

ALERTS

Internet And Technology Law Alert - Website Owners: Take Action Before Dec. 31 Or Lose Your DMCA Safe Harbor Protection

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Due to recent changes in U.S. Copyright Office regulations, online service providers (OSPs) now have until Dec. 31 to newly designate an agent with the Copyright Office or they will lose their safe harbor protections under the Digital Millennium Copyright Act (DMCA). An OSP that fails to timely take action may be exposed to liability for copyright infringement due to third-party posted content on the OSP's website.

The DMCA protects OSPs from liability for copyright infringement arising from infringing content posted by others on the OSPs' websites. OSPs must take proactive steps to qualify for DMCA protections, including designating a DMCA agent with the Copyright Office.

OSP's that have previously designated a DMCA agent via the Copyright Office's paper submission process must again submit designations via the [new electronic submission platform](#). All prior agent designations submitted by paper will be invalidated at the end of this year.

To qualify for the DMCA safe harbor, OSPs must:

1. Create an account and complete the designation process with the U.S. Copyright Office before Jan. 1, 2018, on the [new submission platform](#).
2. Designate a DMCA agent. Rather than designating a specific individual by name as the OSP's DMCA agent, consider identifying agents by a generic title, such as "DMCA Agent," to avoid having to seek re-designation every time the agent responsibility changes within the OSP's organization.
3. Ensure that agent designations cover all separate legal entities that may be considered an online service provider
4. Ensure that agent designations cover all DBAs and other alternate names that the public would likely use to search the Copyright Office's agent directory
5. Pay the new registration fee of \$6 for each designation, renewal and amendment
6. Note the renewal deadline. Agent designations must be renewed every three years.
7. Be aware of, and comply with, all other DMCA safe harbor requirements

For more information about the DMCA or assistance with registering or re-registering a DMCA agent, please contact the Barnes & Thornburg attorney with whom you work, a member of the firm's Intellectual Property Department or the Internet and Technology Practice Group's chair, David

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