

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

In the Matter of:

Determination of Rates and Terms for
Digital Performance of Sound Recordings
and Making of Ephemeral Copies to
Facilitate those Performances (Web V)

Docket No. 19-CRB-0005-
WR (2021-2025)

NOTICE OF PARTICIPANTS REGARDING COMMENCEMENT OF HEARING

On July 14, 2020, the Judges issued an order postponing the commencement of the virtual hearing (“Postponement Order”) pending their receipt of legal advice from the Library of Congress’s Office of General Counsel. On July 24, 2020, having received the requested guidance, the Judges issued an order indicating that they are in a position to reschedule the virtual hearing and asking the parties to file a Notice proposing a date for the commencement of the virtual hearing (“Solicitation Order”).

The Participants¹ have conferred and hereby jointly propose that the virtual hearing commence with opening statements on (but not before) Friday, July 31, 2020, and with witness examinations on Monday, August 3, 2020. First, this proposal provides for an additional week of time after issuance of the Solicitation Order to allow the Judges and all counsel to secure necessary equipment and to gain familiarity with the relevant technology required by the virtual setting.

¹ The Participants are Google LLC, the National Association of Broadcasters, the National Religious Broadcasters Noncommercial Music License Committee, Pandora Media, LLC, Sirius XM Radio Inc., Educational Media Foundation, SoundExchange, Inc., American Federation of Musicians of the United States and Canada, Screen Actors Guild-American Federation of Television and Radio Artists, American Association of Independent Music, Sony Music Entertainment, UMG Recordings, Inc., Warner Music Group Corp., and Jagjaguwar Inc.

Second, this proposal provides for predictability in scheduling, in particular the expert witnesses who are scheduled to appear first in this proceeding. Third, this proposal satisfies all Participants' mutually shared desire to begin the proceeding as expeditiously as possible given the delays already necessitated by the COVID-19 pandemic. Fourth, this proposal permits any technology issues identified during opening statements to be addressed over the weekend, prior to the commencement of witness examinations.

The Participants submit this proposal recognizing that it is of course subject to the Judges' availability and willingness to hear opening statements on a Friday. In the event the Judges do not wish to do so, the Participants propose in the alternative that they deliver opening statements on Monday, August 3, with witness examinations commencing on Wednesday, August 5. This alternative would ensure that there is time on Tuesday August 4 to complete opening statements and to address any concerns with trial technology in advance of witness examinations.

The participants note that they are continuing to confer with their witnesses and each other, and will advise the Judges whether scheduling considerations prompted by the postponement necessitate taking witnesses in an order that departs from the June 10, 2020 Order on Hearing Schedule. The participants appreciate the Judges' consideration of this proposal and their continued flexibility and patience in working through the many logistical matters related to the virtual hearing.

Date: July 27, 2020

Respectfully submitted,

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Proof of Delivery

I hereby certify that on Monday, July 27, 2020, I provided a true and correct copy of the Notice of Participants Regarding Commencement of Hearing to the following:

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

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

Signed: /s/ David A. Handzo