

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC**

_____)
In the Matter of)

Distribution of the)
2012 Cable Royalty Funds)
_____)

**Docket No. 14-CRB-0007-CD
(2010-2012)**

**COMMENTS OF
THE PHASE I PARTIES**

The undersigned representatives of all the Phase I claimant categories to which Section 111 cable royalties have been allocated in prior cable distribution proceedings (“Phase I Parties”) submit the following Comments in response to the Notice published at 79 Fed. Reg. 59306 (October 1, 2014) (“Notice”). The Notice seeks comments concerning the Motion of Phase I Claimants for Partial Distribution (filed July 25, 2014) (“Motion”), which requests an initial distribution of 60% of the 2012 cable royalties (“2012 Fund”). In addition, the Notice seeks comments regarding the existence of Phase I and Phase II controversies as to the 2012 Fund.

1. As the Notice recognizes, the Motion requests a distribution pursuant to Section 801(b)(3)(C) of the Copyright Act, 17 U.S.C. § 801(b)(3)(C), which provides:

Notwithstanding section 804(b)(8), the Copyright Royalty Judges, at any time after the filing of claims under section 111, 119, or 1007, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution, and all such claimants —

(i.) agree to the partial distribution;

- (ii.) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B);
- (iii.) file the agreement with the Copyright Royalty Judges; and
- (iv.) agree that such funds are available for distribution

17 U.S.C. § 801(b)(3)(C); *see* Notice at 59306.

In the Motion, the Phase I Parties stated that they (1) agree to the partial distribution; (2) would sign a separate agreement as contemplated by subparagraph (ii) of Section 801(b)(3)(C); (3) would file the agreement with the Judges; and (4) agree that the requested funds are available for distribution. Motion at 2. Consequently, under Section 801(b)(3)(C), the Judges may distribute the royalty fees sought by the Motion if, “based upon” responses timely received in response to the Notice, the Judges conclude that “no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution.” 17 U.S.C. § 801(b)(3)(C). The Phase I Parties strongly support the Motion and do not believe there can be any reasonable objection to the partial distribution that the Motion requests. *See, e.g., Order Granting Phase I Claimants’ Motion for Partial Distribution of 2011 Cable Royalty Funds*, Docket No. 2012-9 CRB CD 2011 (Mar. 13, 2013) (granting Phase I Parties’ request for a 50% partial distribution of the 2011 cable royalty funds and noting that “[n]o commenter stated a reasonable objection to the proposed distribution”); *see also Order Granting Phase I Claimants’ Motion for Partial Distribution of 2010 Cable Royalty Funds*, Docket No. 2012-4 CRB CD 2010 (Sept. 14, 2012) (noting the same and granting Phase I Parties’ request for a 50% partial distribution of the 2010 cable royalty funds).

2. The Notice requested comments on the “existence and extent of any controversies to the 2012 cable royalty funds at Phase I or Phase II with respect to those funds that would remain if the partial distribution is granted.” Notice at 59306. A Phase I controversy currently exists as to the royalty share that should be allocated to each Phase I category. The individual Phase I Parties are filing separate comments concerning Phase II controversies regarding the 2012 Fund.

3. As discussed in the Phase I Parties’ Motion and in these comments, good cause exists to grant the Motion and proceed with an expeditious partial distribution of the 2012 Fund.

CONCLUSION

For the reasons set forth above, the Phase I Parties respectfully request that the Judges, after consideration of comments filed by any other interested claimants, grant the Motion and promptly order a 60% partial distribution of the 2012 Fund pursuant to 17 U.S.C. § 801(b)(3)(C).

Respectfully submitted,

PROGRAM SUPPLIERS

LUCY PLOVNICK by MK
Gregory O. Olaniran
DC Bar No. 455784
Lucy Holmes Plovnick
DC Bar No. 488752
MITCHELL SILBERBERG & KNUPP LLP
1818 N Street NW, 8th Floor
Washington, DC 20036
Telephone: (202) 355-7917
Facsimile: (202) 355-7887
goo@msk.com
lhp@msk.com

PUBLIC TELEVISION CLAIMANTS

RONALD DOVE by MK
Ronald G. Dove, Jr.
DC Bar No. 430533
Lindsey Tonsager
DC Bar No. 983925
COVINGTON & BURLING LLP
1201 Pennsylvania Ave., NW
Washington, DC 20004-2401
Telephone: (202) 662-5685
Fax: (202) 662-6291
rdove@cov.com

JOINT SPORTS CLAIMANTS

Michael Kientzle
Robert Alan Garrett
DC Bar No. 239681
Charles G. Curtis, Jr.
DC Bar No. 990767
Michael Kientzle
DC Bar No. 1008361
ARNOLD & PORTER LLP
555 Twelfth Street, NW
Washington, DC 20004-1206
Telephone: (202) 942-5000
Fax: (202) 942-5999
robert.garrett@aporter.com
charles.curtis@aporter.com
michael.kientzle@aporter.com

