

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)
)	
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In the Matter of)	
)	
Distribution of 2014-2017)	Docket No. 16-CRB-0010-SD
Satellite Royalty Funds)	(2014-2017)
)	
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**MULTIGROUP CLAIMANTS’ REPLY IN SUPPORT OF
MOTION FOR DISALLOWANCE OF CLAIMS BY
MPA-REPRESENTED PROGRAM SUPPLIERS**

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ARGUMENT

A. The MPA acknowledges that it did not produce the 2016/2017 July claims to which it seeks to make claim.

Although the MPA produced the 2015 claims that it seeks to prosecute on behalf of others, the MPA acknowledges that it failed to produce in discovery *any* of the 2016 and 2017 claims that the MPA seek to prosecute in this proceeding. Whether or not any justification for this refusal could possibly be sufficient, no explanation was provided for this discrepant treatment in discovery of the July claims that the MPA seeks to prosecute, either in the MPA’s discovery responses or the MPA opposition brief.

Despite the Judges’ edict for all parties to engage in claims-issue discovery, and the Judges’ view of parties that refuse to do so, the MPA nonetheless directed MGC to go seek out information – information related to *the MPA’s asserted claims* -- buried in the haystack of public filings. Certain key observations of the MPA’s opposition brief are noted below.

B. The MPA misrepresents Multigroup Claimants’ argument, and misrepresents the MPA’s response in discovery to Multigroup Claimants’ request for 2016/2017 royalty claims.

In the first substantive sentence of its opposition brief, the MPA misrepresents MGC’s argument, and the MPA’s response to MGC’s requests for copies of the July claims for which the MPA seeks to make claim.

First, MGC did not contend “that MPA was required to produce *physical* copies of its 2016 and 2017 claims in discovery . . .”, as the MPA would have the Judges believe. MPA br. at 1 (emphasis added). MGC made no such argument. On the

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contrary, MGC argued only that the 2016 and 2017 July claims for which the MPA purported to make claim were required to be produced. Whether they were provided by the MPA in a “physical” or “electronic” format made no matter, only that they were to be compiled and produced in order to allow MGC to identify to which claims the MPA asserted representation, and for MGC to verify that claims were actually made by the claimants that the MPA purported to represent.

Second, the MPA rationalizes that it “provided hyperlinks”, “where all of the MPA-represented Program Suppliers’ 2016 and 2017 claims are *easily* accessible.” MPA br. at 1 (emphasis added). Although the MPA did identify hyperlinks, they were *only* to the eCRB website. At no time were hyperlinks provided to particular claims. Moreover, and as will be discussed infra, in order to view and compile the entirety of a filed claim, the eCRB website requires the viewer to view multiple webpages, download an Excel attachment, then combine the foregoing documents into a single document. The task is lengthy and arduous, and should not be the responsibility of the party who is not making claim thereto.

Moreover, by the time the MPA got to the end of its brief, it clearly forgot what it argued at the beginning of its brief. Compare the MPA contention made at the beginning of its brief – that the 2016/2017 claims are *easily* accessible online – by its statement at the end of its brief wherein it contends that it would be “*unduly burdensome*” to require the MPA to perform the task of downloading and producing the July claims on which its authority to participate in these proceedings rely. MPA br. at 7. Even further, compare the foregoing to the MPA’s representation that it had *already* compiled the July claims

from the eCRB database, and “began using eCRB as its primary resource for reviewing and vetting the claims filed by the MPA-represented Program Suppliers” (MPA br. at 7), yet nonetheless refused to produce these July claims when specifically requested in discovery.

In the end, one does not know what to believe. These positions are not only irreconcilable, if certain of them are to be believed, they are offensive to any claim by the MPA that it responded in good faith to MGC’s discovery requests.

C. A contractual condition of MPA representation is that every represented claimant provide the MPA a copy of each claim it has filed with the CRB, but the MPA acknowledges that it already had the July claims in its possession. The MPA’s failure to produce the claims was not a product of oversight, and no acceptable explanation for the MPA’s failure is provided.

