

**COPYRIGHT ROYALTY JUDGES**  
**The Library of Congress**

<i>In re</i> <b>Distribution of Satellite Royalty Funds</b>	<b>DOCKET NO. 14-CRB-0008 SD</b> <b>(2010-12)</b>
<i>In re</i> <b>Distribution of Satellite Royalty Funds</b>	<b>DOCKET NO. 14-CRB-0011 SD</b> <b>(2013)</b>

**NOTICE OF PARTICIPANTS, NOTICE OF CONSOLIDATION, AND ORDER FOR  
PRELIMINARY ACTION TO ADDRESS CATEGORIES OF CLAIMS**

By notice published in the *Federal Register* on December 22, 2014, the Copyright Royalty Judges (Judges) initiated a proceeding to distribute royalty fees for satellite retransmission of broadcast television programming during the years 2010-2012.<sup>1</sup> By notice published in the *Federal Register* on June 5, 2015, the Judges initiated a proceeding to distribute royalty fees deposited with the U.S. Copyright Office for satellite retransmissions during 2013.<sup>2</sup>

**I. Consolidation**

The Judges hereby consolidate the two captioned proceedings for all purposes and provide notice to all participants. Participants shall use the following caption when filing all future papers.

<i>In re</i> <b>Distribution of Satellite Royalty Funds</b>	<b>DOCKET NUMBER 14-CRB-0011-SD</b> <b>(2010-13)</b>
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**II. Participants**

Participation in this proceeding is limited to copyright owners that 1) filed claims during the month of July following the end of at least one royalty year at issue in this proceeding and 2) are listed on a timely petition to participate. Claims include those filed individually by copyright owners and joint claims filed on behalf of more than one claimant *provided* that the entity filing the claim was, at the time it filed the claim, an authorized representative of the claimant. Individuals who are copyright owners may participate in this proceeding personally. Organizational or corporate claimants or claimant representatives must appear by and through legal counsel.

<sup>1</sup> 79 Fed. Reg. 76396 (Dec. 22, 2014).

<sup>2</sup> 80 Fed. Reg. 32182 (Jun. 5, 2015).

Each participant bears the responsibility to notify the Copyright Royalty Board of any change in representation and any change in address or contact information. Until a participant or participants resolve all controversies germane to continued participation in this proceeding, all other participants shall continue to deliver copies of all papers to the active participant(s) identified on the contact list. *See* Exhibit A. Delivery to counsel of record is sufficient delivery to any listed Participant.

Attached to this Notice and Order as “Exhibit A” is a consolidated list of parties that filed timely Petitions to Participate for any of the years at issue in this consolidated proceeding.

### **III. Schedule**

#### **A. Preliminary Action to Define Categories**

To address a recurring issue in satellite distribution proceedings, the Judges hereby give notice of their intent to determine the nature and extent of and to formalize the definitions of claimant categories for purposes of initial allocation of funds.

Title 8 of the Copyright Act (Act) and the procedural regulations adopted by the Judges and codified in Chapter III of title 37 of the Code of Federal Regulations (Rules) govern royalty distribution proceedings. Traditionally, participants have aligned themselves into claimant groups defined by program categories. Neither the Act nor the Rules requires bifurcation of a distribution proceeding. By convention, however, royalty claimants have engaged in negotiation or litigation to allocate royalty funds among the aligned program categories in what came to be called “Phase I” of the proceeding. “Phase II” of each proceeding then resolved issues of distribution among individual copyright owners within each program category. The participants have determined among themselves the definition and composition of each category.

In more recent proceedings, participants who were not aligned with a preexisting category have asserted claims in one or more categories during the distribution phase (“Phase II”) of the proceeding. The Judges have been tasked with resolving issues regarding a claimant’s proper category after funds have been allocated among the categories. The Judges have concluded that clarification and codification of the definitions of claims categories will serve the statutory goal of promoting settlement among competing claimants. To assure proper allocation of funds among categories, therefore, the Judges shall resolve the issue of program categorization *before* the Judges order final allocation of each year’s funds<sup>3</sup>.

The schedule on Exhibit B to this Notice and Order describes the procedure and timeline for participants wishing to be heard on the issue of program categories. It is the Judges’ intention to proceed on written submissions only. Any party that believes a hearing is necessary shall address in its papers why the Judges should hold a hearing, and a proposed length of the hearing. After receipt of papers from interested participants, the Judges will determine whether and when to hear oral argument. The Judges’ conclusions regarding categorization shall be adopted by Order in this proceeding and shall be binding

