

Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC

DISTRIBUTION OF
SATELLITE ROYALTY FUNDS

)
) NO. 14-CRB-0011-SD (2010-13)
)
)

**MOTION OF THE JOINT SPORTS CLAIMANTS AND COMMERCIAL TELEVISION
CLAIMANTS FOR FINAL DISTRIBUTION OF 2010-13 SATELLITE ROYALTIES**

The undersigned representatives of the Joint Sports Claimants (“JSC”) and Commercial Television Claimants (“CTV”) submit the following Motion for Final Distribution (“Motion”) pursuant to Section 801(b)(3)(A) of the Copyright Act, 17 U.S.C. § 801(b)(3)(A), in connection with the 2010, 2011, 2012, and 2013 satellite royalty funds (“2010-13 Satellite Royalties”). As stated in the Allocation Phase Parties’ Notice of Allocation Phase Settlement and Motion to Cancel Hearing, the Allocation Phase Parties have entered confidential formal agreements finally resolving all outstanding Allocation Phase controversies relating to the 2010-13 Satellite Royalties (the “Allocation Phase Settlement”). As discussed below, JSC and CTV request a further distribution of all remaining 2010-13 Satellite Royalties allocated to the Commercial Television and Joint Sports claimant categories under the Allocation Phase Settlement (“Final Distribution”).

JSC’s and CTV’s Motion differs from the distribution requests recently filed by MPA-Represented Program Suppliers (“Program Suppliers”) and the Settling Devotional Claimants (“SDC”), which requests have been granted by the Judges.¹ The Allocation Phase Parties have agreed to a joint distribution to JSC and CTV in a sum certain totaling \$101,391,574.98, to be

¹ Order Granting Settling Devotional Claimants’ Motion for Final Distribution of 2010-13 Satellite Royalty Funds, 14-CRB-0010-CD/SD (2010-13) (Jan. 13, 2020); Order Granting MPA’s Motion for Final Distribution of 2010-13 Satellite Royalty Funds, 14-CRB-0010-CD/SD (2010-13) (Jan. 13, 2020).

further adjusted as described below. In light of this structure, calculation of JSC's and CTV's Final Distribution is a straightforward task that does not require the submission of additional information by JSC and CTV. Further, unlike the final distributions in the Allocation Phase Program Suppliers and Devotional Claimants categories, to which the Multigroup Claimants appear to be entitled to a share, no other party has a right to a share of the JSC and CTV Final Distributions.

Given these differences, JSC and CTV respectfully submit that the Judges should order the Licensing Division to promptly distribute the amount requested in this Motion without employing the procedures set forth in the orders granting the Program Suppliers' and SDC's requests for distribution. Counsel for Program Suppliers and SDC have affirmed that the amount requested herein comports with the Allocation Phase Parties' settlement and that neither Program Suppliers nor SDC objects to JSC's and CTV's request for Final Distribution.²

A. Section 801(b)(3)(A) Permits the Judges to Authorize the Requested Distribution.

Section 801(b)(3)(A) of the Copyright Act vests the Judges with authority:

To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.

17 U.S.C. § 801(b)(3)(A). None of the royalties sought by JSC and CTV are in controversy, and therefore the requested distribution is appropriate under Section 801(b)(3)(A).

The Judges previously authorized 50% partial distributions of the 2010 and 2011 Satellite Royalties, and 60% partial distributions of the 2012 and 2013 Satellite Royalties. Order

² The Music Claimants—the only other party to receive an Allocation Phase award of 2010-13 Satellite Royalties—settled all Allocation Phase controversies and have received their final distribution of 2010-13 Satellite Royalties. Order Granting Renewed Joint Motion for Final Distribution of 2010-13 Satellite Royalty Funds to Music Claimants, No. 14-CRB-0011-SD (2010-13) (Aug. 11, 2017).

Granting Motion of Phase I Claimants for Partial Distribution of 2013 Satellite Royalty Funds, No. 14–CRB–0011 SD (2013) (May 28, 2015); Order Granting Motion of Phase I Claimants for Partial Distribution of 2012 Satellite Royalty Funds, No. 14–CRB–0008 SD (2010-2012); Order Granting Phase I Claimants’ Motion for Partial Distribution of 2011 Satellite Royalty Funds, No. 2012-10 CRB SD 2011 (Mar. 13, 2013); Order Granting Phase I Claimants’ Motion for Partial Distribution of 2010 Satellite Royalty Funds, No. 2012-5 CRB 2010 SD (Sept. 18, 2012). Thus, the Copyright Office is currently holding in reserve approximately 45% of the 2010-13 Satellite Royalties. As of November 30, 2019, that reserve amounted to approximately \$173.1 million. *See* Exhibit A (Licensing Division November 30, 2019 report entitled “Year-Over-Year Growth in the Copyright Royalty Funds”).

