

RECORD

BEFORE THE
COPYRIGHT ROYALTY TRIBUNAL
WASHINGTON, D. C.

_____)
In the matter of)
)
Cable Royalty)
Distribution Proceedings)
_____)

REPLY MEMORANDUM OF
THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

The National Collegiate Athletic Association (NCAA) finds that the initial memoranda and briefs filed by other parties to these proceedings pursuant to the Copyright Royalty Tribunal's request for comments on designated threshold issues contain little that warrants response by the NCAA in the reply authorized by the Tribunal's notice.^{1/}

The NCAA's initial memorandum focused on two issues -- the objections raised to the standing of sports claimants, and the issue of the broadcast day as a copyright compilation -- while reserving its right to comment on other issues as might subsequently appear appropriate. Both of the issues addressed had been raised by the National Association of Broadcasters. However, neither the NAB's comments nor the comments of any other party advocating the NAB's position marshal any new argument -- or any facts whatsoever -- in support of the NAB's positions on these issues.

^{1/} 44 Fed. Reg. 59,930 (1979)

Broadcast Day

In the circumstances, and in view of the effectiveness with which the initial submissions in this proceeding have demolished the NAB's claim, further comments by the NCAA with respect to the NAB's broadcast day claim are unnecessary.

Sports Events

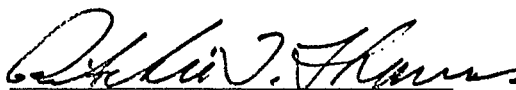
With respect to the challenge to the standing of the sports claimants, two points should be noted.

First, the NCAA's initial memorandum demonstrates that, in light of the facts and well-established copyright law precepts, the NCAA -- or the higher education institutions or collegiate conferences on whose behalf or jointly with which its royalty claims are made -- is the owner of copyright in the intercollegiate sports event telecasts which are the subject of its claims in these proceedings. The NCAA's memorandum demonstrates, in addition, that the limited licenses authorizing broadcast of the events given by the NCAA, conferences or institutions to broadcast stations do not imply any copyright in the broadcasts on the part of the licensed stations (even in those cases where the station undertakes to produce the telecast pursuant to the licensing arrangement), except to the extent that arrangements between the parties (for example, the notice of joint ownership included in the University of Kentucky football telecast) specifically provide otherwise. The Brief filed by the "Joint Sports Claimants" establishes that the ownership of copyright, and consequent

entitlement to cable royalties, by the proprietor of the broadcast sports event as thus established is consistent with the intent of Congress in establishing the cable royalty mechanism and with well-settled common law principles applicable to the ownership of property rights in telecasts of both amateur and professional sports events.

Second, the issue presented for the Tribunal's consideration at this time is cast in terms of a question of standing. The NCAA has shown beyond reasonable dispute that in fact and in law it (and those on whose behalf it files) is the owner of copyright in broadcast intercollegiate sports events on which its claims are based. Indeed, in the case of a significant number of the telecasts concerned, it appears that even the NAB does not assert otherwise. In contrast, no memorandum or brief filed by any other party to these proceedings articulates any specific claim of copyright ownership or cable royalty entitlement with respect to broadcast events covered by the NCAA's claims. The NCAA's standing to participate in the royalty distribution is therefore effectively uncontested.

Respectfully submitted,



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