

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

In the Matter of:

**DETERMINATION OF ROYALTY RATES
AND TERMS FOR MAKING AND
DISTRIBUTING PHONORECORDS
(*PHONORECORDS III*) (REMAND)**

**Docket No. 16-CRB-0003-PR
(2018-2022)**

**JOINT SUBMISSION REGARDING REGULATORY PROVISIONS TO
IMPLEMENT THE JUDGES' INITIAL RULING AND ORDER AFTER REMAND**

Spotify USA Inc., Amazon.com Services LLC, Google LLC, Pandora Media, LLC, National Music Publishers' Association, Inc. and the Nashville Songwriters Association International, (collectively, the "Participants") respectfully make this joint submission regarding their proposed regulatory provisions implementing the Judges' Initial Ruling and Order after Remand (eCRB Dkt. No. 26938) (July 1, 2022) ("Initial Ruling and Order"). In the Initial Ruling and Order, the Judges ordered the Participants to submit regulatory provisions consistent with that ruling. The Participants filed their proposed regulations on July 18, 2022 (eCRB Dkt. Nos. 27005 & 27011). The Participants thereafter jointly submitted proposed regulations on November 30, 2022 (eCRB Dkt. Nos. 27337, 27338, & 27339). The Participants now jointly request modification of the language that they have proposed for 37 C.F.R. section 385.3, which governs fees owed for late payment. The proposed language for that provision was and remains uncontested among the Participants.

The proposed text of 37 C.F.R. section 385.3 currently provides that late fees shall accrue from the date payment is due until payment is received by the Copyright Owner. The language

thus does not acknowledge that the mechanical licensing collective now has responsibility for collecting payment under the blanket license (though payment remains owed to Copyright Owners for non-blanket license uses). The Participants therefore propose the following amendment (noted in bold) to the proposed 37 C.F.R. section 385.3:

A Licensee shall pay a late fee of 1.5% per month, or the highest lawful rate, whichever is lower, for any payment owed to a Copyright Owner and remaining unpaid after the due date established in 17 U.S.C. 115(c)(2)(I) or 17 U.S.C. 115(d)(4)(A)(i), as applicable and detailed in part 210 of this title. Late fees shall accrue from the due date until the Copyright Owner receives payment, **except that where payment is due to the mechanical licensing collective under 17 U.S.C. 115(d)(4)(A)(i), late fees shall accrue from the due date until the mechanical licensing collective receives payment.**

Conclusion

For the foregoing reasons, the Participants respectfully request that the Judges adopt 37 C.F.R. section 385.3 as modified above.

DATED: January 10, 2023

Respectfully submitted,

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Proof of Delivery

I hereby certify that on Tuesday, January 10, 2023, I provided a true and correct copy of the Joint Submission Regarding Regulatory Provisions to Implement the Judges' Initial Ruling and Order After Remand to the following:

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