

provisions of 5 U.S.C. 552a pursuant to the provisions of 5 U.S.C. 552a(k); subsections (c)(3), (d), (e)(1), to the extent that the records contained in this system are specifically authorized to be kept secret in the interests of national defense and foreign policy.

Dated: October 9, 2004.

Paul R. Corts,

Assistant Attorney General for Administration.

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 252, 257, and 259

[Docket No. RM 2004-6 CARP]

Filing of Claims for Cable, Satellite, and DART Royalties

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed rule.

SUMMARY: The Copyright Office of the Library of Congress is proposing to amend its regulations governing the filing of claims to allow for the on-line submission of cable, satellite, and DART claims and to require claimants file their claims by hand delivery or by mail using forms created by the Copyright Office.

DATES: Comments must be received no later than November 17, 2004.

ADDRESSES: If hand delivered by a private party, an original and five copies of comments should be brought to Room LM-401 of the James Madison Memorial Building and the envelope should be addressed as follows: Office of the General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000 between 8:30 a.m. and 5 p.m. If delivered by a commercial courier, an original and five copies of comments must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Streets, N.E. between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of comments should be addressed to: Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station,

Washington, DC. 20024. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

FOR FURTHER INFORMATION CONTACT:

David O. Carson, General Counsel, or Gina Giuffreda, Attorney-Advisor, Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION:

Background

The Copyright Act directs the Copyright Office to collect royalties paid by cable systems and satellite carriers for the retransmission of over-the-air broadcast signals, 17 U.S.C. 111(d)(4)(A), 119(b)(4)(A), respectively, as well as royalties paid by manufacturers and importers of digital audio recording devices and media ("DART") who distribute the products in the United States. 17 U.S.C. 1003. Eligibility to receive royalties from any of these three funds is predicated upon the submission of a claim during the time specified by statute: DART claims must be filed during the months of January and February, 17 U.S.C. 1007; cable and satellite claims must be filed during the month of July, 17 U.S.C. 111, 119.¹

Prior to 2002, claims to the cable, satellite, and DART royalties generally were considered timely filed with the Copyright Office only if they were hand delivered to the correct location within the Copyright Office during the requisite month, or if the claim was mailed to the correct address and bore the appropriate U.S. Postal Service postmark. However, in October 2001, concerns about possible anthrax contamination of mail addressed to facilities in the District of Columbia caused severe disruptions of postal service to the Copyright Office.

¹ In any year in which the last day of February falls on Saturday, Sunday, a holiday or other nonbusiness day within the District of Columbia or the Federal Government, DART claims received by the Copyright Office by the first business day in March, or properly addressed and deposited with sufficient postage with the United States Postal Service by the first business day in March and bearing a U.S. postmark shall be considered timely filed. 37 CFR 259.5(b). Likewise, in any year in which July 31 falls on Saturday, Sunday, a holiday or other nonbusiness day within the District of Columbia or the Federal Government, cable and satellite claims received by the Copyright Office by the first business day in August or claims that are properly addressed and deposited with sufficient postage with the United States Postal Service by the first business day in August and bearing a U.S. postmark shall be considered timely filed. 37 CFR 252.4(b), 257.4(b).

See 66 FR 62942 (December 4, 2001) and 66 FR 63267 (December 5, 2001). As a result, the Copyright Office announced alternative methods for the filing of DART, cable, and satellite claims for the claim year 2001. See 67 FR 5213 (February 5, 2002) and 67 FR 21176 (April 30, 2002). Specifically, the Office waived its CARP regulations requiring that claims bear the original signature of the copyright owner claimant or of a duly authorized representative of the copyright owner claimant to allow the submission of claims via electronic mail as file attachments to specified mailboxes. 67 FR 5213 (February 5, 2002) and 67 FR 21176, 21177 (April 30, 2002). Additionally, since the volume of DART claims received by the Office is significantly lower than that of cable and satellite claims, the Office also waived its CARP regulation prohibiting the filing of claims by facsimile transmission and allowed DART claims to be filed via facsimile. See 67 FR 5214 (February 5, 2002).

Although mail delivery to the Copyright Office resumed, the Office continued to experience delays in the receipt of mail due in part to the diversion of all incoming mail to an off-site location for screening. Consequently, the Office again waived its CARP regulations that required an original signature and prohibited the submission of DART claims via facsimile transmission, and the Office offered alternative methods for the electronic filing of DART, cable, and satellite claims for the claim years 2002 and 2003. However, instead of submitting claims via electronic mail, claimants were allowed to make on-line submissions of claims. DART: See 67 FR 71477 (December 2, 2002) and 68 FR 74481 (December 24, 2003); cable and satellite: See 68 FR 32381 (May 30, 2003) and 69 FR 30577 (May 28, 2004).

As noted in the May 28, 2004, Notice regarding the filing of claims to the 2003 cable and satellite royalty funds, the Office's mail will continue to be diverted to an off-site location for screening. Moreover, problems associated with untimely filings of claims by mail, see *Metro-Goldwyn-Mayer Studios, Inc. v. Peters*, 309 F. Supp.2d. 48 (D.D.C. 2004), and *Universal Studios LLLP v. Peters*, 308 F. Supp.2d. 1 (D.D.C. 2004), have led the Office to conclude that claimants should be encouraged to file their claims electronically. Indeed, the vast majority of claims filed for claim years 2001 through 2003 have been filed electronically. In addition, the electronic submission of claims has proven to be more administratively efficient for the Office. Therefore, the

Copyright Office has decided to amend its regulations to provide for a permanent system for the electronic submission of claims. This notice of proposed rulemaking is the first step in that process. See 69 FR 30577, 30578 (May 28, 2004).

On-Line Submission of Claims

a. Cable and Satellite Claims

With one exception (see the discussion on signatures below), the permanent system of electronic filing of claims that the Office is proposing will be virtually identical to the system in place for the claim year 2003. Specifically, on-line electronic forms for filing both single and joint cable and satellite claims will be available on the Copyright Office Web site. Claimants will be able to access and complete the forms via the Office's Web site in accordance with instructions accompanying the forms. As is the current practice, joint claimants will have the option of either listing up to ten joint copyright owners directly on the on-line joint claim form or submitting the list of joint copyright owners as a file attachment to the submission page. The acceptable formats for submission of such attachments will be specified in the instructions accompanying the on-line forms. Any attachment to a joint claim must contain only the names and addresses of the joint copyright owners; attachments containing information other than the names and addresses of joint copyright owners will not be accepted.

