



**LIBRARY OF CONGRESS**

**Copyright Royalty Board**

**37 CFR Parts 301, 350 and 351**

**[Docket No. 16-CRB-0015 -RM]**

**Electronic Filing of Documents**

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Notice of proposed rulemaking.

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**SUMMARY:** The Copyright Royalty Judges propose to amend procedural regulations governing the filing and delivery of documents to allow for electronic filing of documents. The Judges solicit comments on the proposed rule.

**DATES:** Comments are due no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit electronic comments via email to [crb@loc.gov](mailto:crb@loc.gov). Those who choose not to submit comments electronically should see “How to Submit Comments” in the Supplementary Information section below for physical addresses and further instructions. The proposed rule is also posted on the agency’s website ([www.loc.gov/crb](http://www.loc.gov/crb)).

**FOR FURTHER INFORMATION CONTACT:** Kimberly Whittle, Attorney Advisor, by telephone at (202) 707-7658 or e-mail at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:**

On September 23, 2016, the Library of Congress awarded a contract for the design and implementation of an electronic filing and case management system for the Copyright Royalty

Board (“Board”). The Copyright Royalty Judges (“Judges”) anticipate that the new system will be available for use by claims filers, participants in proceedings before the Judges, and other members of the public having business with the Board (*e.g.*, persons wishing to comment on proposed regulations) by May 2017. The Judges intend to make use of the system mandatory for claimants and participants in proceedings after a six-month transition period.

As part of the Judges’ continuing oversight of the Board’s procedural regulations, the Judges propose to amend the regulations to accommodate electronic filing of documents and to specify the required format of both electronic and paper documents. In addition, the Judges propose to amend the regulations to remove references to obsolete technologies and to eliminate redundant provisions.

#### **I. Part 301—Organization**

The Judges propose to amend Part 301 to specify that (1) the official addresses for the Board are to be used only for documents that are not filed using the electronic filing system; (2) general correspondence, but not pleadings or claims, may be sent by electronic mail; and (3) fax is no longer an acceptable means of transmitting any document or correspondence to the Board.

#### **II. Part 350—General Administrative Provisions**

The Judges propose rules concerning the required format and permitted length of documents, whether filed electronically or otherwise. Electronically-filed documents would be subject to additional requirements, similar to the guidelines that the Judges issued in November 2014<sup>1</sup>.

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<sup>1</sup> The guidelines are on the CRB website at [www.loc.gov/crb/docs/Guidelines\\_for\\_Electronic\\_Documents.pdf](http://www.loc.gov/crb/docs/Guidelines_for_Electronic_Documents.pdf).

The proposed regulations include rules on obtaining and using a password for filing documents electronically. The use of a password to file a document would constitute the filer's signature. Electronic filing of a document would effect delivery of the document to all parties to a proceeding who have been issued a password or are represented by counsel who has been issued a password.

The Judges also propose to gather in this Part the various provisions that establish whether a document (including a claim) is timely filed. For documents that are not filed using the electronic filing system, the rules concerning timeliness would be unchanged. Documents that are filed electronically are considered timely if they are received and time-stamped by the system by 11:59:59 pm (ET) on the due date.

### **III. Part 351—Proceedings**

The Judges propose to amend paragraph 351.1(b)(4) to clarify that the filing fee that must accompany a petition to participate may be remitted by check or money order, or through the electronic filing system's payment portal.

### **IV. Part 360—Filing of claims to royalty fees collected under compulsory license**

The Judges will propose revisions to Part 360 in order to accommodate filing of claims through the new electronic filing system at a later date.

### **How to Submit Comments**

Interested members of the public must submit comments to only **one** of the following addresses. If not commenting by email or online, commenters must submit an original of their comments, five paper copies, and an electronic version on a CD.

**Email:** [crb@loc.gov](mailto:crb@loc.gov); or

**U.S. mail:** Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or

**Overnight service (only USPS Express Mail is acceptable):** Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or

**Commercial courier:** Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue SE, Washington, DC 20559-6000. Deliver to: Congressional Courier Acceptance Site, 2<sup>nd</sup> Street NE and D Street NE, Washington, DC; or

**Hand delivery:** Library of Congress, James Madison Memorial Building, LM-401, 101 Independence Avenue SE, Washington, DC 20559-6000.

### **List of Subjects**

37 CFR Part 301

Copyright, Organization and functions (government agencies).

