



Could Your Free Wi-Fi Cost You A Bundle?

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Wi-Fi is everywhere and much of the time it is offered for “free.” And, while many RV parks understand “free Wi-Fi” is a great ad component to help bring in new business, many RV park owners do not understand the potential implications of allowing unfettered access to the Internet. Hart King has assisted a number of clients who have received “takedown” notices and demand letters threatening lawsuits. Such letters mean that suddenly free Wi-Fi may not seem like such a great idea.

DMCA is an acronym for the Digital Millennium Copyright Act of 1998, a federal law making it unlawful to circumvent the protection of copyrighted works. Luckily, the DMCA provides a specific exemption from liability for Internet Service Providers (“ISP”s) and other intermediaries provided they adhere to certain specific guidelines.

Problems arise when park owners allow visitors Wi-Fi access and those visitors have illegally downloaded movies or music or other copyrighted content without paying for it or uploaded inappropriate material on the Internet. The park owners were not directly involved in the illicit activity, but they furnished the Wi-Fi connection.

General Recommendations. DMCA takedown notices and threats of copyright infringement litigation are serious and should be given immediate attention. Prudent park owners would do well to take preventive measures such as the following:

1. Implement a stringent “Wi-Fi Guest User Policy” that includes a properly-worded “terms of use” disclosure statement;
2. Use an experienced outside company to implement a technological filter that prevents unauthorized access to the Wi-Fi;
3. Require customers, visitors, and anyone else using the Wi-Fi to sign an electronic acknowledgment of the “terms of use” before allowing access;
4. Maintain copies of the policy as well as all electronic disclosure statements;
5. If a DMCA takedown notice or a demand letter is received, do not ignore it;
6. Forward a copy of any takedown notice to legal counsel for a quick review; and
7. If legal counsel recommends further action, follow the attorney’s recommendations.

One final note. There is value in confirming that the park’s insurance policy (or policies) will provide a defense and indemnity for copyright infringement claims. If there is ever any actual litigation to enforce a third party’s copyright, you will be very glad that you planned ahead.

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