



1410-72-P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 360

[Docket No. 20-CRB-0006-RM]

Procedural Regulations of the Copyright Royalty Board Requiring Electronic Filing of Claims

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed rule.

SUMMARY: The Copyright Royalty Judges propose to amend regulations governing the filing of claims to royalty fees collected under compulsory license to require that all claims be filed electronically through the Copyright Royalty Board's (CRB) electronic filing system (eCRB). 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: You may send comments, identified by docket number 20-CRB-0006-RM, online through eCRB at <https://app.crb.gov>.

Instructions: All submissions received must include the Copyright Royalty Board name and the docket number for this rulemaking. All comments received will be posted without change to eCRB at <https://app.crb.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to eCRB at <https://app.crb.gov> and perform a case search for docket 20-CRB-0006-RM.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, CRB Program Specialist, at 202-707-7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION: In 2017, the CRB deployed its electronic filing and case management system, eCRB, and began accepting claims to compulsory license royalties electronically. The CRB continued, however, to permit the filing of claims on paper forms.

The CRB has since received a diminishing number of paper claims. In the most recent claims filing period for cable and satellite royalties (July 2019), out of 545 and 280 claims, respectively, the CRB received two claims for cable royalties and one claim for satellite royalties that were filed exclusively in paper form.¹ In the most recent claims filing period for DART royalties (January-February 2020), out of 61 claims filed, the CRB received no claims that were filed exclusively in paper form.²

The handling of paper claims is more resource-intensive for the CRB than the handling of electronic claims. Each paper claim must be opened, date-stamped, numbered, scanned, and uploaded to eCRB, and details from the paper claim must be entered manually into eCRB to generate an electronic claim.

More critically, acceptance of paper claims creates a dependency on the receipt and processing of mail and courier deliveries. The current disruption at the Library of Congress to both mail processing and acceptance of courier deliveries because of the COVID-19 pandemic demonstrates the risk to claims processing of that dependency.

¹ For both cable and satellite claims, the CRB received approximately 20 backup paper claims – *i.e.*, claims filed in paper form that are duplicates of claims filed in electronic form. The practice of filing backup paper claims is neither necessary nor encouraged by the CRB.

² The CRB received four backup paper claims.

In order to eliminate the need for resource-intensive manual processing of paper claims and to mitigate the risk to CRB operations of a disruption to normal mail and courier delivery, the Judges propose to amend 37 CFR part 360 to require that all claims be filed online through eCRB.

List of Subjects in 37 CFR Part 360

Administrative practice and procedure, Cable royalties, Claims, Copyright, Electronic filing, Satellite royalties.

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 part 360 of Title 37 of the Code of Federal Regulations as follows:

SUBCHAPTER C—SUBMISSION OF ROYALTY CLAIMS

PART 360—FILING OF CLAIMS TO ROYALTY FEES COLLECTED UNDER COMPULSORY LICENSE

1. The authority citation for part 360 continues to read as follows:

Authority: 17 U.S.C. 801, 803, 805.

Subpart A also issued under 17 U.S.C. 111(d)(4) and 119(b)(4).

Subpart B also issued under 17 U.S.C. 1007(a)(1).

Subpart C also issued under 17 U.S.C. 111(d)(4), 119(b)(4) and 1007(a)(1).

Subpart A—Cable and Satellite Claims

§ 360.3 [Amended]

2. Amend § 360.3 by:

a. In paragraph (b), removing the words “or by mail or hand delivery in accordance with §301.2”;

b. Removing paragraph (d); and

c. Redesignating paragraph (e) as paragraph (d).

3. Amend § 360.4 by:

a. Revising paragraph (a);

b. Removing paragraph (b)(1)(v);

c. Redesignating paragraph (b)(1)(vi) as paragraph (b)(1)(v);

d. Revising paragraph (b)(2)(i);

e. In paragraph (b)(2)(iii), removing the words “for claims submitted through eCRB”;

f. Removing paragraph (b)(2)(v); and

g. Redesignating paragraph (b)(2)(vi) as paragraph (b)(2)(v).

The revisions read as follows:

§ 360.4 Form and content of claims.

(a) *Electronic filing.* (1) Each filer must file claims online using the claims filing feature of eCRB to claim cable compulsory license royalty fees or satellite compulsory license royalty fees and must provide all information required by the online form and its accompanying instructions.

(2) Filers may access eCRB at <https://app.crb.gov>. The claims filing feature for claims to cable compulsory license royalty fees and satellite compulsory license royalty fees will be available only during the month of July.

(b) * * *

(2) * * *

(i) With the exception of joint claims filed by a performing rights society on behalf of its members, a list including the full legal name, address, and email address of each copyright owner whose claim(s) are included in the joint claim. Claims must include an Excel spreadsheet containing the information if the number of joint claimants is in excess of ten.

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§ 360.5 [Removed]

4. Remove § 360.5.

Subpart B—Digital Audio Recording Devices and Media (DART) Royalty Claims

5. Amend § 360.22 by:

- a. Revising paragraph (a);
- b. In paragraph (b)(2), removing the words “for claims submitted through eCRB”;
- c. Removing paragraph (c);
- d. Redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e) respectively;

and

- e. Revising newly redesignated paragraph (d).

The revisions read as follows:

§ 360.22 Form and content of claims.

(a) *Electronic filing.* (1) Each claim to DART royalty payments must be filed online using the claims filing feature of eCRB and must contain the information required by the online form and its accompanying instructions.

(2) Filers may access eCRB at <https://app.crb.gov>. The claims filing feature for claims to DART royalty payments will be available only during the months of January and

February.

* * * * *

(d) *List of claimants.* If the claim is a joint claim, it must include the name of each claimant participating in the joint claim. Filers submitting joint claims on behalf of ten or fewer claimants, must list the name of each claimant included in the joint claim directly on the filed joint claim. Filers submitting joint claims on behalf of more than ten claimants must include an Excel spreadsheet listing the name of each claimant included in the joint claim.

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§ 360.23 [Removed]

6. Remove § 360.23.

§ 360.24 [Redesignated as § 360.23 and Amended]

7. Amend § 360.24 by:

a. Redesignating § 360.24 as § 360.23; and

b. In paragraph (b) of newly redesignated § 360.23, adding the words “online through eCRB” after the word “notice”.

Subpart C—Rules of General Application

8. Amend § 360.30 by adding the sentence “All Notices of Amendment must be filed online through eCRB.” at the end of the paragraph to read as follows:

§ 360.30 Amendment of claims.

* * * All Notices of Amendment must be filed online through eCRB.

9. Amend § 360.31 by adding the sentence “All Notices of Withdrawal of Claim(s) must be filed online through eCRB.” at the end of the paragraph to read as follows:

§ 360.31 Withdrawal of claims.

* * * All Notices of Withdrawal of Claim(s) must be filed online through eCRB.

Dated: April 22, 2020.

Jesse M. Feder,
Chief Copyright Royalty Judge.
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