

Before the
COPYRIGHT ROYALTY JUDGES
The Library of Congress
Washington, D.C.



In the Matter of)

Distribution of the 2013)
Cable Royalty Funds)
_____)

Docket No. 14-CRB-0010-CD (2013)

Received

JUL 06 2015

PETITION TO PARTICIPATE
OF THE JOINT SPORTS CLAIMANTS

Copyright Royalty Board

Pursuant to the Notice published at 80 Fed. Reg. 32182 (June 5, 2015) (“Notice”), 17 U.S.C. §§ 801(b)(3), 803(b) and 37 C.F.R. § 351.1(b)(2)(ii), the Office of the Commissioner of Baseball, National Basketball Association, National Football League, National Collegiate Athletic Association, National Hockey League, and Women’s National Basketball Association (collectively “Joint Sports Claimants” or “JSC”) jointly submit this Petition to Participate in Phase I and Phase II of the above-referenced cable royalty distribution proceeding.

JSC have a “significant interest” in this proceeding, within the meaning of 17 U.S.C. §§ 803(b)(1)(B), 803(b)(2)(C) and 37 C.F.R. § 351.1(b)(2)(ii)(D). JSC — as well as the affiliated clubs, academic institutions, and athletic conferences they represent — own the copyrights in numerous non-network telecasts of live professional and collegiate team sports events. JSC members have actively participated in every cable royalty distribution proceeding conducted since enactment of the Section 111 cable compulsory license. They have routinely demonstrated the substantial relative value of their programming and the Phase I sports category, and they have received a significant share of the royalties that cable systems have paid for the Section 111 license over the last four decades.

In accordance with the Judges' instructions, *see* Notice at 32183, the attached spreadsheet (Ex. A) (1) sets forth the name of each JSC member and the claimants it represents in this proceeding; (2) identifies the numbers of the joint or individual claims that JSC members filed for the year 2013; and (3) indicates whether the claims of each JSC member are joint or individual claims. Additionally, in keeping with the Judges' request for petitions to participate in the 2010-12 cable and satellite distribution proceedings, JSC have marked each claim in Ex. A with the number "2," signifying that all of the designated claims come within the Phase I category that the 2010-12 notice described as "live college and professional team sports."¹ *See* 79 Fed. Reg. 76396 at 76397 (Dec. 22, 2014).

As of the date of this Petition to Participate, each JSC member has authorized and consented to representation in this proceeding by the undersigned counsel. As required by 37 C.F.R. § 351.1(b)(4), a check for the \$150 filing fee accompanies this Petition.

¹ JSC maintains that the correct definition of the Phase I sports category is as follows: "Live telecasts of professional and college team sports broadcast by U.S. and Canadian television stations, except for programs coming within the Canadian Claimants category." *See* Stipulation of the Parties on the Issues of Program Categorization and Scope of Claims, attached as Ex. B.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of July, 2015, a copy of the foregoing PETITION TO PARTICIPATE OF THE JOINT SPORTS CLAIMANTS was sent by Federal Express overnight mail to the individuals listed below:

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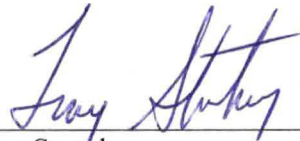
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EXHIBIT A

<u>Claimant</u>	<u>Claim Year</u>	<u>Claim Number</u>	<u>Claim Type</u>	<u>Phase I Category</u>
Office of the Commissioner of Baseball 245 Park Avenue New York, NY 10167	2013	546	J	2
Baltimore Orioles Limited Partnership	2013	546	W	2
Boston Red Sox Baseball Club Limited Partnership	2013	546	W	2
Chicago White Sox, Ltd.	2013	546	W	2
Cleveland Indians Baseball Company Limited Partnership	2013	546	W	2
Detroit Tigers, Inc.	2013	546	W	2
Houston Astros, LLC	2013	546	W	2
Kansas City Royals Baseball Corporation, Inc.	2013	546	W	2
Angels Baseball LP	2013	546	W	2
Minnesota Twins, LLC	2013	546	W	2
New York Yankees Partnership	2013	546	W	2
Athletics Investment Group LLC	2013	546	W	2
The Baseball Club of Seattle, LLLP	2013	546	W	2
Tampa Bay Rays Baseball Ltd.	2013	546	W	2
Rangers Baseball LLC	2013	546	W	2
Rogers Blue Jays Baseball Partnership	2013	546	W	2
AZPB Limited Partnership	2013	546	W	2

