IP News: DMCA Safe Harbor Protections

Copyright Alert: Don't Lose DMCA Safe Harbor Protections – Renew Your Designated Agent Today!

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The deadline for the first wave of DMCA agent renewals starts December 1, 2019. Act now to avoid losing protection.

Background

The Digital Millennium Copyright Act ("DMCA") provides safe harbors from liability for copyright infringement for internet service providers that meet several requirements. For ISPs who permit third parties to post or store content on their websites or provide information location tools, one safe harbor requirement is to designate an agent to receive notifications of alleged copyright infringement by (1) making that information available to the general public on the ISP's website and (2) identifying and registering the agent with the Copyright Office.

In December 2016, the US Copyright Office launched an electronic-only filing system to register designated agents under the DMCA. Each ISP must renew its designation at least every three years, either by amending it to correct or update outdated information or by resubmitting it through the online system, to continue to benefit from the DMCA's safe harbor protections against copyright infringement claims.

Copyright infringement may be remedied by awards of (i) actual damages (plus any additional profits of the infringer), or (ii) for registered works, statutory damages and attorneys' fees. Statutory damages – awarded at the discretion of the court – may be as high as $30K or, for willful infringements, $150K for all infringements of each single work. In short, copyright liability can be costly, so using legal tools to shield yourself from it makes business and financial sense.

Therefore, don't let your safe harbor protections lapse. The fee for designating an agent is only $6.00, but if you registered in 2016, your designation is set to expire before the end of the year. It is important to update your agent information, both with the Copyright Office and on your websites, as courts could find that stale information constitutes a failure to comply with the statutory requirements for invoking the limitations on copyright liability.

We're here to help!

Each renewal or amendment begins a new three-year registration period, so make sure to mark your calendars. To learn more, visit the DMCA Designated Agent Directory. If you would like our assistance in filing an initial designation or updating on old designation, please contact Howard Zaharoff or Amanda Schreyer.

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