The cable and satellite on-line forms will be available for use during the month of July. During the past three years, cable and satellite claims submitted on-line had to be received by the Office no later than 11:59 p.m. E.D.T. on July 31. However, near the end of the filing period that just closed, some claimants notified the Office that they were experiencing technical difficulties when trying to file their claims. Because the Office was made aware of these difficulties during its normal business hours, the technical problems were rectified quickly. Had those notifications come after business hours on July 31, the Office probably would not have been able to respond. Therefore, to better ensure the swift resolution of any technical difficulties in the unlikely event they occur, the Office is proposing that claims submitted on-line must be received by the Office by no later than 5 p.m. E.D.T. on July 31. Specifically, the completed on-line form must be received by the Office's server by that time. Any claim

received after that time will be considered as untimely filed.

Claimants filing their claims on-line can ascertain the timeliness of their claim by the receipt of two confirmations. First, immediately after submitting the claim, a confirmation page will appear showing a copy of the claim submitted, noting the attachment of a file, when applicable, and displaying the time and date the claim was submitted. Second, the claimant will receive shortly thereafter an electronic mail message stating that the Office has received the submission. The electronic mail message will show a copy of the claim filed, will contain a copy of the attachment listing the names and addresses of the joint copyright owners to a joint claim, when applicable, and will note the time and date of submission. Either confirmation will constitute sufficient proof of a timely filed on-line claim should a question arise regarding timeliness. Therefore, claimants submitting their claims on-line should not consider their claims successfully submitted to the Office until they receive at least one of the two aforementioned forms of official confirmation. If for some reason neither confirmation is received and the claimant is unable to complete the electronic filing process, the claimant should immediately notify the Office of the problem and be prepared to submit a claim by other means such as by hand delivery or by mail in accordance with current §§ 252.4 (cable) and 257.4 (satellite).

b. DART Claims

The proposed procedure for the on-line submission of DART claims will operate identically to that for cable and satellite claims as described above, with a few exceptions. First, the on-line electronic forms for filing both single and joint DART claims will be available during the months of January and February. Second, as with cable and satellite claims, joint DART claimants will have the option of either listing up to ten joint claimants directly on the on-line joint claim form or submitting the list of joint claimants as a file attachment to the submission page. However, DART claimants filing a joint claim are required to provide only the names—and not the addresses as required for cable and satellite claims—of the joint DART claimants.

Therefore, any attachment to a joint DART claim must contain only the names of the joint claimants; attachments containing information other than the names of joint claimants will not be accepted.

Finally, as with cable and satellite claims, the Office is proposing that DART claims submitted on-line must be received by the Office by no later than 5 p.m. E.S.T., instead of 11:59 p.m. E.S.T., on the last day of February for the reasons discussed above. Specifically, the completed on-line form must be received by the Office's server by that time. Any claim received after that time will be considered as untimely filed.

Ascertainment of the timeliness of DART claims will be determined in the same manner as for cable and satellite claims, as DART claimants will receive the same two forms of official confirmation of receipt of the claim. Again, if neither confirmation is received, the claimant should immediately notify the Office and be prepared to submit the claim by hand delivery or by mail in accordance with current § 259.5. See *supra* n.2.

Original Signatures on Claims Submitted On-Line

The current regulations governing the filing of cable, satellite and DART claims require an original signature of the copyright owner claimant or of a duly authorized representative of the copyright owner claimant. For claim years 2001 through 2003, the Office reluctantly waived these regulations for cable, satellite and DART claims submitted electronically because the Office was not equipped to receive and process electronic signatures. While the Office still is not able at this time to institute such a process Office-wide and because of the risk of fraudulent claims, the Office is loath to waive its CARP regulations requiring an original signature on claims. Consequently, the Office is proposing a system for the on-line submission of claims that utilizes a Personal Identification Number ("PIN") as a proxy for a signature. The system proposed herein applies only to the submission of cable, satellite, and DART claims and in no way applies to any other filings with the Copyright Office.

The Office notes at the outset that the signature on a claim constitutes an affirmative statement to the Office that the person signing the claim has the authority to submit the claim. The proposed PIN system allows the Office to obtain this same affirmation in a simple, reasonable way without unduly burdening claimants.

The Office is proposing to use a PIN comprised of six to eight alphanumeric characters (ex: A1B2C3D) which will be selected by the person "signing" the claim on-line and placed in the designated space on the appropriate on-line claim form. Selection of a PIN will

occur on a one-time basis—the first time a claimant submits a claim on-line under any of the three licenses. Claimants may select a PIN in one of the following ways.

a. Advance Selection of PIN

The Office is proposing to allow claimants to select a PIN prior to the filing period for cable, satellite and DART claims. Under this option, claimants would select a PIN by completing a form (“Advance Selection Form”) located on the Office’s Web site at <http://www.copyright.gov/carp/electronicfiling.html> which the claimant would print, complete, sign and return to the Office. This form will be available on the Office’s Web site until the beginning of each respective filing period and will be unavailable during each filing period. In other words, the Advance Selection Form will be available until 11:59 p.m. E.S.T. on December 31 since the filing period for DART claims begins on January 1 and will be unavailable during the months of January and February. Likewise, the form will be available until 11:59 p.m. E.D.T. on June 30, as the filing period for cable and satellite claims begins on July 1, and will be unavailable during the month of July.

b. Selection of PIN During the Filing Period

During the respective filing periods for DART, cable and satellite claims, the person submitting the claim, whether it be the copyright owner or an authorized representative of the copyright owner, will select the PIN and place it in the designated space on the appropriate on-line claim form. As previously described, upon submitting the claim, a confirmation page displaying the claim, including the PIN selected, will be generated. The copyright owner or an authorized representative of the copyright owner, whomever is submitting the claim, must then print this page, sign it, and return it to the Copyright Office in accordance with the instructions accompanying the confirmation page.

c. Valid Use of PIN

In order to validate the use of the PIN, regardless of the method used for selection, the Office must receive either the signed Advance Selection Form or signed confirmation page. The signature then will be kept on file with the Office. Once the Office receives the signed Advance Selection Form or the signed confirmation page, the PIN and the name will be placed in a confidential directory of PINs created and

maintained by the Office.² Thereafter, the PIN will constitute and serve as a substitute for the actual signature on any claim filed by that person.