37 CFR Part 350

Administrative practice and procedure, Copyright, Lawyers.

37 CFR Part 351

Administrative practice and procedure, Copyright

### **Proposed Regulations**

For the reasons set forth in the preamble, and under the authority of chapter 8, title 17, United States Code, the Copyright Royalty Judges propose to amend parts 301, 350, and 351 of Title 37 of the Code of Federal Regulations as follows:

#### **SUBCHAPTER A—GENERAL PROVISIONS**

##### **PART 301—ORGANIZATION**

1. The authority citation for part 301 continues to read as follows:

**Authority:** 17 U.S.C. 801.

**§ 301.2 [Amended]**

2. Revise § 301.2 to read as follows:

**§ 301.2 Official addresses.**

All claims, pleadings, and general correspondence intended for the Copyright Royalty Board and not submitted by electronic means through the electronic filing system (“eCRB”) must be addressed as follows:

(a) If sent by mail (including overnight delivery using United States Postal Service Express Mail), the envelope should be addressed to: Copyright Royalty Board, P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

(b) If hand-delivered by a private party, the envelope must be brought to the Copyright Office Public Information Office, Room LM–401 in the James Madison Memorial Building, and be addressed as follows: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, 101 Independence Avenue, SE, Washington, DC 20559–6000.

(c) If hand-delivered by a commercial courier (excluding Federal Express, United Parcel Service and similar courier services), the envelope must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE, Washington, DC.

(d) Subject to paragraph (f), if sent by electronic mail, to [crb@loc.gov](mailto:crb@loc.gov).

(e) Correspondence and filings for the Copyright Royalty Board may not be delivered by means of:

(1) Overnight delivery services such as Federal Express, United Parcel Service, etc.; or

(2) Fax.

(f) General correspondence for the Copyright Royalty Board may be sent by electronic mail. Claimants or Parties must not send any claims, pleadings, or other filings to the Copyright Royalty Board by electronic mail without specific, advance authorization of the Copyright Royalty Judges.

## **SUBCHAPTER B—COPYRIGHT ROYALTY JUDGES’ RULES AND PROCEDURES**

### **PART 350—GENERAL ADMINISTRATIVE PROVISIONS**

3. Revise part 350 to read as follows:

Sec.

350.1 Scope.

350.2 Representation.

350.3 Documents: Format and length.

350.4 Form of motions and responsive pleadings.

350.5 Electronic filing system (eCRB).

350.6 Filing and delivery.

350.7 Time.

350.8 Construction and waiver.

**Authority:** 17 U.S.C. 803.

### **PART 350—GENERAL ADMINISTRATIVE PROVISIONS**

#### **§350.1 Scope.**

This subchapter governs procedures generally applicable to proceedings before the Copyright Royalty Judges in making determinations and adjustments pursuant to the Copyright Act, 17 U.S.C. 801(b).

#### **§350.2 Representation.**

Individual parties in proceedings before the Judges may represent themselves or be represented by an attorney. All other parties must be represented by an attorney. Cf. Rule 49(c)(11) of the Rules of the District of Columbia Court of Appeals. The appearance of an attorney on behalf of any party constitutes a representation that the attorney is a member of the bar, in one or more states, in good standing.

**§ 350.3 Documents: Format and Length.**

(a) *Format -- (1) Caption and description.* Parties filing pleadings and documents in a proceeding before the Copyright Royalty Judges must include on the first page of each filing a caption that identifies the proceeding by proceeding type and docket number, and a heading under the caption describing the nature of the document. In addition, Parties must include a footer on each page that includes the name and posture of the filing party, *e.g.*, [Party's] Motion, [Party's] Response in Opposition, *etc.*

(2) *Page Layout.* Parties must submit documents that are typed (double spaced) using a serif typeface (*e.g.*, Times New Roman) no smaller than 12 points for text or 10 points for footnotes and formatted for 8 ½ by 11 inch pages with no less than 1 inch margins. Parties must assure that any exhibit or attachment to documents reflects the docket number of the proceeding in which it is filed and that all pages are numbered appropriately. Any party submitting a document to the Copyright Royalty Board in paper format must submit it unfolded and produced on opaque 8 ½ by 11 inch white paper using a clear black image.

(3) *Binding or securing.* Parties submitting any paper document to the Copyright Royalty Board must bind or secure the document in a manner that will prevent pages from becoming separated from the document. For example, acceptable forms of binding or securing include: ring binders; spiral binding; comb binding; and for documents of fifty pages or fewer, a binder

clip or single staple in the top left corner of the document. Rubber bands and paper clips are not acceptable means of securing a document.