Relevant to the MPA’s response is that within *each and every* Representation Agreement pursuant to which the MPA derives its authority, the following provision is set forth:

“2. To be entitled to and to receive a share of Program Suppliers' allocated portion of each year's Cable Royalties or Satellite Royalties upon distribution by the Copyright Office, Claimant *must*:

* * *

e. provide MPAA with a copy of each claim it has filed with the CRB”

See, e.g., **Exhibit C** at para. 2.e (exemplar MPA Representation Agreement; emphasis added).

Notwithstanding, the MPA explains that beginning with the 2016 royalty year it no longer collected the July claims from its represented claimants (MPA br. at 7), despite the provision appearing in its representation agreements requiring the submission thereof

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as a condition of receiving royalties. Rather, the MPA asserts that it accessed and obtained those claims directly from the eCRB database, and “began using eCRB as its primary resource for reviewing and vetting the claims filed by the MPA-represented Program Suppliers.” MPA br. at 7.

Of course, this begs the question why the MPA did not produce those claims to MGC if it had *already* accessed them, *already* relied on them, *already* had them in its possession, and *already* used such claims as part of its vetting process. No reasonable explanation exists for the MPA’s refusal to produce documents *already* in its possession, that were central to its claims, other than a general desire to make MGC’s claim review impracticable or impossible during the “expedited schedule for discovery and motions” set by the Judges,¹ thereby avoiding any scrutiny of the MPA’s claims. Indeed, the MPA’s actions personify the discovery abuse for which the Judges should take a “dim view”.

Moreover, MGC made an unusual observation regarding the MPA’s asserted claims. The MPA purported to make claim for 5,790 claimants for 2015 satellite royalties. Utilizing the identical representation agreements, that figure abruptly increases to approximately 7,500 claimants for 2016 satellite royalties, and 8,000 claimants for 2017 satellite royalties.

The abrupt increase after 2015 suggests many possible explanations. When the MPA obtained the July claims directly from its represented claimants, many of which are themselves agents of underlying copyright owners, the MPA and represented agents

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engaged in a culling of claimants and programs. Now, for 2016 and 2017, a different process is followed, and the MPA's vetting process is necessarily diminished.

Consequently, there was a significant upsurge of MPA claimants after 2015, giving rise to a question as to whether or not the MPA's newly reduced vetting process resulted in bad claims slipping through the cracks, rather than being culled out due to (i) an agent/claimant no longer wanting to maintain a claim, (ii) an agent/claimant no longer intending to engage the MPA to prosecute a particular filed claim, or (iii) an agent who filed a claim withdrawing certain claimants from a joint claim because its agency rights had been terminated. That is, by taking out a significant step in the process of "reviewing and vetting", significantly fewer claimants were removed during such process.

Regardless of the explanation for the upsurge, none of these alternatives bode well for the MPA's failure to explain why it would not produce the very claims it seeks to prosecute in the course of claims validity discovery, especially if it *already* had the claims in its possession.

MGC cannot definitively discern the MPA's reasoning for challenging the status quo by which all participants exchange their July claims, i.e., whether it was simply lethargy or some other explanation, but all indications from what facts the MPA has admitted in its brief is that it was a premeditated attempt to avoid MGC scrutinizing the MPA's claims, and was not a mere oversight.

As noted at page 2 of MGC's moving brief, "Disclosure and Discovery" commenced on January 12, 2022 (see *Order for Further Proceedings and Scheduling*

¹ *Scheduling Order* at 3.

Case Events at 3 (“*Scheduling Order*”; Jan. 10, 2022), and pursuant to a stipulation entered into amongst all participants, discovery requests were to be submitted no later than January 28, 2022, with production due no later than February 18, 2022. Pursuant to the *Scheduling Order*, disclosure and discovery concluded on March 16, 2022.

