

EXHIBIT B

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of:)
)
)
DETERMINATION OF RATES AND) Docket No. 19-CRB-0005-WR (2021-2025)
TERMS FOR DIGITAL)
PERFORMANCE OF SOUND)
RECORDINGS AND MAKING OF)
EPHEMERAL COPIES TO)
FACILITATE THOSE)
PERFORMANCES (*WEB V*))
)

**SOUNDEXCHANGE’S FIRST SET OF INTERROGATORIES TO
iHEARTMEDIA, INC.**

Pursuant to 17 U.S.C. § 803(b)(6)(C)(v) and 37 C.F.R. § 351.5(b)(2), SoundExchange, Inc., *et al.* (collectively, “SoundExchange”)¹ serves this First Set of Interrogatories on iHeartMedia, Inc. (“iHeart”). These Interrogatories are continuing in nature and may require supplementation.

DEFINITIONS AND INSTRUCTIONS

1. The present tense shall be construed to include the past and future tenses and the past and future tenses shall be construed to include the present tense as required by the context to elicit all information discoverable within the broadest scope of these Interrogatories.

¹ SoundExchange, Inc., the American Federation of Musicians of the United States and Canada, Screen Actors Guild-American Federation of Television and Radio Artists, the American Association of Independent Music, Sony Music Entertainment, UMG Recordings, Inc., Warner Music Group Corp., and Jagjaguwar Inc.

2. The singular shall be construed to include the plural and the plural shall be construed to include the singular as required by the context to elicit all information discoverable within the broadest scope of these Interrogatories.

3. “And” and “or” have both conjunctive and disjunctive meanings as required by the context to elicit all information discoverable within the broadest scope of these Interrogatories.

4. “Any” and “all” shall mean “each and every.”

5. The term “including” is illustrative and not limitative and shall be construed to elicit all information discoverable within the broadest scope of these Interrogatories.

6. The terms “reflecting,” “referring,” “concerning,” “relating to,” “related to” and “showing” includes: addressing, pertaining to, referring to, concerning, comprising, identifying, stating, consisting of, evidencing, alluding to, responding to, connected with, discussing, showing, describing, reflecting, analyzing, constituting, setting forth, in respect of, incorporating, mentioning, embodying, containing, studying, reporting on, commenting on, considering, recommending, constituting in any way, or having any logical or factual connection with the subject matter.

7. “iHeart” refers to iHeartRadio and iHeart Media, Inc., their corporate affiliates, parents, subsidiaries, business units, divisions, parents, subsidiaries, business units and divisions, and their representatives, officers, agents, servants, counsel, employees, consultants, and any person authorized to act, acting, or purporting to act on their behalf. “iHeart” also includes any of iHeart Media, Inc.’s predecessors or their respective affiliates (including Clear Channel Communications, Inc.). In particular, “iHeart” includes the witnesses who have submitted

testimony as part of the Written Direct Statement of the National Association of Broadcaster in this proceeding, including the entities they represent.

8. “You” and “your” refer to iHeart as defined above, and/or the witnesses and experts submitting testimony in this proceeding as part of the written direct case of the National Association of Broadcasters.

9. “Direct Licenses” refers to agreements that iHeart, as defined herein, has entered into with copyright owners or distributors of sound recordings, or their representatives, granting rights to perform or reproduce sound recordings through one or more of iHeart’s various services, including agreements with the fifteen “renewal indies” referred to in Paragraphs 63-75 of the Written Direct Testimony of Dr. Gregory K. Leonard, similar agreements that have expired or been terminated, the iHeart-Warner agreement referred to in Paragraph 92 of the Written Direct Testimony of Dr. Gregory K. Leonard, and any other agreements with sound recording copyright owners or distributors or their representatives.

10. Please provide separate written responses to each Interrogatory, and repeat the Interrogatory with each response. If you object to any Interrogatory, state the basis for your objection in sufficient detail so as to permit the adjudication of the validity of the objection, and respond to the portion of the Interrogatory that you do not find objectionable.

11. Each of the following Interrogatories is continuing in nature. If you obtain any additional responsive information at any later date, promptly submit supplemental or amended responses to these Interrogatories.

12. Unless otherwise indicated, the Interrogatories below cover the time period January 1, 2016 through the present.

13. In accordance with the Modified Case Schedule (dated June 27, 2019) issued in this proceeding, please produce all written responses and objections for delivery no later than October 17, 2019. Please serve one set of all responses and objections by electronic copy to all Jenner & Block attorneys who have appeared in this matter.

14. If you are unable to answer an Interrogatory in full or in part, you should answer it to the extent possible, explain why the remainder cannot be answered, and state the nature of the information or knowledge that cannot be furnished.

15. Whenever you are instructed to state a date, a dollar amount, number, or quantification, if such date, dollar amount, number, or quantification is unknown to you, state your best estimate, indicate that the response is an estimate, and explain why you are unable to provide a more precise response and how you arrived at your estimate.

