

## SUBCHAPTER B—COPYRIGHT CLAIMS BOARD AND PROCEDURES

### PART 220—GENERAL PROVISIONS

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AUTHORITY: 17 U.S.C. 702, 1510.

SOURCE: 87 FR 30075, May 17, 2022, unless otherwise noted.

#### § 220.1 Definitions.

For purposes of this subchapter:

(a) *Active proceeding* denotes a claim in which the claimant has filed proof of service and the respondent has not, within the sixty day opt-out period, submitted an opt-out notice to the Copyright Claims Board (Board).

(b) *Authorized representative* means a person, other than legal counsel, who is authorized under this subchapter to represent a party before the Board.

(c) *Bad-faith conduct* occurs when a party pursues a claim, counterclaim, or defense for a harassing or other improper purpose, or without a reasonable basis in law or fact. Such conduct includes any actions taken in support of a claim, counterclaim, or defense and may occur at any point during a proceeding before the Board, including before a proceeding becomes an *active proceeding*.

(d) *Default determination* is a *final determination* issued as part of the default procedures set forth in 17 U.S.C. 1506(u) when the respondent does not participate in those procedures.

(e) *Final determination* is a decision that concludes an *active proceeding* before the Board and is binding only on the participating parties. A *final determination* generally assesses the merits of the claims in the proceeding, except when issued to dismiss a claimant's claims for failure to prosecute.

(f) *Initial notice* means the notice described in 17 U.S.C. 1506(g) that is served on a respondent in a Board proceeding along with the claim.

(g) *Second notice* means the notice of a proceeding sent by the Board as described in 17 U.S.C. 1506(h).

(h) *Standard interrogatories* are written questions provided by the Board that a party in an *active proceeding* must answer as part of discovery.

(i) *Standard requests for the production of documents* are written requests provided by the Board requiring a party to provide documents, other information, or tangible evidence as part of discovery in an *active proceeding*.

#### § 220.2 Authority and functions.

The Copyright Claims Board (Board) is an alternative forum to Federal court in which parties may voluntarily seek to resolve certain copyright-related claims regarding any category of copyrighted work, as provided in chapter 15 of title 17 of the United States Code. The Board's proceedings are governed by title 17 of the United States Code and the regulations in this subchapter.

#### § 220.3 Copyright Claims Board Handbook.

The Copyright Claims Board may issue a handbook explaining the Board's practices and procedures. The handbook may be viewed on, downloaded from, or printed from the Board's website. The handbook will not override any existing statute or regulation.

#### § 220.4 Timing.

When the start or end date for calculating any deadline set forth in this subchapter falls on a weekend or a Federal holiday, the start or end date shall be extended to the next Federal workday. Any document subject to a deadline must be either submitted to the Board's electronic filing system (eCCB) by 11:59 p.m. Eastern Time on the date of the deadline or dispatched by the date of the deadline.

## § 220.5

## 37 CFR Ch. II (7–1–25 Edition)

### § 220.5 Requests, responses, and written submissions.

(a) *Requests and responses submitted through fillable form.* Unless this subchapter provides otherwise or the Board orders otherwise, documents listed under this subsection shall be submitted through a fillable form on eCCB and shall comply with the following requirements:

(1) *Tier one requests and responses.* Requests and responses to requests which are identified under this paragraph (a)(1) shall be filed through the fillable form on eCCB and be limited to 4,000 characters. Any party may submit a response to a request identified in this paragraph within seven days of the filing of the request. The Board may deny such a request before the time to submit a response expires, but the Board will not grant a request before the time to submit a response expires, unless the request is consented to by all parties. There shall be no replies from a party that submits a request, absent leave of the Board. Tier one requests and responses shall include:

(i) Requests to amend a scheduling order and responses to such requests under § 222.11(d)(2) of this subchapter;

(ii) Requests for a general conference or discovery conference (those not involving a dispute) and responses to such requests under § 222.11(c), § 225.1(c), or § 226.4(g) of this subchapter;

(iii) Statements as to damages under § 222.15(b)(3) of this subchapter;

(iv) Requests for a hearing under § 222.16(c) of this subchapter;

(v) Requests to withdraw claims or counterclaims under § 222.17 of this subchapter;

(vi) Requests for a settlement conference and responses to such requests under § 222.18(b)(2) of this subchapter;

