

Practice Update

DMCA Safe Harbor: Registration Required by December 31, 2017

December 1, 2017

Under certain circumstances, U.S. Copyright Law provides for “safe harbor” protection from liability for copyright infringement to entities (e.g., ISPs and website operators) hosting content provided by third parties. To qualify for protection, Section 512(c) of the Digital Millennium Copyright Act (DMCA) provides that such an entity must, among other requirements, designate with the U.S. Copyright Office a registered agent to receive notifications of alleged copyright infringement.

As of December 1, 2016, the U.S. Copyright Office implemented an online registration requirement for the designation of agents under the DMCA, including a requirement that all entities which had previously registered their agent designations with the U.S. Copyright Office prior to December 1, 2016, **re-register their agent designations online *by Sunday, December 31, 2017***, in order to maintain their safe harbor protection. For entities hosting content provided by third parties which have not previously registered an agent designation with the U.S. Copyright Office, this alert serves as a reminder to do so immediately as one of the requirements to qualify for safe harbor protection.

Certain other requirements include:

- **Register Via Online Portal:** Entities must register and manage their DMCA agent designations via

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the U.S. Copyright Office's online portal at <https://www.copyright.gov/dmca-directory/>. The U.S. Copyright Office no longer accepts paper registration forms for the designation of DMCA agents, and all paper registrations submitted prior to December 1, 2016 will no longer satisfy Section 512(c)'s registration requirement following the December 31, 2017 deadline.

- **Pay Registration Fee:** A registration fee is due at the time of registration or re-registration via the portal, which amount has been significantly reduced from the prior fee of \$105 per registration (plus \$35 for each set of additional alternate names for the entity) to a flat fee of \$6 per designation.
- **Renew Every Three Years:** Registrations must be renewed every three years, via the online portal.

Failure to adhere to all of the safe harbor requirements under the DMCA may result in the loss of that protection.

For information on how to proceed with (re-)registrations of your DMCA designated agent, please review the U.S. Copyright Office's FAQs, available at <https://www.copyright.gov/dmca-directory/faq.html>.

If you have questions about this process or questions about the implementation of a "takedown" policy for handling claims of alleged copyright infringement, feel free to contact Ross J. Charap at ross.charap@akerman.com or Ira S. Sacks at ira.sacks@akerman.com.

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