

Publication

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Client Alert: Reminder: Service Providers Must Comply with New Requirements for Copyright Safe Harbor by December 31, 2017

As we discussed in our previous alert, the deadline for internet service providers to re-register electronically for copyright safe harbor protection is rapidly approaching on **December 31, 2017**. As a reminder, under new regulations, to receive safe harbor protection, all “service providers” must electronically register an agent to receive notices of copyright infringement under the federal Digital Millennium Copyright Act (“DMCA”). Service Providers who registered using the old paper system must re-register electronically before **December 31, 2017**; otherwise they will be disqualified from the DMCA’s safe harbor protection.

The DMCA provides safe harbors from copyright infringement liability for online service providers that are engaged in specified activities and that meet certain eligibility requirements. A “**service provider**” is broadly defined as “an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user’s choosing, without modification to the content of the material as sent or received” and “a provider of online services or network access, or the operator of facilities therefore.” See 17 U.S.C. 512. This definition encompasses traditional Internet service providers as well as those businesses that provide a website that allows users to post or display

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material, which includes, for example, blogs, message boards, and photo uploads.

To be eligible for safe harbor protection, a service provider must designate an agent to receive notifications of claimed copyright infringement by making contact information for the agent available to the public on the website, and providing such information to the U.S. Copyright Office. The Copyright Office, in turn, is required to maintain a “current directory” of agents that have been designated by online service providers.

The traditional paper-based submission process was deemed inefficient and has now been replaced with an online registration process. As a result, all service providers (including those that registered using the old system) must electronically register an agent to receive notices of copyright infringement under the DMCA by **December 31, 2017**; otherwise, as noted above, they will be disqualified from the DMCA’s safe harbor protection.

We encourage any individual or business using or operating a website that hosts user-generated content to electronically register their Copyright Office agent designations as soon as possible and in any event in advance of the December 31, 2017 deadline.