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<sup>3</sup> On motions of various parties in interest, the Judges have ordered partial distributions from all four years’ funds at issue in this consolidated proceeding. Order Granting Phase I Claimants’ Motion for Partial Distribution of 2010 Satellite Royalty Funds, 2012-5 CRB SD 2010; Order Granting Phase I Claimants’ Motion for Partial Distribution of 2011 Satellite Royalty Funds, 2012-10 CRB SD 2011; Order Granting Motion of Phase I Claimants for Partial Distribution of 2012 Satellite Royalty Funds, 14-CRB-0008 SD (2010-12); Order Granting Motion of Phase I Claimants for Partial Distribution of 2013 Satellite Royalty Funds, 14-CRB-0011 SD (2013). In each instance, the Judges ordered partial distributions only upon receipt of a “Repayment Agreement” by which funds recipients agreed to return funds in the event a final determination of distributions so requires.

upon all participants in this proceeding. Following or during this proceeding, if circumstances warrant, the Judges may commence a rulemaking proceeding to give notice of their intent to adopt the category list and definitions as part of their procedural regulations, applicable to all future distribution proceedings.

**B. Further Proceedings**

The Judges shall not initiate the Voluntary Negotiation Period until after they resolve preliminary issues relating to categorization of claims.

**SO ORDERED.**

  
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Suzanne M. Barnett  
Chief Copyright Royalty Judge

DATED: September 9, 2015.

**EXHIBIT A**

**CONSOLIDATED LIST OF PARTIES THAT FILED A TIMELY  
PETITION TO PARTICIPATE.<sup>4</sup>  
Satellite Royalty Funds Distribution (2010-13)**

<b>PARTY</b>	<b>COUNSEL</b>	<b>ADDRESS/PHONE/FAX</b>	<b>2010-12</b>	<b>2013</b>
Arena Football One, LLC	Edward Hammerman <a href="mailto:ted@copyrightroyalties.com">ted@copyrightroyalties.com</a>	Hammerman PLLC d/b/a/ Intermediary Copyright Royalty Services 5335 Wisconsin Avenue NW, Ste.440 Washington, DC 20015 P: 202-686-2887, F: 202-318-5633		X
Broadcast Music, Inc. (BMI) and American Society of Composers, Authors, Publishers (ASCAP)	Michael J. Remington <a href="mailto:michael.remington@dbr.com">michael.remington@dbr.com</a> Jeffrey J. Lopez <a href="mailto:jeffrey.lopez@dbr.com">jeffrey.lopez@dbr.com</a> Jennifer T. Criss <a href="mailto:jennifer.criss@dbr.com">jennifer.criss@dbr.com</a>  Joseph J. DiMona <a href="mailto:jdimona@bmi.com">jdimona@bmi.com</a>  Samuel Mosenkis <a href="mailto:smosenkis@ascap.com">smosenkis@ascap.com</a> Jackson Wagener <a href="mailto:jwagener@ascap.com">jwagener@ascap.com</a>	Drinker Biddle & Reath LLP 1500 K Street NW Washington, DC 20005 P: 202-842-8800, F: 202-842-8465  Broadcast Music, Inc. 7 World Trade Center 250 Greenwich Street New York, NY 10007-0030 P: 212-220-3149, F: 212-220-4456  ASCAP One Lincoln Plaza New York, NY 10023 P: 212-621-6450, F: 212-787-1381	X	X

<sup>4</sup> This list is the “official service list of the proceeding” required by regulation. 37 C.F.R. § 350.4(g) (2014).

<b>PARTY</b>	<b>COUNSEL</b>	<b>ADDRESS/PHONE/FAX</b>	<b>2010-12</b>	<b>2013</b>
Broadcasters Claimants Group	John I. Stewart <a href="mailto:jstewart@crowell.com">jstewart@crowell.com</a> Ann Mace David Ervin Emily Parsons	Crowell & Moring LLP 1001 Pennsylvania Avenue NW Washington, DC 20004 P: 202-624-2685, F: 202-628-5116	X	X
Certain Devotional Claimants	Clifford M. Harrington <a href="mailto:Clifford.Harrington@PillsburyLaw.com">Clifford.Harrington@PillsburyLaw.com</a> Matthew J. MacLean Victoria N. Lynch  Arnold Lutzker <a href="mailto:Arnie@lutzker.com">Arnie@lutzker.com</a> Benjamin Sternberg Jeannette Carmadella	Pillsbury Winthrop Shaw Pittman LLP 1200 Seventeenth Street NW Washington, DC 20036-3006 P: 202-663-8525, F: 202-663-8007  Lutzker & Lutzker LLP 1233 20 <sup>th</sup> Street, N.W., Suite 703 Washington, DC 20036 P: 202-408-7600, ext 1, F: 202-408-7677	X	X

