



THINK FORWARD

New DMCA Registration Requirements

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On December 1, 2016, the U.S. Copyright Office launched its new electronic registration system through which DMCA agents can be designated and found to receive notice of alleged copyright infringement under the Digital Millennium Copyright Act (DMCA). The new electronic DMCA registration system should be easier, faster, and more cost effective than the previous paper-based system, with only a couple of strings attached.

First, all first-time agent designations now must be made through the electronic DMCA registration system. Second, all previous agent designations made through the old paper-based DMCA registration system must be re-registered through the new electronic registration system by no later than **December 31, 2017**. Failure to re-register by the December 31, 2017 deadline will result in the prior registration's lapse and the removal of safe-harbor protection under the DMCA.

The DMCA provides safe-harbor protection from contributory and/or vicarious infringement liability to service providers who allow third-party content to be posted on their websites. Such service providers can include, among others, blog sites and company websites. However, DMCA safe-harbor protection is only available to website hosts who comply with a handful of requirements, which include, but are not limited to, registration of a DMCA agent and the provision of several ways to contact the registered DMCA agent. The new electronic DMCA registration system is intended to make providing and searching for this information far more easy.

"Service providers," a blanket term for anyone (or their legal representative) that allows the posting of content on their website, must (1) create an account, (2) complete a registration form, and (3) pay a \$6 registration fee. Following submission of the required form and payment, the service provider has registered its DMCA agent in compliance with the requirements necessary for DMCA safe-harbor protection.

Implications

First-time registrants may only search for or designate a DMCA agent through the U.S. Copyright Office's electronic registration system. The designation and registration of a DMCA agent is necessary for service providers to take advantage of the DMCA's invaluable level of protection from contributory and/or vicarious infringement liability owing to the posting of third-party content.

Implications for current registrants are two-fold. Current registrants must re-register their DMCA agent through the electronic registration system prior to **December 31, 2017**. Failing to do so by the deadline removes them from DMCA safe-harbor protection and increases the risk of liability in the event of a suit claiming contributory infringement and/or vicarious infringement liability.

Contact Us

If you have any questions or wish to discuss how the DMCA or the new DMCA registration system impacts your business, please contact a member of the [Brinks Copyright Practice Group](#).