

DEC 28 1990

Before the
COPYRIGHT ROYALTY TRIBUNAL
Washington, D.C.

OFFICE COPY

----- X
:

In the Matter of :

ADJUSTMENT OF THE BASIC : Docket No. 90-5-CRA

AND 3.75% CABLE ROYALTY RATES :

----- X

PETITION FOR COMMENCEMENT OF
PROCEEDINGS BY THE AMERICAN SOCIETY
OF COMPOSERS, AUTHORS AND PUBLISHERS,
BROADCAST MUSIC, INC. AND SESAC, INC.

1. The American Society of Composers, Authors and Publishers ("ASCAP"), Broadcast Music, Inc. ("BMI") and SESAC, Inc. ("SESAC") (collectively, the "Music Claimants") hereby petition the Copyright Royalty Tribunal to commence proceedings for the adjustment of the Basic and 3.75% cable royalty rates, in accordance with the Copyright Act, 17 U.S.C. §§801(b)(2) and 804(a)(2)(A), and the Tribunal's regulations, 37 C.F.R. §§301.61(b) and 301.62. See, Order of July 18, 1990 in this proceeding.

2. ASCAP, BMI and SESAC are "performing rights societies," as defined by 17 U.S.C. §116(e)(3). The writer and publisher members or affiliates of each are the creators and copyright owners of musical compositions, which are performed publicly by means of secondary transmissions by cable operators. On behalf of their members and affiliates, the Music Claimants have received distributions of cable


royalties for every year since the establishment of the cable compulsory license. The amount of those distributions is directly dependent on the cable royalty rate.

Accordingly, on behalf of their members or affiliates, ASCAP, BMI and SESAC each have the "significant interest" necessary to justify a petition to commence cable royalty rate adjustment proceedings. 17 U.S.C. §804(a)(2) and 37 C.F.R. §301.62(a).

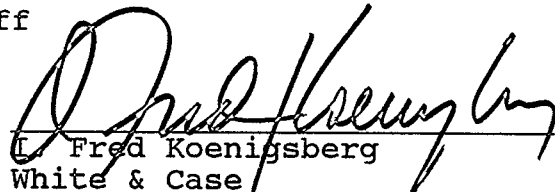
3. ASCAP, BMI and SESAC each represent creators and copyright owners of the same type of copyrighted work -- musical compositions -- performed by means of secondary transmissions by cable operators. Accordingly, the Tribunal has always treated their claims for both cable royalty rate adjustments and distributions of cable royalties jointly when they have been so presented. See, e.g., Adjustment of the Syndicated Exclusivity Surcharge, 55 Fed. Reg. 33,604 (1990). ASCAP, BMI and SESAC therefore share similar interests in this proceeding and may file their petition jointly as the Music Claimants. 37 C.F.R. §301.62(a).

Respectfully submitted


AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS


Bernard Korman
ASCAP
One Lincoln Plaza
New York, NY 10023
(212) 621-6210

Of counsel: Bennett M. Lincoff



Fred Koenigsberg
White & Case
1155 Avenue of the Americas
New York, NY 10036-2787
(212) 819-8806

BROADCAST MUSIC, INC.


Charles T. Duncan
Reid & Priest
Market Square
701 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 508-4081

Of counsel: Edward W. Chapin
Michael Faber
Joseph J. DiMona

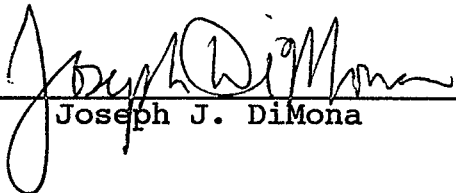
SESAC, INC.


Laurie Hughes
SESAC, Inc.
55 Music Square East
Nashville, TN 37203
(615) 320-0055

Dated: December 28, 1990

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Brief of the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc." was served by first-class mail, postage prepaid, this 28th day of December 1990 to the parties on the attached list.



Joseph J. DiMona

John Midlen, Jr. Esq.
3238 Prospect Street, N.W.
Washington, D.C. 20007-3215

Robert Alan Garrett, Esq.
Arnold & Porter
1200 New Hampshire Ave., N.W.
Washington, D.C. 20036

Mr. Thomas J. Ostertag
Office of the Commissioner
of Baseball
350 Park Avenue
17th Floor
New York, New York 10022

Judith Jurin Semo, Esq.
Squire, Sanders & Dempsey
1201 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Philip R. Hochberg, Esq.
Baraff, Koerner, Olender
& Hochberg, P.C.
2033 M Street, N.W.
Suite 700
Washington, D.C. 20036

Theodore A. Miles, Esq.
Acting General Counsel
National Public Radio
2025 M Street, N.W.
Washington, D.C. 20036

Jamie S. Gorelick, Esq.
Miller, Cassidy, Larroca & Lewin
2555 M Street, N.W.
Washington, D.C. 20037

Ms. Paula A. Jameson
Ms. Barbara S. Wellbery
Public Broadcasting Service
1320 Braddock Place
Alexandria, Virginia 22314

Thomas P. Olson, Esq.
Thomas B. Smith, Esq.
Wilmer Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

Mark J. Palchick, Esq.
James S. Blitz, Esq.
Bishop, Cook, Purcell
& Reynolds
1400 L Street, N.W.
Washington, D.C. 20005

Brenda Fox, Esq.
Seth A. Davidson, Esq.
National Cable Television
Association, Inc.
1724 Massachusetts Ave., N.W.
Washington, D.C. 20036

Bruce Sokler, Esq.
Mintz, Levin, Cohn, Glovsky
& Popeo, P.C.
1825 Eye Street, N.W.
Washington, D.C. 20006

Paul Glist, Esq.
Cole, Raywid & Braverman
1919 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Robert St. John Roper, Esq.
Ronald A. Siegel, Esq.
Ian D. Volner, Esq.
Cohn & Marks
1333 New Hampshire Ave., N.W.
Washington, D.C. 20036

Dennis Lane, Esq.
Arthur Scheiner, Esq.
Holland & Knight
888 17th Street, N.W.
Washington, D.C. 20006

Arnold P. Lutzker, Esq.
Barbara S. Ianniello, Esq.
Dow, Lohnes & Albertson
1255 23rd St., N.W.
Suite 500
Washington, D.C. 20037

Douglas G. Thompson, Jr., Esq.
L. Kendall Satterfield, Esq.
Finkelstein, Thompson & Loughran
2828 Pennsylvania Ave., N.W.
Suite 200
Washington, D.C. 20007

Henry L. Baumann, Esq.
Benjamin F. P. Ivins, Esq.
National Association of
Broadcasters
1771 N Street, N.W.
Washington, D.C. 20036

John Stewart, Esq.
Robert P. Deyling, Esq.
Crowell & Moring
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Stuart F. Feldstein, Esq.
Fleischman and Walsh, P.C.
1400 16th Street, N.W.
Washington, D.C. 20036