PARTY	COUNSEL	ADDRESS/PHONE/FAX	2010-12	2013
<p>Joint Sports Claimants (JSC)</p>	<p><i>For The Office of The Commissioner of Baseball:</i>            Robert Alan Garrett  <a href="mailto:Robert.Garrett@aporter.com">Robert.Garrett@aporter.com</a>            M. Sean Laane  <a href="mailto:Sean.Laane@aporter.com">Sean.Laane@aporter.com</a>            Michael Kientzle  <a href="mailto:Michael.Kientzle@aporter.com">Michael.Kientzle@aporter.com</a></p> <p>Thomas J. Ostertag, Senior V.P. and General Counsel  <a href="mailto:Tom.Ostertag@mlb.com">Tom.Ostertag@mlb.com</a></p> <p><i>For the NBA, NFL, NHL, and WNBA:</i>            Phillip R. Hochberg  <a href="mailto:Phochberg@shulmanrogers.com">Phochberg@shulmanrogers.com</a></p> <p><i>For the NCAA:</i>            Ritchie T. Thomas  <a href="mailto:RTThomas@ssd.com">RTThomas@ssd.com</a>            Iain R. McPhie  <a href="mailto:Iain.Mcphie@squirepb.com">Iain.Mcphie@squirepb.com</a></p>	<p>Arnold &amp; Porter LLP            555 Twelfth Street NW            Washington, DC 20004-1206            P: 202-942-5000, F: 202-942-5999</p> <p>Office of the Commissioner of Baseball            245 Park Avenue            New York, NY 10167            P: 212-931-7800, F: 212-949-5653</p> <p>Law Offices of Phillip R. Hochberg            12505 Park Potomac Avenue            Sixth Floor            Potomac, MD 20854            P: 301-230-6572</p> <p>Squire, Sanders &amp; Dempsey LLP            1201 Pennsylvania Ave. NW            Washington, DC 20004            P: 202-626-6600, F: 202-626-6780</p>	<p>X</p>	<p>X</p>
<p>Major League Soccer</p>	<p>Edward Hammerman  <a href="mailto:ted@copyrightroyalties.com">ted@copyrightroyalties.com</a></p>	<p>Hammerman PLLC            d/b/a/ Intermediary Copyright Royalty Services            5335 Wisconsin Avenue, NW, Ste.440            Washington, DC 20015            P: 202-686-2887, F: 202-318-5633</p>	<p>X</p>	<p>X</p>

<b>PARTY</b>	<b>COUNSEL</b>	<b>ADDRESS/PHONE/FAX</b>	<b>2010-12</b>	<b>2013</b>
MPAA- Represented Program Suppliers	Gregory O. Olaniran <a href="mailto:goo@msk.com">goo@msk.com</a> Lucy Holmes Plovnick <a href="mailto:lh@msk.com">lh@msk.com</a> Kimberly P. Nguyen Whitney S. Nonnette	Mitchell Silberberg & Knupp LLP 1818 N Street NW, 8 <sup>th</sup> Floor Washington, DC 20036 P: 202-355-7917, F: 202-366-7887	X	X
Multigroup Claimants	Brian D. Boydston <a href="mailto:brianb@ix.netcom.com">brianb@ix.netcom.com</a>	Pick & Boydston, LLP 10786 LeConte Avenue Los Angeles, CA 90024 P: 213-624-1996, F: 213-624-9073	X	X
National Public Radio, Inc. (NPR)	Jonathan Hart Gregory Lewis <a href="mailto:glewis@npr.org">glewis@npr.org</a>	National Public Radio, Inc. 1111 North Capitol Street, NE Washington, DC 20002 P: 202-513-2050, F: 202-513-3021	X	
Professional Bull Riders	Arnold Lutzker <a href="mailto:arnie@lutzker.com">arnie@lutzker.com</a> Benjamin Sternberg Jeannette Carmadella	Lutzker & Lutzker LLP 1233 20 <sup>th</sup> Street, NW, #703 Washington, DC 20036 P: 202-408-7600 ext 1, F: 202-408-7677		X
SESAC	John Beiter <a href="mailto:jbeiter@shackelfordlaw.net">jbeiter@shackelfordlaw.net</a>	Shackelford, Zumwalt & Hayes, LLP 1014 16 <sup>th</sup> Avenue South Nashville, TN 37212 P: 615-256-7200, F: 615-256-7106	X	X
Spanish Language Producers	Brian D. Boydston <a href="mailto:brianb@ix.netcom.com">brianb@ix.netcom.com</a>	Pick & Boydston, LLP 10786 LeConte Avenue Los Angeles, CA 90024 P: 213-624-1996, F: 213-624-9073	X	X

## EXHIBIT B

### Distribution Case Schedule

<b>Case Event</b>	<b>Date</b>
Notice of Participants, Notice of Consolidation, and Order for Preliminary Action to Address Categories of Claims	September 9, 2015
<b>Category Determination</b>	
Simultaneous briefing by any party in interest regarding claimant categories Issues may include definition of previously used categories; specification of particular programs included within a category, if classification is ambiguous; creation of additional categories.	October 9, 2015
Simultaneous responsive briefs	October 16, 2015
Ruling	TBD