Consequently, if the MPA had simply overlooked the need to compile and produce the 2016/2017 cable/satellite claims, it already knew of such oversight when it responded to MGC’s discovery requests on February 18, 2022. See **Exhibit B** to MGC’s moving brief, at para. 2.1 (MPA discovery responses). If the MPA’s failure to produce the claims had been attributable to oversight, the MPA still could have compiled and produced such documents by the close of discovery on March 16, 2022. Several parties supplemented their discovery responses and production during this one-month timeframe, including the Settling Devotional Claimants, Multigroup Claimants, Major League Soccer, and the MPA, yet at no time did the MPA attempt to supplement its production with its 2016/2017 cable/satellite claims. As such, although the MPA had ample time to remedy any production oversight, it consciously elected not to do so.

D. The task that the MPA argues Multigroup Claimants could have engaged was unnecessary, arduous, and impracticable.

Although the MPA defends that MGC could have just gone and looked up the MPA-represented claims on the eCRB website, it glosses over the fact that the MPA’s 556-page petition to participate in the cable proceedings identifies *7,600 claimants* for 2016 cable royalties, and *8,340 claimants* for 2017 cable royalties. The MPA’s 451-page petition to participate in the satellite proceedings identifies approximately *7,500*

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claimants for 2016 satellite royalties, and *8,000 claimants* for 2017 satellite royalties. In order to fully appreciate the gross magnitude of the task in which the MPA argues MGC should have engaged, it is necessary to articulate how this task logistically would have been accomplished.

The first step in determining which July cable claims were filed by MPA-represented claimants would be to review the MPA's respective 556-page petition to participate in the cable proceedings and 451-page petition to participate in the satellite proceedings.² The MPA's petitions to participate identify the claimants the MPA purports to represent, and identifies the claim numbers on which such claimants are identified. For example, the first claimant identified on the MPA's petition to participation for 2016 cable royalties is "'FIRST TWENTY MILLION" FILMPRODUKTION GMBH & CO. KG", and the MPA's petition indicates that such entity is identified in 2016 cable claim #200. See **Exhibit D** (MPA petition to participate, exemplar page). The MPA's petition to participate indicates that such claim was filed as part of a joint claim (designated by claim type "W"), but does not indicate the identity of the entity filing the joint claim, and does not indicate whether the MPA contracted directly with such claimant, or vis-à-vis another entity. After scrolling through to page 10 (of 26) of the eCRB webpages that identify the aggregate of 2016

² Although Multigroup Claimants must necessarily cite to the MPA's petitions to participate, in the interest of brevity such lengthy documents are not attached as exhibits.

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cable claims, MGC would come to claim #200.³ Clicking on claim “200” opens a page that reflects that the claim was filed by Fox Entertainment Group LLC. Clicking on the “Claimant list” appearing on the opened page, results in the download of an Excel file to be appended to claim #200. Only after a search of the claimant identified above can it be confirmed that the identified claimant appears in the list, and only after combining the two files (“claim #200” and the “claimants list”) can the entirety of the claim be created as a single document for inspection.

In order to obtain a comprehensive compilation of all the 2016/2017 cable/satellite claims being prosecuted by the MPA, this same task would need to be repeated for each claim asserted by nearly 31,500 claimants for 2016/2017 cable/satellite claims that the MPA asserts it represents. This is the task that the MPA argues was Multigroup Claimant’s responsibility in this proceeding. By contrast, the MPA could have simply provided copies of the claims that were either provided to the MPA by represented claimants, or submitted copies (physical or electronic) of the claims on which it relied and *already* had in its possession. Again, this is a category of documents that the MPA and *every* other participant has produced *in the last five prior distribution proceedings, going back over more than two decades*.

³ Contrary to the MPA’s contention in its opposition brief, the names appearing on the MPA’s petitions to participate are not “linked” to the claim appearing in the eCRB website. See MPA br. at fn. 4. The petitions to participate merely identify the claim number on which the claimant appears, but to view such claim in the eCRB database and save a copy of the claim requires scrolling to the page that contains the identified claim number, copying the claim and its attached Excel spreadsheet, and then combining those files.

