



## Copyright Office

37 CFR Parts 222, 224, 225, 233, 234, and 235

[Docket No. 2022–6]

### **Copyright Claims Board: District Court Referrals; Proof of Service Forms; Default Proceedings; Law Student Representation**

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Copyright Alternative in Small-Claims Enforcement Act, the U.S. Copyright Office is adopting as final a December 19, 2022 interim rule allowing the Copyright Claims Board to modify or suspend certain rules when a claim is referred by a district court and, in cases that are first filed before the Copyright Claims Board, accept alternative proof of service forms. The interim rule also clarified the rules governing default proceedings and law student representation, and made certain technical corrections.

**DATES:** Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Rhea Efthimiadis, Assistant to the General Counsel, by email at [mefi@copyright.gov](mailto:mefi@copyright.gov) or telephone at (202) 707-8350.

**SUPPLEMENTARY INFORMATION:** The Copyright Alternative in Small-Claims Enforcement Act of 2020 (the “CASE Act”)<sup>1</sup> directed the Copyright Office to establish the Copyright Claims Board (the “CCB”), an alternative and voluntary forum for parties seeking to resolve certain copyright-related disputes that have a total monetary value of \$30,000 or less.

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<sup>1</sup> Public Law 116–260, sec. 212, 134 Stat. 1182, 2176 (2020).

After publishing a notification of inquiry (“NOI”) seeking public input on the CCB’s operations and procedures in early 2021,<sup>2</sup> the Office published multiple notices of proposed rulemaking (“NPRMs”) addressing various aspects of CCB proceedings.<sup>3</sup> The Office then published final rules after receiving and considering comments from the public.<sup>4</sup> On June 16, 2022, the CCB began receiving claims.

On December 19, 2022, the Office published and sought comment on an interim rule that clarified the rules governing representation by law students of parties before the CCB, added a rule to address district court referrals, and amended the rules governing proof of service forms and default proceedings.<sup>5</sup> Specifically, the interim rule clarified that law student representatives must qualify under the laws, court rules, or bar rules of the jurisdiction that allows, authorizes, or permits them to practice law. This clarification was intended to avoid any implication in the prior rule that law students must undergo a formal certification process. The interim rule also clarified that the CCB’s regulations only govern law students who make a formal appearance in CCB proceedings, rather than those who provide legal assistance to parties in other capacities.

The interim rule also set forth intake procedures for cases referred to the CCB from district courts and gave the CCB authority to adjust or suspend certain rules that would otherwise apply if doing so would be in the interests of efficiently resolving the dispute. The interim rule excluded district court referrals from the limits on the number of proceedings a claim, attorney, or law firm may file with the CCB, and did not require a claimant to pay a filing fee for such a proceeding.

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<sup>2</sup> 86 FR 16156 (Mar. 26, 2021).

<sup>3</sup> *See, e.g.*, 86 FR 74394 (Dec. 30, 2021); 86 FR 53897 (Sept. 29, 2021); 86 FR 69890 (Dec. 8, 2021).

<sup>4</sup> 87 FR 20707 (Apr. 8, 2022) (law student representation final rule); 87 FR 12861 (Mar. 8, 2022) (initial proceedings partial final rule); 87 FR 16989 (Mar. 25, 2022) (initial proceedings final rule); 87 FR 24056 (Apr. 22, 2022) (initial proceedings correction); 87 FR 30060 (May 17, 2022) (active proceedings final rule); 87 FR 36060 (June 15, 2022) (active proceedings correction).

<sup>5</sup> 87 FR 77518 (Dec. 19, 2022).

Further, the interim rule made clear that claimants may file either the proof of service form provided on the CCB's website or an alternative proof of service form that contains all of the information required by the CCB-provided form. The interim rule also clarified that parties are not limited to materials exchanged during discovery when presenting evidence in support of a default. Finally, the interim rule included updated cross-references and added references to "counterclaims" where the rule previously only referred to "claims."

The Office received one comment on the interim rule from the Copyright Alliance, concerning the decision not to require claimants to pay a fee for proceedings referred to the CCB by a district court.<sup>6</sup> The Copyright Alliance indicated that it had no objections to this approach, but recommended that "the Office monitor the number of cases referred from district court and re-evaluate the impact of this rule" to make sure that costs are not passed to other claimants and that the CCB's budget or resources are not negatively impacted, in the event that district court referrals become a significant portion of the CCB's caseload.<sup>7</sup> If that occurs, the Copyright Alliance suggested that the Office "includ[e] an amount sufficient to fund these cases in its annual appropriations funding request from Congress" or, if the Office opts to impose a fee in the future, that it "divid[e] that fee equally among all of the claimants and respondents that would be party to the case."<sup>8</sup>

The Office appreciates these comments and will take them under advisement moving forward. Because the Office did not receive any comments recommending changes to the proposed rule at this time, the Office adopts the interim rule as final.

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<sup>6</sup> Copyright Alliance Interim Rule Comments at 1.

<sup>7</sup> Copyright Alliance Interim Rule Comments at 1–2.

<sup>8</sup> Copyright Alliance Interim Rule Comments at 2.

**List of Subjects in 37 CFR Parts 222, 224, 225, 233, 234, and 235**

Claims, Copyright.

**Final Regulations**

**PART 222—PROCEEDINGS**

**PART 224—REVIEW OF CLAIMS BY OFFICERS AND ATTORNEYS**

**PART 225—DISCOVERY**

**PART 233—LIMITATION ON PROCEEDINGS**

**PART 234—LAW STUDENT REPRESENTATIVES**

**PART 235—DISTRICT COURT REFERRALS**

For the reasons stated in the preamble, the U.S. Copyright Office adopts the interim rule amending 37 CFR parts 222, 224, 225, 233, 234, and 235, which was published at 87 FR 77518 on December 19, 2022, as final without change.

Dated: July 19, 2023.

**Shira Perlmutter,**

*Register of Copyrights and*

*Director of the U.S. Copyright Office.*

Approved by:

**Carla D. Hayden,**

*Librarian of Congress.*

**[BILLING CODE 1410-30-P]**

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