

(g) **PERMISSIBLE NUMBER OF CASES.**—The Register of Copyrights may establish regulations relating to the permitted number of proceedings each year by the same claimant under this chapter, in the interests of justice and the administration of the Copyright Claims Board.

(Added Pub. L. 116-260, div. Q, title II, §212(b), Dec. 27, 2020, 134 Stat. 2181.)

§ 1505. Registration requirement

(a) **APPLICATION OR CERTIFICATE.**—A claim or counterclaim alleging infringement of an exclusive right in a copyrighted work may not be asserted before the Copyright Claims Board unless—

(1) the legal or beneficial owner of the copyright has first delivered a completed application, a deposit, and the required fee for registration of the copyright to the Copyright Office; and

(2) a registration certificate has either been issued or has not been refused.

(b) **CERTIFICATE OF REGISTRATION.**—Notwithstanding any other provision of law, a claimant or counterclaimant in a proceeding before the Copyright Claims Board shall be eligible to recover actual damages and profits or statutory damages under this chapter for infringement of a work if the requirements of subsection (a) have been met, except that—

(1) the Copyright Claims Board may not render a determination in the proceeding until—

(A) a registration certificate with respect to the work has been issued by the Copyright Office, submitted to the Copyright Claims Board, and made available to the other parties to the proceeding; and

(B) the other parties to the proceeding have been provided an opportunity to address the registration certificate;

(2) if the proceeding may not proceed further because a registration certificate for the work is pending, the proceeding shall be held in abeyance pending submission of the certificate to the Copyright Claims Board, except that, if the proceeding is held in abeyance for more than 1 year, the Copyright Claims Board may, upon providing written notice to the parties to the proceeding, and 30 days to the parties to respond to the notice, dismiss the proceeding without prejudice; and

(3) if the Copyright Claims Board receives notice that registration with respect to the work has been refused, the proceeding shall be dismissed without prejudice.

(c) **PRESUMPTION.**—In a case in which a registration certificate shows that registration with respect to a work was issued not later than 5 years after the date of the first publication of the work, the presumption under section 410(c) shall apply in a proceeding before the Copyright Claims Board, in addition to relevant principles of law under this title.

(d) **REGULATIONS.**—In order to ensure that actions before the Copyright Claims Board proceed in a timely manner, the Register of Copyrights shall establish regulations allowing the Copyright Office to make a decision, on an expedited

basis, to issue or deny copyright registration for an unregistered work that is at issue before the Board.

(Added Pub. L. 116-260, div. Q, title II, §212(b), Dec. 27, 2020, 134 Stat. 2184.)

§ 1506. Conduct of proceedings

(a) **IN GENERAL.**—

(1) **APPLICABLE LAW.**—Proceedings of the Copyright Claims Board shall be conducted in accordance with this chapter and regulations established by the Register of Copyrights under this chapter, in addition to relevant principles of law under this title.

(2) **CONFLICTING PRECEDENT.**—If it appears that there may be conflicting judicial precedent on an issue of substantive copyright law that cannot be reconciled, the Copyright Claims Board shall follow the law of the Federal jurisdiction in which the action could have been brought if filed in a district court of the United States, or, if the action could have been brought in more than 1 such jurisdiction, the jurisdiction that the Copyright Claims Board determines has the most significant ties to the parties and conduct at issue.

(b) **RECORD.**—The Copyright Claims Board shall maintain records documenting the proceedings before the Board.

(c) **CENTRALIZED PROCESS.**—Proceedings before the Copyright Claims Board shall—

(1) be conducted at the offices of the Copyright Claims Board without the requirement of in-person appearances by parties or others; and

(2) take place by means of written submissions, hearings, and conferences carried out through internet-based applications and other telecommunications facilities, except that, in cases in which physical or other nontestimonial evidence material to a proceeding cannot be furnished to the Copyright Claims Board through available telecommunications facilities, the Copyright Claims Board may make alternative arrangements for the submission of such evidence that do not prejudice any other party to the proceeding.

