

SUBCHAPTER C—SUBMISSION OF ROYALTY CLAIMS

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

Subpart A—Cable and Satellite Claims

Sec.

360.1 General.

360.2 Definitions.

360.3 Time of filing.

360.4 Form and content of claims.

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

360.20 General.

360.21 Time of filing.

360.22 Form and content of claims.

360.23 Content of notices regarding independent administrators.

Subpart C—Rules of General Application

360.30 Amendment of claims.

360.31 Withdrawal of claims.

360.32 Reinstatement of previously withdrawn claims.

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Subpart A—Cable and Satellite Claims

§ 360.1 General.

This subpart prescribes procedures under 17 U.S.C. 111(d)(4)(A) and 17 U.S.C. 119(b)(4) whereby parties claiming entitlement to cable compulsory license royalty fees or satellite compulsory license royalty fees must file claims with the Copyright Royalty Board.

§ 360.2 Definitions.

For purposes of this subpart, the following definitions will apply:

Cable compulsory license royalty fees means royalty fees deposited with the Copyright Office pursuant to 17 U.S.C. 111.

Performing rights society has the meaning set forth in 17 U.S.C. 101.

Satellite compulsory license royalty fees means royalty fees deposited with the Copyright Office pursuant to 17 U.S.C. 119.

§ 360.3 Time of filing.

(a) During the month of July each year, any party claiming to be entitled to cable compulsory license royalty fees or satellite compulsory license royalty fees for secondary transmissions during the preceding calendar year must file a claim or claims with the Copyright Royalty Board. No party will receive royalty fees for secondary transmissions during the specified period unless the party has filed a timely claim to the fees. Claimants may file claims jointly or as a single claim. Claimants must file separate claims for cable compulsory license royalty fees and satellite compulsory license royalty fees. The Copyright Royalty Board will reject any claim that purports to be for both cable and satellite royalty fees.

(b) Claims filed with the Copyright Royalty Board will be considered timely filed only if they are filed online through eCRB during the month of July, as determined in accordance with § 303.7.

(c) Notwithstanding paragraphs (a) and (b) of this section, in any year in which July 31 falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the due date for claims to cable or satellite compulsory license royalty fees will be the first business day in August.

(d) For claims filed electronically through eCRB, the Copyright Royalty Board will accept the confirmation email generated by eCRB as proof of filing. The Copyright Royalty Board will accept no other offer of proof regarding claims filed electronically through eCRB.

[82 FR 27018, June 13, 2017, as amended at 85 FR 37752, June 24, 2020; 87 FR 35899, June 14, 2022]

§ 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) *Content*—(1) *Single claim.* A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a cable system or satellite carrier must include the following information:

(i) The full legal name, address, and email address of the copyright owner entitled to claim the royalty fees.

(ii) A statement of the nature of the copyright owner's work(s) that has (have) been secondarily transmitted by a cable system or satellite carrier establishing a basis for the claim.

(iii) The name, telephone number, full mailing address, and email address of the person or entity filing the single claim. The information contained in a filer's eCRB profile shall fulfill this requirement for claims submitted through eCRB.

(iv) The name, telephone number, and email address of the person whom the Copyright Royalty Board can contact regarding the claim.

(v) A declaration of authority to file the claim and a certification of the veracity of the information contained in the claim and the good faith of the person signing in providing the information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(2) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a cable system or satellite carrier must include the following information:

(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.

(ii) A general statement of the nature of the copyright owners' works that have been secondarily transmitted by a cable system or satellite carrier establishing a basis for the joint claim.

(iii) The name, telephone number, full mailing address, and email address of the person or entity filing the joint claim. The information contained in a filer's eCRB profile shall fulfill this requirement.

(iv) The name, telephone number, and email address of a person whom the Copyright Royalty Board can contact regarding the claim.

(v) A declaration of authority to file the claim and a certification of the veracity of the information contained in the claim and the good faith of the person signing in providing the information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) *Changes.* In the event the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the filer or the copyright owner shall notify the Copyright Royalty Board of the change. Any other proposed changes or amendments must be submitted in accordance with 37 CFR 360.30. If the good faith efforts of the Copyright Royalty Board to contact the copyright owner or filer are frustrated because of outdated or otherwise inaccurate contact information, the claim may be subject to dismissal. A person or entity that filed a claim online through eCRB must notify the Copyright Royalty Board of any change of name or address by updating the eCRB profile for that person or entity through eCRB as required by 37 CFR 303.5(g).

[82 FR 27018, June 13, 2017, as amended at 85 FR 37752, June 24, 2020; 87 FR 35899, June 14, 2022]

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

§ 360.20 General.

This subpart prescribes procedures whereby an interested copyright party, as defined in 17 U.S.C. 1001(7), claiming to be entitled to royalty payments made for the importation and distribution in the United States, or the manufacture and distribution in the United States, of digital audio recording devices and media (DART) pursuant to 17 U.S.C. 1006, shall file claims with the Copyright Royalty Board.

§ 360.21 Time of filing.

(a) *General.* During January and February of each year, every interested copyright party claiming to be entitled to DART royalty payments made for quarterly periods ending during the previous calendar year must file a claim with the Copyright Royalty Board. Claimants may file claims jointly or as a single claim.

(b) *Consequences of an untimely filing.* No royalty payments for the previous calendar year will be distributed to any interested copyright party who has not filed a claim to those royalty payments during January or February of the following calendar year.

