

Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC

_____)	
<i>In re</i>)	
)	
Distribution of Digital Audio Recording)	Docket No. 16-CRB-0013-DART-MWF
Technology (DART) Royalty Funds)	(2012-2013)
(Musical Works Fund))	
_____)	

JOINT OPPOSITION OF THE SETTLING CLAIMANTS
TO OCTOBER 6, 2019 MOTION OF CGN INC. D/B/A DAVID POWELL

Broadcast Music, Inc. (“BMI”), the American Society of Composers, Authors and Publishers (“ASCAP”), SESAC Performing Rights LLC, formerly SESAC, Inc., (“SESAC”), and The Harry Fox Agency LLC (“HFA” and, with BMI, ASCAP, and SESAC, the “Settling Claimants”) hereby submit the following opposition to the “Verified motion for CGN Inc. d/b/a David Powell agreeing yes to 95% and 5% Publishers MWF Royalty Distribution w/ settling parties” (the “CGN Motion”) filed by *pro se* claimant “Circle God Network Inc. d/b/a David Powell” (“Mr. Powell”) on October 6, 2019 in the above-captioned docket.¹

As an initial matter, the CGN Motion is untimely to the extent that it opposes the partial distribution of the 2012-2013 DART Musical Works Fund Royalties. The partial distribution occurred in 2017 and the Copyright Royalty Judges (the “Judges”) issued a notice seeking comment in May 2016. *See* Notice Soliciting Comments on Motion for Partial Distribution, 81 Fed. Reg. 30568 (May 17, 2016). The Judges granted the Settling Claimants’ Motion for Partial Distribution (the “Settling Claimants’ Motion”) requesting 95% of the 2012-13 DART Musical

¹ The Motion was accompanied by a “(Proposed Order) money Judgment Post, Answer Default Granted Judgment claimed for Coercive Relief Damages sought sua sponte and added to all repayment agreement(s) permanently” (the “Proposed Order”).

Works Fund royalties in their Order Granting Claimants' Request for Partial Distribution of 2012 through 2013 DART Musical Works Fund Royalties, dated July 31, 2017.

It is clear is that the CGN Motion presents no basis for revisiting the Judges' prior approval of the partial distribution of the 2012-2013 DART Musical Works Fund Royalties or for granting any of the requests for relief set forth in the Proposed Order. Mr. Powell was not a party to the Settling Claimants' Motion. Mr. Powell has not demonstrated entitlement to any DART Musical Works Fund royalties for the Publishers' Subfund either in the CGN Motion or in any prior DART proceeding since the Audio Home Recording Act was enacted in 1992. The CGN Motion should also be denied because it is incoherent.

The Judges have recently denied similar motions that Mr. Powell filed in other proceedings before the Judges for similar reasons. *See Order Denying Powell Motion to be Added to Repayment Agreement*, Docket No. 16-CRB-0009 CD (2014-17) (October 10, 2019); *Order Denying Powell Motion to be Added to Repayment Agreement*, Docket No. 16-CRB-0010-SD (2014-17) (Sept. 19, 2019); *Order Granting Motion for Partial Distribution of 2016 and 2017 Satellite Royalty Funds*, Docket No. 16-CRB-0010-SD (2014-17) (August 23, 2019) at 2 n3 ("It is not entirely clear to the Judges what Mr. Powell seeks in his motion...."); *Order Denying Powell Motion*, Consolidated Docket No. 2008-3 CRB DD (2007-2011 SRF) (March 25, 2019) ("The Judges cannot grant a request they cannot understand.").

Accordingly, the CGN Motion should be denied.

Respectfully submitted,

**AMERICAN SOCIETY OF
COMPOSERS, AUTHORS AND
PUBLISHERS**

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Date: October 18, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of October, 2019, a copy of the foregoing Joint Opposition of the Settling Claimants to October 6, 2019 Motion of CGN Inc. d/b/a David Powell was filed electronically using eCRB, which will automatically provide electronic service copies to all counsel and *pro se* participants who are registered to use eCRB. *See* 37 C.F.R. § 303.6(h)(1).

/s/ Jennifer T. Criss
Jennifer T. Criss

Proof of Delivery

I hereby certify that on Friday, October 18, 2019, I provided a true and correct copy of the Joint Opposition of the Settling Claimants to October 6, 2019 Motion of CGN Inc. d/b/a David Powell to the following:

Powell, David, represented by david powell, served via Electronic Service at null

Signed: /s/ Jennifer T. Criss