Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of	:	
	:	
Distribution of the 2012-2013 Digital Audio Recording Technology Musical Works Royalty Funds	:	**Docket No. 16-CRB-0013-DART-MWF (2012-2013)**

COMMENTS OF AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS, BROADCAST MUSIC, INC., SESAC, INC. AND THE HARRY FOX AGENCY LLC, AS SETTLING CLAIMANTS ON THEIR MOTION FOR PARTIAL DISTRIBUTION OF THE MUSICAL WORKS FUND

The American Society of Composers, Authors and Publishers ("ASCAP"), Broadcast Music, Inc. ("BMI"), SESAC, Inc. ("SESAC") (collectively, the "Performing Rights Organizations" or "PROs") and The Harry Fox Agency LLC ("HFA", and collectively with the PROs, the "Settling Parties")) submit the following Comments in response to the May 11, 2016 notice published by the Copyright Royalty Judges ("Judges") at 81 Fed. Reg. 30568 (May 17, 2016) ("Notice").[1] The Notice seeks comments related to the Settling Claimants' motion for partial distribution of ninety-five percent (95%) of the Digital Audio Recording Technology ("DART") Funds Writers and Publishers Subfunds of the 2012 and 2013 Musical Works Funds (filed April 3, 2016) ("Motion").

[1] The PROs, together, represent hundreds of thousands of composer, lyricist, songwriter, and publisher members and affiliates with combined repertories of millions of copyrighted musical works. On behalf of their members and affiliates, BMI, ASCAP and SESAC license the public performance rights granted to their respective members and affiliates as copyright owners under Section 106(4) of the Copyright Act (17 U.S.C. § 106(4)). The PROs are also affiliated with over ninety foreign performing rights societies around the world and license the repertories of those societies in the United States. HFA acts as a licensing agent for thousands of music publishers that in turn represent the interests of hundreds of thousands of songwriters. HFA also represents multiple foreign societies that represent foreign songwriters and music publishers through agreements with such foreign mechanical rights organizations. Lists of the individual songwriters and music publishers and affiliated foreign performing rights and mechanical rights organizations represented by each of the Settling Claimants in this proceeding were submitted with their respective claims and are incorporated herein by reference.

The Settling Claimants strongly support distributing the requested funds in accordance with the Motion and respectfully request that the Judges order a prompt partial distribution of 95% of the 2012 and 2013 DART Musical Works Funds. As the Motion indicates, the Settling Claimants have reached confidential settlements concerning their respective allocation of funds for these years and believe that a sufficient amount of royalties would remain in the DART Musical Works Funds for the relevant years to satisfy any future claims and proceedings. Motion at 3. Because the amounts agreed to be allocated among the Settling Claimants are confidential, the Settling Claimants reiterate that, pursuant to common practice, these funds should be transferred in bulk to a common distribution agent. Id.

The Settling Claimants have accepted their obligation to comply with the requirements for a partial distribution set forth in 17 U.S.C. § 801(b)(3)(C). Id. at 4. Consequently, under Section 801(b)(3)(C), the Judges may distribute the royalty fees sought by the Motion to the Settling Claimants if, "based upon" responses timely received in response to the Notice, the Judges conclude that "no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution." 17 U.S.C. § 801(b)(3)(C).

Conclusion

Accordingly, if the Judges, after considering comments filed by other interested claimants, conclude that no claimant has stated a reasonable objection, the Settling Claimants respectfully request that the Judges order a prompt 95% partial distribution of the 2012 and 2013 DART Musical Works Funds to the Settling Claimants.

Date: June 15, 2016

Respectfully submitted,

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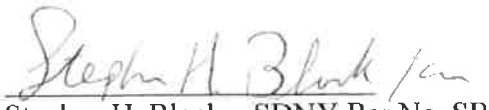

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