

**Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C.**

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In the Matter of	)	Docket No. 16-CRB-0015-RM
Electronic Filing of Documents	)	
	)	
	)	

**COMMERCIAL TELEVISION CLAIMANTS COMMENTS ON ELECTRONIC FILING  
OF DOCUMENTS**

The Commercial Television Claimants (CTV) respectfully submit the following comments in response to *Electronic Filing of Documents*, 81 Fed. Reg. 54526, Nov. 23, 2016 (“NPRM”).

In the NPRM, the Judges propose amendments to procedural regulations to accommodate filing documents electronically with the CRB. CTV generally supports the Judges’ proposal and submits brief comments on three specific issues, as discussed below.

**1. Electronic Filing of July Claims**

Currently, claimants eligible for royalties under §§ 111 and 119 of the Copyright Act file claims with the Copyright Royalty Board each July. Claimants can file their claims by mailing a completed paper form to the Copyright Royalty Board or by completing and submitting the claim online at [www.loc.gov/crb/claims](http://www.loc.gov/crb/claims).

The NPRM notes that at a later date the Judges will propose revisions to allow the electronic filing of July claims. NPRM at 84526. However, proposed regulation 350.5(c)(3) titled “Electronic Filing System (eCRB),” notes that claimants “desiring to file a claim with the Copyright Royalty Board for copyright royalties may obtain an eCRB password for the limited purpose of filing claims by completing the application form available on the CRB Web site.”

NPRM at 84528. CTV reserves its right to submit comments when the Judges propose full rules relating to electronic filing of July claims, including whether claimants should be required to obtain passwords for filing claims. CTV requests that the Judges do not issue any rules relating to the filing of July claims until a full set of proposed rules is noticed for comment.

## **2. Proposed 350.5(i) – Restricted documents**

CTV suggests an amendment to require that parties filing restricted documents also file a redacted, public version of the document.

### Current Proposed Language:

*350.5(i) Documents subject to a protective order.* A person filing a document by electronic means is responsible for ensuring, at the time of filing, that any documents subject to a protective order are identified to the eCRB system as “restricted” documents. This requirement is in addition to any requirements detailed in the applicable protective order. Failure to identify documents as “restricted” to the eCRB system may result in inadvertent publication of sensitive, protected material.

### CTV Amendment to Proposed Language (additions underlined):

*350.5(i) Documents subject to a protective order.* A person filing a document by electronic means is responsible for ensuring, at the time of filing, that any documents subject to a protective order are identified to the eCRB system as “restricted” documents. This requirement is in addition to any requirements detailed in the applicable protective order. Failure to identify documents as “restricted” to the eCRB system may result in inadvertent publication of sensitive, protected material.

A person filing a “restricted” document must simultaneously file a public version of the document by electronic means, with restricted material redacted. A person filing a “restricted” document must also file a statement describing the material in sufficient detail to permit challenge by an interested party not otherwise entitled to view the “restricted” material.

## **3. 350.6(g) – Participant List**

CTV suggests an amendment to include a party's "filing status" (efiling or paper) in the Participant List in order to ensure that filers can assume responsibility for "assuring delivery of all filed documents to parties that do not use the eCRB system." NPRM at 4530.

Current Proposed Language:

350.6(g) *Participant list.* The Copyright Royalty Judges will compile and distribute to those parties who have filed a valid petition to participate the official participant list for each proceeding. For all paper filings, a party must deliver a copy of the document to counsel for all other parties identified in the participant list, or, if the party is unrepresented by counsel, to the party itself. Parties must notify the Copyright Royalty Judges and all parties of any change in the name or address at which they will accept delivery and must update their eCRB profiles accordingly.

CTV Amendment to Proposed Language (additions underlined):

350.6(g) *Participant list.* The Copyright Royalty Judges will compile and distribute to those parties who have filed a valid petition to participate the official participant list for each proceeding, including each participant's mailing address, e-mail address, and whether the participant is using the eCRB system for the proceeding. For all paper filings, a party must deliver a copy of the document to counsel for all other parties identified in the participant list, or, if the party is unrepresented by counsel, to the party itself. Parties must notify the Copyright Royalty Judges and all parties of any change in the name or address at which they will accept delivery and must update their eCRB profiles accordingly.

#### **4. Retrieving Documents from eCRB**

Proposed Rule §350.5(c)(1) through (3) identifies three groups that can obtain an electronic filing password: attorneys, pro se parties (with permission), and claimants. NPRM at 84528.

CTV proposes that attorneys representing participants and approved pro se participants be granted access to retrieve the pleadings and orders in all cases before the Copyright Royalty Board, except for restricted documents. Attorneys representing participants should have efficient

access to the Judges' orders from all cases, not just those to which they are a party. Providing readily available access to attorneys will increase the efficiency of litigation and the quality of advocacy before the Judges.

**CONCLUSION**

For the reasons set forth above, CTV respectfully requests that the Copyright Royalty Board reserve any rules regarding the electronic filing of July claims, and modify its proposed rules in the manner suggested by CTV.

Respectfully submitted,

COMMERCIAL TELEVISION CLAIMANTS

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