

COPYRIGHT ROYALTY JUDGES
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<i>In re</i>	
DISTRIBUTION OF CABLE ROYALTY FUNDS	DOCKET NO. 16-CRB-0009 CD (2014-17)
DISTRIBUTION OF SATELLITE ROYALTY FUNDS	DOCKET NO. 16-CRB-0010 SD (2014-17)

**ORDER GRANTING DAVID POWELL EXTENSION OF DEADLINE
FOR FILING RESPONSES IN OPPOSITION**

On May 26, 2020, Mr. David Powell, a *pro se* participant in the captioned proceedings, notified the Copyright Royalty Judges (Judges) by email ([Notice](#)) that he was experiencing technical difficulties resetting his eCRB password and needed additional time to respond to the Joint Motions for Order to Show Cause Why the Claims of David Powell should not be Dismissed (Joint Motions).¹ Later that afternoon Mr. Powell also forwarded a copy of an email addressed to counsel for MPA ([Plovnick Email](#)) “requesting extension a motion for reply to your joint motion if [sic] May 12, 2020” and asking counsel to “please pass it on to joint claimants also.” Mr. Powell also stated in the Plovnick Email that he would “attempt to call others by phone.” The deadline for responses to the Joint Motions was May 27, 2020. Mr. Powell has requested a 30-day extension of that deadline because of the technical problems he encountered “not to mention COVID-19 lockdown” Notice at 1.

The Judges’ procedural rules provide a participant who encounters technical difficulties in filing a document in eCRB by a deadline with two options: filing the document by email in accordance with 37 C.F.R. 303.5(m)(2),² or seeking an extension of the deadline in accordance with 37 C.F.R. 303.7(b). Since Mr. Powell did not file his responses to the Joint Motions by email, it appears that he has opted for the second option.

Section 303.7(b) states:

A party seeking an extension must do so by written motion. Prior to filing such a motion, a party must attempt to obtain consent from the other parties to the proceeding. An motion for extension must state:

¹ Representatives of the allocation phase claimant categories filed separate motions in the cable and satellite proceedings. See [Joint Motion for Order to Show Cause Why the Claims of David Powell Should Not be Dismissed](#), Docket No. 16-CRB-0009 CD (2014-17) (May 12, 2020); [Joint Motion for Order to Show Cause Why the Claims of David Powell Should not be Dismissed](#), Docket No. 16-CRB-0010 SD (2014-17) (May 12, 2020).

² Formerly section 350.5(m)(2). The Judges renumbered former Part 350 as Part 303 when they adopted rules governing a new type of proceeding to determine the administrative assessment under the Music Modernization Act. See 84 Fed. Reg. 32296 (Jul. 8, 2019).

- (1) The date on which the action or submission is due;
- (2) The length of the extension sought;
- (3) The date on which the action or submission would be due if the extension were allowed;
- (4) The reason or reasons why there is good cause for the delay;
- (5) The justification for the amount of additional time being sought; and
- (6) The attempts that have been made to obtain consent from the other parties to the proceeding and the position of the other parties on the motion.

37 C.F.R. 303.7(b). Section 303.5(m)(3) states that technical difficulties may constitute good cause for granting an extension, provided the filer immediately notifies the Copyright Royalty Board of the problem by email or telephone.

Treating the Notice as a motion for an extension of time, the Notice meets some, though not all of the requirements of section 303.7. Specifically, the Notice does not detail any attempts to obtain consent from the other participants. However, the Plovnick Email does appear to document communication with at least one other participant regarding Mr. Powell's request and could be construed as an effort to seek consent.

The Judges exercise their discretion to give Mr. Powell the benefit of the doubt in consideration of his *pro se* status and find that he has demonstrated good cause for an extension of time to respond to the Joint Motions. The request for a thirty day extension of a ten-day response period, however, is unreasonable. The Judges **GRANT** Mr. Powell's request **IN PART**, and extend the deadline for responding to the Joint Motions **until Monday June 8, 2020**. **SO ORDERED.**

Jesse M. Feder
Chief Copyright Royalty Judge

DATED: June 2, 2020