

**LIBRARY OF CONGRESS**

**Copyright Royalty Board**

**[Docket No. 2009-4 CRB DD 2005-2006]**

**Distribution of 2005 and 2006 Digital Audio Recording Royalty Funds**

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Order denying request for distribution; Notice announcing commencement of proceeding and requesting petitions to participate.

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**SUMMARY:** The Copyright Royalty Judges are denying a request for distribution of digital audio recording technology ("DART") royalties and announcing the commencement of a proceeding to determine the distribution of royalty fees in the 2005 and 2006 DART Sound Recordings Funds. The Judges also are announcing the date by which a party who wishes to participate in the distribution proceeding must file its Petition to Participate and the accompanying filing fee, if applicable.

**DATES:** Petitions to Participate and the filing fee, if applicable, are due no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

**ADDRESSES:** An original, five copies, and an electronic copy in Portable Document Format (PDF) on a CD of the Petition to Participate, along with a \$150 filing fee, if applicable, must be delivered to the Copyright Royalty Board by either mail or hand delivery. Petitions to Participate may not be delivered by an overnight delivery service other than the U.S. Postal Service Express Mail. If by mail (including overnight delivery), Petitions to Participate, along with the \$150 filing fee, if applicable, must be addressed to: Copyright Royalty Board, P.O. Box 70977, Washington, D.C. 20024-0977. If hand-delivered by a private party, Petitions to Participate, along with the filing fee, if

applicable, must be brought to the Library of Congress, James Madison Memorial Building, LM-401, 101 Independence Avenue, SE, Washington, D.C. 20559-6000. If delivered by a commercial courier, Petitions to Participate, along with the filing fee, if applicable, must be delivered to the Congressional Courier Acceptance Site, located at 2<sup>nd</sup> and D Street, NE, Washington, D.C. between 8:30 a.m. and 4 p.m. The envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue, SE, Washington, D.C. 20559-6000.

**FOR FURTHER INFORMATION CONTACT:** LaKeshia Brent, CRB Program Specialist, by telephone at (202) 707-7658 or e-mail at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 30, 2009, Edward Whitney Mazique filed a motion in which he requested a share of royalties remaining in the 2005 and 2006 Sound Recordings Funds.<sup>1</sup> AARC opposes the motion, arguing, among other things, that the remaining royalties are still in controversy and that a hearing is required to determine their proper distribution. AARC contends, however, that such a hearing should be postponed indefinitely because the costs of holding one might “outweigh the financial results of the proceeding.” In light of the participants’ continued inability to reach a settlement with respect to the remaining

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<sup>1</sup> On July 23, 2007, the Judges ordered a distribution of 98% of the 2006 Sound Recordings Fund to the Alliance of Artists and Recording Companies (“AARC”). *In the Matter of Distribution of 2006 Digital Audio Recording Royalty Funds*, Docket No. 2007-2 CRB DD 2006. On November 16, 2006, the Judges ordered a distribution of 98% of the royalties in the 2005 Sound Recordings Fund to AARC and Donald Johnson. *In the Matter of Distribution of 2005 Digital Audio Recording Royalty Funds*, Docket No. 2006-4 CRB DD 2005. In the latter order, the Judges also denied AARC’s motion to dismiss Mr. Mazique’s claim. The current order concerns the remaining 2% of the 2005 and 2006 Sound Recordings Funds (both the Copyright Owners Subfund and the Featured Artists Subfund), which, according to AARC, total approximately \$60,000 (\$20,000 for the 2005 Fund and \$40,000 for the 2006 Fund). *Opposition of the Alliance of Artists and Recording Companies to Motion Filed By [Edward Mazique] at 5* (May 7, 2009). In his motion, Mr. Mazique asks that the remaining 2% of the 2005 and 2006 Sound Recordings Funds be divided equally among all claimants, including himself, other than AARC and “any parties, individuals etc., that have arrangements or have already settled with AARC.”


funds, a proceeding is warranted. Therefore, the motion is denied and the Judges hereby announce the commencement of a proceeding and request petitions to participate from interested persons. The Judges are consolidating the 2005 and 2006 royalty years into a single proceeding due to the low dollar amount in controversy and to enhance administrative efficiency.

**Petitions to Participate**

Petitions to Participate must be filed in accordance with 37 CFR 351.1(b). Petitions to Participate must be accompanied by a \$150 filing fee, if applicable.<sup>2</sup> If a petitioner believes that the contested amount of that petitioner's claim will be \$10,000 or less, petitioner shall state that in its petition and need not include the \$150 filing fee.<sup>3</sup>

In accordance with 37 CFR 350.2 (Representation), only attorneys who are members of the bar in one or more states and in good standing may represent parties before the Judges, unless a party is an individual who represents herself or himself.

Dated: June 30, 2009

  
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James Scott Sledge  
Chief U.S. Copyright Royalty Judge

**[BILLING CODE: 1410-72-P]**

<sup>2</sup> Parties must pay the filing fee with a check or money order made payable to "Copyright Royalty Board." If a check is returned for lack of sufficient funds the corresponding Petition to Participate will be dismissed.

<sup>3</sup> 37 CFR 351.1(b)(4).



## United States Copyright Royalty Judges

June 30, 2009

Pickup 686874  
LN 686876

Mr. Ray Mosley  
Office of the Federal Register  
800 North Capitol St., N.W.  
7th Floor, Suite 700  
Washington, D.C. 20001

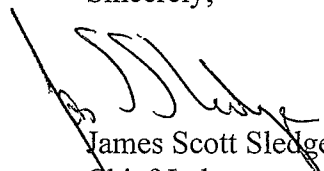
Dear Mr. Mosley:

Enclosed for publication are the required copies of "Distribution of 2005 and 2006 Digital Audio Recording Royalty Funds, Order Denying request for distribution; Notice Announcing commencement of proceeding and requesting petitions to participate. Docket No. 2009-4 CRB DD 2005-2006.

This document is coded in Word format with diskette; the document and Word disk are identical.

Please call Gina Giuffreda at (202) 707-7658 when this document has been approved for publication in the **Federal Register**.

Sincerely,

  
James Scott Sledge,  
Chief Judge  
Copyright Royalty Board

Enclosures:  
1 original and 2 copies  
of document  
1 diskette

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IN THE OFFICE OF  
THE FEDERAL REGISTER