(vii) Requests to stay proceedings for settlement discussions or requests to extend the stay of proceedings for settlement discussions, and responses to such requests, under § 222.18(f) of this subchapter;

(viii) Joint requests for a dismissal under § 222.18(g) of this subchapter;

(ix) Requests for the standard protective order under § 222.19(a) of this subchapter;

(x) Requests to remove a confidentiality designation and responses to

such requests under § 222.19(a)(5) of this subchapter;

(xi) Requests for a custom protective order under § 222.19(b) of this subchapter;

(xii) Requests to use not previously submitted evidence at a hearing and responses to such requests under § 222.20(d) of this subchapter;

(xiii) Requests to modify the discovery schedule and responses to such requests under § 225.1(b) of this subchapter;

(xiv) Requests to withhold additional documents as privileged and responses to such requests under § 225.3(g) of this subchapter;

(xv) Requests to issue a notice regarding a missed deadline or requirement and responses to such requests under § 227.1(a) or § 228.2(a) of this subchapter;

(xvi) Responses to a Board-issued notice regarding a missed deadline in the default context under § 227.1(c) of this subchapter;

(xvii) Responses to a Board-issued notice regarding a missed deadline in the failure to prosecute context under § 228.2(c)(2) of this subchapter;

(xviii) Requests to designate an official reporter for a hearing and responses to such requests under § 229.1(d) of this subchapter;

(xix) Requests to withdraw representation under § 232.5 of this subchapter;

(xx) Requests by a claimant under § 226.2 of this subchapter to change its choice as to whether to have its claim considered under the smaller claims procedures or the standard Board procedures; and

(xxi) Requests not otherwise covered under § 220.5(d).

(2) *Tier two requests and responses.* Requests and responses to requests which are identified under this paragraph (a)(2) shall be filed through the fillable form on eCCB and be limited to 10,000 characters, not including any permitted attachments. Any party may file a response within 14 days of the filing of the request or the order to show cause. The Board may deny a request before the time to submit a response expires, but the Board will not grant a request before the time to submit a response expires, unless the request is consented to by all parties. There shall

be no replies from a party that submits a request, absent leave of the Board. Tier two requests and responses shall include:

(i) Requests to amend pleadings and responses to such requests under § 222.12(d)(2) of this subchapter;

(ii) Requests to consolidate and responses to such requests under § 222.13(c) of this subchapter;

(iii) Requests to intervene by a third party and responses to such requests under § 222.14(c) of this subchapter;

(iv) Requests to dismiss for unsuitability and responses to such requests under § 224.2(c) of this subchapter;

(v) Requests for additional discovery under § 225.4(a)(4) of this subchapter. Such requests must enter each specific additional discovery request (*e.g.*, the specific interrogatories, document requests, or requests for admission sought) within the fillable form;

(vi) Responses to requests for additional discovery under § 225.4(a)(4) of this subchapter;

(vii) Requests to serve requests for admission and responses to requests to serve requests for admission under § 225.4(c) of this subchapter;

(viii) Requests to be able to present an expert witness and responses to such requests under § 225.4(b)(2) of this subchapter;

(ix) Requests for a conference to resolve a discovery dispute under § 225.5(b) of this subchapter. Such requests must attach any inadequate interrogatory responses or inadequate request for admission responses and may attach communications related to the discovery dispute or documents specifically discussed in the request related to the inadequacy of the document production;

(x) Responses to requests for a conference to resolve a discovery dispute under § 225.5(b) of this subchapter. Such responses may attach communications related to the discovery dispute or produced documents specifically pertinent to the dispute;

(xi) Requests for sanctions and responses to such requests under § 225.5(e)(1) of this subchapter;

(xii) Requests for a third-party to attend a hearing and responses to such

requests under § 229.1(c) of this subchapter;

(xiii) Responses to an order to show cause regarding *bad-faith conduct* under § 232.3(b)(1) of this subchapter;

(xiv) Requests for a conference related to alleged *bad-faith conduct* and responses to such requests under § 232.3(b)(2) of this subchapter;

(xv) Responses to an order to show cause regarding a pattern of *bad-faith conduct* under § 232.4(b)(1) of this subchapter; and

(xvi) Requests for a conference related to a pattern of alleged *bad-faith conduct* and responses to such requests under § 232.4(b)(2) of this subchapter.

