

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

_____)	
<i>In re</i>)	CONSOLIDATED PROCEEDING
)	Docket No. 14-CRB-0010-CD (2010-13)
Distribution of Cable Royalty Funds)	
_____)	
)	
<i>In re</i>)	
)	
Distribution of Cable Royalty Funds)	CONSOLIDATED PROCEEDING
)	Docket No. 14-CRB-0010-SD/CD (2010-13)
<i>In re</i>)	
)	
Distribution of Satellite Royalty Funds)	
_____)	

**MOTION OF CERTAIN ALLOCATION PHASE PARTIES
FOR FURTHER DISTRIBUTION OF 2010-13 CABLE ROYALTY FUNDS**

Pursuant to Section 801(b)(3)(A) of the Copyright Act, 17 U.S.C. § 801(b)(3)(A), the undersigned Allocation Phase parties¹ hereby respectfully request that if the Copyright Royalty Judges conclude that there is any issue requiring further consideration with respect to the full, final, and prompt distribution of the remaining 2010-13 Cable Royalties, then the Judges should immediately order the further distribution of such funds to each undersigned party in an amount equal to 90% of the party’s final share as set forth in Appendix A to the Judges’ *Order Directing Parties to Review Calculations of Final Distribution Shares* (“Appendix A”). As to 90% of the funds, there is no controversy regarding their distribution, which the Judges have already ordered.

Argument

On October 2, 2020, the Judges granted motions filed by each undersigned Allocation Phase party for final distribution of the 2010-13 Cable Royalties and directed the Licensing

¹ All Allocation Phase parties except the MPA-Represented Program Suppliers join in this motion.

Division to “compute the amounts to be distributed to each party from each fund.” *Order Directing Calculation of Final Distribution Shares* (Oct. 2, 2020). On October 14, 2020, the Judges issued an order that set forth the Licensing Division’s calculations (as Appendix A) and directed participants to “file a notice with the Judges no later than October 26, 2020, stating whether or not they believe any clarifications to the calculations are necessary.” *Order Directing Parties to Review Calculations of Final Distribution Shares* (Oct. 14, 2020).

On October 26, the MPA-Represented Program Suppliers (“MPA”) filed a notice taking issue with the manner in which the Licensing Division apportioned interest among the Allocation Phase parties in Appendix A. The issue raised in MPA’s notice is the only challenge to the Licensing Division’s methodology for calculating interest and final amounts as presented in Appendix A, and it affects the distribution of no more than two percent of the 2010-13 Cable Royalties that remain available for distribution. While the undersigned agree that the Judges should immediately order the final distribution of 100% of the 2010-13 Cable Royalties in the amounts set forth in Appendix A, they also agree that at a minimum each Allocation Phase party is entitled to at least 90% of its Appendix A shares, and that those funds may be distributed immediately while preserving sufficient 2010-13 Cable Royalties on deposit to address the outcome of any interest apportionment issue and the other minor issues raised in the October 26, 2020 comments.² Therefore, there is no controversy concerning the distribution requested by this motion within the meaning of Section 801(b)(3)(A) of the Copyright Act.

² For the avoidance of doubt, the Allocation Phase parties request the distribution of 90% of each party’s share of the basic, 3.75% and syndex funds for each royalty year. For example, the Public Television Claimants would receive \$17,583,961.23 from the 2010 basic fund (\$19,537,734.70 x 90%), with the remainder held back in the event that the Judges decide to consider the MPA-represented Program Suppliers’ methodological challenge to the final distribution calculations.

Moreover, the amount retained by the Judges under this proposal will be sufficient to address the other minor issues noted by the parties in their October 26 notices. *First*, while the Settling Devotional Claimants (“SDC”) describe a rounding issue affecting the calculation of funds to be paid to Multigroup Claimants, SDC explains that this issue only affects the distribution of funds within the Devotional and Program Supplier categories, and the total value of the issue is less than \$50,000. *Second*, both the Commercial Television Claimants and MPA request clarification of the process by which MPA will repay the amount it owes for the 2013 royalty year; however, the Judges need not receive MPA’s repayment—whatever form it takes—in order to pay out the amounts requested by this motion while retaining adequate reserves to address all controversies. Finally, Multigroup Claimants purport to require additional information to verify the accuracy of the Licensing Division’s calculations. However, Multigroup Claimants fail to demonstrate why more information is needed and why they, unlike all the Allocation Phase parties, could not review the calculations using the information provided.

