notification by a Subscriber¹³
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 Article 14.10.29(b)(ix), it must be a written or electronic communication that includes substantially the following items:

1. The identity, address, telephone number, and electronic mail address of the subscriber.
2. Identification 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 of the Party's territory, any other court with jurisdiction over any place in the Party's territory in which 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.
7. The signature of the subscriber.¹⁴

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an integral part of the Agreement.”

¹³ 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 paragraph (a) of this letter.

¹⁴ A signature transmitted as part of an electronic communication satisfies this requirement.

I have the honor to confirm that the understanding referred to in your letter is shared by my Government, and that your letter and this letter in reply shall constitute an integral part of the Agreement.

Sincerely,

Abdulla Hassan Saif