<u>Claimant</u>	<u>Claim Year</u>	<u>Claim Number</u>	<u>Claim Type</u>	<u>Phase I Category</u>
Atlanta National League Baseball Club, Inc.	2013	546	W	2
Chicago Cubs Baseball Club, LLC	2013	546	W	2
The Cincinnati Reds, LLC	2013	546	W	2
Colorado Rockies Baseball Club, Ltd.	2013	546	W	2
Los Angeles Dodgers LLC	2013	546	W	2
Miami Marlins, L.P.	2013	546	W	2
Milwaukee Brewers Baseball Club, Limited Partnership	2013	546	W	2
Sterling Mets, L.P.	2013	546	W	2
The Phillies	2013	546	W	2
Pittsburgh Associates	2013	546	W	2
Padres L.P.	2013	546	W	2
San Francisco Baseball Associates LLC	2013	546	W	2
St. Louis Cardinals, LLC	2013	546	W	2
Washington Nationals Baseball Club, LLC	2013	546	W	2

National Football League 345 Park Avenue New York, NY 10154	2013	48	I	2
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<u>Claimant</u>	<u>Claim Year</u>	<u>Claim Number</u>	<u>Claim Type</u>	<u>Phase I Category</u>
National Basketball Association 645 Fifth Avenue New York, NY 10022	2013	49	I	2

National Hockey League 1185 Avenue of the Americas New York, NY 10036	2013	89	J	2
Anaheim Ducks Hockey Club, LLC	2013	89	W	2
TrueNorthSports Entertainment Ltd.	2013	89	W	2
Boston Professional Hockey Association, Inc.	2013	89	W	2
Hockey Western New York, Inc.	2013	89	W	2
Calgary Flames Limited Partnership	2013	89	W	2
Hurricanes Hockey Limited Partnership	2013	89	W	2
Chicago Blackhawk Hockey Team, Inc.	2013	89	W	2
Colorado Avalanche LLC	2013	89	W	2
COLHOC Limited Partnership	2013	89	W	2
Dallas Stars, L.P.	2013	89	W	2
Detroit Red Wings, Inc.	2013	89	W	2
Rexall Sports Corp.	2013	89	W	2
Florida Panthers Hockey Club, Ltd.	2013	89	W	2

<u>Claimant</u>	<u>Claim Year</u>	<u>Claim Number</u>	<u>Claim Type</u>	<u>Phase I Category</u>
The Los Angeles Kings Hockey Club, L.P.	2013	89	W	2
Minnesota Wild Hockey Club, L.P.	2013	89	W	2
Club de Hockey Canadien, Inc.	2013	89	W	2
Nashville Hockey Club Limited Partnership	2013	89	W	2
New Jersey Devils, LLC	2013	89	W	2
New York Islanders Hockey Club, L.P.	2013	89	W	2
Madison Square Garden, L.P.	2013	89	W	2
Capital Sports and Entertainment, Inc.	2013	89	W	2
Philadelphia Flyers, L.P.	2013	89	W	2
IceArizona Acquisition Co., LLC	2013	89	W	2
Lemieux L.P.	2013	89	W	2
St. Louis Blues Hockey Club, L.P.	2013	89	W	2
San Jose Sharks, LLC	2013	89	W	2
Lightning Hockey, L.P.	2013	89	W	2
Maple Leafs Sports & Entertainment, Ltd.	2013	89	W	2
Vancouver Canucks Limited Partnership	2013	89	W	2
Lincoln Hockey, LLC	2013	89	W	2

<u>Claimant</u>	<u>Claim Year</u>	<u>Claim Number</u>	<u>Claim Type</u>	<u>Phase I Category</u>
Women's National Basketball Association 645 Fifth Avenue New York, NY 10022	2013	57	I	2

The National Collegiate Athletic Association 700 W Washington St. P.O. Box 6222 Indianapolis, IN 46206	2013	649	J	2
American Athletic Conference	2013	649	W	2
Atlantic Ten Conference	2013	649	W	2
Atlantic Coast Conference	2013	649	W	2
Big Ten Conference	2013	649	W	2
Big Twelve Conference	2013	649	W	2
Big Sky Conference	2013	649	W	2
Big South Conference	2013	649	W	2
Colonial Athletic Association	2013	649	W	2
Conference USA	2013	649	W	2
Horizon League	2013	649	W	2
Mid-American Conference	2013	649	W	2
Mountain West Conference	2013	649	W	2
Missouri Valley Conference	2013	649	W	2