E. The MPA did not comply with the *Scheduling Order*, and rationalizes its failure to produce the claims it seeks to prosecute by narrowly defining the documents on which it relies for its “authority to represent each claimant”.

The MPA asserts that it produced all documents relating to its “authorization” to make claim on behalf of claimants. By its argument, the MPA attempts to define “authorization” very narrowly, and in a manner that would render the claims verification process purposeless.

As the MPA aptly noted in a recent brief, a copyright owner making claim in this proceeding must *both* (i) be identified in a July claim, and (ii) appear on a participant’s petition to participate.⁴ Failure to do either invalidates the claim. Recognizing this fact, it follows that any claimant’s authority to make claim in these proceedings is dependent on such claimant being identified in a July claim. Given this fact, the MPA cannot reasonably argue that the July claims on which the MPA relies for its “authority” to participate in these proceedings need not be produced in discovery.

That is, “authorization” is not just limited to proof that a principal has authorized its agent to act on the principal’s behalf, but also proof that the principal itself has the right to make a claim to royalties in these proceedings. No different than the documentation a single claimant would be required to produce in order to establish its authorization to participate in these proceedings, an agent such as the MPA must produce the same July claim documentation that authorizes the underlying copyright owner to

⁴ *MPA Motion for Disallowance of Claims Made by Multigroup Claimants* at 5, citing 17 U.S.C. §§ 111(d)(3) and (4)(A); 17 U.S.C. §§ 119(b)(4) and (b)(5)(A); 37 C.F.R. §§ 351.1(b)(3) and 360.2.

make claim, *as well as* whatever documentation exists that authorizes an agent to represent the interests of its principal. The MPA acknowledges that it only attempted to produce documents substantiating its authority to represent principal copyright owners, and refused to produce documents substantiating the principals' royalty claims. Adopting the MPA's narrow construction of "authorization" would mean that a participant that was prosecuting only its own programming, and not acting as an agent of other copyright owners, would have no obligation to produce *any* documents demonstrating its authority to participate in these proceedings, including the July claims filed by such entity.

F. The "presumption of validity" does not abrogate a participant's obligation to establish its authority to participate in these proceedings, and produce in discovery documentation validating such participation.

The MPA further attempts to impose the "presumption of validity" into analysis of its failure to produce the 2016/2017 July claims, arguing that because the MPA enjoys a "presumption of validity", it need not even produce the claims on which the MPA necessarily relies to establish its authority, and the authority of its represented claimants, to make claim in these proceedings. MPA br. at 4.

The absurdity of the MPA's contention is easily exposed, as it would mean that *any* participant could make claim to *any* program without producing *any* substantiating documentation, *even the July claim on which claims in these proceedings are statutorily required*. The presumption has already been permissively interpreted by the Judges to allow claim for any program without any supporting documentation, unless reasonable challenge to the program is first demonstrated, and agents engaging other agents are not even required to produce agreements or documentation validating their

representation. With the MPA's newfound expansion of the "presumption of validity", these proceedings would quickly devolve from proceedings in which a party has an obligation to produce only a modicum of documentation, to proceedings that are defined only by what documentation an adverse party can provide in order to affirmatively prove that a claimant or program *cannot* be claimed by the participant.

Nor is it compelling or relevant that the MPA produced a wealth of other documentation in response to discovery requests. No different than in the *Consolidated Proceedings*,⁵ where Independent Producers Group produced approximately 8,500 pages of scanned documents and electronic files that would have generated tens of thousands of printed pages, the failure of Independent Producers Group to produce *one* email resulted in a significant sanction.⁶ Here, by contrast, the MPA have failed to produce *any* of the July claims filed for 2016/2017 cable/satellite royalties, a voluminous body of documents. It is of zero significance that other documents were produced, when the issue here concerns which documents were not produced.

