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RULES and REGULATIONS

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 307

[Docket No. CRT 87-3-87MRA]

1987 Adjustment of the Mechanical Royalty Rate

Monday, June 15, 1987

*22637 AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: This rule adopts a mechanism for adjusting the mechanical royalty rate every two years, from 1987 to 1997, based upon changes in the Consumer Price Index. This rule is based upon a proposal submitted by parties with a significant interest in the rate.

EFFECTIVE DATE: July 15, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036, (202) 653-5175).

SUPPLEMENTARY INFORMATION: Sections 801(b)(1) and 804 of the Copyright Act of 1976 authorize the Copyright Royalty Tribunal (Tribunal) to adjust the mechanical royalty rate in 1987 upon receiving a petition from a party with a significant interest in the royalty rate. On March 18, 1987, the Tribunal received such a petition from the National Music Publishers' Association, Inc., The Songwriters Guild of America, and the Recording Industry Association of America, Inc. On April 7, 1987, the Tribunal proposed to adjust the mechanical royalty rate according to the mechanism provided by the parties in their petition. Notice of Proposed Rulemaking, Docket No. 87-3-87MRA, 52 FR 11096 (April 7, 1987). Briefly stated, the proposed rule calls for adjustments of the mechanical royalty rate to be published in the Federal Register every two years (November 1, 1987, November 1, 1989, November 1, 1991, November 1, 1993, November 1, 1995). The adjustment would be based solely upon changes in the Consumer Price Index (CPI), except when the CPI has declined, in which case the mechanical rate would remain the same, or when the Index has risen by more than 25%, in which case the mechanical rate adjustment would be no greater than 25%.

The tribunal received joint comments filed by the National Music Publishers Association, Inc., The Songwriters Guild of America, and the Recording Industry Association of America, Inc. supporting the proposal. Similarly, the Tribunal received comments from SESAC, Inc., a performing rights society which also represents mechanical rights for a significant number of its publisher affiliates, and from Music

Royalties Ltd., a company representing the mechanical rights in approximately 50,000 musical compositions. SESAC, Inc. and Music Royalties Ltd. support the proposed rule. The proposal is therefore adopted unchanged as a final rule.

List of Subjects in 37 CFR Part 307

Copyright, Music, Recordings.

PART 307--[AMENDED]

For the reasons set forth in the preamble, the Tribunal amends 37 CFR Part 307 as follows:

1. The authority citation for Part 307 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1) and 804.

37 CFR § 307.3

§ 307.3 [Amended]

37 CFR § 307.3

2. Section 307.3(a) is amended by removing the words "paragraphs (b) and (c) of this section." from the end, and by adding in their place the words "paragraphs (b), (c), (d) and (e) of this section."

37 CFR § 307.3

3. Section 307.3(b) is amended by removing the words "paragraph (c) of this section." and adding in their place the words "paragraphs (c), (d) and (e) of this section."

37 CFR § 307.3

4. Section 307.3(c) is amended by adding the words ", subject to further adjustment pursuant to paragraphs (d) and (e) of this section." at the end.

37 CFR § 307.3

5. A new § 307.3(d) is added to read as follows:

* * * * *

(d)(1) On November 1, 1987, the Copyright Royalty Tribunal (CRT) shall publish in the Federal Register a notice of the percent change in the Consumer Price Index (all urban consumers, all items) (CPI) from the Index published for December, 1985 to the Index published for September, 1987, and the underlying calculations.

(2) On the same date as the notice is published pursuant to paragraph (d)(1) of this section, the CRT shall publish in the Federal Register revised compulsory li-

cense royalty rates which shall adjust the amounts set forth in § 307.3(c) in direct proportion to the percent change in the CPI determined as provided in paragraph (d)(1) of this section, rounded to the nearest 1/20th of a cent; provided however, that:

(i) The adjusted rates shall be no greater than 25% more than the amounts set forth in § 307.3(c); and

(ii) The adjusted rates shall be no less than the amounts set forth in § 307.3(c).

(3) The revised royalty rates for the compulsory license adjusted pursuant to this paragraph (d) shall become effective for every phonorecord made and distributed on or after January 1, 1988, subject to further adjustment pursuant to paragraph (e) of this section.

37 CFR § 307.3

6. A new § 307.3(e) is added to read as follows:

* * * * *

(e)(1) On November 1, 1989, and each November 1 biennially thereafter until November 1, 1995 (that is, November 1, 1991, 1993 and 1995), the CRT shall publish in the Federal Register a notice of the percent change in the CPI from the Index published for the September two years earlier to the Index published for the September of the year in which such notice is published, and the underlying calculations.

(2) On the same date as the notice is published pursuant to this paragraph (e)(1), the CRT shall publish in the Federal Register revised compulsory license royalty rates which shall adjust the amounts then in effect pursuant to § 307.3(d) or this paragraph (e), as the case may be, in direct proportion to the percent change in the CPI determined as provided in paragraph (e)(1) of this section, rounded to the nearest 1/20th of a cent; provided, however, that:

(i) The adjusted rates shall be no greater than 25% more than the rates then in effect; and

(ii) The adjusted rates shall be no less than the amounts set forth in § 307.3(c).

(3) The revised royalty rates for the compulsory license adjusted pursuant to this paragraph (e) shall become effective for every phonorecord made and distributed on or after January 1 of the year following that in which such notice is published; that is, on January 1, 1990, 1992, 1994 and 1996, respectively.

Dated: June 9, 1987.

J.C. Argetsinger,

Chairman.

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