

PART 233—LIMITATION ON PROCEEDINGS

Sec.

233.1 General.

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233.3 Temporary limitations on proceedings.

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

SOURCE: 87 FR 30092, May 17, 2022, unless otherwise noted.

§ 233.1 General.

This part prescribes rules pertaining to the management of the Copyright Claims Board's (Board's) docket and prevention of abuse of the Board's proceedings.

§ 233.2 Limitation on proceedings.

(a) *Maximum number of proceedings.* The number of Copyright Claims Board proceedings that may be filed by a claimant and the number of proceedings that may be filed by legal counsel or law firms on behalf of claimants in any 12-month period shall be limited in accordance with this section. A proceeding shall count toward the numerical limitation as soon as it is filed, regardless of how the proceeding is resolved, whether it is found to be noncompliant under § 224.1 or unsuitable under § 224.2 of this subchapter, voluntarily dismissed, or fails to become active due to a respondent's opt-out. Neither amendments to a claim, nor counterclaims filed in response to a claim shall count as additional claims in determining whether the limit has been reached. The following limitations shall apply:

(1) A claimant, including a corporate claimant's parents, subsidiaries, and affiliates, shall file no more than 30 proceedings in any 12-month period.

(2) A sole practitioner or a legal counsel associated with a law firm shall file no more than 40 CCB proceedings on behalf of claimants in any 12-month period.

(3) A law firm shall file no more than 80 CCB proceedings on behalf of claimants in any 12-month period.

(b) *Circumvention of limit.* If a claimant files a claim in excess of the limitation set forth in paragraph (a)(1) of this section, such claim shall be dismissed without prejudice. If a sole

practitioner or legal counsel associated with a law firm files a claim in excess of the limitation set forth in paragraph (a)(2) or (3) of this section, the legal counsel or law firm at issue shall be ordered to withdraw from the proceeding and the Board may stay the proceeding for 60 days, which may be extended for good cause shown, for the claimant to retain new legal counsel. It may be considered *bad-faith conduct* under § 232.3 for a party to take any action for the sole purpose of avoiding the limitation on the number of proceedings that may be filed as set forth in this section.

(c) *Law students, law clinics, and pro bono legal services.* The limitations in this section do not apply to law students or a law clinic or *pro bono* legal services organization with a connection to the participating law student's law school.

(d) *District court referrals.* In calculating the number of proceedings that have been filed by a claimant, sole practitioner, legal counsel, or a law firm under this section, claims referred by district courts will not be considered.

[87 FR 30092, May 17, 2022; 87 FR 36061, June 15, 2022; 87 FR 77521, Dec. 19, 2022]

§ 233.3 Temporary limitations on proceedings.

(a) *Moratorium on new claims.* If the Board has determined that the number of pending cases before it has overwhelmed the capacity of the Board, the Board may impose a temporary stay on the filing of claims. The Board shall publish an announcement of that determination on its website, stating the effective date of the stay, and the duration of the stay, not to exceed six months.

(b) *Exception to moratorium.* If a claimant's statute of limitations under 17 U.S.C. 1504(b) is about to expire during the stay issued under paragraph (a) of this section, the claimant may file a claim on or before the statutory deadline accompanied by a declaration under penalty of perjury stating that the statute of limitations will expire during the stay and setting forth facts in support of that conclusion. If the Board determines that the statute of limitations likely will expire during

the stay based on the facts set forth in the declaration, the Board shall hold the claim in abeyance and conduct a compliance review following the end of the stay.

PART 234—LAW STUDENT REPRESENTATIVES

Sec.

234.1 Law student representatives.

234.2 Pro bono representation directory.

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

SOURCE: 87 FR 20713, Apr. 8, 2022, unless otherwise noted.

§ 234.1 Law student representatives.

(a) *Eligibility for appearance*—(1) *State law compliance*. Any law student who is affiliated with a law school clinic or a *pro bono* legal services organization with a connection to the student's law school is qualified under applicable laws governing representation by law students of parties in legal proceedings, and meets the other requirements of this section may appear before the Copyright Claims Board (Board). Applicable laws are the laws, court rules, or bar rules of the jurisdiction that allow, authorize, or permit the student to practice law in conjunction with a law school clinic or *pro bono* legal services organization with a connection to the student's law school.

(2) *Pro bono representation*. Any law student who appears before the Board must provide representation on a *pro bono* basis.

(3) *Competency*. Law student representatives must meet a standard of competency. For the purpose of appearances before the Board, competency includes successful completion of—

(i) The first year of studies at an American Bar Association-accredited law school;

(ii) Training in relevant copyright law, as determined by the supervising clinic or *pro bono* organization; and

(iii) Review of the Board's regulations found in this subchapter, and of the Copyright Alternative in Small-Claims Enforcement Act of 2020 statutory text, as codified at chapter 15 of title 17 of the United States Code.

(b) *Client consent*. The law student representative shall have the written

consent of the client to appear on that client's behalf.

(c) *Attorney supervision*. A law student who appears on behalf of a party in a proceeding before the Board shall be supervised by an attorney who is qualified under applicable state law governing representation by law students, as specified in paragraph (a) of this section. In supervising the law student, the attorney shall adhere to any rules regarding participant conduct.

(d) *Confirmation of eligibility*. In accordance with the standards of professional conduct set forth in paragraph (j) of this section, the attorney supervising the work of the law student representative is responsible for confirming the law student's eligibility to appear before the Board as set forth in paragraph (a) of this section.

(e) *Signature and assent*. The law student representative or supervising attorney shall electronically or physically sign each document submitted to the Board on behalf of the law student's client. If the law student representative signs, the law student must identify the name of the supervising attorney on all documents signed by the law student representative. The law student must certify that the law student sought and obtained the supervising attorney's assent to the submission.

(f) *Notice of appearance*. In any proceeding in which a law student appears on behalf of a party, a notice of appearance shall be filed identifying the law student representative, the supervising attorney, and the law school clinic or *pro bono* legal organization with which they are affiliated, unless already identified in the party's claim, counterclaim, or response.

(g) *Filing documents*. All filings by a law student representative shall be made with the knowledge of the supervising attorney, who shall maintain an association with the law student representative in the Board's electronic filing system (eCCB). Supervising attorneys and law students shall maintain their own accounts in eCCB. A notice of withdrawal, and a notice of appearance if applicable, shall be filed whenever the identity of a law student representative or a supervising attorney has changed.