

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of)	
)	
Distribution of 2014-2017)	Docket No. 16-CRB-0009-CD
Cable Royalty Funds)	(2014-2017)
_____)	

**Multigroup Claimants’ Motion for
Partial Distribution of 2015-2017 Cable Royalties**

Worldwide Subsidy Group LLC (a Texas limited liability company) dba
Multigroup Claimants (“MGC”) hereby moves the Copyright Royalty Judges to order a
partial distribution to MGC of the 2015-2017 cable royalty funds (the “Cable Funds”).

On June 6, 2017, the Judges granted the “Allocation Parties” motion for
distribution of 60% of the 2015 Cable Funds. *Order Granting Motion for Partial
Distribution* (June 6, 2017), Docket no. 16-CRB-0020-CD (2015).

On July 30, 2018, the Judges granted the “Allocation Parties” motion for
distribution of 50% of the 2016 Cable Funds. *Order Granting Motion for Partial
Distribution* (July 30, 2018), Docket no. 17-CRB-0017-CD (2016).

On May 22, 2019, the Judges granted the “Allocation Phase Parties” motion for
distribution of 40% of the 2017 Cable Funds. *Order Granting Motion for Partial
Distribution* (July 30, 2018), Docket no. 16-CRB-0009-CD (2014-2017).

The circumstances warrant a partial distribution of the Cable Funds to MGC, in an
amount commensurate with 50% of the average percentage amounts previously awarded
to MGC in the 2010-2013 cable proceedings, as soon as feasible.

I. THE JUDGES HAVE AUTHORITY TO ORDER PRECONTROVERSY PARTIAL DISTRIBUTIONS.

Section 111 of the Copyright Act favors the early distribution of cable royalties. See 17 U.S.C. § 111(d)(4)(C). Chapter 8 of the Copyright Act vests the Judges with ample statutory authority to order the precontroversy distribution of cable royalties. In the Copyright Royalty Judges Program Technical Corrections Act, Congress amended Section 801(b)(3)(C) to clarify that a partial distribution of royalties can be made at any time after the filing of claims. See Pub. L. No. 109-303 §§ 3, 5, 109th Cong., 2d Sess. (2006), 120 Stat. 1478. Congress affirmed the Judges’ authority to order partial distributions of statutory royalties in advance of the declaration of a controversy. Section 801(b)(3)(C) provides:

Notwithstanding section 804(b)(8), the Copyright Royalty Judges, at any time after the filing of claims under section 111, 119, or 1007, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution, and all such claimants—

- (i) agree to the partial distribution;
- (ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B);
- (iii) file the agreement with the Copyright Royalty Judges; and
- (iv) agree that such funds are available for distribution.

17 U.S.C. § 111(d)(4)(C).

II. DISTRIBUTION OF THE 2015-2017 CABLE FUNDS TO MULTIGROUP CLAIMANTS COMMENSURATE WITH 50% OF PERCENTAGE AMOUNTS PREVIOUSLY AWARDED IS REASONABLE AND APPROPRIATE.

The statutorily prescribed deadline for filing claims has now passed. MGC is an established claimant that agrees to sign the separate agreement contemplated by Section 801(b)(3)(C)(ii) obligating it to return any excess royalty amounts received, in a form to be provided by the Office or the Copyright Royalty Judges, in advance of the requested distribution, and agrees to file such an agreement with the Copyright Royalty Judges or as otherwise directed. All other participants to the 2015-2017 proceedings have received partial distributions of 60%, 50%, and 40% of those royalty pools, respectively.

A. Multigroup Claimants' computation of its proportionate royalties based on its award of 2010-2013 cable royalties in the devotional programming category.

On February 12, 2019, the Judges issued their determination for distribution of the devotional programming category, awarding the following percentages of the Basic Fund, 3.75% Fund, and Syndex Fund, for the 2010-2013 cable royalty pools:

	<u>Basic Fund</u>	<u>3.75% Fund</u>	<u>Syndex Fund</u>
2010:	4.0%	4.7%	0%
2011:	5.5%	6.8%	0%
2012:	5.5%	6.7%	0%
2013:	4.3%	5.3%	0%

On multiple occasions over an extended period of time, Multigroup Claimants has requested that the Licensing Division provide Multigroup Claimants the amounts allocable to the Basic Fund, 3.75% Fund, and Syndex Fund, for 2010-2013. Multigroup Claimants sought such information in order to obtain a “blended” award rate for the

devotional programming category for 2010-2013. Notwithstanding multiple requests, no information was provided.

