
Website Operators Need to Re-register Copyright Agents Under DMCA by December 31, 2017

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On December 1, 2016, the U.S. Copyright Office replaced its directory of designated agents for receipt of Digital Millennium Copyright Act ("DMCA") notices of claimed infringement with a new electronic system. As part of this electronic update, the U.S. Copyright Office is now requiring all service providers who previously designated agents through the prior system, i.e., by filing a physical form with the U.S. Copyright Office pre-December 1, 2016, to re-designate an agent electronically before December 31, 2017.

Providing that the site complies with certain requirements, including designation and registration of an agent, the DMCA allows organizations a certain "Safe Harbor" from liability for infringing acts of website users (e.g., posting of text, audio, or visual content that is infringing). For sites that have opted for the Safe Harbor, failure to re-register the DMCA agent on the new system may result in a lapse of the Safe Harbor protection and corresponding loss of liability protection. Thus, if your organization previously designated an agent with the U.S. Copyright Office pre-December 1, 2016, failure to re-register an agent may leave the organization with exposure to copyright claims for users' postings of content that is infringing.

To preserve protections for your business, before December 31, 2017, you should re-register an agent under the DMCA with the U.S. Copyright Office. Website operators, website administrators, and technology personnel may want to work with counsel to ensure proper re-registration. If you have not already re-registered, you should do so as soon as possible. Please contact Jonathan Klein at (215) 640-8535 | jklein@clarkhill.com, John Hines at (312) 985-5927 | jhines@clarkhill.com, or another member of Clark Hill's Intellectual Property or Cybersecurity team if you have any questions.