

## Stay Safe – It’s Time to Renew Your Digital Millennium Copyright Act Designated Agents

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If your CAA lets third parties post content on your website, it might be time to update and submit some key information to the U.S. Copyright Office, or face the prospect of strict liability for copyright infringement under the Digital Millennium Copyright Act (DMCA). The good news is that organizations such as your CAA can take advantage of the DMCA’s “safe harbor,” meaning that the organization will not be liable for user-posted content that infringes another party’s copyright, provided the organization complies with certain steps. One of these steps is to inform the U.S. Copyright Office of a designated agent at your CAA who receives notices from third parties claiming copyright infringement.

The DMCA requires that designations be renewed every three years in order to ensure that they remain current and accurate. Further, the U.S. Copyright Office issued a rule in late 2016 requiring everyone to file a new online DMCA designation between December 1, 2016 and December 31, 2017. If your CAA did so, you must take action to renew your designated agent contact information between December 1, 2019 and December 31, 2020 to continue to receive the benefit of the safe harbor. CAAs that never designated an agent, or didn’t file a new designation between December 1, 2016 and December 31, 2017, should do so now to be eligible for the safe harbor.

It costs \$6 to designate or renew an agent. Registration and renewal must be done through the U.S. Copyright Office’s online Registration System, accessible [here](#).

Under the DMCA, organizations that host or operate online platforms and websites may be held strictly liable if comments, material, links, or photographs posted by third parties to those platforms violate another party’s copyright. This can result in significant monetary penalties. In recognition of the difficulty that an organization might have in constantly monitoring third party-posted content on its website, the DMCA offers a safe harbor if the organization takes the following steps:

- Publicly identify on its website an employee who is designated to serve as the CAA’s agent and to receive notices from third parties claiming copyright infringement. Here is a sample with the requisite information to post on your website:

Digital Millennium Copyright Act Agent

The agent designated to receive and act on copyright violations under the Digital Millennium Copyright Act (DMCA) is:

[Agent's Name]  
[Agent's Title]  
[Agent's Address]  
[Agent's Telephone No.]  
[Agent's Fax No.]  
[Agent's E-mail]

- Provide the U.S. Copyright Office with the designated agent's contact information. The U.S. Copyright Office website provides [detailed instructions](#) on how to file an initial designation, as well as how to amend, renew, or terminate a designation. Note that failure to provide this information to the U.S. Copyright Office will disqualify the CAA from claiming the safe harbor exemption.
- Respond promptly to any notices the CAA receives indicating that content on the CAA's website may be infringing an owner's copyright.
- Establish and enforce a policy that terminates the accounts or subscriptions of repeat copyright infringers.

Keep in mind that even if a CAA follows these steps, the safe harbor is not available if the CAA knew or should have known that the posted content was infringing (i.e., if indicators existed that made the infringing content obvious) or if the CAA profited from the posting and was in a position to manage the posting.

For additional information, please see this [legal alert](#) from the law firm Venable LLP and this [2015 CAPLAW article](#) about this rule.

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