

section [see Short Title of 2020 Amendment note set out under section 101 of this title], an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section, and the application of the provision or the amendment to any other person or circumstance, shall not be affected.”

§ 1502. Copyright Claims Board

(a) IN GENERAL.—There is established in the Copyright Office the Copyright Claims Board, which shall serve as an alternative forum in which parties may voluntarily seek to resolve certain copyright claims regarding any category of copyrighted work, as provided in this chapter.

(b) OFFICERS AND STAFF.—

(1) COPYRIGHT CLAIMS OFFICERS.—The Register of Copyrights shall recommend 3 full-time Copyright Claims Officers to serve on the Copyright Claims Board in accordance with paragraph (3)(A). The Officers shall be appointed by the Librarian of Congress to such positions after consultation with the Register of Copyrights.

(2) COPYRIGHT CLAIMS ATTORNEYS.—The Register of Copyrights shall hire not fewer than 2 full-time Copyright Claims Attorneys to assist in the administration of the Copyright Claims Board.

(3) QUALIFICATIONS.—

(A) COPYRIGHT CLAIMS OFFICERS.—

(i) IN GENERAL.—Each Copyright Claims Officer shall be an attorney who has not fewer than 7 years of legal experience.

(ii) EXPERIENCE.—Two of the Copyright Claims Officers shall—

(I) have substantial experience in the evaluation, litigation, or adjudication of copyright infringement claims; and

(II) between those 2 Officers, have represented or presided over a diversity of copyright interests, including those of both owners and users of copyrighted works.

(iii) ALTERNATIVE DISPUTE RESOLUTION.—The Copyright Claims Officer not described in clause (ii) shall have substantial familiarity with copyright law and experience in the field of alternative dispute resolution, including the resolution of litigation matters through that method of resolution.

(B) COPYRIGHT CLAIMS ATTORNEYS.—Each Copyright Claims Attorney shall be an attorney who has not fewer than 3 years of substantial experience in copyright law.

(4) COMPENSATION.—

(A) COPYRIGHT CLAIMS OFFICERS.—

(i) DEFINITION.—In this subparagraph, the term “senior level employee of the Federal Government” means an employee, other than an employee in the Senior Executive Service, the position of whom is classified above GS-15 of the General Schedule.

(ii) PAY RANGE.—Each Copyright Claims Officer shall be compensated at a rate of pay that is not less than the minimum, and not more than the maximum, rate of

pay payable for senior level employees of the Federal Government, including locality pay, as applicable.

(B) COPYRIGHT CLAIMS ATTORNEYS.—Each Copyright Claims Attorney shall be compensated at a rate of pay that is not more than the maximum rate of pay payable for level 10 of GS-15 of the General Schedule, including locality pay, as applicable.

(5) TERMS.—

(A) IN GENERAL.—Subject to subparagraph (B), a Copyright Claims Officer shall serve for a renewable term of 6 years.

(B) INITIAL TERMS.—The terms for the first Copyright Claims Officers appointed under this chapter shall be as follows:

(i) The first such Copyright Claims Officer appointed shall be appointed for a term of 4 years.

(ii) The second Copyright Claims Officer appointed shall be appointed for a term of 5 years.

(iii) The third Copyright Claims Officer appointed shall be appointed for a term of 6 years.

(6) VACANCIES AND INCAPACITY.—

(A) VACANCY.—

(i) IN GENERAL.—If a vacancy occurs in the position of a Copyright Claims Officer, the Librarian of Congress shall, upon the recommendation of, and in consultation with, the Register of Copyrights, act expeditiously to appoint a Copyright Claims Officer for that position.

(ii) VACANCY BEFORE EXPIRATION.—An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the individual was appointed shall be appointed to serve a 6-year term.

(B) INCAPACITY.—If a Copyright Claims Officer is temporarily unable to perform the duties of the Officer, the Librarian of Congress shall, upon recommendation of, and in consultation with, the Register of Copyrights, act expeditiously to appoint an interim Copyright Claims Officer to perform such duties during the period of such incapacity.

(7) SANCTION OR REMOVAL.—Subject to section 1503(b), the Librarian of Congress may sanction or remove a Copyright Claims Officer.

(8) ADMINISTRATIVE SUPPORT.—The Register of Copyrights shall provide the Copyright Claims Officers and Copyright Claims Attorneys with necessary administrative support, including technological facilities, to carry out the duties of the Officers and Attorneys under this chapter.

(9) LOCATION OF COPYRIGHT CLAIMS BOARD.—The offices and facilities of the Copyright Claims Officers and Copyright Claims Attorneys shall be located at the Copyright Office.

(Added Pub. L. 116-260, div. Q, title II, §212(b), Dec. 27, 2020, 134 Stat. 2177.)

