



**ELECTRONIC FRONTIER FOUNDATION**

Protecting Rights and Promoting Freedom on the Electronic Frontier

United States Copyright Office  
101 Independence Ave SE  
Washington, DC 20540

February 12, 2018

Dear Copyright Office,

As Internet users, website owners, and online entrepreneurs, we urge you to preserve and strengthen the Digital Millennium Copyright Act safe harbors for Internet service providers. In particular, we urge the Copyright Office to reconsider its rule that makes agent registrations under Section 512(c)(2) expire every three years. Furthermore, the Office should not support or recommend placing any additional requirements on the safe harbor, such as a requirement to filter user posts and uploads for copyright infringement.

The DMCA safe harbors are key to keeping the Internet open to all. They allow anyone to launch a website, app, or other service without fear of crippling liability for copyright infringement by users.

Under the Office's new rules, registrations of agents to receive notices under Section 512(c) of the DMCA expired on December 31, 2017 and must now be re-registered every three years. This rule is not required by the DMCA, and it creates an unnecessary bureaucratic hurdle for websites of all sizes. The new rules could leave website owners without the protection of the safe harbor even if they respond diligently to notices of infringement, and even if their agent's contact information is up to date. On the other hand, failing to maintain accurate contact information jeopardizes the safe harbor even without a re-registration requirement, which makes that requirement unnecessary. We're concerned that the new requirement will particularly disadvantage small and nonprofit websites. We ask you to reconsider this rule.

Even more importantly, the Office should not recommend adding more sweeping requirements to the safe harbor. Major media and entertainment companies and their surrogates want Congress to replace today's DMCA with a new law that would require websites and Internet services to use automated filtering to enforce copyrights. Systems like these, no matter how sophisticated, cannot accurately determine the copyright status of a work, nor whether a use is licensed, a fair use, or otherwise non-infringing. Simply put, automated filters censor lawful and important speech. What's more, even deeply flawed filters are prohibitively expensive for all but the largest Internet services. Requiring all websites to implement filtering would

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reinforce the market power wielded by today's large Internet services and allow them to stifle competition.

We urge you to preserve effective, usable DMCA safe harbors, and encourage Congress to do the same.

Sincerely,

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