Because the signature denotes authority to submit the claim, it is important to note that the PIN will correspond and be personal to the person submitting the claim, whether it be the copyright owner or a representative of the copyright owner authorized to file the claim on behalf of the copyright owner. Therefore, as long as that person submits claims on-line, this same PIN must be used each time that person submits a cable, satellite or DART claim on-line. Conversely, if a person fails to provide the Office with an original signature in accordance with the proposed regulations, any claim submitted on-line bearing the PIN selected by that person will be subject to dismissal for failure to comply with the original signature requirement.

d. Lost or Forgotten PIN

Claimants may request from the Office their self-selected PIN in the event the PIN is lost or forgotten. A link titled “Lost or Forgotten PIN” will be located on the instruction page accompanying the Advance Selection Form located on the Office’s Web site at <http://www.copyright.gov/carp/electronicfiling.html> as well as on the instruction page accompanying the on-line claim forms (see discussion on forms below). By clicking on this link, claimants will be taken to a page with instructions on how to request the PIN.

Upon receipt of a request, the Office will send the PIN to the claimant via electronic mail to the electronic mail address on file with the Office by close of business the next business day. Therefore, claimants requesting their PIN during a filing period should do so early in the period in order to allow the Office a sufficient time to respond. The Office will not guarantee a same-day response for requests made on the last day of a filing period.

Because the PIN corresponds to the copyright owner or to an authorized representative of the copyright owner, the request for the PIN must come from that person. Similarly, the Office will provide the PIN only to that person.

Finally, the Office will accept only those requests for a lost or forgotten PIN made as set forth above and, therefore, will not accept any requests made by telephone.

Until such time as the Office develops an Office-wide system for receiving and processing electronic signatures, the

Office believes that the PIN system proposed above represents the most reasonable method for the on-line submission of claims because it does not require any further waivers of its CARP regulations nor does it impose any undue burdens on claimants.

Affirmation

As noted above, the Office is concerned about the risk of fraudulent claims. This concern stems from a serious incident of fraud in which fraudulent cable and satellite claims covering several claim years were filed with the Office. In an effort to deter any future filings of fraudulent claims, the Office proposes to require an affirmation under penalty of law that the person filing the claim has the authority to do so, can attest to the veracity of the information contained in the claim, and is filing the claim in good faith. Therefore, the person filing the claim must be someone who can make this affirmation, namely, the copyright owner or a representative of the copyright owner authorized to file the claim on behalf of the copyright owner.

Facsimile Transmission

Since February 5, 2002, DART claimants have been allowed to submit their claims via facsimile transmission. However, very few claimants utilized this method. In addition, in proposing changes to the regulations governing the filing of claims, the Office seeks uniformity in its methods for filing all claims. For these reasons, the Office is not proposing to amend the regulations governing the filing of DART claims to allow for the submission of claims via facsimile.

Forms

The Office is proposing to amend its regulations governing the filing of cable, satellite, and DART claims to require that all claims, not just claims filed on-line, be furnished on the appropriate form prescribed by the Copyright Office. Heretofore, the Office has not issued claim forms, except for those created for the on-line submission of claims. However, the Office has decided to propose the use of standard forms for the filing of all claims, regardless of the filing method selected, in an effort to minimize, if not eliminate, errors frequently made on self-made forms, such as the failure to provide required information. Reduction or elimination of such errors will facilitate the processing of claims.

The proposed regulation will state that forms for claims filed by mail or by hand delivery are available on the Office’s Web site at <http://www.loc.gov/>

² The PIN will not appear on the copies of claims made available for public inspection and copying.

copyright/carp/forms. On-line DART claim forms can be found on the Office's Web site at <http://www.copyright.gov/carp/dart/index.html> during the months of January and February each year. On-line cable claim forms can be found on the Office's Web site at <http://www.copyright.gov/carp/cable/claims.html> during the month of July each year. On-line satellite claim forms can be found on the Office's Web site at <http://www.copyright.gov/carp/satellite/claims.html> during the month of July each year.

Prototypes of the proposed forms, including the Advance Selection Form, and the confirmation page to be signed and returned to the Office are, or soon will be, available on the Office's Web site at <http://www.copyright.gov/carp/electronicfiling.html>. Parties may comment on the prototypes, limiting such comments to the layout and utility of the proposed forms. Comments should not be made on the graphics and typography of the prototypes, as these elements will be determined by the Office.

Other Proposed Amendments

The Copyright Office also proposes to amend its regulations governing the filing of cable, satellite and DART claims by requiring that each claim include the e-mail address, if any, of the person or entity filing the claim. An e-mail address for the person or entity filing the claim will be required when submitting the claim on-line. In addition, the Office proposes to require the name, telephone number, facsimile number, if any, and e-mail address, if any, of a person whom the Office can contact about the claim. The contact person may be the copyright owner, a representative of the copyright owner authorized to file the claim on behalf of the copyright owner, or a designee of either of these entities. However, the contact information must identify an actual person who can respond to inquiries from the Office. Having this information will assist in the processing of claims.

In 2001, in an effort to eliminate the filing of placeholder claims, the Copyright Office amended its regulations governing the filing of cable and satellite claims to clarify that such claims must list the name of each copyright owner covered by the claim. See 66 FR 29700 (June 1, 2001). However, that clarification was made only to the respective sections of the regulations specifying the content of the claims. The Office is now proposing to amend Parts 252 and 257 to eliminate any reference to the words "party," "parties," and "claimant" by

substituting the phrases "copyright owner" and "an authorized representative of the copyright owner," where appropriate.

