



audioeye

Website ADA Compliance Made Easy:

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

Legal Demand Letters. Solved.


Background

Across the country, thousands of businesses and organizations, large and small, have been served legal demand letters claiming ADA Title III violations. While accessibility law remains very much undefined for private, non-government entities, these plaintiff demands and strategies do carry weight and are not without precedence. Time and again, the Department of Justice, the Office of Civil Rights (in collaboration with the U.S. Access Board), and various Courts have sided with plaintiffs when seeking to expand the reach of ADA beyond the traditional brick and mortar foundations, from which the law derived. In short, businesses would be facing an uphill battle if they were to argue the letter of the law in courtrooms, instead of taking steps to embrace the spirit of the law, as defined, herein.

These legal demand letters and complaints follow a consistent pattern and include details that can lead to confusion and uncertainty. The following information is intended to provide guidance for those seeking clarity and outlines the different ways AudioEye may assist in addressing the issue, which, ultimately, can save time, effort, money, and an enormous headache.

If you are in receipt of a legal demand letter, take the steps in this document to address the problem. If you haven't received a demand letter, taking a proactive approach by adopting AudioEye can help mitigate the risk and expense of having to address the issue, after-the-fact.

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Understanding the Problem

Before we get into outlining the suggested steps that will allow your organization to address the issue, head-on, let's define the problem.

In short, unfortunately — in many cases — for millions of individuals seeking equal access, the web is broken. If not coded properly, a website may not work for all users, in particular for users of Assistive Technology (AT), such as a Screen Reader.



How AudioEye Can Help

The AudioEye solution seeks to eliminate barriers for individuals with disabilities by fixing issues of accessibility and providing end-users with free assistive web enhancement tools that enable access for some and optimize access for others.

Steps to Address Legal Demand Letters

Step 1: Talk to Legal Council

As with any legal matter, **Step 1** is to have an open conversation with your legal council. In an effort to keep legal costs to a minimum, assure your legal team that you are familiar with the nature of these threats and suggest taking the steps as outlined, below.

Step 2: Reduce Exposure

In most cases, these boilerplate demand letters come equipped with results generated from automated accessibility compliance tests that have been generated by the plaintiff. In some cases, the plaintiffs go so far as to have an accessibility tester manually compile a list of findings resulting from a cursory study of your website and digital assets. Regardless of the merit of these findings, **Step 2** is to begin reducing your exposure.

Step 2: Reduce Exposure (continued)

By implementing AudioEye, an Accessibility JavaScript is deployed that, out-of-the-box, begins fixing issues of accessibility on your website. At the same time, AudioEye will publish an **Accessibility Statement** on your website that outlines the optimizations made on your site to accommodate individuals with disabilities and the steps taken by AudioEye to ensure an optimal user experience for your users. 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, AudioEye engineers will take the next several weeks 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

This approach addresses critical points outlined in the demand letter. Commonly, accessibility-related legal demand letters outline the anticipated expectations required in order to meet the needs and expectations of the disability community, and, ultimately, the demands of the plaintiff.

By (1) designing and developing the site with Digital Inclusion in mind, (2) striving to conform to WCAG 2.0 Level AA, and (3) leveraging AudioEye, a 3rd party Web Accessibility Specialist with certified professionals in accessibility and (4) experienced assistive technology testers (many of whom are individuals with disabilities), you are meeting the demands outlined by the plaintiff.

This fact gets stated and emphasized, publically, through the Accessibility Statement, which is made available from your site, when AudioEye is enabled.

