

Before the
COPYRIGHT ROYALTY TRIBUNAL
Washington, D.C.

ORIGINAL

In the Matter of:

1989 JUKEBOX ROYALTY
DISTRIBUTION PROCEEDING

Docket No. 90-3-89JD

MOTION OF THE AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND
PUBLISHERS, BROADCAST MUSIC, INC. AND SESAC, INC.
FOR IMMEDIATE, FULL AND FINAL DISTRIBUTION

1. The American Society of Composers, Authors and Publishers ("ASCAP"), Broadcast Music, Inc. ("BMI") and SESAC, Inc. ("SESAC") hereby move, pursuant to 17 U.S.C. §116(c)(4)(C), for immediate, full and final distribution of the entire 1989 jukebox royalty fund, as follows:

2. We are the only statutorily defined "performing rights societies" participating in the 1989 jukebox royalty distribution proceeding. 17 U.S.C. §116(e)(3).

3. We have reached voluntary agreement concerning the distribution of 1989 jukebox fees pursuant to 17 U.S.C. §116(c)(2).

4. The only other entities or persons who filed claims to the 1989 fund are Asociacion de Compositores y Editores de Musica Latinoamericana ("ACEMLA"), Italian Book Corporation ("IBC") and Carl K. DeMonbrun.

5. ACEMLA and IBC have now withdrawn their claims. See, ACEMLA letter dated August 8, 1990 and IBC letter dated August 23, 1990.

6. Mr. DeMonbrun was an ASCAP member during all of calendar year 1989 and remains an ASCAP member to this day. Accordingly, by Motion dated September 10, 1990, ASCAP requested the Tribunal to dismiss Mr. DeMonbrun's claim as duplicative of ASCAP's claim, and as improper under the Copyright Act. On September 11, 1990, BMI and SESAC filed Comments in support of ASCAP's Motion. ASCAP's Motion and BMI's and SESAC's Comments were duly served on Mr. DeMonbrun at both addresses designated by him in his claim in this proceeding.

7. By letter dated September 12, 1990, the Tribunal advised Mr. DeMonbrun that his response, if any, to ASCAP's Motion was due September 26, 1990, and that, if he did not respond by that time, the Tribunal would accept as unrebutted ASCAP's assertion that Mr. DeMonbrun was an ASCAP member in 1989, and dismiss his claim.

8. That deadline has passed and, according to the Tribunal's records, Mr. DeMonbrun has not responded to ASCAP's Motion. Therefore, we respectfully request that the Tribunal grant ASCAP's Motion and dismiss Mr. DeMonbrun's claim.

9. Once the Tribunal dismisses Mr. DeMonbrun's claim, we will be the only remaining claimants to the 1989 jukebox royalty fund and, as we have reached voluntary agreement on distribution of that fund, there will remain no controversy as to

the distribution of that fund. Accordingly, the Tribunal will then be authorized to make distribution of the 1989 jukebox royalty fund. 17 U.S.C. §116(c)(3).

10. We have learned from the Copyright Office Licensing Division that the 1989 jukebox royalties have been invested in United States Treasury Securities which mature on October 1, 1990. With interest to that date, the 1989 jukebox royalties amount to \$6,549,390.

11. We respectfully request that the Tribunal make a full and final distribution of the entire 1989 jukebox royalty fund to ASCAP, BMI and SESAC jointly, as soon as possible after October 1, 1990.

Respectfully submitted,

AMERICAN SOCIETY OF COMPOSERS,
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Dated: September 28, 1990

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Motion of the American Society of Composers, Authors and Publishers, Broadcast Music, Inc. and SESAC, Inc. for Immediate, Full and Final Distribution" was served on this 28th day of September, 1990, via first-class mail, postage prepaid, to each of the parties listed below:

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