Finally, the Office is proposing to amend current §§ 252.4 (cable), 257.4 (satellite) and 259.5 (DART) to clarify that the only acceptable means of overnight delivery of claims is via U.S. Postal Service Express Mail addressed to the CARP mailbox. On June 30, 2004, the Office amended its regulations to reflect the new procedures for delivering items to the Copyright Office, including the filing of claims. 69 FR 39331 (June 30, 2004). The new procedures do not allow the filing of claims by overnight delivery services such as Federal Express and United Parcel Service ("UPS") because these services will not deliver packages to post office boxes. Since the Office has received questions regarding this provision, we are proposing to amend our regulations to clarify that claimants wishing to deliver their claims by means of overnight delivery can do so only by using the Express Mail service provided by the U.S. Postal Service, as using this service will better ensure the procurement of the appropriate U.S. Postal Service postmark. In addition, such deliveries, unlike those from services such as Federal Express and UPS, will reach the Office in a timely manner.

Comments on Proposed Amendments

All interested parties are requested to file comments with the Copyright Office in accordance with the information set forth in this document. Unless persuaded otherwise by the commenters, the Office intends to issue final rules in time for the submission of DART claims in January and February 2005.

List of Subjects

37 CFR Part 252

Cable television, Claims, Copyright.

37 CFR Part 257

Claims, Copyright, Satellite television.

37 CFR Part 259

Claims, Copyright, Digital audio recording devices and media.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Office proposes to amend 37 CFR chapter II as follows:

PART 252—FILING OF CLAIMS TO CABLE ROYALTY FEES

1. The authority citation for part 252 continues to read as follows:

Authority: 17 U.S.C. 111(d)(4), 801, 803.

§ 252.1 [Amended]

2. Section 252.1 is amended by removing "parties" and adding "copyright owners" in its place.

§ 252.2 [Amended]

3. Section 252.2 is amended by removing "party" each place it appears and adding "copyright owner" in its place; and by removing "Claimants" and adding "Copyright owners, or an authorized representative of the copyright owner," in its place.

4. Revise § 252.3 to read as follows:

§ 252.3 Form and content of claims.

(a) *Forms*. (1) Each claim to cable compulsory license royalty fees shall be furnished on a form prescribed by the Copyright Office and shall contain the information required by that form and its accompanying instructions.

(2) Copies of cable claim forms are available:

(i) On the Office's Web site at <http://www.copyright.gov/carp/forms> for claims filed with the Office by mail or by hand delivery in accordance with § 252.5(a)(2) through (4);

(ii) On the Office's Web site at <http://www.copyright.gov/carp/cable/claims.html> during the month of July for claims filed on-line in accordance with § 252.5(a)(1); and

(iii) Upon request to the Public Information Office, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559–6000.

(b) *Content*—(1) *Single Claim*. A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a cable system shall include the following information:

(i) The full legal name and address of the copyright owner entitled to claim the royalty fees.

(ii) A general statement of the nature of the copyright owner's work or works, and identification of at least one secondary transmission by a cable system of such work or works establishing a basis for the claim.

(iii) The name, telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the single claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(iv) The name, telephone number, facsimile number, if any, and e-mail address, if any, of the person whom the Copyright Office can contact regarding the claim. The contact person may be the copyright owner, an authorized

representative of the copyright owner, or a designee of either of these entities.

(v) An original signature of the copyright owner or of a duly authorized representative of the copyright owner. The signature on a claim submitted on-line through the Copyright Office Web site shall be provided in accordance with § 252.4.

(vi) A declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(2) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a cable system shall include the following information:

(i) A list including the full legal name and address of each copyright owner to the joint claim entitled to claim royalty fees.

(ii) A concise statement of the authorization for the person or entity filing the joint claim. For this purpose, a performing rights society shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership affiliate agreements, or to list the name of each of its members or affiliates in the joint claim as required by paragraph (b)(2)(i) of this section.

(iii) A general statement of the nature of the copyright owners' works and identification of at least one secondary transmission of one of the copyright owners' works by a cable system establishing a basis for the joint claim and the identification of the copyright owner of each work so identified.

(iv) The name, telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the joint claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(v) The name, telephone number, facsimile number, if any, and e-mail address, if any, of the person the Copyright Office can contact regarding the claim. The contact person may be the copyright owner, an authorized representative of the copyright owner, or a designee of either of these entities.

(vi) Original signatures of the copyright owners to the joint claim or of a duly authorized representative or representatives of the copyright owners. The signatures on a claim submitted on-line through the Copyright Office Web site must be provided in accordance with § 252.4.

(vii) Notwithstanding paragraph (b)(2)(ii) of this section, a declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) In the event that the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the Copyright Office shall be notified of the change. If the good faith efforts of the Copyright Office to contact the copyright owner or person or entity filing the claim are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

5. Revise § 252.4 to read as follows:

§ 252.4 Original signature on claims submitted on-line.

(a) *General.* This section prescribes the procedures for the provision of an original signature for cable claims submitted on-line.

(b) *Personal Identification Number (PIN).* A copyright owner or an authorized representative of the copyright owner submitting a cable claim on-line may use a six-to-eight-character alphanumeric Personal Identification Number (PIN) as a substitute for an actual signature; Provided that the PIN is selected in accordance with the procedures set forth in paragraphs (b)(1) and (2) of this section. Each PIN is associated with a single signature on file with the Copyright Office.

(1) *Selection of PIN prior to filing period.* A copyright owner or an authorized representative of the copyright owner may select a PIN prior to July 1 each year by completing the Advance Selection Form located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html>, which will be available until 11:59 p.m. E.D.T. on June 30 each year. In order to validate use of the PIN, the copyright owner or an authorized representative of the copyright owner must complete and print the Advance Selection Form, sign it and return it to the Copyright Office in accordance with the instructions accompanying the form. Upon receipt of the signed Advance Selection Form, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the copyright owner or the authorized representative of the copyright owner who is filing the claim and shall serve

as a substitute for the actual signature of that person on any claim submitted on-line. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that copyright owner or that authorized representative of the copyright owner.