JSC and CTV’s shares of the \$173.1 million in undistributed 2010-13 Satellite Royalties are not subject to controversy, as the Judges have determined that no other claimants are entitled to royalties in the Joint Sports and Commercial Television categories. No claimant other than those represented by CTV raised a distribution phase claim to royalties allocated to the Commercial Television claimant category. Other than JSC, only one claimant group, Multigroup Claimants, brought a distribution phase claim to royalties allocated to the Joint Sports claimant category. The Judges dismissed those claims in their entirety. *See* Ruling and Order Regarding Objections to Cable and Satellite Claims, Nos. 14-CRB-0010-CD (2010-13) & 14-CRB-0011-SD (2010-13) (Oct. 23, 2017) (“Claims Order”) (dismissing all Multigroup Claimant claims to royalties in the Joint Sports category). Multigroup Claimants appealed the Judges’ order dismissing their claims to Joint Sports royalties; however, on December 6, 2019, the Court of Appeals for the District of Columbia Circuit dismissed that appeal for lack of jurisdiction. *See*

Per Curiam Judgment, *Multigroup Claimants v. Copyright Royalty Bd.*, No. 18-1338 (D.C. Cir. Dec. 6, 2019).

Under the Allocation Phase Settlement, and based on the data set forth in Exhibit A, JSC and CTV are collectively entitled to a lump sum distribution of \$101,391,574.98, which includes interest through November 30, 2019 (the “Distribution Amount”), to be distributed from the satellite royalty funds by year as follows:

2010	\$ 28,574,444.74
2011	\$ 28,884,040.67
2012	\$ 22,302,645.73
2013	\$ 21,630,443.83
Total	\$ 101,391,574.98

JSC and CTV additionally request that the Judges adjust the Distribution Amount by the following proportion of any net increase or decrease (except for any decrease(s) caused by an intervening distribution of royalties to another party) in the amount of the 2010-13 satellite royalty funds between November 30, 2019 and the date of the Final Distribution:

Satellite Royalty Fund	Amount
2010	58.21%
2011	58.17%
2012	59.06%
2013	59.09%

B. The Requested Distribution is Warranted.

In light of the Allocation Phase Settlement, a complete final distribution to JSC and CTV is warranted at the earliest possible time. The Judges’ decisions support further distribution of all satellite royalties that the Judges determine are no longer in controversy following settlement. Order Granting Settling Devotional Claimants’ Motion for Final Distribution of 2010-13 Satellite Royalty Funds, 14-CRB-0010-CD/SD (2010-13) (Jan. 13, 2020); Order Granting MPA’s Motion for Final Distribution of 2010-13 Satellite Royalty Funds, 14-CRB-0010-CD/SD

(2010-13) (Jan. 13, 2020); Order on Motions for Distribution, Nos. 2007-3 CRB CD 2004-2005, 2008-4 CRB CD 2006, 2009-6 CRB CD 2007, 2010-6 CRB CD 2008, 2011-7 CRB CD 2009, 2010-2 CRB SD 2004-2007, 2010-7 CRB SD 2008, 2011-8 CRB SD 2009 (Feb. 17, 2012); Distribution Order, Nos. 2008-5 CRB SD 1999-2000 and 2005-2 CRB SD 2001-2003 (Dec. 8, 2008). JSC and CTV seek distribution of royalties that were deposited as long as eight years ago. It is unnecessary to continue to hold funds which the parties agree are not in controversy.

Accordingly, and pursuant to Section 801(b)(3)(A), JSC and CTV request that the Judges authorize distribution of the amounts requested in the preceding section as a lump sum to the parties' common agent, the Office of the Commissioner of Baseball.

Respectfully submitted,

JOINT SPORTS CLAIMANTS

/s/ Michael Kientzle
Daniel A. Cantor (D.C. Bar No. 451115)
Michael Kientzle (D.C. Bar No. 1008361)
ARNOLD & PORTER KAYE SCHOLER
LLP
601 Massachusetts Ave., NW
Washington, D.C. 20001-3743
202.942.5000 (voice)
Daniel.Cantor@arnoldporter.com
Michael.Kientzle@arnoldporter.com

**COMMERCIAL TELEVISION
CLAIMANTS**

/s/ John Stewart
John I. Stewart, Jr. (DC Bar No. 913905)
David Ervin (DC Bar No. 445013)
Ann Mace (DC Bar No. 980845)
CROWELL & MORING LLP
1001 Pennsylvania Ave., NW
Washington, DC 20004-2595
Phone: (202) 624-2685
Fax: (202) 628-5116
jstewart@crowell.com
dervin@crowell.com
amace@crowell.com

Dated: January 14, 2020.

