

Website ADA Compliance Made Easy:

How to Respond to Legal Demand Letters or Avoid Them, Altogether.



www.audioeye.com



www.cusolutionsgroup.com

Legal Demand Letters. Solved.

Accessibility 101: What's the Big Deal?

When we think (or hear) of “accessibility” as it relates to the Americans With Disabilities Act, we tend to think in terms of ramps and rails. We think of the physical world and the accommodations required for people experiencing barriers of access due to vision, hearing or mobility disabilities.

The ADA Title III prohibits “... discrimination on the basis of disability in the activities of places of public accommodations ...” Today, that includes the Internet.

Like the Internet itself, “accessibility” poses a bigger issue and impacts an even bigger population. In fact, as much as 15% of the world’s population experiences some manner of impediment that prevents them from equal access to digital content.

That is a big deal.

If you are in receipt of a legal demand letter regarding the inaccessibility of your website, this document provides the most critical first steps to take. If you have not received a demand letter, taking a proactive approach that integrates AudioEye, can help mitigate the risk and expense of having to address the issue after your company has been found to be out of conformance with ADA-related accessibility requirements.

The Legal Issue of Accessibility


The ADA grew out of the Civil Rights Movement of the 1960’s, however discrimination against people with disabilities was not addressed until 1973 when Section 504 of the Rehabilitation Act of 1973 became law and later passed in 1990.

Since then, advocacy groups representing millions of Americans and people around the world, who are prevented from equal access both in the physical and digital world, have fought to make the world more inclusive.

At present, further action by the Department of Justice as it pertains to Websites under Title II and III of the ADA are listed as “Inactive.”

In many cases, with no other recourse than to appeal directly to the Judicial System for enforcement of laws enacted to guarantee their rights, this interaction leaves advocacy groups and individuals fighting for their rights under the law.

Contact CU Solutions Group

 800-262-6285

 Info@CUSolutionsGroup.com

Background

Since 2015, thousands of financial institutions have received demand letters highlighting their failure to provide accessible websites and online content. They are not alone. Across the country, thousands of businesses and organizations of all sizes have received legal demand letters claiming ADA Title III violations. While accessibility law remains undefined for private, non-government entities, the demands of these plaintiffs do carry weight in Courts.

In June of 2017, the first-of-its kind federal ruling found that a large grocery store chain had violated the Americans with Disabilities Act.

“... website has denied ... full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations ...offers to its sighted customers.”

Whether you have received a demand letter or want to eliminate your exposure, AudioEye suggests the steps outlined, below.

Legal demand letters and complaints tend to follow a consistent pattern, including details that can lead to confusion and uncertainty. The following information is intended to provide guidance, outlining the options AudioEye offers to immediately address the issue.

Understanding the Problem

Before outlining the suggested steps, it is important to understand the problem.

If not designed with accessibility in mind, a website will not work for all users, particularly users who rely on Assistive Technology (AT), such as Screen Readers, to access online content. Screen Readers enable people who are blind or have low vision to use a computer.



How AudioEye Can Help

The AudioEye suite of solutions work to eliminate barriers to access and use of digital content. The AudioEye technology platform identifies and fixes issues of accessibility on existing websites, providing end-users with free assistive web enhancement tools to enable access and/or simply optimize their experience.

Steps to Address Legal Demand Letters

Step 1: Talk to Legal Counsel

In any legal matter, **Step 1** is to seek legal counsel. You may succeed in keeping legal costs to a minimum by familiarizing yourself with the nature of the threats, and taking the steps suggested herein.

Step 2: Reduce Exposure

Boilerplate demand letters include results of automated accessibility compliance scans generated by the plaintiff. Regardless of the merit of the findings, you will want to: A) identify a reputable accessibility provider to conduct automated and manual audits of your website and digital content; B) establish your own baseline by obtaining an independent and repeatable scan; C) begin addressing issues; D) publish an Accessibility Statement on your site to promote your ongoing effort to address accessibility and inclusion; E) provide users with a resource for reporting grievances should they encounter accessibility issues.

Keep in mind, there is no one-time fix. Like the Internet itself, websites and their content are dynamic. So, whatever solution you select, make sure it is technology-based and automated to accommodate for the growth of your site.

Step 2: Reduce Exposure (continued)

When electing to implement AudioEye, an Accessibility JavaScript is deployed that immediately begins fixing certain common issues of accessibility on your website. Simultaneously, AudioEye publishes an **Accessibility Statement** on your website, outlining the optimizations made to accommodate individuals with disabilities and the steps taken by AudioEye to ensure an optimal user experience.

As an additional accommodation for your users, AudioEye will also make available a dedicated **Web Accessibility Help Desk**, that allows your users to report issues of accessibility, should they run into issues with your website. The Help Desk is serviced by AudioEye Accessibility Subject Matter Experts and provides another level of assurance for your organization.

With the AudioEye solution implemented, our engineers will work to:

- Test your website
- Identify accessibility issues
- Remediate issues
- Validate that issues have been thoroughly resolved
- Work towards compliance with Web Content Accessibility Guidelines (WCAG) 2.0, Level AA
- Include testing conducted by individuals with disabilities specializing in accessibility auditing process
- Maintain conformance and continuously monitor for accessibility issues

Commonly, accessibility-related legal demand letters outline the requirements to meet the needs and expectations of the disability community, and, ultimately, the demands of the plaintiff. The recommended AudioEye approach addresses critical points outlined in standard demand letters.

