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January 20, 1978

Thomas Brennan, Esq.
Chairman
Copyright Royalty Tribunal
1111 20th St., N.W.
Washington, D. C. 20036

Dear Tom:

Pursuant to our conversations, I am enclosing the letter dealing with retention of simultaneous fixations.

Thanks for your cooperation on this.

With kindest regards, I am

Sincerely,



Philip R. Hochberg

PRH/elw
Enclosure

January 19, 1978

Thomas Brennan, Esq.
Chairman
Copyright Royal Tribunal
1111 20th St., N.W.
Washington, D. C. 20036

Dear Tom:

On behalf of my clients, the National Hockey League and the National Basketball Association, I am writing to seek from you and the Tribunal a general understanding of one provision of the Copyright Revision Act. The Commissioner of Baseball through his counsel, Jim Fitzpatrick, joins me in this communication.

Since January 1, 1978, live telecasts of sports events have been copyrightable if those telecasts are "fixed in ... [a] tangible medium of expression", pursuant to Section 102 (a). And, pursuant to Section 101,

a work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

Concern has been expressed that copyright owners might be required to satisfy the deposit and registration requirements of the Act (Sections 407 and 408) as a precondition to participation in the distribution procedures of Chapter 8. Section 407(a) and 408(a), however, specifically provide that deposit and registration are not preconditions to copyright protection. Accordingly, it is our conclusion that participation in the Chapter proceedings is not dependent upon compliance with the formalities of deposit and registration.

Thomas Brennan, Esq.
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January 19, 1978

Concern has also been expressed that copyright owners might be required to retain copies of the simultaneous fixations as a precondition to Chapter 8 participation. There is the further concern that the copyright owners might be required to submit these copies to the Copyright Royalty Tribunal. Again, we have concluded that there is no language in the Act or its legislative history which would impose such formalities of copyright. As you know, such retention and/or submission soon would become extremely burdensome and costly.

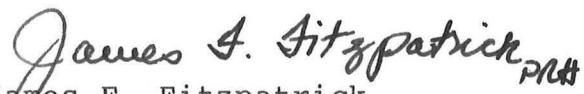
I would appreciate some indication of your understanding of these positions.

With kindest regards, I am

Sincerely,



Philip R. Hochberg
Counsel
National Hockey League
National Basketball Association



James F. Fitzpatrick
Counsel
Commissioner of Baseball

PRH/elw