

December 13, 2016

Copyright Office Enters the 21st Century with an Online Registration System for DMCA Agents

In an effort to improve accuracy and searchability, the United States Copyright Office has joined the 21st century with an online service to house the Digital Millennium Copyright Act's designated agency registration information.

Who does this affect?

This interests any company whose website allows users to provide their own content, such as comments and posts. Website providers are at risk for copyright liability when they store material on their website at the direction of the user that infringes third-party rights.

What is it?

A mandatory online registration system that requires website service providers appoint an agent to receive Digital Millennium Copyright Act ("DMCA") take-down notices of claimed copyright infringement. The Copyright Office issued the system Dec. 1, 2016. See the relevant final rule [here](#).

The DMCA was enacted in 1998. In order to obtain the benefit of the safe harbor in the law, website providers are required to designate an agent to receive take-down notices—to whom any claims of infringement based on the material on the website can be sent—since the DMCA's enactment in 1998. This used to be completed by submitting a physically signed paper to the Copyright Office with a registration fee paid by a \$135 check. The previous registration system was unsearchable, cumbersome, not up-to-date and inaccurate. The findings of a previous study of the Copyright Office in 2013 found that 70 percent of the designations were not accurate. This is of interest to website service providers as they are not covered by the protection of the section 512 safe harbor in the DMCA if the registered information is not up-to-date or accurate.

Now the process is completed with a user-friendly online system with a [searchable database of registered agents](#) for a mere \$6 fee. The new system even has an "[old directory](#)" comprised of digital scans of the paper forms previously filed with the Copyright Office.

Take Action!

Current DMCA agent registrations will expire on [Dec. 31, 2017](#), so, in order to avail themselves of DMCA protection, website providers should register an agent under the new online DMCA system as soon as possible.

The website must also provide accurate and up-to-date agent information to allow the website provider to avail themselves of the safe harbor.

Our intellectual property team is pleased to assist clients with filing a new DMCA registration to ensure the applicability of the safe harbor for copyright infringement.

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