EXHIBIT A

YEAR-OVER-YEAR GROWTH IN THE COPYRIGHT ROYALTY FUNDS
As of November 30, 2019
UNAUDITED

Cable	Distributed	Funds Available for Distribution	Fund Total	*Year-Over-Year Percent Growth
2019		\$ 114,798,905.75	\$ 114,798,905.75	
2018		\$ 223,806,263.95	\$ 223,806,263.95	7.300%
2017	\$ 82,902,383.01	\$ 125,677,521.33	\$ 208,579,904.34	0.529%
2016	\$ 102,002,181.50	\$ 105,480,837.87	\$ 207,483,019.37	-4.651%
2015	\$ 128,040,785.17	\$ 89,562,254.98	\$ 217,603,040.15	-8.745%
2014	\$ 140,154,676.95	\$ 98,301,775.78	\$ 238,456,452.73	3.377%
2013	\$ 138,395,725.79	\$ 92,271,075.53	\$ 230,666,801.32	3.399%
2012	\$ 134,066,515.57	\$ 89,017,915.07	\$ 223,084,430.64	4.207%
2011	\$ 107,884,228.96	\$ 106,193,025.81	\$ 214,077,254.77	4.919%
2010	\$ 102,818,300.87	\$ 101,222,249.75	\$ 204,040,550.62	18.275%
2009	\$ 170,088,397.45	\$ 2,425,384.89	\$ 172,513,782.34	9.285%
2008	\$ 154,527,763.14	\$ 3,329,634.74	\$ 157,857,397.88	7.633%
2007	\$ 143,394,165.22	\$ 3,268,717.75	\$ 146,662,882.97	-1.148%
2006	\$ 145,065,367.74	\$ 3,300,442.87	\$ 148,365,810.61	0.441%
2005	\$ 144,451,100.07	\$ 3,263,380.64	\$ 147,714,480.71	-0.866%
2004	\$ 145,775,896.67	\$ 3,229,027.91	\$ 149,004,924.58	5.065%
2003	\$ 141,173,880.20	\$ 647,248.50	\$ 141,821,128.70	4.276%
2002	\$ 135,155,195.04	\$ 850,440.51	\$ 136,005,635.55	4.470%
2001	\$ 129,366,086.15	\$ 820,155.52	\$ 130,186,241.67	0.292%
2000	\$ 127,834,273.81	\$ 1,973,073.70	\$ 129,807,347.51	1.657%
1999	\$ 127,689,960.96	\$ 1,221.73	\$ 127,691,182.69	7.612%
1998	\$ 118,658,863.52	\$	\$ 118,658,863.52	-29.003%
1997	\$ 167,131,874.33	\$	\$ 167,131,874.33	-13.505%
1996	\$ 193,226,378.73	\$	\$ 193,226,378.73	4.957%
1995	\$ 184,100,108.79	\$	\$ 184,100,108.79	0.856%
1994	\$ 182,537,983.61	\$	\$ 182,537,983.61	-7.976%
1993	\$ 198,358,895.89	\$	\$ 198,358,895.89	-4.141%
1992	\$ 206,927,361.79	\$	\$ 206,927,361.79	4.896%
1991	\$ 197,268,160.18	\$	\$ 197,268,160.18	3.277%
1990	\$ 191,008,817.18	\$	\$ 191,008,817.18	-18.148%
1989	\$ 233,357,881.12	\$	\$ 233,357,881.12	10.753%
1988	\$ 210,700,327.26	\$	\$ 210,700,327.26	20.731%
1987	\$ 174,520,466.90	\$	\$ 174,520,466.90	34.168%
1986	\$ 130,075,787.76	\$	\$ 130,075,787.76	13.697%
1985	\$ 114,405,851.01	\$	\$ 114,405,851.01	9.630%
1984	\$ 104,356,049.26	\$	\$ 104,356,049.26	23.681%
1983	\$ 84,375,487.60	\$	\$ 84,375,487.60	90.100%
1982	\$ 44,384,827.90	\$	\$ 44,384,827.90	24.785%
1981	\$ 35,569,141.41	\$	\$ 35,569,141.41	26.782%
1980	\$ 28,055,312.82	\$	\$ 28,055,312.82	18.059%
1979	\$ 23,763,757.07	\$	\$ 23,763,757.07	34.339%
1978	\$ 17,689,455.56	\$	\$ 17,689,455.56	
Total	\$ 5,341,259,673.96	\$ 1,169,440,554.58	\$ 6,510,700,228.54	

