

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DETERMINATION AND ALLOCATION OF
INITIAL ADMINISTRATIVE ASSESSMENT TO
FUND MECHANICAL LICENSING
COLLECTIVE**

Docket No. 19-CRB-0009-AA

**ORDER GRANTING JOINT MOTION TO SUSPEND CASE SCHEDULE AND
DIRECTING PARTIES TO SUBMIT PROPOSED REGULATIONS IMPLEMENTING
SETTLEMENT**

On November 14, 2019, the Mechanical Licensing Collective (MLC) and the Digital Licensee Coordinator (DLC) (collectively Participants) filed with the Copyright Royalty Judges (Judges) a Joint Notice of Settlement and Motion to Suspend Case Schedule ([Motion](#)). The Participants are the only remaining participants in this proceeding.

The Motion states that the Participants “have reached a full settlement of all terms” in this proceeding, and describes in detail the terms of the settlement. In light of the settlement, and the impending deadline for the DLC’s responsive submission, the Participants request that the Judges “suspend the case schedule and direct the Participants to jointly submit proposed regulatory language implementing the Settlement” on or before November 26, 2019.

The Judges **GRANT** the motion as more fully described below.

Discussion

Section 115(d)(7)(D)(v) of the Copyright Act states

In lieu of reaching their own determination based on evaluation of relevant data, the Copyright Royalty Judges shall approve and adopt a negotiated agreement to establish the amount and terms of the administrative assessment that has been agreed to by the mechanical licensing collective and the digital licensee coordinator ..., except that the Copyright Royalty Judges shall have the discretion to reject any such agreement for good cause shown. An administrative assessment adopted under this clause shall apply to all digital music providers and significant nonblanket licensees engaged in covered activities during the period the administrative assessment is in effect.

17 U.S.C. § 115(d)(7)(D)(v). While the Copyright Act states that the Judges must publish their determination of the initial administrative assessment in the Federal Register not later than one year after the commencement of the proceeding, *see* 17 U.S.C. § 115(d)(7)(D)(iii)(IV), it is silent as to publication of the amount and terms of an initial administrative assessment established through a settlement. Nevertheless, given that an administrative assessment adopted through a

settlement “shall apply to all digital music providers and significant nonblanket licensees,” the Judges interpret section 115(d)(7)(D)(v) as requiring publication of regulatory language implementing the amount and terms of the administrative assessment.¹

To that end, the Judges **DIRECT** the Participants jointly to file with the Judges proposed regulations implementing the terms of their settlement by November 26, 2019. The proposed regulatory language shall comply with the Office of the Federal Register’s [Document Drafting Handbook](#), August 2018 Edition. The Participants should assume that the regulation will be codified at 37 C.F.R. part 390.

After receiving the proposed regulations the Judges will determine whether to accept the Participants’ settlement or to reject it for good cause shown.

The [revised case schedule](#) that the Judges ordered on August 21, 2019 is hereby **SUSPENDED**.
SO ORDERED.

Jesse M. Feder
Chief Copyright Royalty Judge

Dated: November 14, 2019

¹ The Judges note the Participants’ statement that “the settlement of this Proceeding is not subject to public comment.” The Judges reserve judgment on this question until they have received proposed regulations from the Participants.