16. Whenever you identify a specific individual, please indicate: (a) the full name of the individual; (b) the individual's employer; and (c) the individual's employment position or title.

17. When the identity or description of a document is requested or referred to in response to an Interrogatory, please indicate: (a) the type of document, such as a letter, memorandum, e-mail message, etc.; (b) the title, if any, of the document; (c) the date of the document; (d) the identity of the individual who authored the document; (e) the identity of individuals to whom the document is addressed; and (f) the Bates number(s) of the document.

INTERROGATORIES

1. For each month since January 2017, and for each sound recording copyright owner or distributor or representative with which iHeart had one or more Direct Licenses in effect during that month, provide (a) the total number of compensable performances or plays (as applicable for reporting purposes under the relevant Direct License) of recordings owned or controlled by that copyright owner, distributor or representative used under a Direct License for each type of transmission covered by such Direct License during the month (e.g., [REDACTED])

[REDACTED]), (b) the percentage such total number represents of iHeart's total transmissions of such type during the month (in the manner of calculating relevant percentages used in Paragraph 72 of the Written Direct Testimony of Dr. Gregory K. Leonard), (c) [REDACTED], and (d) the royalty payment associated therewith for the month under the applicable Direct License.

2. For each month since January 2017, provide (a) the total number of performances or plays (as applicable for reporting purposes under the Direct Licenses) of all recordings used in each type of transmission covered by the Direct Licenses (e.g., [REDACTED]), whether under a Direct License or otherwise, and (b) the number of such plays or performances of recordings from each of the catalogs of [REDACTED] (in the manner reported in Paragraph 72 and Appendix A4 of the Written Direct Testimony of Dr. Gregory K. Leonard). In each case, break down the number of performances or plays by whether use of such recordings was under a Direct License, under the statutory license, or otherwise.
3. For each month since January 2017, identify each basis on which iHeart excluded any digital audio transmissions of sound recordings through a service iHeart claims to be compliant with the statutory license from iHeart's reporting and payments to SoundExchange under the statutory license (e.g., coverage by a Direct License, recordings fixed prior to February 15, 1972, [REDACTED]), and for each such basis the total number of performances so excluded.
4. Explain in detail whether and how iHeart provides its programmers with (a) information and data reflecting which record companies' and artists' sound recordings are covered by a Direct License and (b) the information, guidance or instructions provided to programmers.
5. For each of the fifteen Indies that have chosen to renew their agreements with iHeart, and for the two years preceding and postdating execution of the *original* agreement between iHeart and the independent record company, identify (a) the number of compensable performances or plays (as applicable for reporting purposes under the relevant direct license) attributed to the licensor, (b) the number of total performances or plays (as applicable for reporting purposes under the relevant direct license) attributed to the licensor, and (c) the total number of compensable and non-compensable performances or plays used in each type of transmission covered by the relevant direct license.
6. For the period beginning with the inception of iHeart's direct license campaign in 2012 and through the present, identify any record company, distributor, representative, or other copyright owner that iHeart has approached, discussed, or otherwise communicated with about the possibility of executing a direct license for any type of transmission (including, but not limited to, internet simulcasts, custom webcasts, standard webcasts, and terrestrial broadcasts).

Respectfully submitted,

By /s/ Emily Chapuis

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Counsel for SoundExchange, Inc., et al.

Dated: September 30, 2019

Proof of Delivery

I hereby certify that on Tuesday, November 26, 2019, I provided a true and correct copy of the Exhibit B to the following:

Google Inc., represented by David P Mattern, served via Electronic Service at dmatter@kslaw.com

National Association of Broadcasters, represented by Joseph Wetzel, served via Electronic Service at joseph.wetzel@lw.com

iHeartMedia, Inc., represented by John Thorne, served via Electronic Service at jthorne@kellogghansen.com

Corporation for Public Broadcasting, represented by Kenneth L Steinthal, served via Electronic Service at ksteinthal@kslaw.com

Sirius XM Radio Inc., represented by Bruce Rich, served via Electronic Service at bruce.rich@weil.com

College Broadcasters, Inc., represented by David D Golden, served via Electronic Service at dgolden@constantinecannon.com

circle god network inc d/b/a david powell, represented by david powell, served via Electronic Service at davidpowell008@yahoo.com

Radio Paradise Inc., represented by David Oxenford, served via Electronic Service at doxenford@wbklaw.com

Pandora Media, LLC, represented by Bruce Rich, served via Electronic Service at bruce.rich@weil.com

National Public Radio, Inc., represented by David P Mattern, served via Electronic Service at dmatter@kslaw.com

Educational Media Foundation, represented by David Oxenford, served via Electronic Service at doxenford@wbklaw.com

National Religious Broadcasters Noncommercial Music License Committee, represented by
Karyn K Ablin, served via Electronic Service at ablin@fhhlaw.com

Signed: /s/ Previn Warren