<u>Claimant</u>	<u>Claim Year</u>	<u>Claim Number</u>	<u>Claim Type</u>	<u>Phase I Category</u>
National Collegiate Athletic Association	2013	649	W	2
Ohio Valley Conference	2013	649	W	2
Pacific Twelve Conference	2013	649	W	2
Southeastern Conference	2013	649	W	2
Southland Conference	2013	649	W	2
Sunbelt Conference	2013	649	W	2
The Ivy League	2013	649	W	2
Western Athletic Conference	2013	649	W	2
Southland Conference	2013	649	W	2
Appalachian State University	2013	649	W	2
Belmont University	2013	649	W	2
California State University, Northridge	2013	649	W	2
California State University, Fresno	2013	649	W	2
Creighton University	2013	649	W	2
Florida International University	2013	649	W	2
East Carolina University	2013	649	W	2
Eastern Illinois University	2013	649	W	2
Georgia State University	2013	649	W	2
Gonzaga University	2013	649	W	2

<u>Claimant</u>	<u>Claim Year</u>	<u>Claim Number</u>	<u>Claim Type</u>	<u>Phase I Category</u>
Grambling State University	2013	649	W	2
High Point University	2013	649	W	2
Indiana State University	2013	649	W	2
Indiana University-Purdue University	2013	649	W	2
Lamar University	2013	649	W	2
Lehigh University	2013	649	W	2
Louisiana Tech University	2013	649	W	2
Marshall University	2013	649	W	2
Missouri State University	2013	649	W	2
North Dakota State University	2013	649	W	2
Siena College	2013	649	W	2
Temple University	2013	649	W	2
Troy University	2013	649	W	2
University of Arizona	2013	649	W	2
University of Arkansas, Fayetteville	2013	649	W	2
University of California, Berkeley	2013	649	W	2
University of Dayton	2013	649	W	2
University of Hawaii, Manoa	2013	649	W	2
University of Idaho	2013	649	W	2

<u>Claimant</u>	<u>Claim Year</u>	<u>Claim Number</u>	<u>Claim Type</u>	<u>Phase I Category</u>
University of Iowa	2013	649	W	2
University of Kansas	2013	649	W	2
University of Kentucky	2013	649	W	2
University of New Mexico	2013	649	W	2
University of North Texas	2013	649	W	2
University of Northern Iowa	2013	649	W	2
University of Tennessee at Martin	2013	649	W	2
University of Texas at El Paso	2013	649	W	2
Virginia Commonwealth University	2013	649	W	2
West Virginia University	2013	649	W	2
Western Kentucky University	2013	649	W	2
Wright State University	2013	649	W	2

EXHIBIT B

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GENERAL COUNSEL
OF COPYRIGHT

FEB 23 1996

RECEIVED

Re: 1990-1992 Cable Royalty Distribution Proceeding
Docket No. 94-3 CARP-90-92CD

Dear Ms. Peters:

Enclosed for filing on behalf of all Phase I parties are an original and five copies of a "Stipulation of the Parties on the Issues of Program Categorization and Scope of Claims" in the above-captioned proceeding.

Should you have any questions, please feel free to contact me.

Very truly yours,



John I. Stewart, Jr.

Enclosures

cc: Service List

Before the
COPYRIGHT ARBITRATION ROYALTY PANEL
LIBRARY OF CONGRESS
Washington, D.C. 20024

In the Matter of:)

1990-1992 Cable Royalty)
Distribution Proceeding)

) Docket No. 94-3, CARP CD 90-92
)
)

**STIPULATION OF THE PARTIES ON THE ISSUES OF
PROGRAM CATEGORIZATION AND SCOPE OF CLAIMS**

The undersigned parties, representing all Phase I parties to the 1990-1992 cable royalty funds, file this stipulation with respect to an issue they believe has been raised by the Panel in questions to various witnesses testifying on behalf of the Devotional Claimants and others. The issue concerns the extent to which Phase I claims are being prosecuted by fewer than all of the claimants whose programs are included within the Phase I program category.