DART	Distributed	Funds Available for Distribution	Fund Total	*Year-Over-Year Percent Growth
2019		\$ -	\$ -	
2018		\$ -	\$ -	-100.000%
2017		\$ 6,065.12	\$ 6,065.12	630.130%
2016		\$ 830.69	\$ 830.69	-98.458%
2015	\$ 1,488.75	\$ 52,368.49	\$ 53,857.24	-73.481%
2014	\$ 128,918.13	\$ 74,171.59	\$ 203,089.72	-67.692%
2013	\$ 617,473.98	\$ 11,136.49	\$ 628,610.47	-65.113%
2012	\$ 1,773,951.80	\$ 27,873.75	\$ 1,801,825.55	-11.120%
2011	\$ 1,988,622.38	\$ 38,635.00	\$ 2,027,257.38	9.901%
2010	\$ 1,669,008.72	\$ 175,613.82	\$ 1,844,622.54	27.517%
2009	\$ 1,435,118.95	\$ 11,446.51	\$ 1,446,565.46	-33.087%
2008	\$ 2,154,514.44	\$ 7,344.59	\$ 2,161,859.03	13.906%
2007	\$ 1,894,081.77	\$ 3,856.22	\$ 1,897,937.99	-41.200%
2006	\$ 3,227,807.86	\$	\$ 3,227,807.86	26.634%
2005	\$ 2,548,927.56	\$	\$ 2,548,927.56	-2.230%
2004	\$ 2,607,058.05	\$	\$ 2,607,058.05	-15.883%
2003	\$ 3,099,332.52	\$	\$ 3,099,332.52	-10.116%
2002	\$ 3,448,148.32	\$	\$ 3,448,148.32	-11.233%
2001	\$ 3,884,471.69	\$	\$ 3,884,471.69	-23.941%
2000	\$ 5,107,180.05	\$	\$ 5,107,180.05	38.933%
1999	\$ 3,675,998.75	\$	\$ 3,675,998.75	75.997%
1998	\$ 2,088,669.58	\$	\$ 2,088,669.58	157.116%

*The year-over-year percent growth is a percentage change in the value of one fund-year's balance compared to the previous fund-year's balance, and the year-over-year percent growth does not represent investments earnings.

The financial information set forth above is unaudited and may be subject to adjustments and modifications that may be identified during the course of audit work.

YEAR-OVER-YEAR GROWTH IN THE COPYRIGHT ROYALTY FUNDS
As of November 30, 2019
UNAUDITED

DART	Distributed	Funds Available for Distribution	Fund Total	*Year-Over-Year Percent Growth
1997	\$ 812,345.26	\$	\$ 812,345.26	63.567%
1996	\$ 496,643.45	\$	\$ 496,643.45	23.617%
1995	\$ 401,760.68	\$	\$ 401,760.68	-17.252%
1994	\$ 485,520.73	\$	\$ 485,520.73	10.372%
1993	\$ 439,896.42	\$	\$ 439,896.42	272.549%
1992	\$ 118,077.39	\$	\$ 118,077.39	
Total	\$ 44,105,017.23	\$ 409,342.27	\$ 44,514,359.50	

