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Attention Website Operators and Online Service Providers

Last December the Copyright Office rolled out its new online filing system for designating an agent to receive notices of copyright infringement. Website operators and other online service providers who have previously registered a designated agent with the Copyright Office must refile using the new online system **before January 1, 2018**, to remain eligible for the Digital Millennium Copyright Act's (DMCA's) safe harbor, which can protect eligible website operators and other service providers from monetary liability for copyright infringement committed by their users.

The new online filing system replaced the interim, paper-based system that had been used since the DMCA was first enacted in 1998. Under the old system, service providers could designate agents by sending in paper forms to the Copyright Office, which the Copyright Office then scanned and publicly posted in its [directory of agents](#). Previous filings made under the old, paper-based system continue to meet the DMCA's requirements until they are phased out on December 31, 2017.

In connection with its new online filing system, the Copyright Office issued its [Final Rule](#) last November relating to designating an agent with the Copyright Office. Highlights are as follows:

- To designate an agent using the new system, the service provider, or its designee, must establish an account that will be used to log into the system and make the filing. This account is separate and distinct from accounts that the Copyright Office uses to submit electronic copyright registration applications.
- The DMCA filings will expire every three years, so they will need to be renewed. The Copyright Office's new system will send out email reminders.
- Filing fees are significantly lower (\$6 per entity). There is no limit to the number of alternative names, URLs, service names, software names, and other commonly used names that can be

listed for the \$6 filing fee. All alternative names that the public would be likely to use to search for the service provider's designated agent must be provided:

- All names under which the provider is doing business;
 - Website names and addresses (URLs);
 - Software application names; and
 - Other commonly used names, although separate legal entities are not considered alternate names.
- Separate legal entities must file separately and are not considered alternative names.
 - The designated agent does not have to be a natural person. Service providers now have the option to designate a specific person (e.g., Jane Doe), specific position or title of an individual (e.g., Copyright Manager), a department within the service provider's organization or within a third-party entity (e.g., Copyright Compliance Department), or the service provider or third-party entity generally (e.g., ACME Takedown Service).
 - The designated agent's physical mail address, telephone number and email address must be provided to the Copyright Office, and a designated agent may now provide a post office box to be displayed as its physical address. However, in a nod to technological obsolescence, a fax number is no longer required.
 - To qualify for the safe harbor, the following information must be displayed on a publicly available location on the website and provided to the Copyright Office with the DMCA registration: the full legal name and physical address of the service provider. This address, unlike the address to be used for the designated agent, cannot be a P.O. box. The Copyright Office may permit use of a P.O. box in exceptional circumstances, which the Copyright Office must approve in advance. In cases where a service provider uses a third-party to act as a designated agent, service provider name and address still must be made available somewhere on the

website and provided to the Copyright Office.

For more information, please contact [AJ Correale](#), [Carl Eppler](#), [Neal Patel](#), [Sam Quimby](#), [Cindy Stewart](#), or any other attorney in Frost Brown Todd's [Intellectual Property Law and Litigation Practice Group](#).

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