

**COPYRIGHT ROYALTY JUDGES**  
**The Library of Congress**

*In re*

**DISTRIBUTION OF THE 2009, 2010 AND 2011  
DIGITAL AUDIO RECORDING TECHNOLOGY  
MUSICAL WORKS ROYALTY FUNDS**

**DOCKET NO. 2013-6 CRB DD 2009-2011  
(MWF)**

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**ORDER REJECTING PETITION TO PARTICIPATE OF DAVID POWELL AND  
ORDERING FINAL DISTRIBUTION OF MUSICAL WORKS FUND ROYALTIES**

On September 1, 2017, the Copyright Royalty Judges (Judges) published a notice in the *Federal Register* announcing the commencement of a proceeding to determine the proper distribution of DART Musical Works Funds (both the Music Publishers Subfund and the Writers Subfund) for royalty years 2009, 2010, and 2011.<sup>1</sup> The Judges received one timely, properly filed Joint Petition to Participate from Broadcast Music, Inc., The American Society of Composers, Authors and Publishers, SESAC, Inc., and the Harry Fox Agency LLC, which identify themselves as “Settling Claimants.” In addition, the Judges received a second petition from a *pro se* claimant, David Powell on October 12, 2017, although petitions were due October 2, 2017. In his petition, Mr. Powell contends that he filed it late and through email rather than through the Judges’ electronic filing system, eCRB, because he was denied online access to eCRB. The CRB staff subsequently informed Mr. Powell that he would need to refile the petition electronically as required by 37 CFR 350.5(c)(2), which states in relevant part that “[o]nce the [CRB] has issued an eCRB password to a *pro se* party, that party must make all subsequent filings by electronic means through eCRB.” The deadline for filing petitions to participate in this proceeding is long past, and Mr. Powell has failed to properly file a petition to participate.<sup>2</sup> As a result, the Judges accept the only timely petition that was properly filed, which is the one filed by the Settling Claimants.

Given that the Settling Claimants have already reached agreement among themselves, the Judges determine that there is no controversy regarding the remaining royalties in the DART Musical Works Fund (both the Music Publishers Subfund and the Writers’ Subfund) for 2009, 2010, and 2011, and therefore order a final distribution of those royalties to the Settling Claimants pursuant to Section 801(b)(3)(A).

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<sup>1</sup> 82 FR 41663.

<sup>2</sup> It also appears that Mr. Powell did not file a claim for DART Musical Works fund royalties for 2009, 2010, or 2011, which also would preclude him from receiving royalties for any of those years.

The Judges therefore **ORDER** that the remaining royalties from the 2009, 2010, and 2011 DART Musical Works Funds (both the Music Publishers Subfund and Writers' Subfund) be distributed to a common agent for the Settling Claimants for final distribution. All pertinent information to effect the transfer of funds must be provided to the Licensing Division of the Copyright Office no later than December 13, 2018. The distribution shall take place on or after December 20, 2018.

**SO ORDERED.**

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Suzanne M. Barnett  
Chief, U.S. Copyright Royalty Judge

DATED: December 4, 2018.