

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
LIBRARY OF CONGRESS
Washington, D.C.

In the Matter of:)
)
)
DETERMINATION OF RATES AND) Docket No. 23-CRB-0013-NSR (2026-2030)
TERMS FOR DIGITAL)
PERFORMANCE OF SOUND)
RECORDINGS BY NEW)
SUBSCRIPTION SERVICES AND)
MAKING OF EPHEMERAL COPIES)
TO FACILITATE THOSE)
PERFORMANCES (NSS V))
)

**UNOPPOSED MOTION OF SIRIUS XM RADIO INC. TO FILE LATE PETITION
TO PARTICIPATE**

On January 5, 2024, the Copyright Royalty Judges published in the Federal Register an announcement of the commencement of the above-captioned proceeding to determine the reasonable rates and terms for the making of ephemeral recordings of sound recordings in furtherance of the exempt digital transmission of sound recordings by New Subscription Services pursuant to 17 U.S.C. 114(d)(2). *Determination of Rates and Terms for Digital Performance of Sound Recordings by New Subscription Services and Making of Ephemeral Copies to Facilitate Those Performances (NSS V)*, 89 Fed. Reg. 810 (Jan. 5, 2024). The announcement instructed interested entities to file petitions to participate by February 5, 2024. Sirius XM Radio Inc. hereby move the Copyright Royalty Board to accept its petition to participate, which is being filed just four business days later than the announced deadline.

Under 17 U.S.C. § 803(b)(1)(A)(ii), “the Copyright Royalty Judges may for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on

which participants in the proceeding are to file their written direct statements.” Sirius XM personnel only became aware that the announced *NSS V* proceeding will address the rates and terms for what is typically referred to as its “CabSat” (cable/satellite) music service on February 8, 2024, after being informed by its undersigned outside counsel. Sirius XM thereafter immediately sought the consent of the other participants in the proceeding, SoundExchange and Stingray, to file a late petition to participate, and received their consent on February 8 (Stingray) and February 9 (SoundExchange).

Given that only four business days have passed since the petition deadline and that both SoundExchange and Stingray have indicated that they consent to Sirius XM’s late petition, no other participant will suffer any prejudice if Sirius XM’s late petition is accepted. In addition, although a deadline for written direct statements has yet to be set, Sirius XM’s petition presumably is well within the statutory 90-day window.

Good cause and lack of prejudice having been shown, Sirius XM hereby move the Judges to accept its petition to participate.¹

Dated: February 9, 2024
New York, NY

Respectfully submitted,

/s/ Todd Larson

Todd D. Larson (N.Y. Bar No. 4358438)
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, NY 10153
Tel: (212) 310-8000
Fax: (212) 310-8007
todd.larson@weil.com

Counsel to Sirius XM Radio Inc.

¹ Because the online form for submitting petitions to participate in this proceeding appears to be closed as of the date of this filing, Sirius XM includes the petition in print form below, but would be pleased to submit the petition and make the requisite payment electronically should the Judges request.

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PETITION TO PARTICIPATE OF SIRIUS XM RADIO INC.

Petitioner:

Sirius XM Radio Inc.
1290 Avenue of the Americas
New York, NY 10104
Patrick.donnelly@siriusxm.com
212-584-5100 (ph.)
212-584-5200 (fax)

Statement of Significant Interest:

Sirius XM Radio Inc. has a significant interest in the subject matter of the proceeding because it currently operates, and intends to operate during the 2026-2030 license period, a new subscription service that utilizes the Section 112 and 114 statutory licenses at issue in the proceeding to offer consumers performances of sound recordings through cable and/or satellite television systems. The company therefore will pay royalties according to the rates and terms for such service as will be set here by the Copyright Royalty Judges.

Representative(s):

Todd Larson
Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
todd.larson@weil.com
212-310-8000

Proof of Delivery

I hereby certify that on Friday, February 09, 2024, I provided a true and correct copy of the Unopposed Motion of Sirius XM Radio Inc. To File Late Petition To Participate to the following:

SoundExchange, Inc., represented by Steven R. Englund, served via E-Service at senglund@jenner.com

Stingray Music USA Inc., represented by Gary R Greenstein, served via E-Service at ggreenstein@wsgr.com

Signed: /s/ Todd Larson