

Don't Lose Your DMCA Safe Harbor Protection

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If your website allows users to post content, you're probably already familiar with the Digital Millennium Copyright Act. Among



other things, the DMCA provides online service providers a “safe harbor” from potential liability arising from publishing content that infringes a third party’s copyrights, if that content was posted by another person. In order to take advantage of that safe harbor, companies need to take certain steps, including designate an agent to receive notifications of claimed copyright infringement.

Last month, the Copyright Office issued a [Final Rule](#) that will impact all online service providers, even those who have already registered for safe harbor protection. Here is a summary of the key changes:

- Effective December 1, 2016, the Copyright Office will no longer accept registrations on paper or PDF, as it has done since the DMCA was enacted in 1998. Instead, agents must register through an online system.
- All online service providers must register through the new system by December 31, 2017 – even if they have registered before. Failure to do so will result in a loss of safe harbor protection as of January 1, 2018.
- Registrations will expire after three years, so online service providers will need to renew their registrations in order to maintain protection. The Copyright Office will send automated alerts to remind account holders about upcoming renewal deadlines. Any amendment or update to a registration will restart the three-year clock.
- There will be a flat fee of \$6 for each registration, amendment, and renewal. Previously, online service providers had to pay a \$105 registration. (Renewals were not required.)
- Online Service Providers can now name a department or even an entire entity (such as a law firm or other service provider) as the designated agent.
- Until December 31, 2017, copyright holders who want to submit a takedown notice will have to search both the old and the new electronic database when trying to identify registered designated agents.

To help acquaint users with the new system, the Copyright Office has created the various [video](#)

[tutorials](#) to show, step-by-step, how to use the system.

For more information, [please see our advisory](#).