

Re-Register Takedown Agent or Lose Copyright Shield

Intellectual Property Alert

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If your website allows for posting of user-generated content and you filed an agent designation insulating you from copyright infringement claims, you may be about to lose that legal protection. All existing paper-filed agent designations will be terminated as of December 31, 2017, because the Copyright Office will be requiring new electronic-only filings and renewals every three years. This applies to any web service wishing to insulate itself from copyright infringement created by its users. Impacted web service operators must reregister and then remember to renew again every three years, or they will lose the immunity from copyright infringement that makes many of these web services possible.

Passed in 1998 and intended to foster the growth of web-based businesses, the Digital Millennium Copyright Act (DMCA) provides that web services are immune from copyright infringement caused by postings of their users, as long as the web service takes several compliance measures. This notice-and-takedown regime, as it became known, is the foundation of the modern web. Without the liability shield, services that distribute user-supplied content, such as Facebook, Twitter, YouTube and so many others, would face liability that would make their operations difficult if not impossible.

In order to obtain this shield, however, the websites must register an agent with the Copyright Office. The notice provides contact information for a person charged with receiving and responding to takedown notifications from rights holders who believe that their copyrighted material is being used unlawfully.

Under the old regulations, a web service was required to make a one-time registration of the designated agent with the Copyright Office on paper and pay a one-time fee of \$105. Beginning December 1, 2016, service providers must use a new [electronic system](#) to submit and update the names and contact information of their designated agents for receipt of takedown notices, and the fee is only \$6 for an electronic filing.

The true price of the modernization is a rule change purging all existing registrations, and requiring renewals every three years in order to maintain the DMCA's protection.

Although the electronic system may be easier to use and is certainly more in keeping with modern times than paper filings, businesses that operate on the web must now be vigilant in keeping their DMCA agent registrations active and up to date, or they risk the inadvertent loss of their copyright infringement shield and could be exposed to significant legal claims based on their users' content.