(2) *Selection of PIN during the filing period.* If a PIN is not selected prior to July 1 each year, then during the month of July, a copyright owner or an authorized representative of the copyright owner shall select a PIN upon submission of the cable claim on-line through the Copyright Office Web site. The copyright owner or an authorized representative of the copyright owner must sign and return to the Copyright Office the confirmation page generated upon submission of the claim in accordance with the instructions accompanying the confirmation page. Upon receipt of the signed confirmation page, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the copyright owner or the authorized representative of the copyright owner who is filing the claim and shall serve as a substitute for the actual signature of that person. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that copyright owner or that authorized representative of the copyright owner.

(c) *Lost or Forgotten PIN.* (1) In the event that a PIN is lost or forgotten, a copyright owner or an authorized representative of the copyright owner may request from the Copyright Office the PIN selected in accordance with paragraph (b) of this section by clicking on the link titled "Lost or Forgotten PIN" located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html> and at <http://www.copyright.gov/carp/cable/claims.html> and following the accompanying instructions. Such requests shall be made only by the person to whom the PIN corresponds, whether it be the copyright owner or an authorized representative of the copyright owner. Upon receipt of such request, the Copyright Office will send the PIN to that person via electronic mail to the electronic mail address on file with the Office by close of business the next business day.

(2) The Copyright Office will not guarantee a same-day response for requests made for a lost or forgotten PIN.

(3) The Copyright Office will not accept requests for a PIN made by telephone.

(d) *Frequency of PIN selection.* Selection of a PIN shall occur on a one-time basis, either in advance of the initial submission of a royalty claim on-line or upon the initial submission of a royalty claim on-line through the Copyright Office Web site pursuant to 17 U.S.C. 111, 17 U.S.C. 119, or Chapter 10 of title 17 of the United States Code.

(e) *Confidentiality.* All PINs will be kept in a confidential directory created and maintained by the Copyright Office and will be disclosed only as set forth in paragraph (c) of this section.

6. Revise § 252.5 to read as follows:

§ 252.5 Compliance with statutory dates.

(a) Claims filed with the Copyright Office shall be considered timely filed only if:

(1) They are filed on-line through the Copyright Office Web site at <http://www.copyright.gov/carp/cable/claims.html> during the month of July. On-line claims must be received in the Office's server no later than 5 p.m. E.D.T. on July 31.

(2) They are hand delivered by a private party and addressed as follows: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. These claims must be delivered to the Public Information Office, located at the U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000, Monday through Friday, between 8:30 a.m. and 5 p.m. during the month of July.

(3) They are hand delivered by a commercial courier (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services) and addressed as follows: Copyright Office General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. These claims must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, during the month of July. The CCAS will accept items from couriers with proper identification, e.g., a valid driver's license, Monday through Friday, between 8:30 a.m. and 4 p.m.

(4) They are sent through the U.S. Postal Service and addressed as follows: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Claims sent through the U.S. Postal Service

must have sufficient postage and bear a July U.S. postmark.

(5) Federal Express, United Parcel Service and similar overnight delivery services may not be used for the filing of claims. A claim sent by means of overnight delivery shall be done via U.S. Postal Service Express Mail, and the claim shall be addressed in accordance with paragraph (a)(4) of this section.

(b) Claims dated only with a business meter that are received after July 31 will not be accepted as having been timely filed.

(c) Notwithstanding paragraphs (a) and (b) of this section, in any year in which July 31 falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Office by the first business day in August, or properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in August, shall be considered timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Office, proper filing of the claim may nonetheless be proven if it was sent by certified mail return receipt requested, and a receipt bearing a July date stamp of the U.S. Postal Service, except where paragraph (c) of this section applies, can be provided. No affidavits will be accepted in lieu of the receipt.

(f) The Copyright Office will accept either the confirmation page generated upon submission of the claim on-line through the Copyright Office Web site or the electronic mail message from the Copyright Office confirming receipt of the claim as proof that a claim submitted on-line through the Copyright Office Web site was received timely in the Office's server. No affidavits will be accepted in lieu thereof.

6a. Add § 252.6 to read as follows:

§ 252.6 Copies of claims.

A copyright owner or an authorized representative of the copyright owner shall, for each claim submitted to the Copyright Office by hand delivery or by mail, file an original and two copies of the claim to cable royalty fees.

PART 257—FILING OF CLAIMS TO SATELLITE CARRIER ROYALTY FEES

7. The authority citation for part 257 continues to read as follows:

Authority: 17 U.S.C. 119(b)(4).

§ 257.1 [Amended]

8. Section 257.1 is amended by removing "parties" and adding "copyright owners" in its place.

§ 257.2 [Amended]

9. Section 257.2 is amended by removing "party" each place it appears and adding "copyright owner" in its place; and by removing "Claimants" and adding "Copyright owners, or an authorized representative of the copyright owner," in its place.

10. Section 257.3 is revised to read as follows:

§ 257.3 Form and content of claims.

(a) *Forms.* (1) Each claim to compulsory license royalty fees for secondary transmissions by satellite carriers of television broadcast signals to the public for private home viewing shall be furnished on a form prescribed by the Copyright Office and shall contain the information required by that form and its accompanying instructions.

(2) Copies of satellite claim forms are available:

(i) On the Office's Web site at <http://www.copyright.gov/carp/forms> for claims filed with the Office by mail or by hand delivery in accordance with § 257.5(a)(2) through (4);

(ii) On the Office's Web site at <http://www.copyright.gov/carp/satellite/claims.html> during the month of July for claims filed on-line in accordance with § 257.5(a)(1); and

(iii) Upon request to the Public Information Office, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559-6000.

(b) *Content*—(1) *Single Claim.* A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a satellite carrier shall include the following information:

(i) The full legal name and address of the copyright owner entitled to claim the royalty fees.

(ii) A general statement of the nature of the copyright owner's work or works, and identification of at least one secondary transmission by a satellite carrier of such work or works establishing a basis for the claim.

