

RECEIVED

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
SEP - 9 2002
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United States Court of Appeals

District of Columbia Circuit

SEP 27 2002

DOCKETING STATEMENT

GENERAL COUNSEL
OF COPYRIGHT

Administrative Agency Review Proceedings
(To be completed by appellant/petitioner)

1. CASE NO. 02-1246 2. DATE DOCKETED 8/7/02

3. CASE NAME Recording Industry Ass'n of Am., Inc. v. Librarian of Congress
(lead parties only)

4. TYPE OF CASE: Review Appeal Enforcement Complaint Tax Court

5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? YES _____ NO X
If YES, cite statute: _____

6. CASE INFORMATION:

a. Identify agency whose order is to be reviewed: Librarian of Congress

b. Give agency docket or order number(s): 2000-9 CARP DTRA 1&2

c. Give date(s) of order(s): 7/8/02

d. Has a request for rehearing or reconsideration been filed at the agency? YES _____ NO X
If so, when was it filed? _____ By whom? _____
Has the agency acted? YES _____ NO _____ If so, when? _____

e. Are any other cases involving the same underlying agency order pending in this Court or in any other Court?
YES X NO _____ If YES, identify case name(s), docket number(s), and court(s):
See attached list.

f. Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve *substantially the same issues* as the instant case presents?
YES _____ NO X If YES, give case name(s) and number(s) of these cases and identify court/agency:

g. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution? YES _____ NO X If so, provide the name of the program and the dates of participation.

Signature [Handwritten Signature] Date Sept. 9, 2002

Name of Party (Print) Recording Industry Association of America, Inc.

Name of Counsel for Appellant/Petitioner (Print) Ronald A. Schechter Firm Arnold & Porter

Address 555 Twelfth Street, N.W.
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ATTACH A CERTIFICATE OF SERVICE

Note: If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 10 days by letter, with copies to all other parties, specifically referring to the challenged statement. An original and three copies of such letter should be submitted.

Attached List for Item 6.e.

IOMedia Partners, Inc., et al., v. Librarian of Congress, Case No. 02-1244

America Online, Inc., et al., v. Librarian of Congress, Case No. 02-1245

American Federation of Musicians of the United States and Canada v. Librarian of Congress, Case No. 02-1247

American Federation of Television and Radio Artists v. Librarian of Congress, Case No. 02-1248

Salem Communications Corporation, et al., v. Librarian of Congress, Case No. 02-1249

Intercollegiate Broadcasting System, et al., v. Librarian of Congress, Case No. 02-1220

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Docketing Statement has been served this 9th day of September 2002, by first class mail to the following persons:

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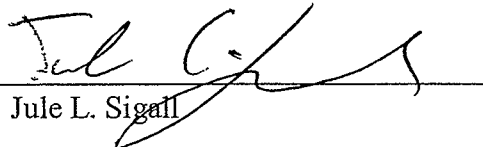
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Jule L. Sigall

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

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IOMEDIA PARTNERS, INC., *et al.*

Petitioners,

v.

LIBRARIAN OF CONGRESS

Respondent.

Case No. 02-1244

AMERICA ONLINE, INC., *et al.*

Petitioners,

v.

LIBRARIAN OF CONGRESS

Respondent.

Case No. 02-1245

RECORDING INDUSTRY ASSOCIATION OF
AMERICA, INC.

Petitioner,

v.

LIBRARIAN OF CONGRESS, *et al.*

Respondents.

Case No. 02-1246

AMERICAN FEDERATION OF MUSICIANS OF THE
UNITED STATES AND CANADA,

Petitioner,

v.

LIBRARIAN OF CONGRESS, *et al.*

Respondents.

Case No. 02-1247

AMERICAN FEDERATION OF TELEVISION AND
RADIO ARTISTS,

Petitioner,

v.

LIBRARIAN OF CONGRESS, *et al.*

Respondents.

Case No. 02-1248

SALEM COMMUNICATIONS CORPORATION, *et al.*

Petitioners,

v.

LIBRARIAN OF CONGRESS

Respondent.

