



P.O. BOX 1717, SPARTANBURG, SC 29304



Copy Arbitration Royalty Panel
PO Box 70977
South West Station
Washington, DC 20024

ATTACHED NOTES

Sent to the CRT
Returned to sender
mailed to CARP 9 Aug 94
Received 15 Aug 94
PED

November 10, 1994

Dear Mr. Elton:

The claim you sent on behalf of KCCN-TV for 1993 cable copyright royalties was filed after the filing deadline. As a result, your claim is dismissed as untimely filed. This dismissal is without prejudice to your filing a cable copyright claim next year.

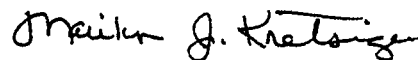
17 U.S.C. 111 states that cable claims are to be filed with the Copyright Office during the month of July. Since July 31 fell on a Sunday this year, 17 U.S.C. 703 instructs the Copyright Office to extend the filing deadline to the next business day, August 1.

By regulation, the Copyright Office accepts a claim as timely filed if (1) it is received by the Copyright Office during the month of July (or August 1 this year), or (2) it is properly addressed and mailed with the United States Postal Service during the month of July (or August 1 this year) and bears a July (or August 1) U.S. postmark. 17 U.S.C. 252.4(a).

Your claim was sent by a private carrier, UPS, on August 1, and received by the Copyright Office on August 2. Therefore, you did not meet either condition of a timely filing. Your claim was not received in the Copyright Office by August 1, nor was it mailed with the United States Postal Service bearing a July or August 1 U.S. postmark. As a result, your claim is dismissed.

Enclosed please find a fact sheet on cable copyright royalties that further explains our filing requirements.

Sincerely,



Marilyn J. Kretsinger
Acting General Counsel

Enclosure: Cable royalty fact sheet

Mr. Byron H. Elton
Vice President/General Manager
KCCN-TV
P.O. Box 1938
2200 Garden Road
Monterey, CA 93940

cc: Ben Ivins, NAB



LIBRARY
OF
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Washington
D.C.
20559

Factsheet on Filing Claims for Royalty Distributions

Background

The *Copyright Royalty Tribunal Reform Act of 1993*, Public Law 103-198, eliminated the Copyright Royalty Tribunal (CRT) and replaced it with ad hoc Copyright Arbitration Royalty Panels (CARPs) administered by the Librarian of Congress and the Copyright Office.

CARPs adjust copyright royalty rates and distribute royalties collected under the cable compulsory license to eligible copyright owners who file claims.

How Are Cable Royalties Created?

Section 111 of the *Copyright Act* created a compulsory license for cable systems that make secondary transmissions of broadcast stations to their subscribers.

Cable operators submit statements of accounts and royalty fees to the Licensing Division of the Copyright Office on a semiannual basis. The Licensing Division invests the fees in U.S. Treasury securities until royalties are scheduled for distribution.

Who Can File Claims?

Copyright owners who are eligible to file claims for royalties for secondary transmissions of broadcast signals by cable systems during the previous year are those:

- (1) whose work was included in a cable system's secondary transmission of a nonnetwork television program beyond the local service area of the primary transmitter;
- (2) whose work was included in a secondary transmission identified in a cable system's statement of account; and
- (3) whose work was included in nonnetwork programming consisting only of aural signals carried by a cable system beyond the local service area of the primary transmitter.

Content of Cable Claims

Claimants must file an original and two copies. The Copyright Office provides no forms printed or otherwise. All claims must be signed by the claimant or the claimant's representative. To file a claim, the claimant must provide:

- (1) the full legal name of the person or entity making the claim;
- (2) the telephone number, the facsimile number, if any, and the full address, including a specific street number and name or rural route, of the place of business of the person or entity;

- (3) a general statement of the nature of the copyrighted works whose secondary transmission provides the basis of the claim; and

- (4) identification of at least one secondary transmission establishing a basis for the claim.

If a claimant moves or has a name change after filing a claim, the claimant must notify the Copyright Office of the change.

Note: Changes must be sent to the CARP address.

Deadlines for Filing Claims

By statute, the Copyright Office must receive claims during the month of July following the year for which royalties are sought. The Copyright Office will accept claims bearing July postmarks by the U.S. Postal Service. Failure to file a claim on a timely basis forfeits a person's claim to any portion of the previous calendar year's funds.

- Claims must be sent to the CARP address noted below.

- Claims filed bearing only a business meter date which are received after the deadline will not be accepted.

- No claims may be filed by facsimile transmission.

How Are Royalties Distributed?

After the filing deadline, the Librarian of

Congress places a notice in the *Federal Register* to ascertain whether there are any controversies among the claimants as to the proper distribution of the royalties.

If there are no controversies, i.e., claimants have settled among themselves, the Library of Congress' Copyright Office distributes the royalties in accordance with the settlement agreements.

If there are controversies, the Librarian selects a CARP to distribute the royalties, and the parties bear the entire cost of the proceeding in direct proportion to their share of the distribution.

Public Inspection of Claims

Claims may be viewed and photocopied Monday through Friday, excluding Federal holidays, from 8:30 a.m. to 5 p.m. in the Public Records Office, Licensing Division LM-458, James Madison Memorial Building, 101 Independence Avenue, S.E., Washington, D.C.

Regulations Governing Cable Royalties

Before filing cable claims, claimants should consult the regulations governing the distribution of cable royalties in order to comply with statutory requirements. These regulations are found in 37 CFR 251, 252, and 256 and in 59 FR 23964 (May 9, 1994). They are also available in law libraries or by contacting the Copyright Office.

Where Can One Call for More Information?

Call (202) 707-8380 for general information and (202) 707-8150 to inquire about amounts in the royalty pool

What Is the CARP Address?

Claims, general correspondence, and statements should be addressed to: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024.