(d) **REPRESENTATION.**—A party to a proceeding before the Copyright Claims Board may be, but is not required to be, represented by—

(1) an attorney; or

(2) a law student who is qualified under applicable law governing representation by law students of parties in legal proceedings and who provides such representation on a pro bono basis.

(e) **COMMENCEMENT OF PROCEEDING.**—In order to commence a proceeding under this chapter, a claimant shall, subject to such additional requirements as may be prescribed in regulations established by the Register of Copyrights, file a claim with the Copyright Claims Board, that—

(1) includes a statement of material facts in support of the claim;

(2) is certified under subsection (y)(1); and

(3) is accompanied by a filing fee in such amount as may be prescribed in regulations established by the Register of Copyrights.

(f) **REVIEW OF CLAIMS AND COUNTERCLAIMS.**—

(1) CLAIMS.—Upon the filing of a claim under subsection (e), the claim shall be reviewed by a Copyright Claims Attorney to ensure that the claim complies with this chapter and applicable regulations, subject to the following:

(A) If the claim is found to comply, the claimant shall be notified regarding that compliance and instructed to proceed with service of the claim under subsection (g).

(B) If the claim is found not to comply, the claimant shall be notified that the claim is deficient and be permitted to file an amended claim not later than 30 days after the date on which the claimant receives the notice, without the requirement of an additional filing fee. If the claimant files a compliant claim within that 30-day period, the claimant shall be so notified and be instructed to proceed with service of the claim. If the claim is refiled within that 30-day period and still fails to comply, the claimant shall again be notified that the claim is deficient and shall be provided a second opportunity to amend the claim not later than 30 days after the date of that second notice, without the requirement of an additional filing fee. If the claim is refiled again within that second 30-day period and is compliant, the claimant shall be so notified and shall be instructed to proceed with service of the claim, but if the claim still fails to comply, upon confirmation of such noncompliance by a Copyright Claims Officer, the proceeding shall be dismissed without prejudice. The Copyright Claims Board shall also dismiss without prejudice any proceeding in which a compliant claim is not filed within the applicable 30-day period.

(C)(i) Subject to clause (ii), for purposes of this paragraph, a claim against an online service provider for infringement by reason of the storage of or referral or linking to infringing material that may be subject to the limitations on liability set forth in subsection (b), (c), or (d) of section 512 shall be considered noncompliant unless the claimant affirms in the statement required under subsection (e)(1) of this section that the claimant has previously notified the service provider of the claimed infringement in accordance with subsection (b)(2)(E), (c)(3), or (d)(3) of section 512, as applicable, and the service provider failed to remove or disable access to the material expeditiously upon the provision of such notice.

(ii) If a claim is found to be noncompliant under clause (i), the Copyright Claims Board shall provide the claimant with information concerning the service of such a notice under the applicable provision of section 512.

(2) COUNTERCLAIMS.—Upon the filing and service of a counterclaim, the counterclaim shall be reviewed by a Copyright Claims Attorney to ensure that the counterclaim complies with the provisions of this chapter and applicable regulations. If the counterclaim is found not to comply, the counterclaimant and the other parties to the proceeding shall be notified that the counterclaim is deficient, and the counterclaimant shall be permitted to file and serve an amended counterclaim not

later than 30 days after the date of such notice. If the counterclaimant files and serves a compliant counterclaim within that 30-day period, the counterclaimant and such other parties shall be so notified. If the counterclaim is refiled and served within that 30-day period but still fails to comply, the counterclaimant and such other parties shall again be notified that the counterclaim is deficient, and the counterclaimant shall be provided a second opportunity to amend the counterclaim not later than 30 days after the date of the second notice. If the counterclaim is refiled and served again within that second 30-day period and is compliant, the counterclaimant and such other parties shall be so notified, but if the counterclaim still fails to comply, upon confirmation of such noncompliance by a Copyright Claims Officer, the counterclaim, but not the proceeding, shall be dismissed without prejudice.

