

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 89-1-87JD]

1987 Jukebox Royalty Distribution Proceeding

ORIGINAL

AGENCY: Copyright Royalty Tribunal

ACTION: Notice of final determination; Notice of full distribution.

SUMMARY: The Copyright Royalty Tribunal announces the adoption of a final determination in the proceeding concerning the distribution to certain copyright owners and performing rights societies of royalty fees paid by jukebox operators during 1987, and announces a full distribution of the 1987 jukebox royalty fund.

DATES: Distribution of the 1987 jukebox royalty fund shall take place on May 8, 1989.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street, N.W., Suite 450, Washington, D.C. 200036 (202-653-5175).

SUPPLEMENTARY INFORMATION:

Authority, Background and Chronology

17 U.S.C. 116(c)(3) authorizes the Copyright Royalty Tribunal (Tribunal) to distribute annually royalty fees paid by jukebox operators to certain copyright owners and performing rights societies. First, the Tribunal is to assess the claims of, and make appropriate award to, "every copyright owner not affiliated with a performing rights society." 17 U.S.C. 116(c)(4)(A). Second, the remainder is to be distributed to "the performing rights societies . . . as they shall by agreement stipulate among themselves, or if they fail to agree, the pro rata share to which such performing rights societies prove entitlement." 17 U.S.C. 116(c)(4)(B).

In this proceeding, the Tribunal takes up the distribution of royalty fees deposited by jukebox operators for the calendar year 1987. Four parties filed timely claims: Asociacion de Compositores y Editores de Musica Latinoamericana (ACEMLA), the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI) and Italian Book Corporation (IBC).

On October 28, 1988, a fifth party, SESAC, Inc. (SESAC), filed a motion for the acceptance of its late-filed claim.

Justifications of claims were due at the Tribunal on November 1, 1988. All parties except IBC filed their justifications, and IBC later informed the Tribunal by letter dated December 7, 1988 that it was withdrawing its claim.

According to their jointly filed justification of claim, ASCAP and BMI reached an agreement concerning the distribution of 1987 jukebox royalties between them. Consequently, they moved for an immediate partial distribution of the jukebox royalty fund.

On December 9, 1988, the Tribunal published in the Federal Register a notice that a controversy existed concerning the distribution of the 1987 jukebox royalty fund, effective December 15, 1988. 53 FR 49731. 90% of the fund was distributed, while 10% was withheld to satisfy the mutually exclusive claims of ACEMLA, ASCAP and BMI, and SESAC (the acceptance or rejection of SESAC's late-filed claim was as of that date still pending).

On January 9, 1989, SESAC withdrew its motion for leave to file a late-filed claim, and its tendered justification of claim. On January 13, 1989, the Tribunal ordered a further partial

distribution of 9% of the 1987 jukebox royalty fund. Order, dated January 13, 1989.


Procedural dates for the hearing of the ASCAP/BMI - ACEMLA controversy were issued by the Tribunal April 4, 1989. Order, dated April 4, 1989. However, on April 24, 1989, ACEMLA informed the Tribunal that it had reached a two-year settlement with ASCAP and BMI and was withdrawing its claims to the 1987 and 1988 jukebox fund (as well as the 1987 cable fund).

On April 27, 1989, citing that there remained no further controversies, ASCAP and BMI filed a joint motion for complete distribution of the remainder of the 1987 jukebox royalty fund.

Conclusions, Allocations and Distribution

The four claimants to the 1987 jukebox copyright royalty fund have reached full settlements of their differences concerning the distribution of the fund. Accordingly, the Tribunal concludes that no more controversies exist, and the 1987 jukebox royalty distribution proceeding is concluded.

The claimants have not divulged the terms of their settlements to the Tribunal, and therefore no official allocations will be made. A complete distribution of the remainder of the 1987 jukebox royalty fund is ordered for May 8, 1989.


Edward W. Ray
Chairman

Dated: May 2, 1989