G. Multigroup Claimants was not required to submit an irrelevant "follow-up request", was not required to "meet and confer" with the MPA regarding the MPA's refusal to produce the 2016/2017 claims, and was not required to file a motion to compel production, as prerequisites for bringing this motion. The

⁵ Reference to the "*Consolidated Proceedings*" is to the 1999-2009 satellite and 2004-2009 cable distribution proceedings, Dkt. No. 2012-7 CRB SD 1999-2009 (Phase II) and 2012-6 CRB CD 2004-2009 (Phase II).

⁶ In the *Consolidated Proceeding*, the Judges dismissed the claims for the programming of three devotional programming rightsholders for all seventeen royalty pools, as a discovery sanction for failure to produce an email from a decade earlier, that was sent directly to the SDC, that was previously found by the Judges to be of no legal significance in the immediately prior proceeding, and which WSG dba Independent Producers Group contended was not even responsive to the SDC's discovery request.

basis of the MPA’s refusal to produce the 2016/2017 claims was an objection that is universally recognized as invalid.

Seeking to exonerate itself from any consequence for failing to produce the 2016/2017 claims, the MPA argues that Multigroup Claimants failed to submit a “follow-up request” for the 2016/2017 claims, failed to engage in a “meet and confer” process with the MPA, and failed to file a motion to compel production, prior to filing its motion for disallowance. The MPA makes this argument despite its contention – in the *same* sentence – that it would not have mattered to the MPA, and a motion to compel production would have been “meritless”. MPA br. at fn. 2.

Indeed, “follow-up discovery” requests relate to the discovery of information referenced or contained in documents that have *already* been produced in discovery. Follow-up discovery does not relate to documents that were expressly not produced in discovery, and MGC was not obliged to request the 2016/2017 claims for a second time after the MPA expressly refused to produce them after initially requested. The MPA’s suggestion that MGC was required to propound a “no, now I’m *really* requesting the documents, and darn it, I mean it” request has no basis in practice or law.

Similarly, Multigroup Claimants did not engage in a futile “meet and confer” conversation with the MPA because of the specificity of the MPA’s discovery response. The MPA’s refusal to produce the 2016/2017 claims was not a circumstance where the MPA had erringly omitted production of a category of documents in response to a more generalized document request, and perhaps needed clarification as to documents that would be responsive to the request. Rather, MGC *expressly* requested production of the

July claims and the MPA *expressly* responded that it would not produce them. See **Exhibit B** to MGC’s moving brief, at para. 2.1 (MPA discovery responses). No different than the fact that MGC was not obliged to submit an irrelevant “follow-up request”, MGC was not required to “meet and confer” regarding the MPA’s abject refusal and contend that MGC is *really* requesting the documents now. Irrespective, the MPA acknowledges that no different response by the MPA would have been forthcoming.

Moreover, there is no obligation of an aggrieved party to bring a motion to compel production before seeking a different remedy for a party’s failure to produce documents. In its affirmation of the heavy discovery sanction against MGC’s predecessor, IPG, noted in footnote 6, above, the Judges stated the following:

“Based on previous rulings, the parties to this proceeding are fully aware of the Judges’ position regarding full discovery. [fn. 4]. The Judges favor expedient resolution of distribution proceedings, but not at the cost of factual deficits or errors. *No party should have to file a motion to compel discovery.* The onus of discovery is on the producing party to be forthcoming. IPG’s reliance on this procedural formality is unavailing.”

[footnote 4: “Congress purposefully limited discovery in distribution proceedings. Limits on discovery have proved, however, to be a double-edged sword whose backswing results in parties not fully prepared for presentation of evidence at a hearing and surprise or trial-by-ambush practices.”]

Order on IPG Motions for Modification at 4 (Apr. 9, 2015), in the *Consolidated Proceeding* (emphasis added).

