

COPY

Before the
U.S. Copyright Office, Library of Congress
Washington, D.C. 20559

In the Matter of)
)
Copyright Royalty Judges)
)
Digital Performance Right in Sound)
Recordings and Ephemeral Recordings)
)

Docket No. 2005-1 CRJ DTRA

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PETITION TO PARTICIPATE

**GENERAL COUNSEL
OF COPYRIGHT**

Pursuant to Section 803(b)(1)(B) of the Copyright Act (“Act”), 17 U.S.C. § 803(b)(1)(B), Beethoven.com, LLC (“Beethoven.com”), by its attorneys, files this Petition to Participate in the above-captioned proceeding which was initiated to determine the reasonable rates and terms, for the period beginning January 1, 2006 and ending December 31, 2010, of the statutory licenses under Section 114(f)(2) of the Act for the digital public performance of sound recordings by means of new subscription services and eligible nonsubscription services, and under Section 112(e) of the Act for the making of ephemeral copies in furtherance of such digital public performances.¹

Beethoven.com is an Internet-based streaming audio content provider. Beethoven.com is one of the pioneers in the streaming audio content industry on the Internet. Founded in 1997, Beethoven.com provides classical music programming on a nonsubscription basis on its website (www.beethoven.com). Since initiating its Internet-based streaming classical music service,

¹ See Notice, 70 Fed. Reg. 7970 (Feb. 16, 2005).

Beethoven.com has been one of the most listened to streaming audio websites, consistently rated among the top 20 audio streaming U.S. websites. With webcasts hosted by on-air personalities, Beethoven.com features live requests, listener contests and specialty shows. Beethoven.com also provides cultural information, classical music news and shopping tailored to the discerning taste of the classical music lover. Historically, the advertising and other revenues generated by Beethoven.com have not been sufficient to cover all of its operating expenses. Consequently, the rates and terms of the statutory licenses to be established in this proceeding will have a significant impact on the economic viability of Beethoven.com's business operations. The outcome of the proceeding obviously also will impact Beethoven.com's public performance rights.

Accordingly, based on the foregoing, Beethoven.com submits that it is an interested party in this proceeding and should be afforded the opportunity to participate in the above-captioned proceeding.

Respectfully submitted,

BEETHOVEN.COM, LLC

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March 17, 2005