

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In re

Determination of Royalty Rates and Terms for
Making and Distributing Phonorecords
(Phonorecords IV)

Docket No. 21-CRB-0001-PR
(2023-2027)

**GEORGE JOHNSON’S NOTICE OF MOTION OBJECTING TO NMPA, NSAI,
SME, UMG, and WMG’s SETTLEMENT and PENDING “MOTION”**

American songwriter George Johnson (“GEO”), *pro se*, respectfully submits the following Notice in the above-captioned proceeding (the “Proceeding”¹) to notify the CRJ’s he will be filing an Opposition Motion to any proposed Settlement outlined in the March 2, 2021 *Notice of Settlement in Principle* by the National Music Publishers’ Association, Inc. (“NMPA”) and the Nashville Songwriters Association International (“NSAI”) (NMPA and NSAI, together, the “Copyright Owners”²), on the one hand, and Sony Music Entertainment (“SME”), UMG Recordings, Inc. (“UMG”), and Warner Music Group Corp. (“WMG”) (SME, UMG, and WMG, together, the “Joint Record Company Participants” (“JRCP”³)) on the other hand.

In their Notice, NMPA, NSAI, SME, UMG, and WMG (together, the “Participants”)...

“...hereby notify the CRJs that they have reached an agreement in principle relating to settlement of royalty rates and terms under Section 115

¹ Pursuant to the Copyright Royalty Judges’ (“CRJs”) Notice of Participants, Commencement of Voluntary Negotiation Period, and Case Scheduling Order at 2 n.2 (Feb. 9, 2021)

² “Copyright Owners” is how NMPA and NSAI refer to themselves.

³ How NMPA/NSAI refer to the 3 Major Record Labels, all 3 now headquartered outside the U.S..

of the Copyright Act for physical phonorecords, permanent digital downloads, ringtones, and music bundles presently addressed in 37 C.F.R. Part 385 Subpart B (the “Subpart B Configurations”) and related definitions and late fees for Subpart B Configurations presently addressed in Subpart A (the “Settlement”). NMPA, UMG, WMG and SME have also reached an agreement in principle concerning a separate memorandum of understanding addressing certain related issues.”

and that,

“... the Participants expect to propose to the CRJs that the royalty rates and terms presently set forth in 37 C.F.R. Part 385 Subpart B, and the related definitions and late fees for Subpart B Configurations presently addressed in Subpart A, should be continued for the rate period at issue in the Proceeding.”

Therefore, prior to the May 18, 2021 deadline set by the CRJ’s, GEO expects to file an Opposition Motion to any proposed Settlement (the “Motion”) as described in the *Notice of Settlement in Principle* filed by the “Participants”.⁴

GEO will provide greater detail concerning why the Court should respectfully deny this Settlement *on behalf of hundreds of thousands of American songwriters, self-publishers, legacy songwriters, and independent music publishers — all small businesses here in the U.S. and subject to several government imposed compulsory licenses.*

Pursuant to 37 CFR §351.2(b)(2)⁵ regarding Royalty Rate Proceedings, “If an objection to the adoption of an agreement is filed, the Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement if the Copyright Royalty Judges conclude that the agreement does not provide a reasonable basis for setting statutory terms or rates.”

⁴ The RIAA also seems to approve of the Settlement while not participating in the Settlement.

⁵ §351.2 Voluntary negotiation period; settlement.
[70 FR 30905, May 31, 2005, as amended at 71 FR 53328, Sept. 11, 2006]

GEO apologizes for missing the seven business day window in §350.4(f) to Object or Oppose the March 2, 2021 Notice (if allowed to Object to a Notice), so I am attempting to do so now for the record before any other Motion for Settlement is filed with the Court. While slightly unorthodox, my thoughts are to file a similar Notice, just like the Participants, that I *would be filing a Motion* Objecting to their Settlement and future “Motion”.

And just as in *Phonorecords III*, this *Notice of Settlement in Principle* by NMPA, NSAI, WMG, UMG and SME is clearly designed to shut down any public Subpart A or B litigation in the sunshine while stopping all of GEO’s rate proposals to 1.) add a voluntary BUY button, 2.) increase the Subpart A 9.1 cent mechanical for long overdue inflation, and 3.) elimination of the Subpart B free limited download with no sale.⁶

While “voluntary” agreements are encouraged during this phase of the proceeding, this “Settlement” *actually harms all American songwriters* by keeping our rates frozen at 9.1 cents, like they have been since 2006, *which will be over 20 years in 2027*. Moreover, *giving away millions of free songs also harms songwriters*.

Rates are to be set *de novo* and this will be the 2nd *Phonorecords* rate proceeding I’ve participated in where the 9.1 cent rate has been *intentionally frozen* because of NMPA, NSAI, WMG, UMG, SME, RIAA, and the nature of these so called “voluntary agreements”.

GEO has spoken with several of the Services and other Participants who’s comments and thoughts have been very helpful in honing my proposals.

⁶ These 3 issues are not the only issues that are important to American songwriters.

GEO will continue to contact the other Services as well and offer additional options to my proposals to *all* Participants. GEO is of course, open to any and all suggestions or proposals by any of the Participants or Services if they would like.

While I had proposed a BUY button in *Phonorecords III* and have made several proposals to some of the Participants here in *IV*, at this time GEO simply proposes to *all* Participants a *BUY button with no increase in the 9.1 cent royalty rate and with no other changes to rates or terms* other than a voluntary agreement between the Labels and the Services for §114 sound recordings, but that is exactly the same as their current download agreement.

While it would be prudent to *combine* a BUY button with eliminating millions of free limited downloads, a simple BUY button by itself would surely increase sales more so than an inflation increase or even elimination of a free download.

In conclusion, GEO objects to any current Settlement at this time or future Motion by NSAI and NMPA to keep songwriters' royalties as is and not set *de novo*.

Respectfully submitted,

/s/ George D. Johnson
George D. Johnson ("GEO")
PO Box 22091
Nashville, TN 37202
(615) 242-9999
george@georgejohnson.com
Pro Se Songwriter & Publisher
d/b/a George Johnson Music
Publishing ("GJMP")

Date: April 19, 2021

Proof of Delivery

I hereby certify that on Monday, April 19, 2021, I provided a true and correct copy of the 2021-04-19 - 21-CRB-0001-PR (2023-2027) Phonorecords IV - George Johnson's Notice Opposing NSAI/NMPA/3FORL Settlement In Principle.pdf to the following:

Powell, David, represented by David Powell, served via ESERVICE at davidpowell008@yahoo.com

Amazon.com Services LLC, represented by Scott Angstreich, served via ESERVICE at sangstreich@kellogghansen.com

Apple Inc., represented by Mary C Mazzello, served via ESERVICE at mary.mazzello@kirkland.com

Spotify USA Inc., represented by Joseph Wetzel, served via ESERVICE at joe.wetzel@lw.com

Google LLC, represented by Gary R Greenstein, served via ESERVICE at ggreenstein@wsgr.com

Joint Record Company Participants, represented by Susan Chertkof, served via ESERVICE at susan.chertkof@riaa.com

Zisk, Brian, represented by Brian Zisk, served via ESERVICE at brianzisk@gmail.com

SoundCloud Operations Inc., represented by Todd Larson, served via ESERVICE at todd.larson@weil.com

Pandora Media, LLC, represented by Benjamin E. Marks, served via ESERVICE at benjamin.marks@weil.com

Copyright Owners, represented by Benjamin K Semel, served via ESERVICE at Bsemel@pryorcashman.com

Signed: /s/ George D Johnson