

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of)	
)	
Distribution of 2000, 2001, 2002)	Docket No. 2008-2 CRB CD
And 2003 Cable Royalty Funds)	2000-2003 (Phase II) (Second
)	Remand)
_____)	

**INDEPENDENT PRODUCERS GROUP’S
RESPONSE #2 TO JUDGE’S ORDER DIRECTING
PARTIES TO REVIEW CALCULATIONS OF
APPORTIONMENT OF ACCRUED INTEREST**

On May 1, 2020, the Judges issued their *Order Directing Parties to Review Calculations of Apportionment of Accrued Interest*, requesting that the parties identify whether any clarifications are required to the Appendix A calculations performed by the Licensing Division for distribution of the 2000-2003 devotional programming royalties and, if so, what clarifications are required.

IPG was presented calculations on five pages. Page 1 constituted a summary of the 2000-2003 devotional royalty pools, allocating the respective devotional royalty pools between IPG and the SDC. Pages 2-5 appear to reflect the gross amounts collected for the royalty pools for all

**INDEPENDENT PRODUCERS GROUP’S RESPONSE #2
TO JUDGE’S ORDER DIRECTING PARTIES TO
REVIEW CALCULATIONS OF APPORTIONMENT
OF ACCRUED INTEREST**

Public Version

categories, the various distributions from the gross amounts (without identification of which participant or royalty pool was the recipient of the multiple distributions), and the growth to the aggregate pools between such distributions.

IPG is able to garner little to no relevant information from the calculations and worksheets presented by Appendix A. Pages 2-5 of the Licensing Division calculations provide no information from which one can determine what dollar amounts are attributed to the devotional programming category, or when advance distributions were made. Without such information, it is impossible to properly allocate the accrued interest between the various Phase I categories, i.e., the starting point for the page 1 calculations, much less allocate devotional royalties between the only two devotional programming participants. That is, the amounts allocated to the devotional programming category on page 1 of the Appendix are presented in a complete void, with no explanation or substantiation.

Moreover, IPG finds the amounts that the Licensing Division has attributed to the devotional programming category to be highly suspect, and entirely at odds with amounts previously reported to IPG in 2012.

Public Version

According to Appendix A to the Judges' *Order Directing Parties*, the royalties attributable to the aggregate of the devotional programming category are as follows, for the identified royalty pools:

REDACTED

The foregoing amounts reflect discrepancies for certain royalty pools of over \$1 Million annually, as compared to what was reported to IPG in 2012.¹ Moreover, even if these figures were accurate (which is unlikely), then the accuracy of allocation between IPG and the SDC is also incapable of determination. For example, the Licensing Division includes a line item for “IPG's Compound Interest on the Devotional Claimants Prior Distribution”, allocating the sum of \$71,108 for such entry, a figure that appears in no other worksheet. Consequently, where the accrued interest figure for IPG comes from is entirely without explanation. Moreover,

¹ In fact, the SDC has already reported to IPG that the royalty pools attributed to the devotional programming category by the Licensing Division are inaccurate. The SDC has also reported that advance distributions for the 2003 cable royalty pool were received by the SDC, yet none are reflected anywhere in the Appendix A worksheets.

Public Version

because no figure is provided for the SDC's share of accrued interest, it is unclear whether the Licensing Division simply allocated IPG 31.25% of the accrued interest that it allocated to the entire devotional programming category, or whether it allocated accrued interest only to the devotional category royalties that remained undistributed, as the Licensing Division was directed to do.²

Clearly, the Licensing Division did not provide all of its worksheets, or else some basis would exist to (accurately) discern what amounts were allocable to the devotional programming category, when portions of such amounts were advanced to the SDC (and other parties), what interest accrued and was allocable to the devotional programming category, and what accrued interest was allocable to the undistributed funds ultimately awarded to IPG.

IPG cannot calculate its share of the devotional programming category unless and until IPG first learns what amounts are attributable to

² This possibility is a likelihood, as the Licensing Division recently engaged in the same calculation error in connection with the 2010-2013 satellite royalties. Multigroup Claimants informed the Licensing Division of this error on April 17, 2020, and requested the very limited information

Public Version

the devotional programming category. Unless IPG is provided the terms of the agreement between the SDC (representing the entire devotional programming category, including IPG) and the other programming category representatives, information that has thusfar been denied to IPG, IPG will never be able to engage in such calculations.

IPG is at a loss to identify what information remains to be presented by the Licensing Division because so little pertinent information has been provided. IPG suggests that the Licensing Division tackle its assignment in two stages, and provide all documentary backup for whatever calculations it makes. Stage one should be calculation of what amounts are allocable to the devotional programming category, and on what basis the Licensing Division has made such determination, identifying specifically when advance distributions allocable to such category have been paid, and to whom. Stage two should then calculate what amounts were previously distributed to the SDC, and when, and what interest accrued and was allocable to the *undistributed* funds that remained owing to IPG and the SDC. Only then can accurate distribution occur.

necessary to remedy this error, but to date the Licensing Division has failed

Public Version

Respectfully submitted,

Dated: May 6, 2020

_____/s/_____
Brian D. Boydston, Esq.
California State Bar No.155614

PICK & BOYDSTON, LLP
2288 Westwood Blvd., Ste. 212
Los Angeles, California 90064
Telephone: (424)293-0111
Email: brianb@ix.netcom.com

Attorneys for Independent
Producers Group

to respond or provide such information to Multigroup Claimants.

CERTIFICATE OF SERVICE

I hereby certify that on this May 6, 2020, a copy of the foregoing was electronically filed and served on the following parties via the eCRB system.

_____/s/_____
Brian D. Boydston

DEVOTIONAL CLAIMANTS:

Matthew MacLean
Michael Warley
Jessica Nyman
Pillsbury, Winthrop, et al.
1200 17th Street, NW
Washington, D.C. 20036

Proof of Delivery

I hereby certify that on Wednesday, May 06, 2020, I provided a true and correct copy of the Independent Producers Group's Response #2 To Judge's Order Directing Parties To Review Calculations Of Apportionment Of Accrued Interest to the following:

Settling Devotional Claimants (SDC), represented by Arnold P Lutzker, served via ESERVICE at arnie@lutzker.com

Signed: /s/ Brian D Boydston