COMMERCIAL TELEVISION CLAIMANTS

**NATIONAL ASSOCIATION OF
BROADCASTERS**

JOHN STEWART by MK
John I. Stewart, Jr.
DC Bar No. 913905
Jennifer H. Burdman
DC Bar No. 495555
Ann Mace
DC Bar No. 980845
CROWELL & MORING LLP
1001 Pennsylvania Ave., NW
Washington, DC 20004-2595
Telephone: (202) 624-2685
Fax: (202) 628-5116
jstewart@crowell.com

MUSIC CLAIMANTS

**AMERICAN SOCIETY OF COMPOSERS, BROADCAST MUSIC, INC.
AUTHORS AND PUBLISHERS**

SAMUEL MOSENKIS by MK

Samuel Mosenkis
N.Y.# 2628915
ASCAP
One Lincoln Plaza
New York, NY 10023
Telephone: (212) 621-6450
Fax: (212) 787-1381
smosenkis@ascap.com

Joseph J. DiMona
DC Bar No. 412159
BROADCAST MUSIC, INC.
7 World Trade Center
250 Greenwich Street
New York, NY 10007-0030
Telephone: (212) 220-3149
Fax: (212) 220-4447
jdimona@bmi.com

JEFFREY LOPEZ by MK

Michael J. Remington
DC Bar No. 344127
Jeffrey J. Lopez
DC Bar No. 453052
DRINKER BIDDLE & REATH LLP
1500 K Street, NW – Suite 1100
Washington, DC 20005
Telephone: (202) 842-8800
Fax: (202) 842-8465
michael.remington@dbr.com

SESAC, INC.

JOHN BEITER by MK

John C. Beiter
TN Bar No. 12564
Shackelford, Zumwalt & Hayes
1014 16th Avenue South
Nashville, TN 37212
Phone: 615.256.7200
Fax: 615.256.7106
Email: jbeiter@shackelfordlaw.net

CANADIAN CLAIMANTS GROUP

L. KENDALL SATTERFIELD by MK

L. Kendall Satterfield
DC Bar No. 393953
FINKELSTEIN THOMPSON LLP
1077 30th Street, NW
Washington, DC 20007
Telephone: (202) 337-8000
Fax: (202) 337-8090
ksatterfield@finkelsteinthompson.com

NATIONAL PUBLIC RADIO

GREGORY LEWIS by MK

Jonathan D. Hart
DC Bar No. 404828
Gregory A. Lewis
DC Bar No. 420907
NATIONAL PUBLIC RADIO, INC.
1111 North Capitol Street, NE
Washington, DC 20002
Telephone: (202) 513-2050
Fax: (202) 513-3021
glewis@npr.org

DEVOTIONAL CLAIMANTS

Clifford M. Harrington
DC Bar No. 218107
PILLSBURY WINTHROP SHAW
PITTMAN LLP
2300 N Street, NW
Washington, DC 20037
Telephone: (202) 663-8525
Fax: (202) 663-8007
clifford.harrington@pillsburylaw.com

Edward S. Hammerman
DC Bar No. 460506
HAMMERMAN, PLLC
5335 Wisconsin Avenue, NW
Suite 440
Washington, DC 20015-2052
Telephone: (202) 686-2887
Fax: (202) 318-5633
ted@copyrightroyalties.com

Wendell R. Bird, P.C.
Ga. Bar No. 057875
Jonathan T. McCants
Ga. Bar No. 480485
BIRD, LOECHL, BRITAIN & McCANTS,
LLC
1150 Monarch Plaza
3414 Peachtree Road, N.E.
Atlanta, GA 30326
Telephone: (404) 264-9400
Fax: (404) 365-9731
jmccants@birdlawfirm.com

ARNOLD LUTZKER by MK
Arnold P. Lutzker
DC Bar No. 101816
LUTZKER & LUTZKER LLP
1233 20th Street, NW, Suite 703
Washington, DC 20036
Telephone: (202) 408-7600
Fax: (202) 408-7677
arnie@lutzker.com

W. Thad Adams III
N.C. Bar No. 000020
ADAMS EVANS PA
Suite 2350 Charlotte Plaza
201 South College Street
Charlotte, NC 28244
Telephone: (704) 375-9249
Fax: (704) 375-0729
wta@adamspat.com

George R. Grange, Esq..
(VA Bar No. 34120)
Kenneth E. Liu, Esq.
(VA Bar No. 42327)
GAMMON & GRANGE, P.C.
8280 Greensboro Drive, 7th Floor
McLean, VA 22102

Gregory H. Guillot
(DC Bar No. 457539)
GREGORY H. GUILLOT, P.C.
13455 Noel Road, Suite 1000
Dallas, TX 75240
Telephone: 972-774-4560
Facsimilae: 214-515-0411
Email: gregory@guillot-law.com

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of October, a copy of the foregoing Comments of the Phase I Parties for Partial Distribution of the 2012 Cable Royalty Funds was sent by Federal Express to the individuals listed below:

Brian D. Boydston
Pick & Boydston LLP
10786 Le Conte Avenue
Los Angeles, CA 90024



Troy Strunkey