

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

In re

**DETERMINATION OF ROYALTY RATES
AND TERMS FOR EPHEMERAL
RECORDING AND DIGITAL
PERFORMANCE OF SOUND
RECORDINGS (*WEB VT*)**

Docket No. 23-CRB-0012-WR
(2026-2030)

**ORDER 15 STRIKING, *SUA SPONTE*, “CORRECTED AND AMENDED WRITTEN
DIRECT STATEMENT OF GEORGE JOHNSON AND WORD COLLECTIONS,”
WITHOUT PREJUDICE**

The Copyright Royalty Judges (Judges) *sua sponte* strike the Corrected and Amended Written Direct Statement of George Johnson and Word Collections (Corrected and Amended Written Direct Statement) (eCRB no. 43744), filed on September 24, 2024, without prejudice. The Corrected and Amended Written Direct Statement is premature and untimely, since it should not have been filed until a date within 15 days of the end of the discovery period, which closes on November 19, 2024, as per Order 6 (eCRB no. 42927) and as required by 37 CFR 351.4(c).¹

The Corrected and Amended Written Direct Statement also does not comply with the additional requirement of section 351.4(c) that an amended written direct statement provide an explanation of how it differs materially from the written direct statement (“WDS”) and is based on new information received during the discovery process. *See* 37 CFR 351.4(c).²

In effect, paragraph (c) of section 351.4 provides a party with the ability to amend its written direct statement as of right if it does so (1) only within 15 days after the end of the discovery period and (2) based on new evidence received during discovery. Furthermore, whether filed as of right or by permission of the Judges, an amended written direct statement "must explain how it differs from the [WDS]...." *Id.* In this case, the parties' discovery process had barely begun, and no explanation for the necessity of filing an amended written direct statement or how it differs from the original statement based on new information from the discovery process was provided. Word Collections, Inc., and Mr. Johnson therefore did not

¹ *Amended written direct statements.* A participant in a proceeding may amend a written direct statement based on new information received during the discovery process, within 15 days after the end of the discovery period. 37 CFR 351.4(c).

² An amended written direct statement must explain how it differs from the written direct statement it will amend and must demonstrate that the amendment is based on new information received during the discovery process. *Id.*

meet either requirement for filing their Corrected and Amended Written Direct Statement as of right.

In complying with section 351.4(c), participants should generally include a redline of the written direct statement and should include a narrative explanation³ of the ways in which the amended written direct statement differs from the WDS on the basis of new information received during discovery. *See* Order Granting MPAA and SDC Motions to Strike IPG Amended Written Direct Statement . . . , Docket Nos. 2012-6 CRB CD 2004-09 (Phase II) and 2012-7 CRB SD 1999-2009 (Phase II) (eCRB no. 4809) (2015); Order on IPG Motion for Leave to File Amended Written Direct Statement, Docket Nos. 2012-6 CRB CD 2004-09 (Phase II) and 2012-7 CRB SD 1999-2009 (Phase II) (eCRB no. 13039) (2016); Order Denying as Moot SoundExchange's Motion for Leave to Amend the Written Direct Testimony of . . . Orszag, Docket No. 16-CRB-0001 SR/PSSR (2018-2022) (eCRB no. 23212) (2017); and Order Granting in Part, and Denying in Part, Copyright Owners' Motion to Strike Amended Corrected Written Direct Testimony of . . . Farrell . . . , Docket No. 21-CRB-0001-PR (2023-2027) (eCRB no. 26452) (2022).

The filing by Word Collections, Inc., and George Johnson has been **STRUCK AND REMOVED** from eCRB as improper because it is not in conformity with the Judges' regulations.

This Order is without prejudice as to the right of Participants to file a motion for leave to amend their Written Direct Statement at a time earlier than otherwise permitted by the Judges' regulations and unrelated to new facts obtained in discovery. Any such motion shall include an argument why movants believe good cause exists to allow such an amended filing and include as attachments the proffered amended written direct statement, in both plain text and redlined text, identifying the changes from the Written Direct Statement.⁴

SO ORDERED.

Dated: September 30, 2024

David P. Shaw
Chief Copyright Royalty Judge

³ Non-substantive edits, such as typographical corrections, need no explanation, but they should be visible in the redline.

⁴ By issuing this Order without prejudice, the Judges are not expressing or intimating how they would rule on any subsequent motion for leave to file an amended written direct statement.