

a claim under subsection (c)(1) or (c)(4) of such section, qualifies as an action seeking an order to restrain a subscriber from engaging in infringing activity under section 512(g)(2)(C) if—

(1) notice of the commencement of the Copyright Claims Board proceeding is provided by the claimant to the service provider's designated agent before the service provider replaces the material following receipt of a counter notification under section 512(g); and

(2) the claim brought alleges infringement of the material identified in the notification of claimed infringement under section 512(c)(1)(C).

(e) FAILURE TO ASSERT COUNTERCLAIM.—The failure or inability to assert a counterclaim in a proceeding before the Copyright Claims Board shall not preclude the assertion of that counterclaim in a subsequent court action or proceeding before the Copyright Claims Board.

(f) OPT-OUT OR DISMISSAL OF PARTY.—If a party has timely opted out of a proceeding under section 1506(i) or is dismissed from a proceeding before the Copyright Claims Board issues a final determination in the proceeding, the determination shall not be binding upon and shall have no preclusive effect with respect to that party.

(Added Pub. L. 116–260, div. Q, title II, §212(b), Dec. 27, 2020, 134 Stat. 2195.)

#### **§ 1508. Review and confirmation by district court**

(a) IN GENERAL.—In any proceeding in which a party has failed to pay damages, or has failed otherwise to comply with the relief, awarded in a final determination of the Copyright Claims Board, including a default determination or a determination based on a failure to prosecute, the aggrieved party may, not later than 1 year after the date on which the final determination is issued, any reconsideration by the Copyright Claims Board or review by the Register of Copyrights is resolved, or an amended final determination is issued, whichever occurs last, apply to the United States District Court for the District of Columbia or any other appropriate district court of the United States for an order confirming the relief awarded in the final determination and reducing such award to judgment. The court shall grant such order and direct entry of judgment unless the determination is or has been vacated, modified, or corrected under subsection (c). If the United States District Court for the District of Columbia or other district court of the United States, as the case may be, issues an order confirming the relief awarded by the Copyright Claims Board, the court shall impose on the party who failed to pay damages or otherwise comply with the relief, the reasonable expenses required to secure such order, including attorneys' fees, that were incurred by the aggrieved party.

(b) FILING PROCEDURES.—

(1) APPLICATION TO CONFIRM DETERMINATION.—Notice of the application under subsection (a) for confirmation of a determination of the Copyright Claims Board and entry of judgment shall be provided to all parties to the proceeding before the Copyright Claims Board that resulted in the determination, in

accordance with the procedures applicable to service of a motion in the district court of the United States where the application is made.

(2) CONTENTS OF APPLICATION.—The application under subsection (a) shall include the following:

(A) A certified copy of the final or amended final determination of the Copyright Claims Board, as reflected in the records of the Copyright Claims Board, following any process of reconsideration or review by the Register of Copyrights, to be confirmed and rendered to judgment.

(B) A declaration by the applicant, under penalty of perjury—

(i) that the copy is a true and correct copy of such determination;

(ii) stating the date the determination was issued;

(iii) stating the basis for the challenge under subsection (c)(1); and

(iv) stating whether the applicant is aware of any other proceedings before the court concerning the same determination of the Copyright Claims Board.

#### (c) CHALLENGES TO THE DETERMINATION.—

(1) BASES FOR CHALLENGE.—Not later than 90 days after the date on which the Copyright Claims Board issues a final or amended final determination in a proceeding, or not later than 90 days after the date on which the Register of Copyrights completes any process of reconsideration or review of the determination, whichever occurs later, a party may seek an order from a district court of the United States vacating, modifying, or correcting the determination of the Copyright Claims Board in the following cases:

(A) If the determination was issued as a result of fraud, corruption, misrepresentation, or other misconduct.

(B) If the Copyright Claims Board exceeded its authority or failed to render a final determination concerning the subject matter at issue.

(C) In the case of a default determination or determination based on a failure to prosecute, if it is established that the default or failure was due to excusable neglect.

