

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DETERMINATION OF ROYALTY RATES AND
TERMS FOR MAKING AND DISTRIBUTING
PHONORECORDS (Phonorecords III)**

**Docket No. 16-CRB-0003-PR
(2018-2022)**

**ORDER ON MOTION FOR CORRECTION
OF REHEARING ORDER**

On December 10, 2018, the Copyright Royalty Judges (Judges) issued to participants in the captioned proceeding an Order Soliciting Motion and Response, requesting a motion with analysis from the participants related to the issue participants had raised by email communication. The issue questioned the Judges’ use of the phrase “Limited Downloads” rather than “Limited Offerings” in the penultimate paragraph of page 12 of the Judges’ Order Granting in Part and Denying in Part Motions for Rehearing (Rehearing Order), which the Judges issued in restricted form on October 29, 2018, and in public form on November 5, 2018. Pursuant to the Order Soliciting Motion and Response, the Copyright Owners filed a Motion for Correction of Typographical Errors in the Rehearing Order on December 14, 2018 (Motion). The Services filed a Joint Response to the Copyright Owners’ Motion on December 20, 2018 (Response), noting additional corrections that would be necessitated by the Copyright Owners’ proposed changes.

Having considered the Motion and Response, the Judges adopt the reasoning presented by the Services as reflective of their intended ruling in the Rehearing Order. Adoption of the Services’ reasoning requires correction of an inadvertent word choice in the subject paragraph of the Rehearing Order and no further alteration or amendment of the Rehearing Order.

The Judges, therefore, hereby **ORDER** that the penultimate paragraph of page 12 of the Rehearing Order be revised to read as follows:

Paid Locker Services and Limited Offerings are licensed uses that are of a nature totally different from other streaming services. The existing regulations treated them differently and afforded them an alternative minimum royalty. The existing minimum for these services was not a mechanical floor. The Judges adopt the reasoning of the Services and incorporate it as an enhanced explication of their reasoning in the Initial Determination. The Judges’ choice not to establish a minimum for Paid Locker Services and Limited Offerings was not inadvertent; it was a feature of the regulatory overhaul so necessary for these mechanical licenses.

The Copyright Owners' Motion also highlighted a transposition of numerals in section 385.22 of the regulations. The Judges find that correction of that typographical error is noncontroversial and necessary. The Judges will issue an Amended Order on Rehearing to reflect the correction on page 12 and will correct the typographical transposition of the section reference in section 385.22 of the regulations in the Final Determination for publication in the Federal Register.¹

SO ORDERED.

Suzanne M. Barnett
Chief Copyright Royalty Judge

Dated: January 4, 2019.

¹ The Librarian of Congress will cause the Final Determination to be published in the Federal Register after the Office of the Federal Register reopens, if it is not open by January 4, 2019.