

DEADLINE - THE DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA) REGISTRATION IS DUE BY DECEMBER 31ST, 2017

12.19.2017

The Digital Millennium Copyright Act (DMCA) is a safe harbor from copyright infringement liability for “online service providers.” An “online service providers” is a website that falls into one of the four following categories: (1) hosting, storing, and making infringing matter available if it was stored at the direction of users; (2) transmitting or providing connection for digital online connection to infringing material transmitted by users; (3) caching infringing material, when the material was initially made by someone else; and (4) providing links or referring users to online sites containing infringing material. Common examples of online service providers generally include sites that allow users to store materials on the system, sites that have search engines, social media platforms, blogs/chat rooms, message rooms and other digital services that allow user-posted content or communications.

In order to qualify for safe harbor protection, there are several requirements an online service provider must meet. One requirement is designating an agent with the Copyright Office to receive notifications of claims of copyright infringement. The Copyright Office maintains the directory of designated agents. In December 2016, the Copyright Office switched from a paper-based system to a fully electronic system. The Copyright Office announced that any service provider that designated an agent with the Copyright Office prior to December 1, 2016, must submit a new electronic designation, using the online registration system, by December 31, 2017, and any designations not made through the new online registration system will expire and become invalid after December 31, 2017.

If an online service provider’s designation expires, the DMCA’s safe harbor provision lapses. This means that until the service provider submits a new electronic designation, it is not protected under the safe harbor provision and may be held liable for copyright infringement occurring on its website.

To designate an agent, a service provider must do two things:

PROFESSIONALS

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PRACTICE AREAS

Business, Corporate and Tax

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1. Make the agent's contact information available to the public on its website; and
2. Provide the same information to the Copyright Office (and make sure it is kept up to date).

The designated agent registration must be renewed every three years. The new registration fee is \$6, down from \$105.

The new online registration system may be found at: <https://dmca.copyright.gov/osp/login.html>.

For additional information visit: <https://www.copyright.gov/rulemaking/onlinesp/NPR/faq.html>.

For questions regarding this article, contact Jeffrey Glassman, Esq., Head of ECJ's Business & Corporate Department and ECJ's Digital, Advertising, Marketing and Social Media Department at jglassman@ecjlaw.com.