(3) DISMISSAL FOR UNSUITABILITY.—The Copyright Claims Board shall dismiss a claim or counterclaim without prejudice if, upon reviewing the claim or counterclaim, or at any other time in the proceeding, the Copyright Claims Board concludes that the claim or counterclaim is unsuitable for determination by the Copyright Claims Board, including on account of any of the following:

(A) The failure to join a necessary party.

(B) The lack of an essential witness, evidence, or expert testimony.

(C) The determination of a relevant issue of law or fact that could exceed either the number of proceedings the Copyright Claims Board could reasonably administer or the subject matter competence of the Copyright Claims Board.

(g) SERVICE OF NOTICE AND CLAIMS.—In order to proceed with a claim against a respondent, a claimant shall, not later than 90 days after receiving notification under subsection (f) to proceed with service, file with the Copyright Claims Board proof of service on the respondent. In order to effectuate service on a respondent, the claimant shall cause notice of the proceeding and a copy of the claim to be served on the respondent, either by personal service or pursuant to a waiver of personal service, as prescribed in regulations established by the Register of Copyrights. Such regulations shall include the following requirements:

(1) The notice of the proceeding shall adhere to a prescribed form and shall set forth the nature of the Copyright Claims Board and proceeding, the right of the respondent to opt out, and the consequences of opting out and not opting out, including a prominent statement that, by not opting out within 60 days after receiving the notice, the respondent—

(A) loses the opportunity to have the dispute decided by a court created under article III of the Constitution of the United States; and

(B) waives the right to a jury trial regarding the dispute.

(2) The copy of the claim served on the respondent shall be the same as the claim that was filed with the Copyright Claims Board.

(3) Personal service of a notice and claim may be effected by an individual who is not a party to the proceeding and is older than 18 years of age.

(4) An individual, other than a minor or incompetent individual, may be served by—

(A) complying with State law for serving a summons in an action brought in courts of general jurisdiction in the State where service is made;

(B) delivering a copy of the notice and claim to the individual personally;

(C) leaving a copy of the notice and claim at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; or

(D) delivering a copy of the notice and claim to an agent designated by the respondent to receive service of process or, if not so designated, an agent authorized by appointment or by law to receive service of process.

(5)(A) A corporation, partnership, or unincorporated association that is subject to suit in courts of general jurisdiction under a common name shall be served by delivering a copy of the notice and claim to its service agent. If such service agent has not been designated, service shall be accomplished—

(i) by complying with State law for serving a summons in an action brought in courts of general jurisdiction in the State where service is made; or

(ii) by delivering a copy of the notice and claim to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process in an action brought in courts of general jurisdiction in the State where service is made and, if the agent is one authorized by statute and the statute so requires, by also mailing a copy of the notice and claim to the respondent.

(B) A corporation, partnership, or unincorporated association that is subject to suit in courts of general jurisdiction under a common name may elect to designate a service agent to receive notice of a claim against it before the Copyright Claims Board by complying with requirements that the Register of Copyrights shall establish by regulation. The Register of Copyrights shall maintain a current directory of service agents that is available to the public for inspection, including through the internet, and may require such corporations, partnerships, and unincorporated associations designating such service agents to pay a fee to cover the costs of maintaining the directory.

(6) In order to request a waiver of personal service, the claimant may notify a respondent, by first class mail or by other reasonable means, that a proceeding has been commenced, such notice to be made in accordance with regulations established by the Register of Copyrights, subject to the following:

(A) Any such request shall be in writing, shall be addressed to the respondent, and shall be accompanied by a prescribed notice of the proceeding, a copy of the claim as filed with the Copyright Claims Board, a

prescribed form for waiver of personal service, and a prepaid or other means of returning the form without cost.

(B) The request shall state the date on which the request is sent, and shall provide the respondent a period of 30 days, beginning on the date on which the request is sent, to return the waiver form signed by the respondent. The signed waiver form shall, for purposes of this subsection, constitute acceptance and proof of service as of the date on which the waiver is signed.

(7)(A) A respondent's waiver of personal service shall not constitute a waiver of the respondent's right to opt out of the proceeding.

