

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DETERMINATION OF ROYALTY RATES
AND TERMS FOR EPHEMERAL COPIES
OF SOUND RECORDINGS USED BY
BUSINESS ESTABLISHMENTS**
(Business Establishments III)

**Docket No. 17-CRB-0001-BER
(2019-2023)**

**ORDER FOR FURTHER PROCEEDINGS
AND MODIFIED CASE SCHEDULE**

The Copyright Royalty Judges (Judges) initiated the captioned proceeding to set rates and terms for licensing the making of ephemeral copies of sound recordings for transmission to business establishments, by publishing notice in the *Federal Register*. See 82 Fed. Reg. 143 (Jan. 3, 2017). After receiving Petitions to Participate, the Judges provided notice of the participants to all interested parties and issued a case scheduling order. See *Notice of Participants, Commencement of Voluntary Negotiation Period, and Case Scheduling Order* (Oct. 6, 2017) (Scheduling Order).

Seven entities filed Petitions to Participate.¹ The Scheduling Order directed participants to engage in negotiations and to notify the Judges no later than January 10, 2018, of the outcome of the settlement negotiations. The Judges did not receive a Notice of Settlement; hence the present order. To move the proceeding forward to meet statutorily mandated deadlines, the Judges issue this Order for Further Proceedings and reiterate and expand upon upcoming deadlines applicable in this proceeding.

Participants are encouraged to continue settlement negotiations and to notify the Judges immediately of any resolution that will obviate continued litigation. Unless the Judges receive notice of a full and final settlement of all issues, the attached case schedule remains in effect.

SO ORDERED.

Suzanne M. Barnett
Chief Copyright Royalty Judge

DATED: January 12, 2018.

¹ Petitioning Participants were: Mood Media Corporation, Music Choice, David Powell, David Rahn, Rockbot, Inc., Sirius XM Radio Inc., and SoundExchange, Inc.

ATTACHMENT A

Schedule for Rates and Terms Determination (Business Establishments III)

Case event	Date
Order for Further Proceedings	January 12, 2018
Begin Preliminary Disclosure and Discovery	January 12, 2018
End Preliminary Disclosure and Discovery	January 26, 2018
Participants file Written Direct Statements Commencement of Discovery Period	May 14, 2018
Deadline to file Discovery Motions	June 15, 2018
End of Discovery Period	July 13, 2018
Settlement Conference Period	July 13 – August 3, 2018
Deadline for Joint Settlement Conference Report	August 6, 2018
IF PARTICIPANTS DO NOT SETTLE	
Deadline to file Written Rebuttal Statement ²	September 17, 2018
Participants exchange witness and exhibit lists	September 19, 2018
Participants file JOINT exhibit and witness lists (including witness time estimates and order of presentation)	September 26, 2018
Hearing	commencing on October 1, 2018
Deadline to file Proposed Findings and Conclusions	TBD
Issuance of Determination	not later than December 17, 2018

² During this interval, the Judges may schedule a prehearing conference. *See* 37 C.F.R. § 351.8.