

ALERTS

Internet And Technology Law Alert - Copyright Office Updates DMCA Safe Harbor Agent Registration Requirements

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The Digital Millennium Copyright Act (DMCA) provides online service providers (OSP) "safe harbor" protection from liability for certain content posted on the OSP's website by others. As of Dec. 1, 2016, the U.S. Copyright Office has changed the requirements for registering a DMCA agent. If an OSP fails to meet these new requirements by Dec. 31, 2017, it will not qualify for the DMCA Safe Harbor and can be exposed to liability for copyright infringement due to third-party posted content on the OSP's website. A summary of the changes is as follows:

Electronic Registration

Previously, DMCA agent registration was sought via a paper application and lasted indefinitely. As of Dec. 1, 2016, paper applications are no longer accepted for new DMCA agents. New applications must be filed electronically.

Renewal

To qualify for the DMCA Safe Harbor, all OSPs are required to electronically "register" with the Copyright Office no later than Dec. 31, 2017, regardless of whether they have registered previously. Each registration must be renewed every three years. The renewal timeframe is reset when (a) an agent designation is amended or (b) when the agent designation is renewed. Failure to amend or renew the agent designation will result in a lapse of the OSP's safe harbor protection until amendment or renewal occurs.

Costs

Under the new electronic system, a fee of \$6 per designation is required. Previously, a \$105 fee (plus \$35 for each group of 10 additional designations) was required in order to register an agent.

Agent Specifications

Previously, an individual had to be identified as the DMCA agent. Under the changes, the agent can be either an individual, a specific position or title, a department within the OSP, or a third-party representative. To designate an agent, an OSP must make contact information for the agent publicly available on the OSP's website and provide the same information to the Copyright Office.

For more information about the DMCA, please contact the Barnes & Thornburg attorney with whom you work or a member of the firm's Internet and Technology Practice Group: David A. W. Wong, Internet and

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