(B) A respondent who timely waives personal service under paragraph (6) and does not opt out of the proceeding shall be permitted a period of 30 days, in addition to the period otherwise permitted under the applicable procedures of the Copyright Claims Board, to submit a substantive response to the claim, including any defenses and counterclaims.

(8) A minor or an incompetent individual may only be served by complying with State law for serving a summons or like process on such an individual in an action brought in the courts of general jurisdiction of the State where service is made.

(9) Service of a claim and waiver of personal service may only be effected within the United States.

(h) NOTIFICATION BY COPYRIGHT CLAIMS BOARD.—The Register of Copyrights shall establish regulations providing for a written notification to be sent by, or on behalf of, the Copyright Claims Board to notify the respondent of a pending proceeding against the respondent, as set forth in those regulations, which shall—

(1) include information concerning the respondent's right to opt out of the proceeding, the consequences of opting out and not opting out, and a prominent statement that, by not opting out within 60 days after the date of service under subsection (g), the respondent loses the opportunity to have the dispute decided by a court created under article III of the Constitution of the United States and waives the right to a jury trial regarding the dispute; and

(2) be in addition to, and separate and apart from, the notice requirements under subsection (g).

(i) OPT-OUT PROCEDURE.—Upon being properly served with a notice and claim, a respondent who chooses to opt out of the proceeding shall have a period of 60 days, beginning on the date of service, in which to provide written notice of such choice to the Copyright Claims Board, in accordance with regulations established by the Register of Copyrights. If proof of service has been filed by the claimant and the respondent does not submit an opt-out notice to the Copyright Claims Board within that 60-day period, the proceeding shall be deemed an active proceeding and the respondent shall be bound by the determination in the proceeding to the extent provided under section 1507(a). If the respondent opts out of the proceeding during that 60-day period, the proceeding shall be dismissed

without prejudice, except that, in exceptional circumstances and upon written notice to the claimant, the Copyright Claims Board may extend that 60-day period in the interests of justice.

(j) SERVICE OF OTHER DOCUMENTS.—Documents submitted or relied upon in a proceeding, other than the notice and claim, shall be served in accordance with regulations established by the Register of Copyrights.

(k) SCHEDULING.—Upon confirmation that a proceeding has become an active proceeding, the Copyright Claims Board shall issue a schedule for the future conduct of the proceeding. The schedule shall not specify a time that a claimant or counterclaimant is required make an election of damages that is inconsistent with section 1504(e). A schedule issued by the Copyright Claims Board may be amended by the Copyright Claims Board in the interests of justice.

(l) CONFERENCES.—One or more Copyright Claims Officers may hold a conference to address case management or discovery issues in a proceeding, which shall be noted upon the record of the proceeding and may be recorded or transcribed.

(m) PARTY SUBMISSIONS.—A proceeding of the Copyright Claims Board may not include any formal motion practice, except that, subject to applicable regulations and procedures of the Copyright Claims Board—

(1) the parties to the proceeding may make requests to the Copyright Claims Board to address case management and discovery matters, and submit responses thereto; and

(2) the Copyright Claims Board may request or permit parties to make submissions addressing relevant questions of fact or law, or other matters, including matters raised sua sponte by the Copyright Claims Officers, and offer responses thereto.

(n) DISCOVERY.—Discovery in a proceeding shall be limited to the production of relevant information and documents, written interrogatories, and written requests for admission, as provided in regulations established by the Register of Copyrights, except that—

(1) upon the request of a party, and for good cause shown, the Copyright Claims Board may approve additional relevant discovery, on a limited basis, in particular matters, and may request specific information and documents from participants in the proceeding and voluntary submissions from nonparticipants, consistent with the interests of justice;

(2) upon the request of a party, and for good cause shown, the Copyright Claims Board may issue a protective order to limit the disclosure of documents or testimony that contain confidential information; and

(3) after providing notice and an opportunity to respond, and upon good cause shown, the Copyright Claims Board may apply an adverse inference with respect to disputed facts against a party who has failed to timely provide discovery materials in response to a proper request for materials that could be relevant to such facts.

