

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DETERMINATION OF ROYALTY RATES AND
TERMS FOR PERFORMANCE OR DISPLAY
OF NONDRAMATIC MUSICAL WORKS AND
PICTORIAL, GRAPHIC, AND SCULPTURAL
WORKS BY PUBLIC BROADCASTING
ENTITIES (PB III)**

Docket No. 16-CRB-0002 PBR
(2018-2022)

**ORDER DISMISSING PETITION TO PARTICIPATE OF
DAVID POWELL**

The Copyright Royalty Judges (Judges) commenced the instant proceeding on January 5, 2016, by publishing a notice in the Federal Register seeking Petitions to Participate. 81 Fed. Reg. 256 (Jan. 5, 2016). The purpose of the proceeding is to set rates and terms under the statutory license for certain uses by public broadcasting entities of published nondramatic musical works and published pictorial, graphic, and sculptural works as set forth in section 118 of the Copyright Act (Act).

Mr. David Powell, acting *pro se*, filed a Petition to Participate on February 4, 2016. Mr. Powell's Petition to Participate does not describe his interest in this proceeding. Because the Judges were unable to determine that Mr. Powell has a "significant interest" in the proceeding as required by section 803(b)(2)(C) of the Act, they issued an Order on July 25, 2016 (Order to Show Cause), directing Mr. Powell to show cause why the Judges should not dismiss his Petition to Participate in the instant proceeding for failure to demonstrate a significant interest in the proceeding. Mr. Powell's response to the Order to Show Cause was due on August 12, 2016.

Mr. Powell filed a response on August 12, 2016, styled "Supplemental Counteraffidavit Appurtenance Compulsory Counterclaim Ordered to Show Cause Not to Dismiss Proved Up" (Response). On the same date, Mr. Powell filed a document styled "An Objection Countermand Verified Motion to Vacate & Other Sua Sponte Omnibus Motion Ordered for Joint Proposal, Notice of Settlement and Status Report Ex-Parte," the purpose of which is unclear to the Judges(Objection).¹

Having reviewed the Response and the Objection, the Judges remain unable to discern that Mr. Powell has any requisite interest in this proceeding. Nothing in either document indicates that Mr. Powell is either a public broadcasting entity or the owner of copyright in a

¹ Mr. Powell filed both the Response and the Objection on behalf of himself and Circle God Network, Inc. (CGN). CGN did not file a Petition to Participate (PTP), so it is not a party to this proceeding. Even if it were, as a non-attorney, Mr. Powell would not be able to represent CGN (a corporate entity) before the Judges. *See* 37 C.F.R. § 350.2. The Judges did not consider any interest CGN might have in this proceeding in ruling on Mr. Powell's PTP.

published nondramatic musical work or pictorial, graphic or sculptural work.² Nor does either document set forth any other information on the basis of which the Judges could conclude that Mr. Powell has any substantive interest, let alone a significant interest, in the proceeding. Consequently the Judges hereby **DISMISS** Mr. Powell's Petition to Participate.

SO ORDERED.

Jesse M. Feder
Copyright Royalty Judge

DATED: August 16, 2016

² Mr. Powell referenced two copyright registrations in the Response. *See* Response, at 3. The first, SRu 628-683, is for an unpublished sound recording. The second, TXu [1]344-005, is for an unpublished literary work. Neither category of work is subject to the statutory license in 17 U.S.C. § 118.