Distributing this portion of the 2010-13 Cable Royalties now will permit the Judges and the parties to fully address any remaining issues, should they decide such consideration is permissible and warranted, without needlessly holding hundreds of millions of dollars not subject to controversy on deposit with the Licensing Division. Indeed, the Judges have already ordered final distributions of 100% of 2010-13 Cable Royalties to the undersigned parties, and thus no reason exists to wait to distribute 90% of each party’s final distribution share as calculated by the Licensing Division. Particularly in light of the on-going financial challenges posed by the pandemic, it is in the interest of all parties and consistent with the goals of Section 111 that the Judges promptly distribute the remaining 2010-13 Cable Royalties as expeditiously as possible.

Accordingly, the undersigned respectfully request that if the Judges require further time to consider any issues raised by any party, then they order the further distribution of 2010-13 Cable Royalties to each undersigned party in an amount equal to 90% of the party's final share as set forth in Appendix A, and set an expedited schedule to resolve any remaining questions as soon as practical.

November 10, 2020

Respectfully submitted,

JOINT SPORTS CLAIMANTS

/s/ Michael Kientzle
Daniel A. Cantor
DC Bar No. 457115
Michael Kientzle
DC Bar No. 1008361
ARNOLD & PORTER KAYE SCHOLER
LLP
601 Massachusetts Avenue, N.W.
Washington, D.C. 20001
202.942.5000 (voice)
202.942.5999 (facsimile)
Daniel.Cantor@arnoldporter.com
Michael.Kientzle@arnoldporter.com

PUBLIC TELEVISION CLAIMANTS

/s/ Ronald G. Dove
Ronald G. Dove, Jr.
DC Bar No. 430533
Dustin Cho
DC Bar No. 1017751
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, N.W.
Washington, D.C. 20268
Telephone: (202) 662-5685
Fax: (202) 662-6291
rdove@cov.com

**COMMERCIAL TELEVISION
CLAIMANTS**

/s/ David Ervin
John I. Stewart, Jr.
DC Bar No. 913905
David Ervin
DC Bar No. 445013
CROWELL & MORING LLP
1001 Pennsylvania Ave., NW
Washington, DC 20004-2595
Telephone: (202) 624-2685
Fax: (202) 628-5116
jstewart@crowell.com

CANADIAN CLAIMANTS GROUP

/s/ L. Kendall Satterfield
L. Kendall Satterfield
DC Bar No. 393953
Satterfield PLLC
1629 Street NW, Ste 300
Washington, DC 20006
Telephone (202) 355-6432
lksatterfield@satterfield-pllc.com

Victor J. Cosentino
LARSON & GASTON, LLP
CA Bar No. 163672
200 S. Los Robles Ave, Suite 530
Pasadena, CA 91101
Tel: (626) 795-0016
victor.cosentino@larsongaston.com

DEVOTIONAL CLAIMANTS

/s/ Arnold P. Lutzker

Arnold P. Lutzker

DC Bar No. 101816

Benjamin Sternberg

DC Bar No. 1016576

Jeannette M. Carmadella

DC Bar No. 500586

LUTZKER & LUTZKER LLP

1233 20th Street, NW, Suite 703

Washington, DC 20036

Telephone: (202) 408-7600

Fax: (202) 408-7677

arnie@lutzker.com

Matthew J. MacLean

DC Bar No. 479257

Michael A. Warley

DC Bar No. 1028686

Jessica T. Nyman

D.C. Bar No. 1030613

PILLSBURY WINTHROP SHAW

PITTMAN LLP

1200 Seventeenth Street, NW

Washington DC 20036

Tel: (202) 663-8183

Fax: (202) 663-8007

Matthew.MacLean@pillsburylaw.com

Proof of Delivery

I hereby certify that on Tuesday, November 10, 2020, I provided a true and correct copy of the Motion of Certain Allocation Phase Parties for Further Distribution of 2010-13 Cable Royalty Funds to the following:

National Public Radio (NPR), represented by Gregory A Lewis, served via ESERVICE at glewis@npr.org

MPA-Represented Program Suppliers, represented by Gregory O Olaniran, served via ESERVICE at goo@msk.com

Broadcast Music, Inc. (BMI), represented by Brian A Coleman, served via ESERVICE at Brian.Coleman@dbr.com

SESAC Performing Rights, LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

American Society of Composers, Authors and Publishers (ASCAP), represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

Signed: /s/ Michael E Kientzle