(o) EVIDENCE.—The Copyright Claims Board may consider the following types of evidence in

a proceeding, and such evidence may be admitted without application of formal rules of evidence:

(1) Documentary and other nontestimonial evidence that is relevant to the claims, counterclaims, or defenses in the proceeding.

(2) Testimonial evidence, submitted under penalty of perjury in written form or in accordance with subsection (p), limited to statements of the parties and nonexpert witnesses, that is relevant to the claims, counterclaims, and defenses in a proceeding, except that, in exceptional cases, expert witness testimony or other types of testimony may be permitted by the Copyright Claims Board for good cause shown.

(p) HEARINGS.—The Copyright Claims Board may conduct a hearing to receive oral presentations on issues of fact or law from parties and witnesses to a proceeding, including oral testimony, subject to the following:

(1) Any such hearing shall be attended by not fewer than 2 of the Copyright Claims Officers.

(2) The hearing shall be noted upon the record of the proceeding and, subject to paragraph (3), may be recorded or transcribed as deemed necessary by the Copyright Claims Board.

(3) A recording or transcript of the hearing shall be made available to any Copyright Claims Officer who is not in attendance.

(q) VOLUNTARY DISMISSAL.—

(1) BY CLAIMANT.—Upon the written request of a claimant that is received before a respondent files a response to the claim in a proceeding, the Copyright Claims Board shall dismiss the proceeding, or a claim or respondent, as requested, without prejudice.

(2) BY COUNTERCLAIMANT.—Upon written request of a counterclaimant that is received before a claimant files a response to the counterclaim, the Copyright Claims Board shall dismiss the counterclaim, such dismissal to be without prejudice.

(3) CLASS ACTIONS.—Any party in an active proceeding before the Copyright Claims Board who receives notice of a pending or putative class action, arising out of the same transaction or occurrence, in which that party is a class member may request in writing dismissal of the proceeding before the Board. Upon notice to all claimants and counterclaimants, the Copyright Claims Board shall dismiss the proceeding without prejudice.

(r) SETTLEMENT.—

(1) IN GENERAL.—At any time in an active proceeding, some or all of the parties may—

(A) jointly request a conference with a Copyright Claims Officer for the purpose of facilitating settlement discussions; or

(B) submit to the Copyright Claims Board an agreement providing for settlement and dismissal of some or all of the claims and counterclaims in the proceeding.

(2) ADDITIONAL REQUEST.—A submission under paragraph (1)(B) may include a request that the Copyright Claims Board adopt some

or all of the terms of the parties' settlement in a final determination in the proceeding.

(s) **FACTUAL FINDINGS.**—Subject to subsection (n)(3), the Copyright Claims Board shall make factual findings based upon a preponderance of the evidence.

(t) **DETERMINATIONS.**—

(1) **NATURE AND CONTENTS.**—A determination rendered by the Copyright Claims Board in a proceeding shall—

(A) be reached by a majority of the Copyright Claims Board;

(B) be in writing, and include an explanation of the factual and legal basis of the determination;

(C) set forth any terms by which a respondent or counterclaim respondent has agreed to cease infringing activity under section 1504(e)(2);

(D) to the extent requested under subsection (r)(2), set forth the terms of any settlement agreed to under subsection (r)(1); and

(E) include a clear statement of all damages and other relief awarded, including under subparagraphs (C) and (D).

(2) **DISSENT.**—A Copyright Claims Officer who dissents from a decision contained in a determination under paragraph (1) may append a statement setting forth the grounds for that dissent.

(3) **PUBLICATION.**—Each final determination of the Copyright Claims Board shall be made available on a publicly accessible website. The Register shall establish regulations with respect to the publication of other records and information relating to such determinations, including the redaction of records to protect confidential information that is the subject of a protective order under subsection (n)(2).

(4) **FREEDOM OF INFORMATION ACT.**—All information relating to proceedings of the Copyright Claims Board under this chapter is exempt from disclosure to the public under section 552(b)(3) of title 5, except for determinations, records, and information published under paragraph (3).

