

Keeping Your DMCA Safe Harbor Safe

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Starting December 1 of this year, there will be a major change to the registration process under the Digital Millennium Copyright Act (DMCA) that will substantially affect your ability to rely on the DMCA safe harbor. The new rule (the text and official summary of which can be accessed [here](#)) requires that all service providers register their DMCA agent information online. **The key point to remember:** Following December 1, new registrations must occur online, and by December 31, 2017, you must reregister all prior registrations through the electronic system. If you fail to do this, you risk being disqualified from the DMCA safe harbor.

The DMCA safe harbor is vitally important, since it provides protection from monetary liability when someone brings a copyright infringement claim against you. For example, one protection under the safe harbor is that you can respond to an infringement notice by taking down offending user-uploaded material and thereby shield yourself. There are other benefits and iterations of the safe harbor that are beyond the scope of this alert. Importantly, you can only seek out the benefits of the safe harbor if you have a copyright agent registered with the Copyright Office and designated to receive DMCA takedown notices.

Below is a snapshot of the procedure and some of the information the Copyright Office will require:

The Copyright Office migrating its entire agent registration process online has a few silver linings: the process is inherently more streamlined. After creating an online registration account and setting up an account manager (who may be a third party), the service provider will have to provide information similar to what has been required before but in a new format. This includes the following: the service provider's full legal name, physical street address (not a P.O. box), telephone number, email, any alternate names (i.e., not just d/b/a names but any names the public would use to search for the company) and the contact information for the designated agent. A separate registration is required for every legal entity.

The new rule also changes the periodic renewal requirement, expanding the amount of time a registration is valid. Now service providers get an extra year, only having to renew registrations

every three years instead of two. The renewal period resets every time the service provider amends a registration, such that correcting information restarts the three-year clock.

Fortunately, the Copyright Office has adopted this new electronic registration program with a fee reduction. The previous registration fee of \$105 has now dropped to a \$6 flat fee for every new designation or renewal, amendment or resubmittal of a designation.

This change requires immediate attention so you do not inadvertently lose your safe harbor protections by not re-registering your copyright agent. Act as soon as possible to re-register electronically with the required information by December 31, 2017, in order to ensure that you not lose access to the safe harbor.

For more information, please contact: lanepowellpc@lanepowell.com

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