

(ii) The claims, defenses, and other legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(2) *Parties representing themselves.* The original of all documents filed by a party not represented by counsel shall be signed by that party and list that party's full name, mailing address, e-mail address (if any), telephone number, and facsimile number (if any). The signature will constitute the party's certification that, to the best of his or her knowledge and belief, there is good ground to support the document, and that it has not been interposed for purposes of delay.

(f) *Oppositions and replies.* Oppositions to motions shall be filed within five business days of the filing of the motion, and replies to oppositions shall be filed within four business days of the filing of the opposition.

(g) *Service list.* The Copyright Royalty Judges will compile and distribute, to those parties who have filed a petition to participate that has been accepted by the Copyright Royalty Judges, the official service list of the proceeding. In all filings, a copy shall be served upon counsel of all other parties identified in the service list, or, if the party is unrepresented by counsel, upon the party itself. Proof of service shall accompany the filing. Parties shall notify the Copyright Royalty Judges and all parties of any change in the name or address to which service shall be made.

(h) *Service method.* During the course of a proceeding, each party must serve all motions, objections, oppositions, and replies on the other parties or their counsel by means no slower than overnight express mail on the same day the pleading is filed. If a party is willing to accept service of a document

electronically (*i.e.*, by e-mail), followed by a hard copy, first-class mail of the hard copy may be used in lieu of express mail or other expedited delivery.

[70 FR 30905, May 31, 2005, as amended at 71 FR 53327, Sept. 11, 2006; 71 FR 59010, Oct. 6, 2006]

§ 350.5 Time.

(a) *Computation.* To compute the due date for filing and serving any document or performing any other act directed by an order of the Copyright Royalty Judges or the Copyright Royalty Judges' rules:

(1) Exclude the day of the act, event, or default that begins the period.

(2) Exclude intermediate Saturdays, Sundays, and legal holidays when the period is less than 11 days, unless stated in calendar days.

(3) Include the last day of the period unless it is a Saturday, Sunday, legal holiday, or a day on which the weather or other conditions render the Copyright Royalty Board's office inaccessible.

(4) As used in this rule, "legal holiday" means the date designated for the observance of New Year's Day, Martin Luther King, Jr.'s Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day declared a holiday by the President or the Congress.

(b) *Extensions.* A party seeking an extension must do so by written motion. Prior to filing such a motion, a party must attempt to obtain consent from the other parties to the proceeding. An extension motion must state:

(1) The date on which the action or submission is due;

(2) The length of the extension sought;

(3) The date on which the action or submission would be due if the extension were allowed;

(4) The reason or reasons why there is good cause for the delay;

(5) The justification for the amount of additional time being sought; and

(6) The attempts that have been made to obtain consent from the other

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parties to the proceeding and the position of the other parties on the motion.

[70 FR 30905, May 31, 2005, as amended at 71 FR 53327, Sept. 11, 2006]

§ 350.6 Construction and waiver.

The regulations of the Copyright Royalty Judges are intended to provide efficient and just administrative proceedings and will be construed to advance these purposes. For purposes of an individual proceeding, the provisions of this subchapter may be suspended or waived, in whole or in part, upon a showing of good cause, to the extent allowable by law.

[70 FR 30905, May 31, 2005, as amended at 71 FR 53327, Sept. 11, 2006]

PART 351—PROCEEDINGS

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SOURCE: 70 FR 30905, May 31, 2005, unless otherwise noted.

§ 351.1 Initiation of proceedings.

(a) *Notice of commencement; solicitation of petitions to participate.* All proceedings before the Copyright Royalty Judges to make determinations and adjustments of reasonable terms and rates of royalty payments, and to authorize the distribution of royalty fees, shall be initiated by publication in the FEDERAL REGISTER of a notice of the initiation of proceedings calling for the filing of petitions to participate in the proceeding.

(b) *Petitions to participate*—(1) *Royalty rate proceedings*—(i) *Single petition.* Each petition to participate filed in a royalty rate proceeding must include:

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(A) The petitioner's full name, address, telephone number, facsimile number (if any), and e-mail address (if any); and

(B) A description of the petitioner's significant interest in the subject matter of the proceeding.

(ii) *Joint petition.* Petitioners with similar interests may, in lieu of filing individual petitions, file a single petition. Each joint petition must include:

(A) The full name, address, telephone number, facsimile number (if any), and e-mail address (if any) of the person filing the petition;

(B) A list identifying all participants to the joint petition;

(C) A description of the participants' significant interest in the subject matter of the proceeding; and

(D) If the joint petition is filed by counsel or a representative of one or more of the participants that are named in the joint petition, a statement from such counsel or representative certifying that, as of the date of submission of the joint petition, such counsel or representative has the authority and consent of the participants to represent them in the royalty rate proceeding.

(2) *Distribution proceedings*—(i) *Single petition.* Each petition to participate filed in a royalty distribution proceeding must include:

(A) The petitioner's full name, address, telephone number, facsimile number (if any), and e-mail address (if any);

(B) In a cable or satellite royalty distribution proceeding, identification of whether the petition covers a Phase I proceeding (the initial part of a distribution proceeding where royalties are divided among the categories or groups of copyright owners), a Phase II proceeding (where the money allotted to each category is subdivided among the various copyright owners within that category), or both; and

(C) A description of the petitioner's significant interest in the subject matter of the proceeding.

(ii) *Joint petition.* Petitioners with similar interests may, in lieu of filing individual petitions, file a single petition. Each joint petition must include:

(A) The full name, address, telephone number, facsimile number (if any), and