(u) **RESPONDENT'S DEFAULT.**—If a proceeding has been deemed an active proceeding but the respondent has failed to appear or has ceased participating in the proceeding, as demonstrated by the respondent's failure, without justifiable cause, to meet 1 or more deadlines or requirements set forth in the schedule adopted by the Copyright Claims Board under subsection (k), the Copyright Claims Board may enter a default determination, including the dismissal of any counterclaim asserted by the respondent, as follows and in accordance with such other requirements as the Register of Copyrights may establish by regulation:

(1) The Copyright Claims Board shall require the claimant to submit relevant evidence and other information in support of the claimant's claim and any asserted damages and, upon review of such evidence and any other requested submissions from the claimant, shall determine whether the materials so submitted are sufficient to support a finding in favor of the claimant under applicable law and, if so, the

appropriate relief and damages, if any, to be awarded.

(2) If the Copyright Claims Board makes an affirmative determination under paragraph (1), the Copyright Claims Board shall prepare a proposed default determination, and shall provide written notice to the respondent at all addresses, including email addresses, reflected in the records of the proceeding before the Copyright Claims Board, of the pendency of a default determination by the Copyright Claims Board and of the legal significance of such determination. Such notice shall be accompanied by the proposed default determination and shall provide that the respondent has a period of 30 days, beginning on the date of the notice, to submit any evidence or other information in opposition to the proposed default determination.

(3) If the respondent responds to the notice provided under paragraph (2) within the 30-day period provided in such paragraph, the Copyright Claims Board shall consider the respondent's submissions and, after allowing the other parties to address such submissions, maintain, or amend its proposed determination as appropriate, and the resulting determination shall not be a default determination.

(4) If the respondent fails to respond to the notice provided under paragraph (2), the Copyright Claims Board shall proceed to issue the default determination as a final determination. Thereafter, the respondent may only challenge such determination to the extent permitted under section 1508(c), except that, before any additional proceedings are initiated under section 1508, the Copyright Claims Board may, in the interests of justice, vacate the default determination.

(v) **CLAIMANT'S FAILURE TO PROCEED.**—

(1) **FAILURE TO COMPLETE SERVICE.**—If a claimant fails to complete service on a respondent within the 90-day period required under subsection (g), the Copyright Claims Board shall dismiss that respondent from the proceeding without prejudice. If a claimant fails to complete service on all respondents within that 90-day period, the Copyright Claims Board shall dismiss the proceeding without prejudice.

(2) **FAILURE TO PROSECUTE.**—If a claimant fails to proceed in an active proceeding, as demonstrated by the claimant's failure, without justifiable cause, to meet 1 or more deadlines or requirements set forth in the schedule adopted by the Copyright Claims Board under subsection (k), the Copyright Claims Board may, upon providing written notice to the claimant and a period of 30 days, beginning on the date of the notice, to respond to the notice, and after considering any such response, issue a determination dismissing the claimant's claims, which shall include an award of attorneys' fees and costs, if appropriate, under subsection (y)(2). Thereafter, the claimant may only challenge such determination to the extent permitted under section 1508(c), except that, before any additional proceedings are initiated under section 1508, the Copyright Claims Board may, in the interests of justice, vacate the determination of dismissal.

(w) REQUEST FOR RECONSIDERATION.—A party may, not later than 30 days after the date on which the Copyright Claims Board issues a final determination in a proceeding under this chapter, submit a written request for reconsideration of, or an amendment to, such determination if the party identifies a clear error of law or fact material to the outcome, or a technical mistake. After providing the other parties an opportunity to address such request, the Copyright Claims Board shall either deny the request or issue an amended final determination.

(x) REVIEW BY REGISTER.—If the Copyright Claims Board denies a party a request for reconsideration of a final determination under subsection (w), that party may, not later than 30 days after the date of such denial, request review of the final determination by the Register of Copyrights in accordance with regulations established by the Register. Such request shall be accompanied by a reasonable filing fee, as provided in such regulations. The review by the Register shall be limited to consideration of whether the Copyright Claims Board abused its discretion in denying reconsideration of the determination. After providing the other parties an opportunity to address the request, the Register shall either deny the request for review, or remand the proceeding to the Copyright Claims Board for reconsideration of issues specified in the remand and for issuance of an amended final determination. Such amended final determination shall not be subject to further consideration or review, other than under section 1508(c).