(b) *Additional format requirements for electronic documents*—(1) *In general.* Parties filing documents electronically through eCRB must follow the requirements of § 350.3(a)(1) and (2) and the additional requirements in paragraphs (b)(2) through (8) of this section.

(2) *File type.* Parties must file all pleadings and documents in Portable Document Format (PDF), with the exception of proposed orders. In addition, participants may provide the Copyright Royalty Board with copies of Excel workbooks, audio files, and video files in their native electronic formats. Participants may also provide the Copyright Royalty Board with copies of PowerPoint presentations or image files in their native electronic formats if conversion to PDF format would render the files difficult to read or view.

(3) *Proposed Orders; file type.* Parties filing or responding to motions must provide a proposed order, drafted as if the Copyright Royalty Judges were granting the party's requested relief. The party must prepare the proposed order as a separate Word document and submit it as an attachment to the main pleading.

(4) *No scanned pleadings.* Parties must convert every filed document directly to PDF format (using "print to pdf" or "save to pdf"), rather than submitting a scanned PDF image. The Copyright Royalty Board will NOT accept scanned documents, except in the case of specific exhibits or attachments that are available to the filing party only in paper form.

(5) *Scanned exhibits.* Parties must scan exhibits or other documents that are only available in paper form at no less than 300 dpi. All exhibits must be searchable. Parties must scan in color any exhibit that uses color to convey information or enhance readability.

(6) *Bookmarks.* Parties must include in all electronic documents appropriate electronic bookmarks to designate the tabs and/or tables of contents that would appear in a paper version of the same document.

(7) *Page rotation.* Parties must ensure that all pages in electronic documents are right side up, regardless of whether they are formatted for portrait or landscape printing.

(8) *Signature.* The signature line of an electronic pleading must contain “/s/” followed by the signer’s typed name. The name on the signature line must match the name of the user logged into eCRB to file the document. Parties with the capability may also sign documents with a verifiable electronic signature.

(c) *Length of submissions.* Whether filing in paper or electronically, parties must adhere to the following space limitations or such other space limitations as the Copyright Royalty Judges may direct by order. Any party seeking an enlargement of the applicable page limit must make the request by a motion to the Copyright Royalty Judges filed no fewer than three days prior to the applicable filing deadline.

(1) *Motions.* Motions must not exceed 20 pages or 5000 words (exclusive of exhibits, proof of delivery, and the like).

(2) *Responses.* Responses in support of or opposition to motions must not exceed 20 pages or 5000 words (exclusive of exhibits, proof of delivery, and the like).

(3) *Replies.* Replies in support of motions must not exceed 10 pages or 2500 words (exclusive of exhibits, proof of delivery, and the like).

#### **§ 350.4 Form of Motion and Responsive Pleadings.**

A motion, responsive pleading, or reply must include the following content and conform to the following format:

(a) *Relief requested.* The pleading must state specific relief the party seeks from the Copyright Royalty Judges.

(b) *Statement of facts.* The pleading must include a succinct statement of material facts.

(c) *Statement of issues.* The pleading must include a concise statement of the issues of law presented to the Copyright Royalty Judges for ruling.

(d) *Evidence relied upon.* The pleading must state with particularity the evidence on which it is based, and must include any relevant, admissible documentary evidence as attachment(s).

(e) *Legal authority.* Parties must cite any legal authority upon which they rely for the relief they seek.

#### **§ 350.5 Electronic Filing System (eCRB).**

(a) *Documents to be filed by electronic means—(1) Transition period.* For a period of up to six months following the initial deployment of the Copyright Royalty Board's electronic filing and case management system (eCRB), all parties having the technological capability must file all documents with the Copyright Royalty Board through eCRB in addition to filing paper documents in conformity with applicable Copyright Royalty Board rules. The Copyright Royalty Board will announce the date of the initial deployment of eCRB on the Copyright Royalty Board website ([www.loc.gov/crb](http://www.loc.gov/crb)), as well as the conclusion of the dual-system transition period.

(2) *Subsequent to transition period.* Except as otherwise provided in this chapter, all attorneys must file documents with the Copyright Royalty Board through eCRB. *Pro se* parties may file documents with the Copyright Royalty Board through eCRB, subject to § 350.4(c)(2).