Case No. 02-1249

RECEIVED

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GENERAL COUNSEL
OF COPYRIGHT

**INITIAL SUBMISSIONS OF THE RECORDING INDUSTRY
ASSOCIATION OF AMERICA, INC.**

Pursuant to the Court's Order dated August 7, 2002, which consolidated the above-captioned cases, the Recording Industry Association of America, Inc. ("RIAA"), petitioner in case number 02-1246, hereby submits the following:

NON-BINDING STATEMENT OF ISSUES

RIAA seeks review, pursuant to 17 U.S.C. § 802(g), of the determination of the Librarian of Congress, made upon the recommendation of the Register of Copyrights, entitled “Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings and Ephemeral Recordings,” entered on July 8, 2002. 67 Fed. Reg. 45240 (July 8, 2002) (“Librarian’s Ruling”). RIAA intends to raise the following issues:

1. Whether the Librarian of Congress and Register of Copyrights erred in establishing certain rates for the public performance of sound recordings by digital audio transmission and the making of ephemeral reproductions;

2. Whether the Librarian of Congress and Register of Copyrights erred by establishing an effective date for the determination that contravenes the requirements of 17 U.S.C. §§ 114 and 802; and

3. Whether the Librarian of Congress and Register of Copyrights erred in rejecting the recommendation of the CARP as to certain terms for the administration of the statutory license and adopting certain terms unsupported by record evidence.

CERTIFICATE AS TO PARTIES, RULINGS AND
RELATED CASES UNDER D.C. CIR. R. 28(a)(1)

A. Parties and Amici

The following parties participated in the proceeding under review:

RIAA	NetRadio Corp.
American Federation of Television and Radio Artists ("AFTRA")	Radio Active Media Partners, Inc.
American Federation of Musicians of the United States and Canada ("AFM")	Radio Wave.com, Inc.
Association for Independent Music	Spinner Networks Inc.
BET.com	XACT Radio Network LLC
Comedy Central	Susquehanna Radio Corporation
Echo Networks, Inc.	Clear Channel Communications, Inc.
Listen.com	Entercom Communications Corporation
Live365.com	Infinity Broadcasting Corporation
MTVi Group, LLC	National Religious Broadcasters Music License Committee
Myplay, Inc.	DMX/AEI Music, Inc.

See Librarian's Ruling, 67 Fed. Reg. at 45241. In addition, the following parties withdrew from the proceeding after it began:

Coollink Broadcast Network	Univision Online
Everstream, Inc.	Westwind Media.com, Inc.
Incanta, Inc.	National Public Radio
Launch Media, Inc.	Music Choice
MusicMatch, Inc.	

See *id.* at 45241 n.3.

Counsel for RIAA is aware of the following persons or entities who are parties before this Court in the consolidated cases:

RIAA	SOMAFM, LLC
AFM	Ultimate-80s
AFTRA	Virgin Audio Holdings, LLC
IOMedia Partners, Inc.	Wherever Radio
Beethoven.com, Inc.	WOLF FM
Chatmaster Streaming Network	3WK, INC.
ClassicalMusicDetroit.com	America Online, Inc.
Flaresound	Listen.com
IM Networks	Montpelier Communications LLC (d/b/a Onion River Radio)
InetProgramming Incorporated	Radiostorm.com, Inc.
Internet Radio Hawaii	Salem Communications Corp.

Internet Radio, Inc.	National Religious Broadcasters Music License Committee
Live365.com, Inc.	Librarian of Congress
Pacific Internet Broadcast Services	Register of Copyrights
Radio Paradise	

B. Rulings Under Review

The ruling under review is the determination of the Librarian of Congress, made upon the recommendation of the Register of Copyrights, entitled "Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings and Ephemeral Recordings," entered on July 8, 2002. 67 Fed. Reg. 45240 (July 8, 2002).

C. Related Cases

The Librarian's Ruling has not been before this Court previously. The following Petitions for Review were filed on August 7, 2002 and consolidated with the RIAA

Petition for Review, Case No. 02-1246:

1. *IOMedia Partners, Inc. et al. v. Librarian of Congress*, Case No. 02-1244;
2. *America Online, Inc. et al. v. Librarian of Congress*, Case No. 02-1245;
3. *American Federation of Musicians of the United States and Canada v. Librarian of Congress*, Case No. 02-1247;
4. *American Federation of Television and Radio Artists v. Librarian of Congress*, Case No. 02-1248;
5. *Salem Communications Corporation et al. v. Librarian of Congress*, Case No. 02-1249.

In addition, a Petition for Review addressed to the Librarian's Ruling was filed on July 8, 2002, by the Intercollegiate Broadcasting System, Inc. and Harvard Radio Broadcasting Co., Inc., Case No. 02-1220.

STATEMENT REGARDING DEFERRED
APPENDIX UNDER F.R.A.P. 30(C)

Counsel for RIAA intends to file a deferred appendix, and understands that counsel for Respondents and counsel for other petitioners also intend to file a deferred appendix.

Respectfully submitted,

RECORDING INDUSTRY ASSOCIATION
OF AMERICA, INC.

By: 

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September 9, 2002

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Initial Submissions of the Recording Industry Association of America, Inc. has been served this 9th day of September 2002, by first class mail to the following persons:

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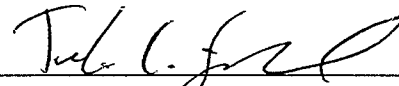
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