Editorial Notes

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(4), is set out under section 5332 of Title 5, Government Organization and Employees.

Statutory Notes and Related Subsidiaries

IMPLEMENTATION

Pub. L. 116-260, div. Q, title II, §212(d), Dec. 27, 2020, 134 Stat. 2199, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), not later than 1 year after the date of enactment of this Act [Dec. 27, 2020], the Copyright Claims Board established under section 1502 of title 17, United States Code, as added by subsection (b) of this section, shall begin operations.

“(2) EXTENSION.—The Register of Copyrights may, for good cause, extend the deadline under paragraph (1) by not more than 180 days if the Register of Copyrights provides notice of the extension to the public and to Congress.”

§ 1503. Authority and duties of the Copyright Claims Board

(a) FUNCTIONS.—

(1) COPYRIGHT CLAIMS OFFICERS.—Subject to the provisions of this chapter and applicable regulations, the functions of the Copyright Claims Officers shall be as follows:

(A) To render determinations on the civil copyright claims, counterclaims, and defenses that may be brought before the Officers under this chapter.

(B) To ensure that claims, counterclaims, and defenses are properly asserted and otherwise appropriate for resolution by the Copyright Claims Board.

(C) To manage the proceedings before the Officers and render rulings pertaining to the consideration of claims, counterclaims, and defenses, including with respect to scheduling, discovery, evidentiary, and other matters.

(D) To request, from participants and non-participants in a proceeding, the production of information and documents relevant to the resolution of a claim, counterclaim, or defense.

(E) To conduct hearings and conferences.

(F) To facilitate the settlement by the parties of claims and counterclaims.

(G) To—

(i) award monetary relief; and

(ii) include in the determinations of the Officers a requirement that certain activities under section 1504(e)(2) cease or be mitigated, if the party to undertake the applicable measure has so agreed.

(H) To provide information to the public concerning the procedures and requirements of the Copyright Claims Board.

(I) To maintain records of the proceedings before the Officers, certify official records of such proceedings as needed, and, as provided in section 1506(t), make the records in such proceedings available to the public.

(J) To carry out such other duties as are set forth in this chapter.

(K) When not engaged in performing the duties of the Officers set forth in this chap-

ter, to perform such other duties as may be assigned by the Register of Copyrights.

(2) COPYRIGHT CLAIMS ATTORNEYS.—Subject to the provisions of this chapter and applicable regulations, the functions of the Copyright Claims Attorneys shall be as follows:

(A) To provide assistance to the Copyright Claims Officers in the administration of the duties of those Officers under this chapter.

(B) To provide assistance to members of the public with respect to the procedures and requirements of the Copyright Claims Board.

(C) To provide information to potential claimants contemplating bringing a permissible action before the Copyright Claims Board about obtaining a subpoena under section 512(h) for the sole purpose of identifying a potential respondent in such an action.

(D) When not engaged in performing the duties of the Attorneys set forth in this chapter, to perform such other duties as may be assigned by the Register of Copyrights.

(b) INDEPENDENCE IN DETERMINATIONS.—

(1) IN GENERAL.—The Copyright Claims Board shall render the determinations of the Board in individual proceedings independently on the basis of the records in the proceedings before it and in accordance with the provisions of this title, judicial precedent, and applicable regulations of the Register of Copyrights.

(2) CONSULTATION.—The Copyright Claims Officers and Copyright Claims Attorneys—

(A) may consult with the Register of Copyrights on general issues of law; and

(B) subject to section 1506(x), may not consult with the Register of Copyrights with respect to—

(i) the facts of any particular matter pending before the Officers and the Attorneys; or

(ii) the application of law to the facts described in clause (i).

(3) PERFORMANCE APPRAISALS.—Notwithstanding any other provision of law or any regulation or policy of the Library of Congress or Register of Copyrights, any performance appraisal of a Copyright Claims Officer or Copyright Claims Attorney may not consider the substantive result of any individual determination reached by the Copyright Claims Board as a basis for appraisal except to the extent that the result may relate to any actual or alleged violation of an ethical standard of conduct.

(c) DIRECTION BY REGISTER.—Subject to subsection (b), the Copyright Claims Officers and Copyright Claims Attorneys shall, in the administration of their duties, be under the general direction of the Register of Copyrights.

(d) INCONSISTENT DUTIES BARRED.—A Copyright Claims Officer or Copyright Claims Attorney may not undertake any duty that conflicts with the duties of the Officer or Attorney in connection with the Copyright Claims Board.

(e) RECUSAL.—A Copyright Claims Officer or Copyright Claims Attorney shall recuse himself or herself from participation in any proceeding with respect to which the Copyright Claims Offi-