(b) *Official record.* The electronic version of a document filed through and stored in eCRB will be the official record of the Copyright Royalty Board.

(c) *Obtaining an electronic filing password—(1) Attorneys.* An attorney must obtain an eCRB password from the Copyright Royalty Board in order to file documents or to receive copies of orders and determinations of the Copyright Royalty Judges. The Copyright Royalty Board will issue an eCRB password after the attorney applicant completes the application form available on the CRB website and completes eCRB training.

(2) *Pro se parties.* A party not represented by an attorney (a *pro se* party) may obtain an eCRB password from the Copyright Royalty Board with permission from the Copyright Royalty Judges, in their discretion. To obtain permission, the *pro se* party must submit an application on the form available on the CRB website, describing the party's access to the Internet and confirming the party's ability and capacity to file documents and receive electronically the filings of other parties on a regular basis. If the Copyright Royalty Judges grant permission, the *pro se* party must complete the eCRB training provided by the Copyright Royalty Board to all electronic filers before receiving an eCRB password. Once the Copyright Royalty Board has issued an eCRB password to a *pro se* party, that party must make all subsequent filings by electronic means through eCRB.

(3) *Claimants.* Any person desiring to file a claim with the Copyright Royalty Board for copyright royalties may obtain an eCRB password for the limited purpose of filing claims by completing the application form available on the CRB website.

(d) *Use of an eCRB password.* An eCRB password may be used only by the person to whom it is assigned, or, in the case of an attorney, by that attorney or an authorized employee or

agent of that attorney's law office or organization. The person to whom an eCRB password is assigned is responsible for any document filed using that password.

(e) *Signature.* The use of an eCRB password to login and submit documents creates an electronic record. The password operates and serves as the signature of the person to whom the password is assigned for all purposes under this chapter III.

(f) *Originals of sworn documents.* The electronic filing of a document that contains a sworn declaration, verification, certificate, statement, oath, or affidavit certifies that the original signed document is in the possession of the attorney or *pro se* party responsible for the filing and that it is available for review upon request by a party or by the Copyright Royalty Judges. The filer must file through eCRB a scanned copy of the signature page of the sworn document together with the document itself.

(g) *Consent to delivery by electronic means.* An attorney or *pro se* party who obtains an eCRB password consents to electronic delivery of all documents, subsequent to the petition to participate, that are filed by electronic means through eCRB. Counsel and *pro se* parties are responsible for monitoring their email accounts and, upon receipt of notice of an electronic filing, for retrieving the noticed filing. Parties and their counsel bear the responsibility to keep the contact information in their eCRB profiles current.

(h) *Accuracy of docket entry.* A person filing a document by electronic means is responsible for ensuring the accuracy of the official docket entry generated by the eCRB system, including proper identification of the proceeding, the filing party, and the description of the document. The Copyright Royalty Board will maintain on its website ([www.loc.gov/crb](http://www.loc.gov/crb)) appropriate guidance regarding naming protocols for eCRB filers.

(i) *Documents subject to a protective order.* A person filing a document by electronic means is responsible for ensuring, at the time of filing, that any documents subject to a protective order are identified to the eCRB system as “restricted” documents. This requirement is in addition to any requirements detailed in the applicable protective order. Failure to identify documents as “restricted” to the eCRB system may result in inadvertent publication of sensitive, protected material.

(j) *Exceptions to requirement of electronic filing—(1) Certain exhibits or attachments.* Parties may file in paper form any exhibits or attachments that are not in a format that readily permits electronic filing, such as oversized documents; or are illegible when scanned into electronic format. Parties filing paper documents or things pursuant to this paragraph must deliver legible or usable copies of the documents or things in accordance with paragraph 350.5(a)(2) and must file electronically a notice of filing that includes a certificate of delivery.

(2) *Pro se parties.* A *pro se* party must file documents in paper form and must deliver and accept delivery of documents in paper form, unless the *pro se* party has obtained an eCRB password.

(k) *Privacy Requirements.* Unless otherwise instructed by the Copyright Royalty Judges, parties must exclude or redact from all electronically filed documents, whether designated “restricted” or not:

(1) *Social Security Numbers.* If an individual's Social Security number must be included in a filed document for evidentiary reasons, the filer must use only the last four digits of that number.

(2) *Names of minor children.* If a minor child must be mentioned in a document for evidentiary reasons, the filer must use only the initials of that child.

