

To: The Copyright Royalty Judges
Re: Amendments to 37 CFR Parts 301, 350, 351

I, Brian D. Boydston, Esq., Counsel to Independent Producers Group (IPG) and Multigroup Claimants (“MC”), do hereby submit the following comments regarding the CRB’s proposed regulations regarding Electronic Filing of Documents.

The proposed amended 350.3(b)(3) directs the filing of proposed orders. Because of the difficulty of accurately anticipating the result of a motion, my experience in state and federal court is that, with regard to substantive motions which are actively opposed, more often than not it is impossible to anticipate what the adjudicating entity will want the final order to say with specificity. For that reason I suggest that proposed orders be dispensed with.

The proposed amended 350.3(c) imposes page limits on briefs. While I certainly understand the Judges’ desire for greater brevity, strict page limits present a problem when dealing with certain levels of complexity as we often have in these proceedings. Moreover, the fact is that some issues require disproportionate levels of explanation. For instance, it is quick and easy to argue and support the following point: “The world is flat, and the evidence of such is this photograph of the Washington Monument from Capital Hill with a flat mall in between.” Refuting such a point requires a much more detailed explanation and analysis. Strict page limits on briefs can prejudice a party with a valid, but complex, point to make, as in the example. For that reason, I suggest that strict page limits not be adopted.

The proposed amended 350.4 creates mandatory subsections for all briefs. I suggest such subsections are unnecessary as I believes that the parties have historically demonstrated an ability to adequately address each of these topics in past briefings. In addition, requiring strict adherence to such format will make short, simple and mundane motions longer than they likely need to be where the circumstances and support for the motion are obvious and uncontested.

Finally, I would like to use this opportunity to suggest that the response and reply brief deadlines be brought more into line with state and federal court rules and procedures. Specifically, 350.6(f) provides deadlines of five (5) and four (4) days for responses and replies. That is a very quick turnaround time which becomes problematic when counsel’s professional and/or personal schedules (e.g., trials, vacations) make it difficult to produce responsive briefs so quickly. For that reason, I suggest that the deadline for a response be ten (10) business days, and the deadline for reply briefs be five (5) business days. Such longer deadlines will only extend the completion for briefing on a given motion by six (6) days and would not appear to prejudice any party or the CRB.

Thank you for your attention.

Sincerely,

Dated: December 23, 2016

_____/s/_____
Brian Boydston

Counsel for IPG and Multigroup Claimants