In order to estimate the relative amounts allocable to the Basic Fund, 3.75% Fund, and Syndex Fund, Multigroup Claimants drew information from the 2004-2009 cable royalty funds. From 2004 to 2009, the Basic Fund averaged 88.46% of the aggregate royalties collected; the 3.75% Fund averaged 11.52% of the aggregate royalties collected, and; the Syndex Fund averaged 0.02% of the aggregate royalties collected.

Applying the relative percentages of Basic Fund, 3.75% Fund, and Syndex Fund from 2004-2009, to the devotional programming award for 2010-2013, the *blended* percentage of royalties attributable solely to the devotional programming category for all 2010-2013 cable funds was as follows:

2010: 4.08%
2011: 5.65%
2012: 5.64%
2013: 4.41%
Avg.: 4.95%

On May 26, 2021, the Judges granted MGC's motion for final distribution of 2010-2013 Cable Royalty Funds. MGC's average award of the devotional cable royalties for 2010-2013 equals 16.6%. See *Order Granting Multigroup Claimants' Motion for Final Distribution of 2010-2013 Cable Royalty Funds* (May 26, 2021), Docket no. 14-CRB-0010-CD/SD (2010-2013). Consequently, MGC's blended percentage of the *aggregate* cable funds attributable to 2010-2013 attributable to MGC's devotional programming claims resulted in an average blended rate of **0.8217%**.

According to the Licensing Division of the Copyright Office, as of June 30, 2021, the amount of 2015-2017 Cable Funds collected equal the following amounts:

2015 funds: \$216,375,278
 2016 funds: \$205,083,721
 2017 funds: \$204,238,036

Applying MGC's previous average percentage award of the aggregate royalties to the aggregate royalties collected for 2015-2017 equals the following figures, to which MGC moves for a partial distribution of 50% thereof:

	<u>Avg. 2010-2013 blended Rate % against Cable Funds</u>	<u>50% of figure</u>
2015 funds:	\$1,786,172	\$893,086
2016 funds:	\$1,685,172	\$842,586
2017 funds:	\$1,678,223	\$839,111

CONCLUSION

For the reasons set forth above, Multigroup Claimants respectfully requests that the Judges, pursuant to 17 U.S.C. § 801(b)(3)(C), publish for comment in the Federal Register the proposed partial distribution of 50% of the average royalty percentages previously awarded to Multigroup Claimants, as applied against the 2015-2017 Cable

#

Funds according to the calculations set forth above, and thereafter grant this Motion and order a partial distribution of such funds to Multigroup Claimants as soon as feasible.

Respectfully submitted,

Dated: July 23, 2021

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

PICK & BOYDSTON, LLP
2288 Westwood Blvd., Suite 212
Los Angeles, California 90064
Telephone: (424)293-0111
Facsimile: (213)624-9073
Email: brianb@ix.netcom.com

Attorneys for Multigroup Claimants

CERTIFICATE OF SERVICE

I certify that on July 23, 2021, I caused a copy of the foregoing pleading to be served on all parties registered to receive notice by eCRB by filing through the eCRB filing system.

/s/

Brian D. Boydston, Esq.

Proof of Delivery

I hereby certify that on Friday, July 23, 2021, I provided a true and correct copy of the Multigroup Claimants' Motion for Partial Distribution of 2015-2017 Cable Royalties to the following:

Major League Soccer, L.L.C., represented by Edward S. Hammerman, served via ESERVICE at ted@copyrightroyalties.com

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

Global Music Rights, LLC, represented by Scott A Zebrak, served via ESERVICE at scott@oandzlaw.com

Public Television Claimants, represented by Ronald G. Dove Jr., served via ESERVICE at rdove@cov.com

Program Suppliers, represented by Lucy H Plovnick, served via ESERVICE at lhp@msk.com

Commercial Television Claimants / National Association of Broadcasters, represented by David J Ervin, served via ESERVICE at dervin@crowell.com

Devotional Claimants, represented by Matthew J MacLean, served via ESERVICE at matthew.maclean@pillsburylaw.com

ASCAP, represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

Canadian Claimants, represented by Lawrence K Satterfield, served via ESERVICE at lksatterfield@satterfield-pllc.com

Broadcast Music, Inc. (BMI), represented by Jennifer T. Criss, served via ESERVICE at jennifer.criss@dbr.com

Joint Sports Claimants, represented by Michael E Kientzle, served via ESERVICE at michael.kientzle@arnoldporter.com

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

Signed: /s/ Brian D Boydston