Indeed, there are innumerable circumstances in which a good faith dispute exists as to whether certain categories of documents are responsive to a document request, or relevant, or subject to a privilege. Such is not the case here, as Multigroup Claimants expressly requested the 2016/2017 July claims, the MPA expressly refused, and no

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objection of relevance, or privilege was asserted – all in the face of an order by the Judges that it takes “a dim view of any party’s reluctance to make the disclosures.” *Scheduling Order* at 3. Rather, the MPA objected on grounds that are universally considered to be an invalid objection, i.e., that the requested information and/or documents were publicly available, and that MGC should tediously pore through the eCRB website, discern which claims were being represented by the MPA, and then laboriously compile that documentation itself – all the while the MPA sits in organized possession of that information, and able to provide it to MGC with a few mouseclicks on the MPA counsel’s computer.

Multigroup Claimants has already cited a wealth of precedent from several jurisdictions, and treatises, that objecting to the production of a document on the grounds that the information sought is “publicly available” is an invalid objection and no defense to a refusal to produce documents in a party’s possession. MGC moving br. at fn. 2. The MPA seek to distinguish MGC’s cited authority by arguing that such cases “were rulings on motions seeking to compel discovery—not rulings mandating dismissal of claims or cause of action where a party objected in good faith to production of documents.” MPA br. at fn. 5.

By its attempt to distinguish the cases cited by MGC, the MPA characterizes its discovery response as being “in good faith”, even though the MPA readily admits that the documents requested by MGC were already in its possession. Further, the MPA glosses over the facts of its three cited cases, which in two instances involved requests for a very limited in number of easily identifiable, publicly-available documents, and in another

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instance was a far-reaching request, for documents unrelated to the action being brought, and intended to be used by a plaintiff to chase down evidence for a theoretical speculative challenge regarding the defendant's general mental state. That is, the cases cited by the MPA are not remotely on par with the situation before the Judges here, where the MPA must necessarily rely on the publicly available documents (the July claims) in order to establish its authorization to participate in these proceedings. Further, the MPA-cited cases involved either limited documents that could be quickly compiled, and were being used as a sword by the propounding party (rather than the responding party, as here), or a vast array of documents for which it was unclear and speculative whether they would have any relevance to the action at hand. Here, there is no speculation as to the relevance of the documents requested by MGC—their existence is required in order for the MPA to participate in this proceeding.⁷

The MPA is correct that the legal authority cited by MGC generally involved addressing the validity of the “publicly available” objection in the context of motions to

⁷ The MPA cite to the following distinguishable cases: *Tequila Centinela, S.A. de C.V. v. Bacardi & Co., Ltd.*, 242 F.R.D. 1, 11-12 (D.D.C. 2007)) (Court ruled that defendant did not have to produce documents filed by defendant with the United States Patent and Trademark Office in connection with *one* trademark registration.)

Duskin Pub. Grp., Inc. v. Kinko's Service Corp., 136 F.R.D. 334, 335 (D.D.C. 1991) (Magistrate ruled that defendant did not have to produce documents on file with a court in *one* separate action involving the defendant.)

Keogh v. Pearson, 35 F.R.D. 20, 23 (D.D.C. 1964) (Court ruled that defendant in a defamation action was not required to produce “all newspaper columns written by defendant between 1948 and 1962”, as “Plaintiff cannot expect defendant to do his work for him” when plaintiff sought to demonstrate malicious intent vis-à-vis unrelated matters.).

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compel discovery responses, as opposed to considering the dismissal of claims. MPA br. at 5. This is hardly insightful, as one would expect that most legal authority regarding the validity of discovery objections would be addressed in the context of motions to compel discovery responses. Notwithstanding, the MPA dismisses without acknowledgment the edict of the Judges that they will take a “dim view” of any party’s reluctance to engage in good faith discovery, and ignores why the Judges would issue such an edict, the explanation for which was expressly set forth in the Judges’ prior ruling referenced above:

“Based on previous rulings, the parties to this proceeding are fully aware of the Judges’ position regarding full discovery. . . Congress purposefully limited discovery in distribution proceedings.”

