

Action is Necessary: Designate Your Copyright Agent To Ensure Your DMCA Safe Harbor Protection Continues

Under the Digital Millennium Copyright Act ("DMCA"), an online service provider ("OSP") – such as the owner of a website that allows users to post user content – may be eligible for a safe harbor from copyright infringement liability if, among other things, the OSP designates an agent to receive DMCA notifications of claimed copyright infringement with the Copyright Office and makes the agent's contact information available on the OSP's website.

Beginning in December 2016, the Copyright Office is introducing a new online registration system and directory for designating agents under the DMCA. Paper designations are no longer accepted.

All OSPs must submit a new designation through the Copyright Office's online system by December 31, 2017, even if an agent has been designated under the old system. If an OSP fails to make a new designation through the online system before the 2017 deadline, the previous agent designation will expire – eliminating the OSP's protection under the DMCA. OSPs may access the new online designation system through the Copyright Office website at <https://dmca.copyright.gov/osp/login.html>.

During the year-long transition period, the Copyright Office will maintain two directories of designated agents: one for designations made through the new online system and another for designations made through the previous paper system. If you need to search for a designated agent during the transition period, first consult the new online directory; if the agent information is not found, consult the old directory.

The new system is accompanied by a few additional changes. One is that the new designation will be valid for only three years and thereafter must be renewed for additional three-year periods. The good news is that a \$6 flat fee replaces the previous \$105 basic fee.

Please let us know if you have any questions or would like assistance in filing your online designation.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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