
ADMINISTRATIVE DEVELOPMENTS

LIBRARY OF CONGRESS – COPYRIGHT OFFICE

Copyright Office Issues Final Rule for Small Claims Procedures for Library and Archives Opt-Outs and Class Actions. Pursuant to the Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020 and after soliciting public comments, the U.S. Copyright Office published a final rule establishing procedures for libraries and archives to preemptively opt out of proceedings before the Copyright Claims Board (CCB).

The rule identifies the procedures for a library or archives to preemptively opt out of participating in CCB proceedings by submitting written notification to the CCB of the intent to opt out, along with a certification that the library or archives qualifies for the opt-out provision. Libraries and Archives will be able to do so using an online form, available later this spring. The Office will announce the availability of the form through its NewBet email service. A library's or archives' preemptive opt-out election extends to the acts of its employees acting within the scope of their employment. The rule also provides that the CCB will maintain a list on its website of libraries and archives that have preemptively opted out of CCB proceedings.

In addition, the rule adopts procedures for electing to opt out of class action litigation arising out of the same transaction or occurrence as a CCB proceeding. Any party to an active CCB proceeding who receives notice of such a class action must either opt out of the class action or seek written dismissal of the CCB proceeding within fourteen days of receiving the notice.

LIBRARY OF CONGRESS – COPYRIGHT OFFICE

Pursuant to the Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020 and after soliciting public comments, the Copyright Office has published a partial final rule establishing procedures for corporations, partnerships, and unincorporated associations to designate service agents to receive service of claims in Copyright Claims Board (CCB) proceedings.

The partial final rule sets forth requirements for designating a service agent, amending such a designation, and the designated service agent directory's publicly available content, including by clarifying the information a corporation is required to include when submitting a service agent designation and allowing entities to include a greater number of affiliated

entities and trade names within in the same designation. These entities will be able to designate services agents through an online form, available later this spring. The Office will announce the availability of the portal through its NewNet email service.

LIBRARY OF CONGRESS – COPYRIGHT OFFICE

Copyright Office Proposes Rule to Update Remitter Payment Options and Deposit Account Requirements. The U.S. Copyright Office has issued a proposed rule amending its regulations governing remitter payments for Office services and requirements for maintaining a deposit account. The proposed rule consolidates regulatory provisions related to payment options, which are currently addressed in various sections of Office regulations, and updates regulations to articulate current Office practices. The Office is also proposing to simplify requirements for maintaining a deposit account and to clarify procedures related to noncompliant accounts.

LIBRARY OF CONGRESS – COPYRIGHT OFFICE

Copyright Office Proposes Procedures for Representation by Law Students and Representation of Business Entities before the Copyright Claims Board. The U.S. Copyright Office is proposing procedures governing representation of parties by law students and representation of business entities by authorized individuals in proceedings before the Copyright Claims Board (CCB), established by the Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020.

The proposed rule sets forth the threshold eligibility requirements for law students to appear before the CCB, expectations for practice by law students and their supervising attorneys while participating in CCB proceedings, and the creation of a public directory of clinics that are available to accept clients appearing before the CCB. The proposed rule also sets forth the requirements that must be followed by individuals who will be authorized to represent business entities, which include corporations, limited liability companies, partnerships, and sole proprietorships.

LIBRARY OF CONGRESS – COPYRIGHT OFFICE

Final Rule Published in Eighth Triennial Section 1201 Proceeding. The Librarian of Congress, upon the recommendation of the Register of Copyrights, is publishing a final rule in the *Federal Register* adopting exemptions to the statutory prohibition on circumvention of technological measures that control access to copyrighted works. Publication of the final rule marks the completion of the eighth triennial rulemaking proceeding under Title 17, section 1201, of the *United States Code*.

As in prior section 1201 proceedings, the Copyright Office administered the rulemaking through an extensive public process. For this proceeding, the Office again employed a streamlined procedure that allowed members of the public to seek renewal of existing exemptions to which there was no meaningful opposition. After considering the renewal petitions and comments submitted in response, the Register ultimately recommended renewing all exemptions previously granted in the 2018 rulemaking.

In addition to the petitions to renew existing exemptions, the Office considered petitions for expanded or new exemptions, which it organized into seventeen classes. The Office invited public input on these proposals through three rounds of written comments and seven days of public hearings. After the hearings, the Office issued written questions to hearing participants regarding certain proposed exemptions and held *ex parte* meetings with participants. As required by statute, the Office also consulted with the National Telecommunications and Information Administration of the Department of Commerce. Based on this record, the Register recommended granting proposed exemptions, in whole or in part, in fourteen of the seventeen classes, as discussed in her formal Recommendation to the Librarian. The Librarian adopted the Register's Recommendation in full.

The final rule, Register's Recommendation, record materials in this proceeding, and general information about the section 1201 rulemaking process are available on the Copyright Office *website*.