

Take Action by December 31st or Lose DMCA Safe Harbor Protection for User-Generated Content

October 23, 2017 Jeffrey Becker, Jason Bloom, Gavin George

PRACTICES Copyright, Intellectual Property

The Digital Millennium Copyright Act of 1998 (the “DMCA”) provided a safe harbor to shield website owners, ISP’s, and other online service providers from certain claims for copyright infringement based on user generated content. This safe harbor has been very successful. But to obtain its effective protections, everyone that relies on it must register an agent to receive DMCA notices using the Copyright Office’s new online DMCA registration system by **December 31, 2017**. Even website owners, ISP’s, and other online service providers that previously registered their DMCA agent prior to December 1, 2016 must re-register using the new online system by **December 31, 2017**.

Earlier this year, the Copyright Office debuted a new online system for website owners, ISP’s, and other online service providers to register their DMCA agents. To be entitled to the safe harbor for user-generated content, you have always had to register your DMCA agent information with the Copyright Office listing your websites, contact information, and the name of an individual agent so that copyright owners could notify you of infringing user generated content on your site. This was previously accomplished by sending in a printed form to the Copyright Office.

Pursuant to new regulations, however, everyone must register using the new electronic system, including all who registered their DMCA agent information through the printed form prior to December 1, 2016. Related or affiliated service providers that are separate legal entities (e.g., corporate parents and subsidiaries) are considered separate service providers under the new regulations, and each must now have its own separate registration. The cost is just \$6.00 per registration, and the registration can be filed [here](#).

Also new, the registrations are no longer perpetual, and now **must be renewed** every three years. If you fail to register or re-register by December 31st, or fail to renew every three years, you will not be able to rely on the DMCA safe harbor.

Are you a “service provider” within the meaning of the DMCA? Yes, even if you merely have a website that allows users to upload content.

The DMCA applies broadly to all providers of Internet services or websites that store, transmit, cache, refer or link information generated by users, including websites that allow users to post, upload, or display information, photos, products for sale, listings for third-party products, etc. If users can upload any content to your site, you are an online service provider who should protect yourself with the DMCA safe harbor.

How can you register your DMCA shield to protect yourself against claims of copyright infringement from user generated content?

For detailed, step-by-step instructions to register using the Copyright Office’s new online registration system, download our [instruction guide](#).

If you have any questions regarding any of these issues or need additional assistance determining whether you should register and how, please contact one of the lawyers listed below.