(iii) The name, telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the single claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(iv) The name, telephone number, facsimile number, if any, and e-mail address, if any, of the person whom the Copyright Office can contact regarding

the claim. The contact person may be the copyright owner, an authorized representative of the copyright owner, or a designee of either of these entities.

(v) An original signature of the copyright owner or of a duly authorized representative of the copyright owner. The signature on a claim submitted on-line through the Copyright Office Web site shall be provided in accordance with § 257.4.

(vi) A declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(2) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a satellite carrier shall include the following information:

(i) A list including the full legal name and address of each copyright owner to the joint claim entitled to claim royalty fees.

(ii) A concise statement of the authorization for the person or entity filing the joint claim. For this purpose, a performing rights society shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership affiliate agreements, or to list the name of each of its members or affiliates in the joint claim as required by paragraph (b)(2)(i) of this section.

(iii) A general statement of the nature of the copyright owners' works, identification of at least one secondary transmission of one of the copyright owners' works by a satellite carrier establishing a basis for the joint claim, and the identification of the copyright owner of each work so identified.

(iv) The name, telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the joint claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(v) The name, telephone number, facsimile number, if any, and e-mail address, if any, of a person whom the Copyright Office can contact regarding the claim. The contact person may be the copyright owner, an authorized representative of the copyright owner, or a designee of either of these entities.

(vi) Original signatures of the copyright owners to the joint claim or of a duly authorized representative or representatives of the copyright owners. The signatures on a claim submitted on-line through the Copyright Office Web

site must be provided in accordance with § 257.4.

(vii) Notwithstanding paragraph (b)(2)(ii) of this section, a declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) In the event that the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the Copyright Office shall be notified of the change. If the good faith efforts of the Copyright Office to contact the copyright owner or person or entity filing the claim are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

11. Revise § 257.4 to read as follows:

§ 257.4 Original signature on claims submitted on-line.

(a) *General.* This section prescribes the procedures for the provision of an original signature for satellite claims submitted on-line.

(b) *Personal Identification Number (PIN).* A copyright owner or an authorized representative of the copyright owner submitting a satellite claim on-line may use a six-to-eight-character alphanumeric Personal Identification Number (PIN) as a substitute for an actual signature; Provided that the PIN is selected in accordance with the procedures set forth in paragraphs (b)(1) and (2) of this section. Each PIN is associated with a single signature on file with the Copyright Office.

(1) *Selection of PIN prior to filing period.* A copyright owner or an authorized representative of the copyright owner may select a PIN prior to July 1 each year by completing the Advance Selection Form located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html>, which will be available until 11:59 p.m. E.D.T. on June 30 each year. In order to validate use of the PIN, the copyright owner or an authorized representative of the copyright owner must complete and print the Advance Selection Form, sign it and return it to the Copyright Office in accordance with the instructions accompanying the form. Upon receipt of the signed Advance Selection Form, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the copyright owner or the authorized

representative of the copyright owner who is filing the claim and shall serve as a substitute for the actual signature of that person on any claim submitted on-line. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that copyright owner or that authorized representative of the copyright owner.

(2) *Selection of PIN during the filing period.* If a PIN is not selected prior to July 1 each year, then during the month of July, a copyright owner or an authorized representative of the copyright owner shall select a PIN upon submission of the satellite claim on-line through the Copyright Office Web site. The copyright owner or an authorized representative of the copyright owner must sign and return to the Copyright Office the confirmation page generated upon submission of the claim in accordance with the instructions accompanying the confirmation page. Upon receipt of the signed confirmation page, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the copyright owner or the authorized representative of the copyright owner who is filing the claim and shall serve as a substitute for the actual signature of that person. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that copyright owner or that authorized representative of the copyright owner.

(c) *Lost or Forgotten PIN.* (1) In the event that a PIN is lost or forgotten, a copyright owner or an authorized representative of the copyright owner may request from the Copyright Office the PIN selected in accordance with paragraph (b) of this section by clicking on the link titled "Lost or Forgotten PIN" located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html> and at <http://www.copyright.gov/carp/satellite/claims.html> and following the accompanying instructions. Such requests shall be made only by the person to whom the PIN corresponds, whether it be the copyright owner or an authorized representative of the copyright owner. Upon receipt of such request, the Copyright Office will send the PIN to that person via electronic mail to the electronic mail address on file with the Office by close of business the next business day.

(2) The Copyright Office will not guarantee a same-day response for requests made for a lost or forgotten PIN.

(3) The Copyright Office will not accept requests for a PIN made by telephone.

(d) *Frequency of PIN selection.* Selection of a PIN shall occur on a one-time basis, either in advance of the initial submission of a royalty claim on-line or upon the initial submission of a royalty claim on-line through the Copyright Office Web site pursuant to 17 U.S.C. 111, 17 U.S.C. 119, or Chapter 10 of title 17 of the United States Code.

(e) *Confidentiality.* All PINs will be kept in a confidential directory created and maintained by the Copyright Office and will be disclosed only as set forth in paragraph (c) of this section.

12. Revise § 257.5 to read as follows:

§ 257.5 Compliance with statutory dates.

(a) Claims filed with the Copyright Office shall be considered timely filed only if:

(1) They are filed on-line through the Copyright Office Web site at <http://www.copyright.gov/carp/satellite/claims.html> during the month of July. On-line claims must be received in the Office's server no later than 5 p.m. E.D.T. on July 31.

(2) They are hand delivered by a private party and addressed as follows: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. These claims must be delivered to the Public Information Office, located at the U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000, Monday through Friday, between 8:30 a.m. and 5 p.m. during the month of July.

(3) They are hand delivered by a commercial courier (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services) and addressed as follows: Copyright Office General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. These claims must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, during the month of July. The CCAS will accept items from couriers with proper identification, e.g., a valid driver's license, Monday through Friday, between 8:30 a.m. and 4 p.m.

(4) They are sent through the U.S. Postal Service and addressed as follows: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Claims sent through the U.S. Postal Service

must have sufficient postage and bear a July U.S. postmark.

(5) Federal Express, United Parcel Service and similar overnight delivery services may not be used for the filing of claims. A claim sent by means of overnight delivery shall be done via U.S. Postal Service Express Mail, and the claim shall be addressed in accordance with paragraph (a)(4) of this section.

