

## LIBRARY OF CONGRESS

## Copyright Royalty Board

## 37 CFR Parts 350 and 351

[Docket No. RM 2005-1]

## Procedural Regulations for the Copyright Royalty Board

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Technical correction.

**SUMMARY:** This document corrects two errors and makes a technical correction in a final rule document published in the **Federal Register** on September 11, 2006, regarding amendments made to the procedural regulations of the Copyright Royalty Board.

**EFFECTIVE DATE:** September 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Gina Giuffreda, Attorney-Advisor, or Abioye E. Oyewole, CRB Program Specialist. Telephone: (202) 707-7658. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** On September 11, 2006, the Copyright Royalty Judges, on behalf of the Copyright Royalty Board, adopted amendments to the procedural regulations governing the practices and procedures of the Copyright Royalty Judges in royalty rate and distribution proceedings. 71 FR 53325 (September 11, 2006). However, in two instances, the proper amendatory instruction was inadvertently omitted. Specifically, in § 350.4, the Judges revised the heading for paragraph (e); while the revised text was printed, there was no corresponding amendatory instruction. The same error occurred with regard to the revision of the paragraph heading for § 351.10(c). This document corrects these errors.

In addition, the Judges are making a technical correction to § 351.4(b)(1) by removing the phrase “to be presented in the direct statement” so that the sentence reads less awkwardly.

## List of Subjects

## 37 CFR Part 350

Administrative practice and procedure, Copyright, Lawyers.

## 37 CFR Part 351

Administrative practice and procedure, Copyright.

■ For the reasons set forth in the preamble, 37 CFR parts 350 and 351 are corrected as follows:

## PART 350—GENERAL ADMINISTRATIVE PROVISIONS

■ 1. The authority citation for part 350 continues to read as follows:

**Authority:** 17 U.S.C. 803.

■ 2. Section 350.4 is corrected by revising the paragraph heading for paragraph (e) to read as follows:

## § 350.4 Filing and service.

\* \* \* \* \*

(e) *Subscription*— \* \* \*

\* \* \* \* \*

## PART 351—PROCEEDINGS

■ 3. The authority citation for part 351 continues to read as follows:

**Authority:** 17 U.S.C. 803, 805.

## § 351.4 [Amended].

■ 4. Section 351.4 is corrected by removing from paragraph (b)(1) the phrase “to be presented in the direct statement”.

■ 5. Section 351.10 is corrected by revising the paragraph heading for paragraph (c) to read as follows:

## § 351.10 Evidence.

\* \* \* \* \*

(c) *Exhibits*— \* \* \*

\* \* \* \* \*

Dated: October 3, 2006.

**James Scott Sledge,**

*Chief Copyright Royalty Judge.*

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## LIBRARY OF CONGRESS

## Copyright Royalty Board

## 37 CFR Part 370

[Docket No. RM 2005-2]

## Notice and Recordkeeping for Use of Sound Recordings Under Statutory License

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Interim final rule.

**SUMMARY:** The Copyright Royalty Judges, on behalf of the Copyright Royalty Board, are issuing interim regulations for the delivery and format of reports of use of sound recordings for the statutory licenses set forth in sections 112 and 114 of the Copyright Act.

**EFFECTIVE DATE:** October 6, 2006.

**FOR FURTHER INFORMATION CONTACT:** Gina Giuffreda, Attorney-Advisor, or Abioye

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## SUPPLEMENTARY INFORMATION:

## I. Background

Today's Interim Regulations complete the second half of the proceeding, begun by the Librarian of Congress and the Copyright Office and now entrusted to the Copyright Royalty Board (“Board”), to establish notice and recordkeeping requirements for digital audio services utilizing the statutory licenses set forth in sections 112 and 114 of the Copyright Act. The first half of the proceeding prescribed interim regulations for the filing of notices of intention to use the section 112 and/or 114 licenses, as required by section 112(e)(7)(A) and section 114(f)(4)(B), respectively, and interim regulations for the elements of data that comprise a report of use. See 69 FR 11515 (March 1, 2004). With the issuance of today's regulations, digital audio services that have been maintaining reports of use since April 1, 2004<sup>1</sup> will now be able to deliver those and future reports to copyright owners for their use in distributing royalty fees collected under the section 112 and 114 licenses.

The matter of reports of use of sound recordings under the section 112 and 114 licenses has been contentious.<sup>2</sup> The Copyright Office first began the proceeding by issuing a Notice of Proposed Rulemaking (“NPRM”), 67 FR 5761 (February 7, 2002), and then, on May 10, 2002, held a public meeting to facilitate discussion as to the data to be included in a report of use, the frequency of the recordkeeping, and the manner and format for delivery to copyright owners. Persons representing copyright owners, users, and performers appeared and offered their opinions and criticisms of the NPRM and offered suggestions as to the amount of information necessary to distribute royalties collected under the section 112

<sup>1</sup> The Copyright Office also issued a final rule addressing reports of use under the section 112 and 114 licenses for the period October 28, 1998 through March 31, 2004. 69 FR 58261 (September 30, 2004). The Office determined that reports of use submitted by preexisting subscription services during that time period should serve as a proxy for reports from nonsubscription services, the satellite digital audio radio services, business establishment services and new types of subscription services. Consequently, the Interim Regulations issued on March 11, 2004 regarding notice and content of a report of use, and today's Interim Regulations regarding the format and delivery of a report of use, do not apply to the October 28, 1998 to March 31, 2004 period.

<sup>2</sup> In sharp contrast, the requirements for submitting a notice of intention to use the statutory licenses drew few public comments or criticisms and the Copyright Office had little trouble adopting regulations. See 69 FR at 11526.