(c) *Authorization.* Any organization or association acting as a common agent for collection and distribution of DART royalty fees must obtain from its members or affiliates separate, specific, and written authorization, signed by members, affiliates, or their representatives, apart from their standard affiliation agreements, for purposes of royalties claim filing and fee distribution relating to the DART Musical Works Fund or Sound Recordings Fund. The written authorization, however, will not be required for claimants to the Musical Works Fund when either:

(1) The agreement between the organization or association and its members or affiliates specifically authorizes the entity to represent its members or affiliates as a common agent before the Copyright Royalty Board in royalty claims filing and fee distribution proceedings; or

(2) The agreement between the organization or association and its mem-

bers or affiliates, as specified in a court order issued by a court with authority to interpret the terms of the contract, authorizes the entity to represent its members or affiliates as a common agent before the Copyright Royalty Board in royalty claims filing and fee distribution proceedings.

§ 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.

(b) *Content.* Claims filed by interested copyright parties for DART royalty payments must include the following information:

(1) The full legal name and address of the person or entity claiming royalty payments.

(2) The name, telephone number, full mailing address, and email address of the person or entity filing the claim. The information contained in a filer's eCRB profile will fulfill this requirement.

(3) The name, telephone number, and email address of a person whom the Copyright Royalty Board can contact regarding the claim.

(4) A statement as to how the claimant fits within the definition of *interested copyright party*.

(5) A statement as to whether the claim is being made against the Sound Recordings Fund or the Musical Works Fund, as set forth in 17 U.S.C. 1006(b), and as to which Subfund the claim is made. The Subfunds for the Sound Recordings Fund are the Copyright Owners Subfund and the Featured Recording Artists Subfund. The Subfunds for the Musical Works Fund are the Music Publishers Subfund and the Writers Subfund, as described in 17 U.S.C. 1006(b)(1) through (2).

(6) Identification, establishing a basis for the claim, of at least one musical work or sound recording embodied in a digital musical recording or an analog musical recording lawfully made under

§ 360.23

title 17 of the United States Code that has been distributed (as that term is defined in 17 U.S.C. 1001(6)), and that, during the period to which the royalty payments claimed pertain, has been:

(i) Distributed (as that term is defined in 17 U.S.C. 1001(6)) in the form of digital musical recordings or analog musical recordings; or

(ii) Disseminated to the public in transmissions.

(7) A declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing the information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) *Changes.* In the event that the legal name and/or address of the claimant changes after the filing of the claim, the claimant must notify the Copyright Royalty Board of the change. Any other proposed changes or amendments must be submitted in accordance with 37 CFR 360.30. If the good faith efforts of the Copyright Royalty Board to contact the claimant are frustrated because of failure to notify the Copyright Royalty Board of a name and/or address change, the claim may be subject to dismissal. A person or entity that filed a claim online through eCRB must notify the Copyright Royalty Board of any change of name or address by updating that person or entity's eCRB profile as required by § 303.5(g).

(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.

(e) *Subfunds.* If an interested copyright party intends to file claims against more than one Subfund, each Subfund claim must be filed separately with the Copyright Royalty Board. The Copyright Royalty Board will reject

37 CFR Ch. III (7–1–25 Edition)

any claim that purports to claim funds from more than one Subfund.

[82 FR 27018, June 13, 2017, as amended at 82 FR 55323, Nov. 21, 2017; 85 FR 37752, June 24, 2020; 87 FR 35899, June 14, 2022]

§ 360.23 Content of notices regarding independent administrators.

(a) The independent administrator jointly appointed by the interested copyright parties, as defined in 17 U.S.C. 1001(7)(A), and the American Federation of Musicians (or any successor entity) for the purpose of managing and ultimately distributing royalty payments to nonfeatured musicians as defined in 17 U.S.C. 1006(b)(1), must file a notice informing the Copyright Royalty Board of his/her appointment.

(b) The independent administrator jointly appointed by the interested copyright parties, as defined in 17 U.S.C. 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) for the purpose of managing and ultimately distributing royalty payments to nonfeatured vocalists as defined in 17 U.S.C. 1006(b)(1), must file a notice online through eCRB informing the Copyright Royalty Board of his/her appointment.

(c) A notice filed under paragraph (a) or (b) of this section must include the full name, telephone number, mailing address, and email address of the place of business of the independent administrator.

(d) The independent administrator must file the notices identified in paragraphs (a) and (b) of this section through eCRB no later than March 31 of each year, commencing with March 31, 2018.

[82 FR 27018, June 13, 2017. Redesignated and amended at 85 FR 37753, June 24, 2020]

Subpart C—Rules of General Application

§ 360.30 Amendment of claims.

Any claimant may amend a filed claim as of right by filing a Notice of Amendment during the statutory period for filing annual claims. After the expiration of the time for filing claims, a claimant may amend a filed claim as

of right to correct the general description of the nature of the claimant's work(s), to fix typographical or other nonsubstantive errors in other portions of the claim, or to strike a claimant or interested copyright party that was erroneously included in a joint claim. No filer may amend a filed claim to add additional claimants or interested copyright parties after the expiration of the time for filing claims. All Notices of Amendment must be filed online through eCRB.

[82 FR 27018, June 13, 2017, as amended at 85 FR 37753, June 24, 2020]

§ 360.31 Withdrawal of claims.

Any claimant may withdraw its claim for any royalty year as of right by filing a Notice of Withdrawal of Claim(s). If a single claimant filed a Petition to Participate in a proceeding,

withdrawal of the claim shall serve to dismiss the Petition to Participate. If the claimant withdrawing a claim was included on the Petition to Participate of another entity, withdrawal of the claim shall not affect the Petition to Participate as to other claims listed thereon. All Notices of Withdrawal of Claim(s) must be filed online through eCRB.

[82 FR 27018, June 13, 2017, as amended at 85 FR 37753, June 24, 2020]

§ 360.32 Reinstatement of previously withdrawn claims.

Once a claimant has withdrawn a claim, that claim may be reinstated only by order of the Copyright Royalty Judges, on motion showing good cause and lack of prejudice to other claimants to the applicable year's royalty funds.