

STROOCK SPECIAL BULLETIN

December 31 Deadline for Electronically Registering DMCA Agents with the Copyright Office

December 14, 2017

Online service providers who wish to avail themselves of the safe harbor provisions of the Digital Millennium Copyright Act (“DMCA”) face a December 31, 2017 deadline to electronically register their DMCA Agent with the Copyright Office. Failure to electronically register an agent before the deadline can result in increased risk of liability for copyright infringement on such provider’s website.

Under the provisions of the DMCA (17 U.S.C. §512 *et seq.*), online service providers can avoid liability for copyright infringement by complying with the terms of the DMCA, which include designating an Agent with the Copyright Office. Service providers include companies like YouTube, Instagram, and FaceBook and are broadly defined under the DMCA 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.”

The Copyright Office previously launched a new electronic online directory system through which agents designated under the DMCA could be registered. As part of the new electronic directory,

the Copyright Office specified a period of time during which the directory of agents that had been created through paper filings would be phased out.

Beginning on January 1, 2018, only agents that have been registered through the new electronic system will be considered as registered agents pursuant to the DMCA. Although companies will be given the ability to register new agents electronically after January 1, 2018, any prior paper filings will be considered void. Accordingly, in order for a service provider to be eligible for the safe harbor provisions of the DMCA, it must electronically register its agent. A listing of the old directory showing the paper filings and a new directory showing the electronic filings can be found at <https://www.copyright.gov/dmca-directory>.

The Copyright Office has also issued additional rules in connection with its implementation of the new electronic system. These rules include requiring that any registration be renewed every three years and lowering the fees for such registration. The Copyright Office has contended that this new electronic system will make the registration process more efficient and eliminate old and out-of-date records from their system.

Based on the looming deadline, a service provider should consider reviewing any paper filings that it may have made to designate an agent at the Copyright Office and take the necessary steps to electronically register its agent.

If you have any questions about your company's status as a service provider or any other question about how to take advantage of the safe harbor provisions under the DMCA, please contact one of the attorneys listed below.

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