(3) *Dates of birth.* If an individual's date of birth must be included in a pleading for evidentiary reasons, the filer must use only the year of birth.

(4) *Financial account numbers.* If a financial account number is relevant evidence in the proceeding, the filer must use only the last four digits of the account identifier.

(l) *Incorrectly filed documents and technical difficulties.* (1) The Copyright Royalty Board may direct an eCRB filer to re-file a document that has been incorrectly filed, or to correct an erroneous or inaccurate docket entry.

(2) After the transition period, if an attorney or a *pro se* party who has been issued an eCRB password inadvertently presents a document for filing in paper form, the Copyright Royalty Board may direct the attorney or *pro se* party to file the document electronically. The document will be deemed filed on the date it was first presented for filing if, no later than the next business day after being so directed by the Copyright Royalty Board, the attorney or *pro se* participant files the document electronically. If the party fails to make the electronic filing on the next business day, the document will be deemed filed on the date of the electronic filing.

(3) The inability to complete an electronic filing because of technical problems arising in the eCRB system may constitute “good cause” (as used in § 350.6(b)(4)) for an order enlarging time or excusable neglect for the failure to act within the specified time. A filer encountering technical problems with an eCRB filing must immediately notify the Copyright Royalty Board of the problem either by email or by telephone, followed promptly by written confirmation. This rule does not provide authority to extend statutory time limits.

#### **§ 350.6 Filing and delivery.**

(a) *Filing of pleadings—(1) Electronic filing through eCRB.* Except as described in § 350.5(l)(2), any document filed by electronic means through eCRB in accordance with § 350.5

constitutes filing for all purposes under this chapter, effective as of the date and time the document is received and timestamped by eCRB.

(2) *All other filings.* For all filings not submitted by electronic means through eCRB, the submitting party must deliver an original, five paper copies, and one electronic copy in Portable Document Format (PDF) on an optical data storage medium such as a CD or DVD, a flash memory device, or an external hard disk drive to the Copyright Royalty Board in accordance with the provisions described in § 301.2 of this chapter. In no case will the Copyright Royalty Board accept any document by facsimile transmission or electronic mail, except with prior express authorization of the Copyright Royalty Judges.

(b) *Exhibits.* Filers must include all exhibits with the pleadings they support. In the case of exhibits not submitted by electronic means through eCRB, whose bulk or whose cost of reproduction would unnecessarily encumber the record or burden the party, the Copyright Royalty Judges will consider a motion, made in advance of the filing, to reduce the number of required copies. *See* § 350.5(j).

(c) *English language translations.* Filers must accompany each submission that is in a language other than English with an English-language translation, duly verified under oath to be a true translation. Any other party to the proceeding may, in response, submit its own English-language translation, similarly verified, so long as the responding party's translation proves a substantive, relevant difference in the document.

(d) *Affidavits.* The testimony of each witness must be accompanied by an affidavit or a declaration made pursuant to 28 U.S.C. 1746 supporting the testimony. *See* § 350.5(f).

(e) *Subscription—(1) Parties represented by counsel.* Subject to § 350.5(e), all documents filed electronically by counsel must be signed by at least one attorney of record and

must list the attorney's full name, mailing address, e-mail address (if any), telephone number, and a state bar identification number. *See* § 350.5(e). Submissions signed by an attorney for a party need not be verified or accompanied by an affidavit. The signature of an attorney constitutes certification that the contents of the document are true and correct, to the best of the signer's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances and:

(i) The document is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(ii) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted by the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(2) *Parties representing themselves.* The original of all paper documents filed by a party not represented by counsel must be signed by that party and list that party's full name, mailing address, email address (if any), and telephone number. The party's signature will constitute the party's certification that, to the best of his or her knowledge and belief, there is good ground to support the document, and that it has not been interposed for purposes of delay.

(f) *Responses and replies.* Responses in support of or opposition to motions must be filed within five days of the filing of the motion. Replies to responses must be filed within four days of the filing of the response.

(g) *Participant list.* The Copyright Royalty Judges will compile and distribute to those parties who have filed a valid petition to participate the official participant list for each proceeding. For all paper filings, a party must deliver a copy of the document to counsel for all other parties identified in the participant list, or, if the party is unrepresented by counsel, to the party itself. Parties must notify the Copyright Royalty Judges and all parties of any change in the name or address at which they will accept delivery and must update their eCRB profiles accordingly.

