



Electronic Agent Designation Required for Safe-Harbor Protections from Copyright Infringement Liability

Under the Digital Millennium Copyright Act (DMCA), Internet Service Providers (ISPs) may be afforded safe harbor protections from copyright infringement liability if they meet certain requirements including electronically designating an agent to receive takedown notices and other notices of infringement. **The Copyright Office has implemented a new electronic registration process and all ISPs must file electronic agent designations with the Copyright Office, regardless of previously filed paper designations, by December 31, 2017, or risk losing safe harbor protections from copyright infringement liability.**

All non-electronic agent designations submitted to the Copyright Office prior to December 1, 2016, will no longer be effective as of December 31, 2017. Accordingly, all ISPs who originally filed paper agent designation registrations must now create an account through the online web portal and submit an electronic agent designation. Under the new electronic system, the Copyright Office will charge a flat fee of \$6 per designation, regardless of the number of alternate names included on the designation.

As of January 1, 2018, all paper designations will become invalid and only those designations made through the online registration system will satisfy the statutory requirement for designating an agent with the Copyright Office.

The safe harbor limitations on liability will only apply to an ISP if the ISP: (1) designates an agent to receive notifications of claimed infringement with the Copyright Office; and (2) publishes the agent's contact information on their web site. ISPs must also maintain current and accurate information, both with the Copyright Office and on their web site.

Because ISPs can be held liable as secondary copyright infringers should they lose their DMCA safe harbor protections, VPS urges all ISPs to designate their agents using the Copyright Office's new electronic system as soon as possible.

If you have questions regarding this or if you would like Vantage Point's assistance, please contact:

Leah Richter at (605) 995-1793 or leah.richter@vantagepnt.com

Doug Eidahl at (605) 995-1750 or doug.eidahl@vantagepnt.com
