

COPYRIGHT ROYALTY BOARD
The Library of Congress

In re

**ADJUSTMENT OF ROYALTY RATES
FOR STATUTORY CABLE
RETRANSMISSION LICENSE**

**Docket No. 20-CRB-0008-CA
(2020-2025)**

ORDER DISMISSING DAVID POWELL

On October 20, 2020, the Copyright Royalty Judges (Judges) notified David Powell that his Petition to Participate (PTP) was rejected and that he may not participate in the proceeding without filing a valid amended PTP. *Order Rejecting David Powell’s Petition to Participate and Permitting Filing of an Amended Petition* ([Order](#)) at 1. In the Order, the Judges concluded that Mr. Powell’s PTP “failed to state Mr. Powell’s significant interest in the proceeding.” *Id.* at 1 (citing 37 C.F.R. § 351.1(c) (petitions that lack a significant interest in the proceeding will not be allowed)). The Judges authorized Mr. Powell to file an amended PTP “that clearly identifies the significant interest [Mr. Powell] claims to have in this proceeding.” The Judges stated, however, that “[i]f Mr. Powell fails to file an amended Petition to Participate that sufficiently identifies a requisite significant interest within the prescribed period, the Judges will dismiss Mr. Powell from the proceeding.” Order at 1.

On October 26, 2020, Mr. Powell submitted an amended PTP. Motion Amended Joint Petition to Participate ([Amended Petition](#)). On November 3, 2020, the Judges received a Joint opposition to the Amended Petition from NCTA-The Internet & Television Association, the Joint Sports Claimants, National Association of Broadcasters, Public Broadcasting Service, Devotional Claimants, Canadian Broadcasting Corporation, National Public Radio, Inc., American Society of Composers Authors and Publishers, Motion Picture Association, Broadcast Music, Inc., and SESAC Performing Rights. LLC. Joint Opposition to “Motion Amended Joint Petition to Participate” of Circle God Network, Inc. (David Powell) ([Joint Opposition](#)).¹

In his Amended Petition, Mr. Powell attempts to identify a “significant interest” twice but fails each time. On page 1, he states, “Significant interest identified are: Joint Petitioners CGN Inc. members on behalf of itself (David Powell) and other members Petition to Participate. Companies, producers and copyrighted owners of religious programming retransmitted by cable systems to the statutory and compulsory license to adjust rates. (CGN Inc. ministries featuring member David Powell).” Amended Petition at 1. Mr. Powell then makes oblique references to

¹ The Joint Opposition contends that Mr. Powell’s Amended Petition

is lacking in any discernible assertion of facts that would support a finding that Mr. Powell has a significant interest in the subject matter of the instant proceeding—the royalty rates payable for the secondary transmission of copyrighted broadcast television programming by cable television systems. Moreover, Mr. Powell’s amended petition fails to clearly identify the other “Joint Petitioners” that he now claims to be representing or provide any evidence that those unnamed entities have a significant interest in this proceeding.

Joint Opposition at 2. The Joint Opposition also notes that “[a]s a non-attorney, Mr. Powell may not represent corporate entities before the Board, as he purports to do in this proceeding.” *Id.* at 1 n.1.

various sections of the Copyright Act and to the Judges' rules, but fails to state any interest he believes he has in the proceeding.

On Page 2, Mr. Powell again uses the phrase "significant interest" when he states, "Statement of Significant Interest: Since 1999 David Powell d/b/a CGN Inc. (members) has represented the interest of itself and its members including their members PRO's membership, music media kit, many recording artist, MWF writers/publishers, Featured artist, DART, etc. etc." Amended Petition at 2.

Again, the Judges find nothing in Mr. Powell's statement that states, clearly or otherwise, what interest he believes he has in the current proceeding.

The third (and final) page of the Amended Petition makes no reference to any significant interest Mr. Powell believes he has in the proceeding. Rather, he contends, among other things, that he is "represented on Sound Exchange's Board of Directors thru registered Notice of Use" and "[i]n the Zone of interest standing and third party standing acting as members collective agent under our brand name for its roster members clients recipient of royalties payment and setting rates." Amended Petition at 3.

As the Judges stated in the notice announcing commencement of this proceeding, Section 111 of the Copyright Act grants a statutory copyright license to cable television systems for the retransmission of the content of over-the-air television and radio broadcast stations to their subscribers. In exchange for the license, cable operators submit royalty payments and statements of account detailing their retransmissions to the Copyright Office. *Notice announcing commencement of proceeding with request for petitions to participate*, 85 Fed. Reg. 34467 (June 4, 2020) ([Notice](#)). Mr. Powell has failed to state any interest he may have in this proceeding, much less a significant interest (*e.g.*, he does not claim to be or to represent a cable system operator that pays royalties under the license or to be or to represent an owner of content carried on over-the-air television or radio stations that is retransmitted pursuant to the license).²

Because the Judges find that Mr. Powell's Amended Petition fails to clearly identify the significant interest that Mr. Powell claims to have in this proceeding, the Judges do not accept the Amended Petition and **DISMISS** Mr. Powell from the proceeding.

SO ORDERED.

Jesse M. Feder
Chief Copyright Royalty Judge

DATED: November 5, 2020

² In the Amended Petition, Mr. Powell identifies himself as *pro se*, but he also identifies himself as "undersigned counsel." He does not state that he is a member of the bar of a state or of the District of Columbia, nor does he provide his bar member number, the customary practice for attorneys appearing before the Copyright Royalty Board.