(b) Claims dated only with a business meter that are received after July 31 will not be accepted as having been timely filed.

(c) Notwithstanding paragraphs (a) and (b) of this section, in any year in which July 31 falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Office by the first business day in August, or properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in August, shall be considered timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Office, proper filing of the claim may nonetheless be proven if it was sent by certified mail return receipt requested, and a receipt bearing a July date stamp of the U.S. Postal Service, except where paragraph (c) of this section applies, can be provided. No affidavits will be accepted in lieu of the receipt.

(f) The Copyright Office will accept either the confirmation page generated upon submission of the claim on-line through the Copyright Office Web site or the electronic mail message from the Copyright Office confirming receipt of the claim as proof that a claim submitted on-line through the Copyright Office Web site was received timely in the Office's server. No affidavits will be accepted in lieu thereof.

12a. Revise § 257.6 to read as follows:

§ 257.6 Copies of claims.

A copyright owner or an authorized representative of the copyright owner shall, for each claim submitted to the Copyright Office by hand delivery or by mail, file an original and two copies of the claim to satellite carrier royalty fees.

12b. Add § 257.7 to read as follows:

§ 257.7 Separate claims required.

If a copyright owner or an authorized representative of the copyright owner intends to file claims for both cable compulsory license and satellite carrier compulsory license royalty fees during

the same month of July, that copyright owner or authorized representative of the copyright owner must file separate claims with the Copyright Office. Any single claim which purports to file for both cable and satellite carrier royalty fees will be dismissed.

PART 259—FILING OF CLAIMS TO DIGITAL AUDIO RECORDING DEVICES AND MEDIA ROYALTY PAYMENTS

13. The authority citation for part 259 continues to read as follows:

Authority: 17 U.S.C. 1007(a)(1).

14. Revise § 259.3 to read as follows:

§ 259.3 Form and content of claims.

(a) *Forms.* (1) Each claim to digital audio recording devices and media royalty payments (DART) shall be furnished on a form prescribed by the Copyright Office and shall contain the information required by that form and its accompanying instructions.

(2) Copies of DART claim forms are available:

(i) On the Office's Web site at <http://www.copyright.gov/forms/claims> for claims filed with the Office by mail or by hand delivery in accordance with § 259.6(a)(2)–(4);

(ii) On the Office's Web site at <http://www.copyright.gov/carp/dart/index.html> during the months of January and February for claims filed on-line in accordance with § 259.6(a)(1); and

(iii) Upon request to the Public Information Office, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559-6000.

(b) *Content.* Claims filed by interested copyright parties for digital audio recording devices and media royalty payments shall include the following information:

(1) The full legal name and address of the person or entity claiming royalty payments.

(2) The telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(3) The name, telephone number, facsimile number, if any, and e-mail address, if any, of a person whom the Copyright Office can contact regarding the claim. The contact person may be the copyright owner, an authorized representative of the copyright owner, or a designee of either of these entities.

(4) A statement as to how the claimant fits within the definition of interested

copyright party specified in 17 U.S.C. 1001(7).

(5) A statement as to whether the claim is being made against the Sound Recordings Fund or the Musical Works Fund, as set forth in 17 U.S.C. 1006(b) and as to which Subfund of the Sound Recordings Fund (*i.e.*, the copyright owners or featured recording artists Subfund) or the Musical Works Fund (*i.e.*, the music publishers or writers Subfund) the claim is being made against as set forth in 17 U.S.C. 1006(b)(1) through (2).

(6) Identification, establishing a basis for the claim, of at least one musical work or sound recording embodied in a digital musical recording or an analog musical recording lawfully made under title 17 of the United States Code that has been distributed (as that term is defined in 17 U.S.C. 1001(6)), and that, during the period to which the royalty payments claimed pertain, has been (i) Distributed (as that term is defined in 17 U.S.C. 1001(6)) in the form of digital musical recordings or analog musical recordings, or (ii) Disseminated to the public in transmissions.

(7) A declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) Claims shall bear the original signature of the claimant or of a duly authorized representative of the claimant. The signature on a claim submitted on-line through the Copyright Office Web site must be provided in accordance with § 259.5.

(d) In the event that the legal name and/or address of the claimant changes after the filing of the claim, the claimant shall notify the Copyright Office of such change. If the good faith efforts of the Copyright Office to contact the claimant are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

(e) If the claim is a joint claim, it shall include a concise statement of the authorization for the filing of the joint claim in addition to the declaration required under paragraph (b)(7) of this section and the name of each claimant to the joint claim.

(f) If an interested copyright party intends to file claims against more than one Subfund, each such claim must be filed separately with the Copyright Office. Any claim that purports to file against more than one subfund will be rejected.

§§ 259.5, 259.6 [Redesignated]

15. Redesignate §§ 259.5 and 259.6 as §§ 259.6 and 259.7, respectively.

15a. Add a new § 259.5 to read as follows:

§ 259.5 Original signature on claims submitted on-line.

(a) *General.* This section prescribes the procedures for the provision of an original signature for DART claims submitted on-line.

(b) *Personal Identification Number (PIN).* A claimant or an authorized representative of the claimant submitting a DART claim on-line may use a six-to-eight-character alphanumeric Personal Identification Number (PIN) as a substitute for an actual signature; Provided that the PIN is selected in accordance with the procedures set forth in paragraphs (b)(1) and (2) of this section. Each PIN is associated with a single signature on file with the Copyright Office.

(1) *Selection of PIN prior to filing period.* A claimant or an authorized representative of the claimant may select a PIN prior to January 1 each year by completing the Advance Selection Form located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html>, which will be available until 11:59 p.m. E.S.T. on December 31 each year. In order to validate use of the PIN, the claimant or an authorized representative of the claimant must complete and print the Advance Selection Form, sign it and return it to the Copyright Office in accordance with the instructions accompanying the form. Upon receipt of the signed Advance Selection Form, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the claimant or the authorized representative of the claimant who is filing the claim and shall serve as a substitute for the actual signature of that person on any claim submitted on-line. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that claimant or that authorized representative of the claimant.