Order on IPG Motions for Modification at 4 (Apr. 9, 2015), in the *Consolidated Proceeding*. That is, given the already-limited nature of discovery in distribution proceedings, participants have a heightened obligation to comply with the discovery obligations of which repeat-players like the MPA are fully aware. The 2016/2017 July claims requested by MGC were for documents that all participants (including the MPA in a recent legal brief) acknowledge are required as a prerequisite for participation; the MPA nonetheless refused to produce such documents. The MPA’s refusal was not in “good faith”, and MPA certainly did not file its motion “simply because MPA objected in good faith to MC’s discovery request”, as the MPA has represented. MPA br. at 5.

Applied here, it was insufficient for the MPA to direct Multigroup Claimants to the eCRB database, and instruct MGC to go look up the claims purportedly made by

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MPA-represented claimants. Here, the MPA's contention that it represents thousands of copyright owners who have made claim, yet failed to produce copies of *any* of those claims, is an unacceptable breach of the MPA's discovery obligations. Insult on injury, the MPA assert in their opposition brief that it had *already* compiled the 2016/2017 claims, and utilized them as part of their "review and vetting" of claims. Despite the MPA's evident admission of the relevance of these documents to its own analysis, and its possession of the responsive documents, the MPA *still* refused to produce them in response to MGC's request.

CONCLUSION

Conspicuously absent is any response by the MPA to MGC's observation that in each of at least the last five distribution proceedings, occurring over *more than two decades*, there has been a uniform practice of producing the July claims on which a party relies. It is a practice that every participant in every distribution proceeding has universally followed, and to allow the MPA to avoid this production obligation without consequence will literally make the MPA the first entity to not have produced copies of its underlying July claims in discovery.

Perhaps the most damning position taken by the MPA appears toward the end of the MPA opposition brief. Therein, the MPA asserts that it would be "unduly burdensome for MPA to download and compile copies of publicly available documents simply to respond to a MC discovery request, and it is unreasonable of MC to expect MPA to do so." MPA br. at 7. The position of the MPA simply cannot be reconciled with: (i) its earlier statement that the requested documents are "easily accessible", (ii) the

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statutory requirement that in order to sustain a claim to royalties in these proceedings, a July claim must be filed, or (iii) the fact that the MPA acknowledges in its brief that it had already compiled and relied on the July claims retrieved from the eCRB database. It follows that the most basic item of documentation that must be produced in discovery are the July claims on which a claimant relies. As an agent of claimants and copyright owners, the obligation to produce the July claims falls on the shoulders of the MPA, and the MPA simply refused to play by the rules and produce such basic documentation.

For the reasons set forth above, Multigroup Claimants respectfully moves for the Judges to dismiss all 2016 and 2017 claims asserted by the MPA-Represented Program Suppliers.

Respectfully submitted,

Dated: June 17, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June, 2022, a copy of the foregoing was provided to each of the parties on the attached service list via the Copyright Royalty Judges' eCRB electronic filing system.

/s/
Brian D. Boydston, Esq.

EXHIBIT C

RESTRICTED MATERIAL REMOVED

EXHIBIT D

RESTRICTED MATERIAL REMOVED

Proof of Delivery

I hereby certify that on Friday, June 17, 2022, I provided a true and correct copy of the Multigroup Claimants' Reply In Support Of Motion For Disallowance Of Claims By Mpa-Represented Program Suppliers to the following:

ASCAP, represented by Sam Mosenkis, served via E-Service at smosenkis@ascap.com

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

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

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

SESAC Performing Rights, LLC, represented by Timothy L Warnock, served via E-Service at twarnock@loeb.com

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

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

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

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

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

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

Canadian Claimants, represented by Lawrence K Satterfield, served via E-Service at

lksatterfield@satterfield-pllc.com

Signed: /s/ Brian D Boydston