

Before the
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Washington, D.C.

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In the Matter of)
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Distribution of the 2004, 2005, 2006)
2007, 2008 and 2009)
Cable Royalty Funds)
_____)

Docket No. 2012-6 CRB CD 2004-2009
(Phase II)

ORIGINAL

)
In the Matter of)
)
Distribution of the 1999-2009)
Satellite Royalty Funds)
_____)

Docket No. 2012-7 CRB SD 1999-2009
(Phase II)

MPAA'S OPPOSITION TO INDEPENDENT PRODUCERS GROUP'S MOTION TO STRIKE REPLY BRIEFS FILED BY SDC AND MPAA

Pursuant to Sections 350.6(f) and 350.7(a) of the Copyright Royalty Judges' ("Judges") newly promulgated regulations, *see* 37 C.F.R. §§ 350.6(f) and 350.7(a), the Motion Picture Association of America, Inc. ("MPAA"), on behalf of its member companies and other producers and/or distributors of syndicated series, movies, specials, and non-team sports broadcast by television stations ("MPAA-Represented Program Suppliers"), hereby submits its Opposition to *Independent Producers Group's Motion To Strike Reply Briefs Filed By The Settling Devotional Claimants And The Motion Picture Association of America In Response To Independent Poducers [sic] Group's Oppsition [sic] To Motions For Sanctions*, which was filed with the

Judges on April 21, 2017 (“Motion”).¹ The related Reply of Independent Producers Group (“IPG”) submitted on May 1, 2017 was also improper.²

MPAA’s Reply was procedurally proper. The Judges’ January 10, 2017 *Order on IPG Motion for Leave to File Amended Direct Statement* (“January 10 Order”) permitted MPAA (and the Settling Devotional Claimants (“SDC”)) to file motions for sanctions against IPG on or before March 10, 2017, and allowed IPG 30 days to file an opposition. The January 10 Order did not address replies *at all* — it neither prohibited them nor set a deadline for filing them. Absent an order from the Judges addressing replies, the procedure for filing replies was governed by the then existing 37 CFR § 350.4(f), which provided that “replies to oppositions shall be filed within four business days of the filing of the opposition.” IPG filed its opposition on April 10, 2017. Consistent with the then existing 37 CFR § 350.4(f), MPAA and SDC both filed their replies on April 14, 2017. Therefore, both replies were timely and clearly authorized by the Judges’ regulations.

The Judges should see the Motion for what it is: an unauthorized sur-reply attacking the substance of MPAA’s and SDC’s motions to sanction IPG, and not a quarrel about a procedural violation. For example, in both the Motion and the Reply, IPG falsely equates its egregious conduct in this proceeding with MPAA’s and SDC’s filing of corrections to their respective

¹ The Judges’ new procedural regulations became effective on April 20, 2017. *See* 82 Fed. Reg. 18563 (April 20, 2017). MPAA files this Opposition based on the deadline set forth in the new regulations. 37 C.F.R. § 350.6(f). MPAA notes also that the Motion does not comply with the Judges’ new procedural regulations because it (1) fails to attach a Proposed Order, (2) fails to adopt the Judges’ new page numbering requirements, and (3) the PDF copy of the Motion appears to be a scanned image file of the pleading, as opposed to a searchable “print to PDF” version. *See* 37 C.F.R. §§ 350.3(a)(1); (b)(3) and (5); 350.4.

² MPAA notes that *Independent Producers Group’s Reply In Support of Motion To Strike Reply Briefs Filed By Settling Devotional Claimants And The Motion Picture Association of America In Response To Independent Producers Group’s Oppositions To Motions For Sanctions* is defective because it does not comply with the Judges’ new procedural regulations as it (1) exceeds the new page limitation imposed for replies, (2) also fails to adopt the Judges’ new page numbering requirements; and (3) also appears to be a scanned image file of the pleading, as opposed to a searchable “print to PDF” version. *See* 37 C.F.R. §§ 350.3(a)(1), (b)(5) and (c)(3). As a result, the Reply should be disregarded by the Judges.

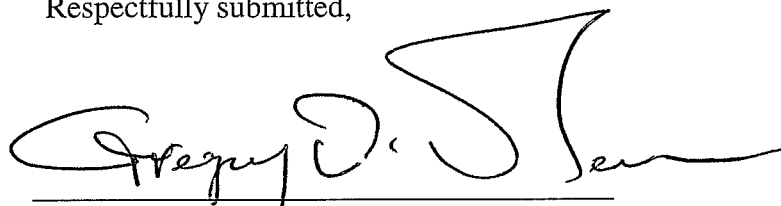
Written Direct Statements in the ongoing 2010-13 Cable Allocation proceeding (a proceeding in which IPG is *not participating*). See Motion at 4; Reply at 9-12. First, the argument is distracting, as it is completely unrelated to the procedural issue of whether MPAA's and SDC's replies are improper. Second, while MPAA and SDC merely correct errors to their Written Direct Statements in the 2010-13 Cable Allocation proceeding, *here* the Judges found that IPG submitted an entirely *new methodology* out of time, and attempted to hide the nature and extent of those changes by falsely describing the methodological changes as a typographical error, thereby prejudicing both MPAA and SDC. See *Order Granting MPAA And SDC Motions To Strike IPG Amended Written Direct Statement And Denying SDC Motion For Entry Of A Distribution Order* at 4-5 (October 7, 2016); January 10 Order at 3-6. Plainly there can be *no comparison* between the legitimate corrections submitted by MPAA, SDC and other parties, such as the Commercial Television Claimants and the Public Television Claimants, in the 2010-13 Cable Allocation proceeding, and IPG's sanctionable conduct here.

In light of the foregoing, it is clear that IPG had no legitimate purpose for submitting the Motion other than to further delay the resolution of these proceedings by encumbering the Judges' docket with frivolous pleadings. The Judges should not permit IPG to flout their procedural rules in this manner, and should disregard the Motion in its entirety.

CONCLUSION

For all of the foregoing reasons, the IPG Motion should be denied, and its contents disregarded by the Judges.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory O. Olaniran". The signature is written in a cursive style with a large, sweeping initial "G".

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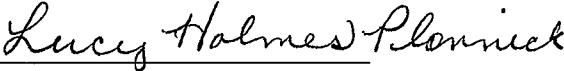
Dated: May 2, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 2017, a copy of the foregoing pleading was sent by Federal Express overnight mail to the parties listed below.

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