- **Adjusting the site for Digital Inclusion**
- **Working to conform to WCAG 2.0 Level AA**
- **Leveraging a 3rd party technology company specializing in Web Accessibility with certified professionals in accessibility**
- **Validating accessibility through experienced assistive technology testers**

When AudioEye is enabled, these actions and facts are publicly stated and emphasized through an Accessibility Statement, which is made available from your site.

Step 3: Respond to Demand Letter

While evaluation and remediation is underway, given the amount of testing and analysis required to conform to WCAG 2.0 Conformance Level AA, it is recommended you complete **Step 3**.

Working with AudioEye and your attorney, **craft a response detailing the steps already taken and in progress** to address the plaintiff's demands and establishes a long-term strategy for ensuring not only equitable use of your digital assets, but also an optimal user experience for all users, regardless of their individual abilities.

In addition to ensuring your website meets the success criteria defined through WCAG and fixing issues that impact users employing their own Assistive Technology, AudioEye also deploys leading-edge assistive web enhancement tools, available free to your users.

These tools benefit all site visitors, but particularly, aging populations and individuals who have vision, hearing, motor and intellectual (cognitive) disabilities. Additionally, people who are color blind, dyslexic, are learning to read, learning a second language, or may prefer listening instead of reading, can also customize their experience to help them better and more fully access and understand the information on your site.

The AudioEye digital footprint is expansive and global.

Every day, AudioEye serves billions of accessibilities fixes to our customers' end users, making it the most trusted accessibility remediation solution in the world.



Deploying AudioEye tools and informing the plaintiff in a detailed response demonstrates a commitment to digital inclusion that leaves little, if any, room for rebuttal.

Steps to Address Legal Demand Letters

Step 3: Respond to Demand Letter & Integrate AudioEye

For what is perhaps the most important component in your response, AudioEye will provide specific language detailing your organization's ongoing commitment to ensuring a sustainable, long-term accessibility strategy. In partnership with AudioEye, your organization can maintain an accessibility compliance audit.

Step 4: Accessibility Conformance

As AudioEye finalizes the provisioning of its solution, **Step 4** may require your designers and/or developers to integrate outstanding issues that impact your company's ability to conform with WCAG 2.0. While these items are usually minimal, **AudioEye collaborates closely with your team to finalize the implementation.**


When complete, AudioEye updates the public facing Accessibility Statement and **certifies your organization's conformance level.**

When all is said and done, AudioEye will have:

- Tested your web infrastructure for issues using automated tools and manual technical and functional testing processes, including testing by individuals with disabilities
- Remediated accessibility issues using a balance of technology and engineering generated solutions
- Validated issue resolution
- Worked with your team - consulting and collaborating to understand certain issues of accessibility
- Provided tools for your team to track and maintain an accessibility audit over time
- Deployed innovative assistive web enhancement tools that are free to all users of your website
- Supplied users with a Help Desk utility for reporting access and usability issues (if encountered)
- Integrated a public facing Accessibility Statement that highlights your organization's commitment to digital inclusion
- Assisted your legal team in providing a thorough and ironclad response to the legal demand letter

For organizations looking to achieve a sustainable, long-term accessibility strategy, AudioEye delivers a mix of leading edge technology and service backed by experienced Accessibility Subject Matter Experts. In a cost-effective and timely manner, the AudioEye approach to accessibility makes digital content **more accessible, and more usable, for more people.**

For additional information about how AudioEye can assist your business, please contact CU Solutions Group.

 800-262-6285

 Info@CUSolutionsGroup.com

Supporting Resources & Materials:

"First-Of-Its-Kind Trial Goes Plaintiff's Way; Winn-Dixie Must Update Website For The Blind"

<https://www.forbes.com/sites/legalnewsline/2017/06/13/first-of-its-kind-trial-goes-plaintiffs-way-winn-dixie-must-update-website-for-the-blind/#fb434bd1b38a>

"Banks the Latest Targets in Website Accessibility Claims"

https://www.duanemorris.com/alerts/banks_the_latest_targets_in_website_accessibility_claims_0816.html

"What are the Odds? What's at Stake When Banks Don't Comply with the ADA?"

<https://brailleworks.com/the-odds>

"The Wave of Website and Other ADA Accessibility Claims – What You Should Know"

<http://www.littler.com/publication-press/publication/wave-website-and-other-ada-accessibility-claims-%E2%80%93-what-you-should-know>

"Benefits and ROI of accessible banking"

<http://www.mediaaccess.org.au/digitalaccessibilityservices/benefits-and-roi-of-accessible-banking>

"Reaping the business advantages of accessibility for banking"

<https://www-03.ibm.com/able/dwnlds/BusinessAdvantBanking-ExecBrief-accessible.pdf>

"Is Your Website Built for the Blind? If Not, You Could Lose an Ugly Lawsuit"

<https://thefinancialbrand.com/55509/ada-compliance-for-banking-websites>

"Why a Recent Ruling on Disability Access Serves as a Warning to All Businesses Operating Public Websites"

<http://www.jdsupra.com/legalnews/why-a-recent-ruling-on-disability-26466>

"Why You Should Make Your Website ADA Accessible Now"

<http://www.jdsupra.com/legalnews/why-you-should-make-your-website-ada-86468>

"DOJ Places Website Rulemaking on the 'Inactive' List"

<http://www.adatitleiii.com/tag/doj/>

"World Report on Disability"

http://www.who.int/disabilities/world_report/2011/report/en/