(2) *Selection of PIN during the filing period.* If a PIN is not selected prior to January 1 each year, then during the months of January and February, a claimant or an authorized representative of the claimant shall select a PIN upon submission of the DART claim on-line through the Copyright Office Web site. The claimant or an authorized representative of the claimant must sign and return to the Copyright Office the confirmation page generated upon

submission of the claim in accordance with the instructions accompanying the confirmation page. Upon receipt of the signed confirmation page, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the claimant or the authorized representative of the claimant who is filing the claim and shall serve as a substitute for the actual signature of that person. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that claimant or that authorized representative of the claimant.

(c) *Lost or Forgotten PIN.* (1) In the event that a PIN is lost or forgotten, a claimant or an authorized representative of the claimant may request from the Copyright Office the PIN selected in accordance with paragraph (b) of this section by clicking on the link titled "Lost or Forgotten PIN" located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html> and at <http://www.copyright.gov/carp/DART/index.html> and following the accompanying instructions. Such requests shall be made only by the person to whom the PIN corresponds, whether it be the claimant or an authorized representative of the claimant. Upon receipt of such request, the Copyright Office will send the PIN to that person via electronic mail to the electronic mail address on file with the Office by close of business the next business day.

(2) The Copyright Office will not guarantee a same-day response for requests made for a lost or forgotten PIN.

(3) The Copyright Office will not accept requests for a PIN made by telephone.

(d) *Frequency of PIN selection.* Selection of a PIN shall occur on a one-time basis, either in advance of the initial submission of a royalty claim on-line or upon the initial submission of a claim on-line through the Copyright Office Web site pursuant to 17 U.S.C. 111, 17 U.S.C. 119, or Chapter 10 of title 17 of the United States Code.

(e) *Confidentiality.* All PINs will be kept in a confidential directory created and maintained by the Copyright Office and will be disclosed only as set forth in paragraph (c) of this section.

16. Revise newly redesignated § 259.6 to read as follows:

§ 259.6 Compliance with statutory dates.

(a) Claims filed with the Copyright Office shall be considered timely filed only if:

(1) They are filed on-line through the Copyright Office Web site at <http://www.copyright.gov/carp/DART/index.html> during the month of January or February. On-line claims must be received in the Office's server no later than 5 p.m. E.S.T. on the last day of February.

(2) They are hand delivered by a private party and addressed as follows: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. These claims must be delivered to the Public Information Office, located at the U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000, Monday through Friday, between 8:30 a.m. and 5 p.m. during the month of January or February.

(3) They are hand delivered by a commercial courier (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services) and addressed as follows: Copyright Office General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. These claims must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, during the month of January or February. The CCAS will accept items from couriers with proper identification, e.g., a valid driver's license, Monday through Friday, between 8:30 a.m. and 4 p.m.

(4) They are sent through the U.S. Postal Service and addressed as follows: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Claims sent through the U.S. Postal Service must have sufficient postage and bear a January or February U.S. postmark.

(5) Federal Express, United Parcel Service and similar overnight delivery services may not be used for the filing of claims. A claim sent by means of overnight delivery shall be done via U.S. Postal Service Express Mail, and the claim shall be addressed in accordance with paragraph (a)(4) of this section.

(b) Claims dated only with a business meter that are received after the last day in February will not be accepted as having been timely filed.

(c) Notwithstanding paragraphs (a) and (b) of this section, in any year in which the last day of February falls on a Saturday, Sunday, a holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Office by the first business day in March, or properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in March, shall be considered timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Office, a claimant may nonetheless prove that the claim was properly filed if it was sent by certified mail return receipt requested, and the claimant can provide a receipt bearing a January or February date stamp of the U.S. Postal Service, except where paragraph (c) of this section applies. No affidavits will be accepted in lieu of the receipt.

(f) A claimant may prove that a claim submitted on-line through the Copyright Office Web site was received timely in the Office's server by providing either the confirmation page generated upon submission of the claim or the electronic mail message from the Copyright Office confirming receipt of the claim. No affidavits will be accepted in lieu thereof.

§ 259.7 [Amended]

17. Amend newly redesignated § 259.7 by adding "by hand delivery or by mail," after "Copyright Office".

Dated: October 13, 2004.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 04-23298 Filed 10-15-04; 8:45 am]

BILLING CODE 1410-33-P

FEDERAL COMMUNICATIONS COMMISSION
47 CFR Part 54

[CC Docket No. 95-116, FCC 04-217]

Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on the recommendation of the North American Numbering Council (NANC), its advisory committee on numbering issues, for reducing the time interval for intermodal porting (porting between

wireline and wireless carriers). The Commission also seeks comment on implementation issues in the event that a reduced intermodal porting interval is adopted.

DATES: Comments are due on or before November 17, 2004. Reply comments are due on or before December 17, 2004.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See Comment Filing Procedures for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Pam Slipakoff, Attorney Advisor, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7705, TTY (202) 418-0484 or Jennifer Salhus, Attorney Advisor, Wireless Telecommunications Bureau, Policy Division, (202) 418-1310, TTY (202) 418-1169.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking, CC Docket No. 95-116, released September 16, 2004. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

I. Introduction

1. In this Second Further Notice of Proposed Rulemaking, we seek comment on the NANC's recommendation for reducing the time interval for intermodal porting. We also seek comment on implementation issues in the event that a reduced intermodal porting interval is adopted.

II. Discussion

2. *Porting Intervals.* In implementing the requirements of section 251 of the Communications Act of 1934 (Communications Act), as amended, the Commission has sought input from the NANC on various issues. In 1997, the Commission adopted the NANC's recommendation of a four business day porting interval for wireline ports. At that time, the NANC did not specify a porting interval for intermodal porting. Meanwhile, the wireless industry has established a voluntary standard of two and one half hours for wireless-to-wireless ports.

3. On November 10, 2003, the Commission released a *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 68 FR 68831 (December 10, 2003) (*Intermodal Porting Order and FNPRM*) clarifying certain aspects of intermodal porting and seeking further comment on issues relating to intermodal local number