(h) *Delivery method and proof of delivery—(1) Electronic filings through eCRB.* Electronic filing of any document through eCRB operates to effect delivery of the document to counsel or *pro se* participants who have obtained eCRB passwords, and the automatic notice of filing sent by eCRB to the filer constitutes proof of delivery. Counsel or parties who have not yet obtained eCRB passwords must deliver and receive delivery as provided in paragraph (h)(2). Parties making electronic filings are responsible for assuring delivery of all filed documents to parties that do not use the eCRB system.

(2) *Paper filings.* During the course of a proceeding, each party must deliver all documents, including motions, responses and replies that they have not filed through eCRB to the other parties or their counsel by means no slower than overnight express mail on the same day they file the pleading, or by such other means as the parties may agree in writing among themselves. Parties must include a proof of delivery with any document delivered in accordance with this paragraph.

**§ 350.7 Time.**

(a) *Computation.* To compute the due date for filing and delivering any document or performing any other act directed by an order of the Copyright Royalty Judges or the rules of the Copyright Royalty Board:

(1) Exclude the day of the act, event, or default that begins the period.

(2) Exclude intermediate Saturdays, Sundays, and legal holidays when the period is less than 11 days, unless computation of the due date is stated in calendar days.

(3) Include the last day of the period, unless it is a Saturday, Sunday, legal holiday, or a day on which the weather or other conditions render the Copyright Royalty Board's office inaccessible.

(4) As used in this rule, "legal holiday" means the date designated for the observance of New Year's Day, Martin Luther King, Jr.'s Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day declared a federal holiday by the President or the Congress.

(5) Except as otherwise described in this Chapter or in an order by the Copyright Royalty Judges, the Copyright Royalty Board will consider documents to be timely filed only if:

(i) They are filed electronically through eCRB and time-stamped by 11:59:59 pm Eastern time on the due date;

(ii) They are sent by U.S. mail, are addressed in accordance with paragraph 301.2(a), have sufficient postage, and bear a USPS postmark on or before the due date;

(iii) They are hand-delivered by private party to the Copyright Office Public Information Office in accordance with § 301.2(b) of this chapter and received by 5:00 pm Eastern time on the due date; or

(iv) They are hand-delivered by commercial courier to the Congressional Courier Acceptance Site in accordance with paragraph 301.2(c) and received by 4:00 pm Eastern time on the due date.

(6) Any document sent by mail and dated only with a business postal meter will be considered filed on the date it is actually received by the Library of Congress.

(b) *Extensions.* A party seeking an extension must do so by written motion. Prior to filing such a motion, a party must attempt to obtain consent from the other parties to the proceeding. An extension motion must state:

(1) The date on which the action or submission is due;

(2) The length of the extension sought;

(3) The date on which the action or submission would be due if the extension were allowed;

(4) The reason or reasons why there is good cause for the delay;

(5) The justification for the amount of additional time being sought; and

(6) The attempts that have been made to obtain consent from the other parties to the proceeding and the position of the other parties on the motion.

### **§ 350.8 Construction and waiver.**

The regulations of the Copyright Royalty Judges are intended to provide efficient and just administrative proceedings and will be construed to advance these purposes. For purposes of an individual proceeding, the provisions of this subchapter may be suspended or waived, in whole or in part, upon a showing of good cause, to the extent allowable by law.

### **PART 351—PROCEEDINGS**

4. The authority citation for part 351 continues to read as follows:

Authority: 17 U.S.C. 803.

5. In § 351.1 revise paragraph (b)(4) to read as follows:

**§ 351.1 Initiation of proceedings.**

\* \* \* \* \*

(b) \*\*\*

(4) *Filing fee.* A petition to participate must be accompanied with a filing fee of \$150 or the petition will be rejected. For petitions filed electronically through eCRB, payment must be made to the Copyright Royalty Board through the payment portal designated on eCRB. For petitions filed by other means, payment must be made to the Copyright Royalty Board by check or by money order. If a check is subsequently dishonored, the petition will be rejected. If the petitioner believes that the contested amount of that petitioner's claim will be \$1,000 or less, the petitioner must so state in the petition to participate and should not include payment of the \$150 filing fee. If it becomes apparent during the course of the proceedings that the contested amount of the claim is more than \$1,000, the Copyright Royalty Judges will require payment of the filing fee at that time.

Dated: November 16, 2016.

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Suzanne M. Barnett,  
Chief Copyright Royalty Judge.

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