(y) CONDUCT OF PARTIES AND ATTORNEYS.—

(1) CERTIFICATION.—The Register of Copyrights shall establish regulations requiring certification of the accuracy and truthfulness of statements made by participants in proceedings before the Copyright Claims Board.

(2) BAD FAITH CONDUCT.—Notwithstanding any other provision of law, in any proceeding in which a determination is rendered and it is established that a party pursued a claim, counterclaim, or defense for a harassing or other improper purpose, or without a reasonable basis in law or fact, then, unless inconsistent with the interests of justice, the Copyright Claims Board shall in such determination award reasonable costs and attorneys' fees to any adversely affected party of in an amount of not more than \$5,000, except that—

(A) if an adversely affected party appeared pro se in the proceeding, the award to that party shall be for costs only, in an amount of not more than \$2,500; and

(B) in extraordinary circumstances, such as where a party has demonstrated a pattern or practice of bad faith conduct as described in this paragraph, the Copyright Claims Board may, in the interests of justice, award costs and attorneys' fees in excess of the limitations under this paragraph.

(3) ADDITIONAL PENALTY.—If the Board finds that on more than 1 occasion within a 12-month period a party pursued a claim, counterclaim, or defense before the Copyright Claims Board for a harassing or other improper purpose, or without a reasonable basis in law or fact, that party shall be barred from initiating a claim before the Copyright Claims

Board under this chapter for a period of 12 months beginning on the date on which the Board makes such a finding. Any proceeding commenced by that party that is still pending before the Board when such a finding is made shall be dismissed without prejudice, except that if a proceeding has been deemed active under subsection (i), the proceeding shall be dismissed under this paragraph only if the respondent provides written consent thereto.

(z) REGULATIONS FOR SMALLER CLAIMS.—The Register of Copyrights shall establish regulations to provide for the consideration and determination, by not fewer than 1 Copyright Claims Officer, of any claim under this chapter in which total damages sought do not exceed \$5,000 (exclusive of attorneys' fees and costs). A determination issued under this subsection shall have the same effect as a determination issued by the entire Copyright Claims Board.

(aa) OPT-OUT FOR LIBRARIES AND ARCHIVES.—

(1) IN GENERAL.—The Register of Copyrights shall establish regulations allowing for a library or archives that does not wish to participate in proceedings before the Copyright Claims Board to preemptively opt out of such proceedings.

(2) PROCEDURES.—The regulations established under paragraph (1) shall—

(A) set forth procedures for preemptively opting out of proceedings before the Copyright Claims Board; and

(B) require that the Copyright Office compile and maintain a publicly available list of the libraries and archives that have successfully opted out of proceedings in accordance with the procedures described in subparagraph (A).

(3) NO FEE OR RENEWAL REQUIRED.—The Register of Copyrights may not—

(A) charge a library or archives a fee to preemptively opt out of proceedings under this subsection; or

(B) require a library or archives to renew a decision to preemptively opt out of proceedings under this subsection.

(4) DEFINITIONS.—For purposes of this subsection, the terms “library” and “archives” mean any library or archives, respectively, that qualifies for the limitations on exclusive rights under section 108.

(Added Pub. L. 116-260, div. Q, title II, §212(b), Dec. 27, 2020, 134 Stat. 2185.)

§ 1507. Effect of proceeding

(a) DETERMINATION.—Subject to the reconsideration and review processes provided under subsections (w) and (x) of section 1506 and section 1508(c), the issuance of a final determination by the Copyright Claims Board in a proceeding, including a default determination or determination based on a failure to prosecute, shall, solely with respect to the parties to such determination, preclude relitigation before any court or tribunal, or before the Copyright Claims Board, of the claims and counterclaims asserted and finally determined by the Board, and may be relied upon for such purpose in a future action or proceeding arising from the same specific activity or activities, subject to the following: