

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of)
)
Distribution of 2021) Docket No. 22-CRB-0005-CD
Cable Royalty Funds) (2021)
)
_____)

In the Matter of)
)
Distribution of 2022) Docket No. 23-CRB-0008-CD
Cable Royalty Funds) (2022)
)
_____)

**Multigroup Claimants’ Motion for
Partial Distribution of 2021 and 2022 Cable Royalties**

Worldwide Subsidy Group LLC (a Texas limited liability company) dba
Multigroup Claimants (“MGC”) hereby submits a motion for the Copyright Royalty
Judges to order a partial distribution to MGC of the 2021 and 2022 devotional cable
royalty funds (the “Cable Funds”).

On July 23, 2021, MGC moved for partial distribution of 2015, 2016 and 2017
devotional cable royalty funds. On April 3, 2023, MGC renewed its motion. To date –
after 27 months -- the Judges have not ruled on such motion, nor even remitted such
motion for comments following publication in the *Federal Register*. Four comparable
motions by all other interested parties have, on average, been published in the *Federal
Register* in *less than one month*.

On April 3, 2023, MGC moved for partial distribution of 2018, 2019, and 2022
devotional cable royalty funds. To date – after 6 months - the Judges have not ruled on

such motion, nor remitted such motion for comments following publication in the *Federal Register*. Three comparable motions by all other interested parties have, on average, been published in the *Federal Register* within *one month and a week*.

The circumstances warrant a partial distribution of the 2021 and 2022 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 2021 AND 2022 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. MGC has requested partial distribution of certain (devotional) 2018, 2019, and 2020 cable royalty funds, but the Judges have yet to rule on such motion, or to submit such motion for comments following publication in the *Federal Register*. All other participants to the 2018 and 2019 proceedings have received partial distributions of 40% of those royalty pools, and the Judges have requested public comments to those parties' request for 40% of the 2020 royalty pool.

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 ever provided, and such information is not publicly available.

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 2010-2013,¹ the *blended*

¹ No publicly available ruling has been issued yet in the 2014-2017 “Allocation” proceedings. Consequently, figures allocated to the devotional programming category during 2014-2017 are not able to be considered.

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 October 10, 2023, the amount of 2021 and 2022 Cable Funds collected equal the following amounts:

2021 funds: \$219,332,826
2022 funds: \$215,831,593

Applying MGC's previous average devotional percentage award of the aggregate royalties to the aggregate royalties collected for 2021 and 2022 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>
2021 funds:	\$1,802,257	\$901,128
2022 funds:	\$1,773,488	\$886,744

III. THE JUDGES HAVE CONSISTENTLY FAILED TO RULE ON MOTIONS FOR ADVANCE DISTRIBUTION FILED BY MGC AND ITS RELATED ENTITIES.

Attached hereto as Exhibit A is a spreadsheet that compares the Judges responses to motions for advance distribution filed by MGC and its related entities, compared to those of other parties that have sought partial distribution, demonstrating that on literally every front – e.g., the time by which the CRB issues a *Federal Register* notice, the time by which the CRB rules -- MGC’s motions for partial distribution have been addressed by the Judges on a basis dramatically less timely than other parties’ motions for partial distribution. For MGC’s motions for partial distribution, the running tally for the Judges to issue an order for publication of a notice for comments on the motion in the Federal Register for MGC is an average of **16 months and climbing**, compared to the **1.80 months** for all other parties’ motions for partial distribution. For MGC’s motions for partial distribution, the running tally for the Judges to issue an order for partial distribution is an average of **36 months and climbing**, compared to **4.57** months for all other parties’ motions for partial distribution. This is despite MGC and its related entities being an “established claimant” in each of those circumstances.

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CONCLUSION

For the reasons set forth above, Multigroup Claimants respectfully requests that the Judges immediately issue a notice requesting comments to Multigroup Claimants' motion, and for such notice to be published in the Federal Register pursuant to 17 U.S.C. § 801(b)(3)(C).

Respectfully submitted,

Dated: October 11, 2023

_____/s/_____
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CERTIFICATE OF SERVICE

I certify that on October 11, 2023, 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.

EXHIBIT A

Comparison of CRB response times for motions for partial distribution

Docket #	Docket	Motion for Distribution - Date	Renewed Motion for Distribution - Date	Second Renewed Motion for Distribution - Date	Federal Register Notice - Date	Federal Register Notice - Months after Motion for Distribution	Renewed Motion for Distribution - Date	Second Renewed Motion for Distribution - Date	Order Granting/Denying Partial Distribution - Date	Order Granting/Denying Distribution - Months after close of Federal Register Notice	Aggregate months in hands of CRB	NOTES
Phase I claimants motion for partial distribution												
14-CRB-0007 CD (2010-2012)	2012 Cable	07/25/14	09/12/14		10/01/14	2.25			12/23/14	1.75	4.00	
14-CRB-0008 SD (2010-2012)	2012 Satellite	07/25/14	09/12/14		10/01/14	2.25	02/26/15		03/03/15	4.00	6.25	Delay in order due to oversight.
14-CRB-0010 CD (2013)	2013 Cable	01/21/15			03/04/15	1.50			05/28/15	1.75	3.25	
14-CRB-0011 SD (2013)	2013 Satellite	01/21/15			02/11/15	1.00			05/28/15	2.50	3.50	
16-CRB-0009-CD (2014)	2014 Cable	02/05/16			02/29/16	0.75			08/15/16	4.50	5.25	
16-CRB-0010-SD (2014)	2014 Satellite	03/11/16			04/29/16	1.50			08/24/16	2.75	4.25	
16-CRB-0020 (2015)	2015 Cable	02/17/17			04/25/17	2.00			06/06/17	0.50	3.50	
17-CRB-0011-SD (2015)	2015 Satellite	02/17/17			04/17/17	2.00						
					09/29/17	7.00			11/07/18	0.50	17.00	
17-CRB-0017-CD (2016)	2016 Cable	05/18/18			06/04/18	0.50			unknown	unknown	unknown	
16-CRB-0010-SD (2014-17)	2016 Satellite	06/28/19			07/16/19	0.50			08/23/19	0.25	1.75	
16-CRB-0009-CD (2014-17)	2017 Cable	03/15/19			04/10/19	1.00			05/22/19	0.25	2.25	
16-CRB-0010-SD (2014-17)	2017 Satellite	06/28/19			07/16/19	0.50			08/23/19	0.25	1.75	
16-CRB-0010-SD (2014-17)	2014-2017 Satellite	09/15/21			03/14/22	6.00			05/04/22	1.00	8.00	
16-CRB-0010-SD (2014-17)	2014-2017 Satellite	08/17/22			12/13/22	4.00				7.00+	7.00	
19-CRB-0010-CD (2018)	2018 Cable	05/11/20			05/18/20	0.25			08/20/20	2.00	3.00	
19-CRB-0011-SD (2018)	2018 Satellite	05/11/20			05/18/20	0.25			08/20/20	2.00	3.00	
20-CRB-0010-CD (2019)	2019 Cable	06/10/21			06/24/21	0.50			08/09/21	0.50	2.00	
20-CRB-0009-SD (2019)	2019 Satellite	06/10/21			06/24/21	0.50			08/10/21	0.50	2.00	
21-CRB-0008-CD (2020)	2020 Cable	12/30/22			03/22/23	3.00						
21-CRB-0009-SD (2020)	2020 Satellite	03/09/23			03/22/23	0.50						
16-CRB-0009-CD (2014-17)	2016 and 2017 Satellite	04/11/23										
					Average	1.80			Average	1.56	4.57	
IPG/MGC motions for partial distribution												
2012-6 CRB CD (2004-2009), 2012-7 CRB SD (1999-2009)	2004-2009 Cable, 1999-2009 Satellite	09/18/15			12/16/15	3.00	06/06/15	08/25/16	11/09/16	10.00	14.00	
2008-2 CRB CD 2000-2003 (Phase 2)	2000-2003 Cable (Devotional)	04/19/17			04/01/19	24.00	10/24/19		n/a	68.00	68.00	Order never issued. Final distribution order issued December 5, 2022.
16-CRB-0009-CD (2014-17)	2014-2017 Cable	07/23/21	01/28/22	04/03/23		27.00+				27.00+	27.00+	Order not yet issued
19-CRB-0010-CD (2018)	2018 Cable	04/03/23										No Federal Register notice yet.
20-CRB-0010-CD (2019)	2019 Cable	04/03/23										No Federal Register notice yet.
21-CRB-0008-CD (2020)	2020 Cable	04/03/23										No Federal Register notice yet.
22-CRB-0005-CD (2021)	2021 Cable	10/11/23										
23-CRB-0008-CD (2022)	2022 Cable	10/11/23										
					Average	16.00+			Average	33.00+	36.33+	