

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DISTRIBUTION OF 2004, 2005, 2006, 2007,
2008, and 2009 Cable Royalty Funds**

**DOCKET NO. 2012-6 CRB CD
2004-09 (Phase II)**

In re

**DISTRIBUTION OF 1999, 2000, 2001, 2002,
2003, 2004, 2005, 2006, 2007, 2008, and 2009
Satellite Royalty Funds**

**DOCKET NO. 2012-7 CRB SD
1999-2009 (Phase II)**

ORDER RESCHEDULING HEARING

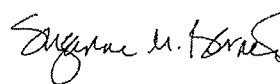
The hearing in this consolidated proceeding is currently scheduled for the week of March 6, 2017. Due to the Copyright Royalty Judges' extremely busy 2017 calendar that includes lengthy hearings and statutory deadlines for determinations, the Judges need to reschedule the hearing in this proceeding. There is no statutory deadline for the determination in this matter. The new hearing date will be **February 5, 2018**.

The remaining dates in the case schedule are adjusted as follows:

REVISED PROCEDURAL SCHEDULE

Case Event	Due Date
File Written Rebuttal Statements (WRS) and Produce All Documents Underlying WRT	December 15, 2017
Evidentiary Hearing commences	February 5, 2018

SO ORDERED.



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Suzanne M. Barnett
Chief Copyright Royalty Judge

Dated: January 10, 2017

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

<i>In re</i> DISTRIBUTION OF 2004, 2005, 2006, 2007, 2008, and 2009 Cable Royalty Funds	DOCKET NO. 2012-6 CRB CD 2004-09 (Phase II)
<i>In re</i> DISTRIBUTION OF 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, and 2009 Satellite Royalty Funds	DOCKET NO. 2012-7 CRB SD 1999-2009 (Phase II)

ORDER ADMONISHING IPG

On November 1, 2016, the Motion Picture Association of America as representative of claimants in the Program Suppliers category of programming (MPAA) and the Settling Devotional Claimants comprising claimants in the Devotional Programming category of programming (SDC, and together with MPAA, Moving Parties) filed a Joint Motion to Admonish IPG¹ (Motion). IPG filed a timely Response, and the Moving Parties filed a timely Reply. The impetus for the Motion was receipt by the Moving Parties of an order entered by the Copyright Royalty Judges (Judges) on October 27, 2016, granting an IPG motion (IPG Motion). At the time the Judges entered that order, they did so on the belief that the IPG Motion was unopposed.

The Moving Parties now represent that the IPG Motion was unopposed because they were unaware of its existence.² Notwithstanding the lack of notice, the Moving Parties do not seek to have the Judges vacate the October 27 order; rather, they ask the Judges to “admonish” IPG for failure to follow the Judges’ procedural rules. In support of the Motion, the Moving Parties cite an instance of admonishment of IPG over a decade ago by the Copyright Office³ for failure to follow applicable procedural rules. *See* Motion at 3, citing Order, Docket No. 2008-1 CARP CD 98-99 (Jun. 26, 2016). In its admonishment of IPG, the Copyright Office cited as a warning instances of dismissal of a participant for failure to follow procedural rules and gave an unequivocal warning that “any future failure by IPG to comply with the Office’s regulations,

¹ IPG is shorthand for Worldwide Subsidy Group LLC dba Independent Producers Group, which purports to represent claimants in both the Program Suppliers and Devotional Programming categories of programming.

² IPG appended to its motion a certificate of service, signed by IPG counsel, indicating email delivery of the motion to both of the Moving Parties.

³ Prior to the creation of the Copyright Royalty Judges program, the U.S. Copyright Office managed royalty distribution proceedings and, in instances in which adjudication became necessary, appointed arbitration panels to resolve controversies.

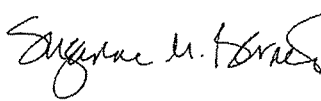
especially those governing the proper service of pleadings, *will result in IPG's dismissal from these proceedings.*" *Id.* at 6 (emphasis added).

In its response, IPG provided what purported to be a confirmation copy of the email by which it delivered the IPG Motion to the Moving Parties. The Judges accept the signature of counsel as a certification that the contents of the response are true and accurate and offered only after a reasonable inquiry. Notably, IPG's counsel then devotes a significant portion of its argument to impugning the validity of the Copyright Office's 2006 Order. That Order is not at issue here.

In reply, the Moving Parties recite the Judges' regulation regarding service of papers. The regulation permits delivery by electronic mail, if the parties have consented to that method of delivery, but the party effecting email delivery must follow that delivery with a hard copy dispatched by first class U.S. mail. *See* 37 C.F.R. § 350.4(h). IPG does not assert that it provided the hard copy in accordance with the regulation. Even assuming the email delivery occurred,⁴ IPG does not assert that it followed through with mailing the required hard copy.

All parties appearing before the Judges are obliged to follow the Judges procedural regulations. In this circumstance, the Judges conclude that IPG failed to do so. The Judges hereby **ADMONISH** IPG for that failure.

SO ORDERED.



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Suzanne M. Barnett
Chief Copyright Royalty Judge

DATED: January 3, 2017.

⁴ IPG counsel asserted he made email delivery to five attorneys in two different firms. Not one of those alleged recipients received the IPG Motion. The complete failure of delivery seems anomalous and suggests an unlikely cyber-failure.