(b) *Tier three: Uploaded written submissions.* (1) Unless the Board orders otherwise, written submissions not identified as tier one or tier two requests and responses under this section shall be uploaded to eCCB (with the exception of settlement statements under § 222.18(d) of this subchapter), shall comply with the applicable page limitations and response times set forth in this subchapter for such documents, and shall—

(i) Include a title;

(ii) Include a caption;

(iii) Be typewritten;

(iv) Be double-spaced, except for headings, footnotes, or block quotations, which may be single-spaced;

(v) Be in 12-point type or larger; and

(vi) Include the typed or handwritten signature of the party submitting the document.

(2) Documents considered tier three submissions shall include:

(i) Direct party statements and response party statements under § 222.15(b)(3) of this subchapter;

(ii) Reply party statements under § 222.15(c)(3) of this subchapter;

(iii) Settlement position statements under § 222.18(d) of this subchapter;

(iv) Requests to reconsider determinations to dismiss for unsuitability and responses to such requests under § 224.2(b)(2) of this subchapter;

(v) Smaller claims position statements under § 226.4(d)(2)(ii) of this subchapter;

(vi) Responses to smaller claims Board-proposed findings of fact under § 226.4(e)(1);

(vii) Claimant written direct party statement in support of default under § 227.2(a) of this subchapter;

(viii) Claimant response to Board determination after default that evidence is insufficient to find for claimant under § 227.3(a)(2) of this subchapter;

(ix) Response to notice of proposed *default determination* under § 227.4(a) of this subchapter;

(x) Requests to vacate a *default determination* and responses to such requests under § 227.5(c) of this subchapter;

(xi) Request to vacate a dismissal for failure to prosecute and responses to such requests under § 228.2(e) of this subchapter;

(xii) Requests for reconsideration under § 230.2 of this subchapter;

(xiii) Responses to requests for reconsideration under § 230.3 of this subchapter;

(xiv) Requests for review by the Register of Copyrights under § 231.2 of this subchapter; and

(xv) Responses to requests for review by the Register of Copyrights under § 231.3 of this subchapter.

(c) *Replies*. Other than written testimony submitted pursuant to § 222.15 of this subchapter, replies to any responses to requests or written submissions shall not be permitted, unless otherwise provided for in this subchapter or permitted by the Board.

(d) *Other requests and responses*. Any requests to the Board not specified in this part can be submitted by filing a request not otherwise covered under paragraph (a)(1) of this section. Depending on the nature of the request, the Board shall advise the parties whether the request is permitted and, if so, if and by when the response must be filed.

[87 FR 30075, May 17, 2022; 87 FR 36060, June 15, 2022; 89 FR 2492, Jan. 16, 2024]

## PART 221—REGISTRATION

Sec.

221.1 Registration requirement.

221.2 Small claims expedited registration.

AUTHORITY: 17 U.S.C. 702, 1510.

SOURCE: 86 FR 46122, Aug. 18, 2021, unless otherwise noted.

### § 221.1 Registration requirement.

(a) A claim or counterclaim alleging infringement of an exclusive right in a copyrighted work may not be asserted before the Copyright Claims Board unless the legal or beneficial owner of the copyright has first delivered a completed application, a deposit, and the required fee for registration of the copyright to the Copyright Office and a registration certificate has either been issued or has not been refused.

(b) For a work that has not yet been registered, a claimant or counterclaimant who has a pending application to register the work must indicate on its claim or counterclaim notice that the work is pending registration and must include the work's service request (SR) number that was assigned to the copyright registration claim. If the Copyright Claims Board, in its discretion, at any time determines that the proceeding may not proceed forward because of a pending registration, the Copyright Claims Board shall issue an order holding the proceeding in abeyance until it is provided with the certificate of registration or the registration number on the certificate of registration or certificate preview. Under this provision, the Copyright Claims Board can decide to hold the proceeding in abeyance at any point in the proceeding, but must dismiss the proceeding without prejudice if it is notified that the registration application was refused. If the proceeding has been held in abeyance for more than one year, the Copyright Claims Board may dismiss the claim or counterclaim without prejudice after providing thirty days' written notice to all parties to the proceeding.

[86 FR 46122, Aug. 18, 2021, as amended at 87 FR 24058, Apr. 22, 2022]

### § 221.2 Small claims expedited registration.

(a) *Eligibility*. A claimant or counterclaimant alleging infringement of an exclusive right in a copyrighted work before the Copyright Claims Board is eligible to expedite a copyright registration application under this section. This process shall be known as small claims expedited registration.