

COPYRIGHT ROYALTY JUDGES
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In re

**DISTRIBUTION OF DIGITAL AUDIO
RECORDING TECHNOLOGY MUSICAL
WORKS ROYALTY FUNDS**

**DOCKET NO. 2010-8 CRB DD 2005-
2008 (MW)**

**ORDER ANNOUNCING DECISION TO PROCEED ON PAPER RECORD ONLY AND
SETTING SCHEDULE FOR FILING WRITTEN STATEMENTS**

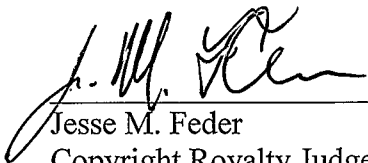
On August 20, 2013, the Copyright Royalty Judges (“Judges”) issued an *Order Regarding Commencement of Paper Proceedings* in which they sought comments on whether to proceed on the paper record only with respect to royalties in controversy for the 2006 royalty year. On August 23, 2013, the Judges received a filing from David Powell captioned *Nonsettling Party’s Motion for Formal Hearing*. Mr. Powell’s filing requests that the Judges “initiate a formal hearing under 37 C.F.R. § 351.3(a)” for not only 2006 but also for 2005, 2007, and 2008. The Judges interpret Mr. Powell’s Motion as opposing a paper-only proceeding for the 2006 royalty year.¹ On September 10, 2013, the Judges received the joint *Comments on the Commencement of a Paper Proceeding* from Broadcast Music, Inc., the American Society of Composers, Authors and Publishers, SESAC, Inc., and The Harry Fox Agency, Inc. (which identify themselves collectively as the “Settling Parties”). They support a paper-only proceeding, arguing, among other things, that resolving this controversy through a paper proceeding is “well-founded in the statutory law, legislative history and prior history of DART Musical Works Fund distribution proceedings” and “the cost of an in-person proceeding would clearly exceed the royalties likely to be collected.” *Id.* at 2.

As the Judges stated in their August 20, 2013 Order, “[g]iven the narrowness of the issues [in the current matter], the Judges consider this an appropriate circumstance for application of the statute regarding paper proceeding.” *Id.* at 2. Therefore, the Judges hereby announce their decision to proceed under Section 803(b)(5) of the Copyright Act. As such, the proceeding shall be limited to the filing by each of the parties of a written direct statement, a response by the opposing participant, and one additional response by each participant.

Written Direct Statements must be filed with the Judges no later than **December 16, 2013**. Responses shall be filed with the Judges no later than **December 30, 2013**. Replies to

¹ As the Judges noted in their April 12, 2013, *Order Regarding Distribution of Royalties and Announcing Voluntary Negotiation Period*, Mr. Powell “did not file claims to Musical Works fund royalties for 2005, 2007, and 2008.” April 12, 2013 *Order* at 2. Therefore, Mr. Powell is not an interested party with respect to the Musical Works funds for 2005, 2007, and 2008. Moreover, the Judges already determined that such funds were not subject to controversy and ordered that they be distributed. *Id.* at 3. Therefore, with respect to the 2005, 2007, and 2008 Musical Works funds, Mr. Powell’s request is **Denied**.

responses shall be filed with the Judges no later than **January 6, 2014**. All statements and responses **must** be served on all parties on the attached service list under 37 CFR 350.4(h) by means no slower than overnight express mail.²



Jesse M. Feder
Copyright Royalty Judge

DATED: November 15, 2013

Attachment

² A list of *pro bono* counsel for *pro se* participants is available on the CRB website (http://www.loc.gov/crb/docs/Pro_Se_Claimants.html).

Docket No. 2010-8 CRB DD 2005-2008

Distribution of the 2005-2008 Digital Audio Recording Technology (DART) Musical Works Royalty Funds

| PARTY | CONTACT | FIRM | ADDRESS(ES) | TELEPHONE AND/OR FAX |
|---|---------------------------------------|-----------------------------------|--|------------------------------------|
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| | John Beiter | Zumwalt, Almon & Hayes PLLC | SESAC, Inc. 1014 16 th Avenue South Nashville, TN 37212 jbeiter@zahlaw.com | P: 615-850-2291 F: 615-256-7106 |

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