

N. Langley
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Before the
COPYRIGHT ROYALTY TRIBUNAL
Washington, D.C. 20036

In the Matter of)
)
Filing of Claims to)
Cable Royalty Fees;)
Proof of Fixation)

COMMENTS OF THE COMMISSIONER
OF BASEBALL

The Commissioner of Baseball, by his attorneys, submits the following comments on the proposed rule with respect to proof of fixation of copyrighted works (37 C.F.R. § 302.9). The Copyright Royalty Tribunal's request for comments on the proposed rule is published at 43 Fed. Reg. 32825 (July 28, 1978). The proposed rule states as follows:

§ 302.9 Proof of fixation of works

The Copyright Royalty Tribunal shall not require in any proceeding for the distribution of cable royalty fees the filing by claimants of tangible fixations of works in whole or in part. In the event of a controversy concerning the actual fixation of a work in a tangible medium as required by the Copyright Act, the Copyright Royalty Tribunal

shall resolve such controversy for purposes of the distribution proceeding solely on the basis of affidavits and other appropriate documentary evidence, and such oral testimony as the Copyright Royalty Tribunal may deem necessary. Affidavits submitted by claimants should establish that the work for which the claim is submitted was fixed in its entirety, and should state the nature of the work, the title of the program, the duration of the program, and the date of fixation. No such affidavits need be filed with the Copyright Royalty Tribunal unless requested by the Tribunal.

This rule is consistent with the recommendations contained in the "Comments of the Commissioner of Baseball" filed June 15, 1978, in these proceedings. Accordingly, the Commissioner of Baseball urges adoption of this rule and, in support, incorporates by reference his June 15 Comments. A copy of these Comments is attached.

Respectfully submitted,



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