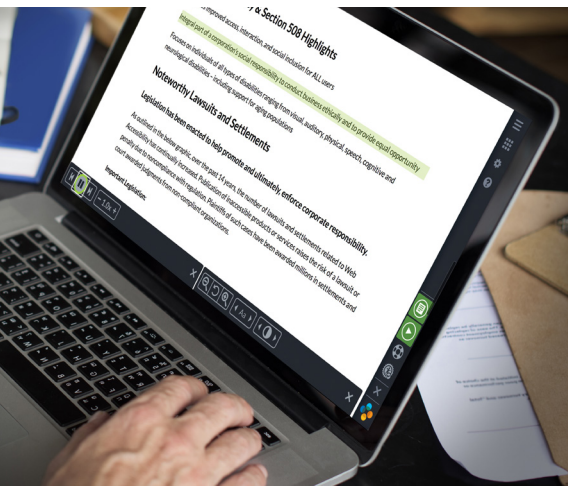
Step 3: Respond to Demand Letter

While the work of discovery and remediation is being conducted and can take some time given the amount of testing and analysis that is required in order to conform to WCAG 2.0, you will likely want to follow **Step 3** and, in working with AudioEye and your attorney, **craft a response detailing the steps already taken and in progress**, which seek to address the plaintiff's demands and establishes a long term strategy for ensuring **not just equitable use** of your digital assets, but 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 2.0 Conformance Level AA and fixing issues that impact users coming to your website using their own assistive technologies, AudioEye also deploys leading edge assistive web enhancement tools that are provided free for your users.

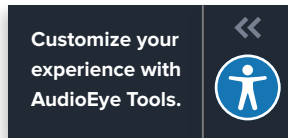
These tools have benefits for all site visitors, but, in particular, aging populations and individuals who have vision, hearing, motor and intellectual (cognitive) disabilities, those who are color blind, dyslexic, are learning to read, learning a second language, or may prefer listening instead of reading.

The AudioEye digital footprint is expansive and global. On a daily basis, AudioEye is serving hundreds of millions of accessibility fixes to our customer's end users, making it the most trusted accessibility remediation solution in the world.



By deploying these tools and informing the plaintiff in your detailed response to their complaint, it demonstrates a commitment to digital inclusion that goes above and beyond, a level of commitment that leaves little to no room for rebuttal.

Step 3: Respond to Demand Letter & Integrate AudioEye

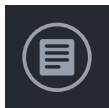


The following tools are made available from the Accessibility Icon Button (shown to the left), which opens the AudioEye Ally Toolbar, in the bottom right-hand corner of a website.



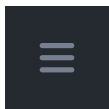
Player

This tool mirrors the features and functions of traditional screen reader software, allowing the user to engage with the web environment by listening to content instead of reading. Users may control the user experience using the keyboard or mouse.



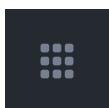
Reader

This tool allows users to enlarge the viewport, change color contrast schemes, adjust font size, and control the size of the mouse pointer. The Reader reduces visual distractions by simplifying and normalizing the user interface. When paired with the Player, the Reader can highlight text as it is being read aloud.



Site Menu

This feature provides a simplified and optimized user experience for keyboard users and individuals with cognitive disabilities.



Page Elements Menu

This feature provides keyboard users and screen reader users with options to quickly navigate keyboard focus to different areas of the webpage.



Help Desk

This tool is used for reporting accessibility related issues that are processed by AudioEye accessibility subject matter experts.

As a final - and perhaps the most important - component in your response, AudioEye will provide specific language to you and your legal team for detailing your organization's ongoing commitment to ensuring a sustainable, long term accessibility strategy. In partnership with AudioEye, your organization is committed to maintaining an accessibility compliance audit, which is managed through the AudioEye Digital Accessibility Platform. By licensing access to this industry leading tool and relying on the expertise of AudioEye's Accessibility experts to maintain your website's compliance to WCAG 2.0 Level AA, you have met and exceeded the requests detailed in the legal complaint.

Step 4: Accessibility Conformance

As AudioEye finalizes the provisioning of its solution, **Step 4** may require any outstanding issues that impact your company's ability to conform with WCAG 2.0 to be integrated by your designers and developers. While these items are usually very minimal, **AudioEye works with your team in a collaborative fashion to finalize the implementation.**


When complete, AudioEye updates the public facing Accessibility Statement and **will go as far as certifying your organization's conformance level.** To the extent that certain exceptions or partial conformance statements need to be highlighted, AudioEye outlines the details of those items in the Accessibility Statement. Common examples include the lack of audio descriptions for video or the use of 3rd Party tools that are beyond the immediate control of your website domain (for example, integrating twitter feeds, or vendor-supported utilities like job boards, etc.).

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 conducted, in some cases, by individuals with disabilities
- Remediated accessibility issues automatically and manually
- 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 (optional)
- Supplied users with a help desk utility for reporting access and usability issues (if they encounter one)
- 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 usable, and more accessible, for more people.**

For additional information about how AudioEye can assist your business or organization, please contact us.

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Supporting Resources & Materials:

“Banks the Latest Targets in Website Accessibility Claims”

http://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>