

COPYRIGHT ROYALTY TRIBUNAL
CABLE ROYALTY DISTRIBUTION PROCEEDING

PRE-HEARING MEMORANDUM OF CLAIMANTS:

Archie Comic Publications, Inc.
DC Comics Inc.
Chicago Tribune New York News Syndicate, Inc.
William H. Cosby, Jr.
Harvey Cartoons
Henson Associates, Inc.
King Features Syndicate, Inc.
Larry Harmon Pictures Corp.
Marvel Comics Group, a Division of Cadence Publishing Corporation
Muppets, Inc.
Radio Comics, Inc.

SCHWAB GOLDBERG PRICE & DANNAY
Attorneys for Claimants
1185 Avenue of the Americas
New York, New York 10036
(212) 575-8150

Of Counsel:

Richard Dannay
Morton David Goldberg

SCHWAB GOLDBERG PRICE & DANNAY
ATTORNEYS AT LAW
1185 AVENUE OF THE AMERICAS
NEW YORK, N. Y. 10036
(212) 575-8150

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PRE-HEARING MEMORANDUM OF THE
CHARACTER CLAIMANTS

Claimants herein are the owners of copyrights in certain pictorial, graphic or sculptural works consisting of celebrated visual characters (hereinafter "the character claimants"), and submit this pre-hearing memorandum on five designated subjects in accordance with the December 15, 1979 notice issued by the Copyright Royalty Tribunal. 44 Fed.Reg. 75201 (Dec.19, 1979).

SUBJECT 1

RECOMMENDATIONS CONCERNING THE FORM
AND TIMING OF SUBMISSIONS BY CLAIMANTS
OF THE WRITTEN STATEMENT OF THEIR
DIRECT CASES

The character claimants recommend that within 60 days after the conference of all claimants presently scheduled on February 14, 1980, each claimant shall submit to the Tribunal a written statement of its direct case setting forth (i) a percentage or dollar figure of the compulsory copyright license fees the claimant considers itself entitled to, and (ii) a concise statement of the claimant's proof in justification of such percentage or dollar figure. The Tribunal should provide that the underlying data and compilations or summaries thereof gathered, used or otherwise relied upon by any party in connection

with this proceeding shall be made freely available to all other parties, no later than 60 days after the conference, for use by any party in the evidentiary hearing.

SUBJECT 2

THE AMOUNT OF TIME, NUMBER OF WITNESSES
AND GENERAL IDENTIFICATION OF STUDIES
OR OTHER EXHIBITS TO BE REQUIRED IN THE
PRESENTATION OF CLAIMANTS' CASES

The character claimants propose to submit evidence in support of the amount of their claims. Such evidence may consist of some or all of the following: live testimony (each claimant presently expects to call one witness), expert testimony, affidavit testimony, and documentary evidence. The character claimants expect that their combined direct cases would not exceed one day. The amount of time, if any, required for rebuttal and cross-examination cannot presently be estimated. The character claimants request the opportunity to enlarge or alter the presentation of their cases as circumstances may warrant.

SUBJECT 3

IDENTIFICATION OF MATTERS REQUIRING THE
PRODUCTION OF ADDITIONAL INFORMATION OR
CLAIM JUSTIFICATION FROM OTHER CLAIMANTS

The character claimants do not believe that there are any matters requiring the production of additional information or claim justification from themselves or from other claimants.

We contend that the Tribunal has previously received and considered in extenso all arguments and information in support of, or in opposition to, the positions of the claimants concerning the validity of claims or legal standing or copyright ownership as such matters affect the right to any of the cable television royalties.

The only question remaining for the hearing, therefore, is "how much" the claimants are entitled to, not "whether" they are so entitled. The single task now facing the Tribunal is to determine the proportionate division of the compulsory royalty fund among those claimants not expressly excluded by the Tribunal's December 15, 1979 notice. Evidence and argument directed to issues other than the amount of the claims and the proportionate division of the cable royalties among the claimants should not be admissible at or prior to the evidentiary hearing.

To implement the foregoing, the character claimants recommend that the Tribunal, by appropriate notice, limit further submissions solely to the issue of the amount of the claims and the proportionate division of the royalty fund among the remaining claimants.

SUBJECT 4

RECOMMENDATIONS CONCERNING THE CONDUCT
OF THE EVIDENTIARY HEARING, INCLUDING
POSSIBLE DIVISION OF THE HEARING INTO
SPECIFIC PHASES

After submission of the written statements of the direct cases of the claimants, as provided in item "1" above, the threshold question will be whether the aggregate of the remaining claims exceeds one hundred per cent (100%) of the cable royalty fund. If it does not, distribution of the amounts claimed can be made forthwith without the necessity of an evidentiary hearing. If it does, the evidentiary hearing should commence as promptly as practicable.

Since the only question germane to the hearing is "how much," we perceive no need to divide the hearing into specific phases. We recommend that the sequence of direct cases be determined by the size of the claims, commencing with those claimants seeking the largest amount or share and concluding with those seeking the smallest amount or share.

SUBJECT 5

IDENTIFICATION OF ANY SUBJECTS THAT REQUIRE
DETERMINATION BY THE TRIBUNAL PRIOR TO THE
COMMENCEMENT OF THE EVIDENTIARY HEARING

The character claimants rely upon their views as

expressed under items "3" and "4" of this memorandum.

Dated: New York, N.Y.
January 30, 1980

Respectfully submitted,

SCHWAB GOLDBERG PRICE & DANNAY

By Richard Dannay
Richard Dannay

1185 Avenue of the Americas
New York, New York 10036
(212) 575-8150

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Richard Dannay
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SCHWAB GOLDBERG PRICE & DANNAY

ATTORNEYS AT LAW
1185 AVENUE OF THE AMERICAS
NEW YORK, N. Y. 10036

MORTON DAVID GOLDBERG
DAVID E. SCHWAB II
RICHARD DANNAY
MORTON L. PRICE

FRANKLIN R. KAIMAN

(212) 575-8150

CABLE ADDRESS
NOMOSUS NEW YORK

HAROLD J. DRESCHER
COUNSEL

January 31, 1980

BY HAND

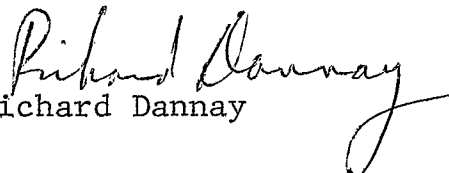
Hon. Mary Lou Burg
Chairman
Copyright Royalty Tribunal
1111 20th Street, N.W. - Room 450
Washington, D.C. 20036

Dear Madam Chairman:

On behalf of the claimants identified below, we hereby submit the original and 10 copies of claimants' pre-hearing memorandum with respect to the pending cable royalty distribution proceeding.

Respectfully,

SCHWAB GOLDBERG PRICE & DANNAY


Richard Dannay

RD:br
Encs.

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