#### (2) PROCEDURE TO CHALLENGE.—

(A) NOTICE OF APPLICATION.—Notice of the application to challenge a determination of the Copyright Claims Board shall be provided to all parties to the proceeding before the Copyright Claims Board, in accordance with the procedures applicable to service of a motion in the court where the application is made.

(B) STAYING OF PROCEEDINGS.—For purposes of an application under this subsection, any judge who is authorized to issue an order to stay the proceedings in another action brought in the same court may issue an order, to be served with the notice of application, staying proceedings to enforce the award while the challenge is pending.

(Added Pub. L. 116–260, div. Q, title II, §212(b), Dec. 27, 2020, 134 Stat. 2196.)

**§ 1509. Relationship to other district court actions**

(a) STAY OF DISTRICT COURT PROCEEDINGS.—Subject to section 1507(b), a district court of the United States shall issue a stay of proceedings or such other relief as the court determines appropriate with respect to any claim brought before the court that is already the subject of a pending or active proceeding before the Copyright Claims Board.

(b) ALTERNATIVE DISPUTE RESOLUTION PROCESS.—A proceeding before the Copyright Claims Board under this chapter shall qualify as an alternative dispute resolution process under section 651 of title 28 for purposes of referral of eligible cases by district courts of the United States upon the consent of the parties.

(Added Pub. L. 116–260, div. Q, title II, § 212(b), Dec. 27, 2020, 134 Stat. 2198.)

**§ 1510. Implementation by Copyright Office**

## (a) REGULATIONS.—

(1) IMPLEMENTATION GENERALLY.—The Register of Copyrights shall establish regulations to carry out this chapter. Such regulations shall include the fees prescribed under subsections (e) and (x) of section 1506. The authority to issue such fees shall not limit the authority of the Register of Copyrights to establish fees for services under section 708. All fees received by the Copyright Office in connection with the activities under this chapter shall be deposited by the Register of Copyrights and credited to the appropriations for necessary expenses of the Office in accordance with section 708(d). In establishing regulations under this subsection, the Register of Copyrights shall provide for the efficient administration of the Copyright Claims Board, and for the ability of the Copyright Claims Board to timely complete proceedings instituted under this chapter, including by implementing mechanisms to prevent harassing or improper use of the Copyright Claims Board by any party.

## (2) LIMITS ON MONETARY RELIEF.—

(A) IN GENERAL.—Subject to subparagraph (B), not earlier than 3 years after the date on

which Copyright<sup>1</sup> Claims Board issues the first determination of the Copyright Claims Board, the Register of Copyrights may, in order to further the goals of the Copyright Claims Board, conduct a rulemaking to adjust the limits on monetary recovery or attorneys' fees and costs that may be awarded under this chapter.

(B) EFFECTIVE DATE OF ADJUSTMENT.—Any rule under subparagraph (A) that makes an adjustment shall take effect at the end of the 120-day period beginning on the date on which the Register of Copyrights submits the rule to Congress and only if Congress does not, during that 120-day period, enact a law that provides in substance that Congress does not approve the rule.

(b) NECESSARY FACILITIES.—Subject to applicable law, the Register of Copyrights may retain outside vendors to establish internet-based, teleconferencing, and other facilities required to operate the Copyright Claims Board.

(c) FEES.—Any filing fees, including the fee to commence a proceeding under section 1506(e), shall be prescribed in regulations established by the Register of Copyrights. The sum total of such filing fees shall be in an amount of not less than \$100, may not exceed the cost of filing an action in a district court of the United States, and shall be fixed in amounts that further the goals of the Copyright Claims Board.

(Added Pub. L. 116–260, div. Q, title II, § 212(b), Dec. 27, 2020, 134 Stat. 2198.)

**§ 1511. Funding**

There are authorized to be appropriated such sums as may be necessary to pay the costs incurred by the Copyright Office under this chapter that are not covered by fees collected for services rendered under this chapter, including the costs of establishing and maintaining the Copyright Claims Board and its facilities.

(Added Pub. L. 116–260, div. Q, title II, § 212(b), Dec. 27, 2020, 134 Stat. 2199.)

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<sup>1</sup> So in original. Probably should be preceded by "the".