Since the first cable royalty distribution, covering 1978, the Copyright Royalty Tribunal divided its royalty distribution cases into Phase I and Phase II proceedings. In Phase I, the Tribunal allocated the entire royalty fund among broadly defined Phase I program categories. In Phase II, to the extent necessary, the Tribunal resolved disputes among different claimants or groups of claimants within a single Phase I category as to the internal division of the category's Phase I allocation.

The Phase I categories themselves developed over the course of the first five years of Tribunal proceedings. In response to requests by various parties for

rulings on close or disputed questions about particular programs, the Tribunal refined the category definitions through declaratory rulings and rulings published as part of its final determinations. See, e.g., 1984 Cable Royalty Distribution Proceeding, 52 Fed. Reg. 8408, 8416 (Mar. 17, 1987); Advisory Opinion, Docket No. CRT 85-4 84 CD (May 16, 1986). For the 1990-1992 proceeding, the parties stipulate that the following Phase I category definitions, based on these prior Tribunal rulings, should apply:

Phase I Program Category Definitions

"Program Suppliers." Syndicated series, specials and movies, other than Devotional Claimants programs as defined below. Syndicated series and specials are defined as including (1) programs licensed to and broadcast by at least one U.S. commercial television station during the calendar year in question, (2) programs produced by or for a broadcast station that are broadcast by two or more U.S. television stations during the calendar year in question, and (3) programs produced by or for a U.S. commercial television station that are comprised predominantly of syndicated elements, such as music video shows, cartoon shows, "PM Magazine," and locally hosted movie shows.

"Joint Sports." Live telecasts of professional and college team sports broadcast by U.S. and Canadian television stations, except for programs coming within the Canadian Claimants category as defined below.

"Commercial Television." Programs produced by or for a U.S. commercial television station and broadcast only by that one station during the calendar year in question and not coming within the exception described in subpart 3) of the "Program Suppliers" definition.

"Public Broadcasting." All programs broadcast on U.S. noncommercial educational television stations.

"Devotional Claimants." Syndicated programs of a primarily religious theme, not limited to those produced by or for religious institutions.

"Canadian Claimants." All programs broadcast on Canadian television stations, except (1) live telecasts of Major League Baseball, National Hockey League, and U.S. college team sports, and (2) other programs owned by U. S. copyright owners.

These categories are intended to cover all non-network television programs on all stations retransmitted as distant signals by U.S. cable systems during 1990-1992, on a mutually exclusive basis. The six categories are represented in the Phase I proceedings, respectively, by the undersigned parties. Some of those categories are principally represented by trade associations or other pre-existing entities, while others are represented by ad hoc groups of claimants within the category which have joined together for the purpose of the Phase I hearing. In either case, the relationships between the claimants and the Phase I representatives are a matter of private agreement and are not at issue in this Phase I proceeding. In all cases, the Phase I representatives are seeking a Phase I royalty allocation for all programs within the category.

The final distribution of royalties to individual claimants whose programs are within each category will follow either a settlement among all claimants within the category or the resolution of any disputes through a separate Phase II proceeding. The extent to which the particular Phase I party actually represents the ultimate interests of each and every claimant within the category has historically been addressed, if necessary, in Phase II.

A related issue is the extent to which timely claims were filed with the Copyright Office for all programs contained within each Phase I category. If the owner of a program that fits within one of the Phase I categories fails to file a claim, it might be argued that the Phase I allocation to the category should

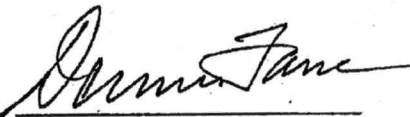
somehow be proportionally diminished. This so-called "unclaimed funds" issue, however, was resolved by the Tribunal in the course of its 1978 proceeding. The Tribunal determined that, for Phase I purposes, it should treat each category as if claims had been filed for all included programs. 1978 Cable Royalty Distribution Determination, 45 Fed. Reg. 63026, 63042 (Sept. 23, 1980).

The parties stipulate that the Panel should apply the same approach in this proceeding as the Tribunal did in the past, and should allocate all royalties among the six Phase I categories on the basis of all retransmitted programs coming within the respective definitions of those categories.

The parties would be pleased to discuss any aspect of this Stipulation with the members of the Panel at the Panel's convenience.

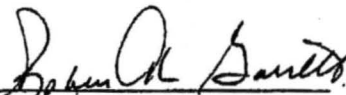
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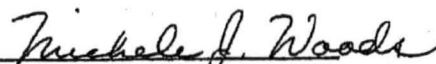
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