Satellite	Distributed	Funds Available for Distribution	Fund Total	*Year-Over-Year Percent Growth
2019		\$ 4,402,403.89	\$ 4,402,403.89	
2018		\$ 11,134,184.82	\$ 11,134,184.82	-12.396%
2017	\$ 5,068,299.92	\$ 7,641,448.09	\$ 12,709,748.01	-7.046%
2016	\$ 5,452,477.89	\$ 8,220,671.12	\$ 13,673,149.01	-78.158%
2015	\$ 37,183,707.22	\$ 25,415,978.55	\$ 62,599,685.77	-25.873%
2014	\$ 49,674,657.48	\$ 34,774,462.51	\$ 84,449,119.99	-5.388%
2013	\$ 52,654,917.89	\$ 36,603,134.59	\$ 89,258,052.48	-2.387%
2012	\$ 53,678,135.41	\$ 37,762,762.39	\$ 91,440,897.80	-7.174%
2011	\$ 48,856,634.93	\$ 49,651,576.38	\$ 98,508,211.31	0.209%
2010	\$ 49,215,429.68	\$ 49,087,553.38	\$ 98,302,983.06	6.310%
2009	\$ 90,408,343.07	\$ 2,059,738.99	\$ 92,468,082.06	-2.119%
2008	\$ 93,882,974.54	\$ 586,831.04	\$ 94,469,805.58	1.537%
2007	\$ 90,929,269.91	\$ 2,110,737.87	\$ 93,040,007.78	0.542%
2006	\$ 90,430,345.69	\$ 2,108,374.81	\$ 92,538,720.50	5.928%
2005	\$ 85,276,466.54	\$ 2,083,963.70	\$ 87,360,430.24	8.429%
2004	\$ 78,517,338.21	\$ 2,051,949.50	\$ 80,569,287.71	8.730%
2003	\$ 71,282,625.08	\$ 2,817,792.65	\$ 74,100,417.73	-2.143%
2002	\$ 72,843,718.51	\$ 2,879,295.99	\$ 75,723,014.50	-10.047%
2001	\$ 81,155,220.12	\$ 3,025,375.86	\$ 84,180,595.98	4.717%
2000	\$ 77,177,988.28	\$ 3,210,399.43	\$ 80,388,387.71	-17.837%
1999	\$ 97,275,934.39	\$ 564,517.37	\$ 97,840,451.76	-20.480%
1998	\$ 123,038,811.72		\$ 123,038,811.72	147.266%
1997	\$ 49,759,622.45		\$ 49,759,622.45	39.929%
1996	\$ 35,560,579.56		\$ 35,560,579.56	33.887%
1995	\$ 26,560,160.09		\$ 26,560,160.09	22.372%
1994	\$ 21,704,529.50		\$ 21,704,529.50	45.515%
1993	\$ 14,915,705.85		\$ 14,915,705.85	79.212%
1992	\$ 8,322,921.38		\$ 8,322,921.38	121.151%
1991	\$ 3,763,460.28		\$ 3,763,460.28	8.806%
1990	\$ 3,458,868.93		\$ 3,458,868.93	28.035%
1989	\$ 2,701,496.64		\$ 2,701,496.64	
Total	\$ 1,520,750,641.16	\$ 288,193,152.93	\$ 1,808,943,794.09	

Jukebox	Distributed	Funds Available for Distributed	Fund Total	*Year-Over-Year Percent Growth
1989	\$ 6,752,337.38	\$	\$ 6,752,337.38	0.305%
1988	\$ 6,731,811.22	\$	\$ 6,731,811.22	2.908%
1987	\$ 6,541,565.53	\$	\$ 6,541,565.53	22.247%
1986	\$ 5,351,103.43	\$	\$ 5,351,103.43	-2.989%
1985	\$ 5,515,961.19	\$	\$ 5,515,961.19	-7.956%
1984	\$ 5,992,715.25	\$	\$ 5,992,715.25	89.192%
1983	\$ 3,167,527.51	\$	\$ 3,167,527.51	-4.618%
1982	\$ 3,320,896.88	\$	\$ 3,320,896.88	180.660%
1981	\$ 1,183,245.97	\$	\$ 1,183,245.97	-3.612%
1980	\$ 1,227,583.32	\$	\$ 1,227,583.32	-9.729%
1979	\$ 1,359,885.45	\$	\$ 1,359,885.45	21.220%
1978	\$ 1,121,834.39	\$	\$ 1,121,834.39	
Total	\$ 48,266,467.52	\$	\$ 48,266,467.52	

Grand Total \$ 6,954,381,799.87 \$ 1,458,043,049.78 \$ 8,412,424,849.65

*The year-over-year percent growth is a percentage change in the value of one fund-year's balance compared to the previous fund-year's balance, and the year-over-year percent growth does not represent investments earnings.

The financial information set forth above is unaudited and may be subject to adjustments and modifications that may be identified during the course of audit work.

Proof of Delivery

I hereby certify that on Tuesday, January 14, 2020, I provided a true and correct copy of the Motion of the Joint Sports Claimants and Commercial Television Claimants for Final Distribution of the 2010-13 Satellite Royalties to the following:

MPA-represented Program Suppliers, represented by Lucy H Plovnick, served via Electronic Service at lhp@msk.com

SESAC Performing Rights, LLC, represented by Christos P Badavas, served via Electronic Service at cbadavas@sesac.com

Major League Soccer, LLC, represented by Edward S. Hammerman, served via Electronic Service at ted@copyrightroyalties.com

Spanish Language Producers, represented by Brian D Boydston, served via Electronic Service at brianb@ix.netcom.com

Multigroup Claimants, represented by Brian D Boydston, served via Electronic Service at brianb@ix.netcom.com

Settling Devotional Claimants, represented by Arnold P Lutzker, served via Electronic Service at arnie@lutzker.com

Broadcast Music, Inc., represented by Jennifer T. Criss, served via Electronic Service at jennifer.criss@dbr.com

Signed: /s/ Michael E Kientzle