

U.S. COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**Distribution of Digital Audio Recording
Technology (DART) Royalty Funds
(Musical Works Fund)**

**Docket No. 16-CRB-0013 DART-MWF
(2012-2013)**

**ORDER GRANTING CLAIMANTS' REQUEST FOR PARTIAL DISTRIBUTION OF
2012 THROUGH 2013 DART MUSICAL WORKS FUND ROYALTIES**

On May 17, 2016, the Copyright Royalty Judges published in the *Federal Register* a notice soliciting comments on a request by certain claimants for distribution of 95% of DART Musical Works Fund Royalties for 2012 through 2013.¹ The claimants had submitted their request in an April 8, 2016 motion for partial distribution pursuant to section 801(b)(3)(C) of the Copyright Act, 17 U.S.C. § 801(b)(3)(C). That section authorizes the Judges to order a partial distribution of royalties, after publication in the *Federal Register*, notwithstanding the fact that there may be a controversy, if the Judges find that no claimant entitled to receive such royalty fees has stated a reasonable objection to the requested partial distribution, and the claimants requesting the distribution agree to represent, among other things, that they will sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the funds.²

The Judges received two comments, one from the requesting claimants who supported the requested partial distribution³ and a second from David Powell who opposed it. In his comment, Mr. Powell noted that he owns the copyright in a particular work, but he provided no argument or evidence to support his objection to the partial distribution. Therefore, the Judges conclude that no claimant entitled to receive the royalty fees has stated a reasonable objection to the partial distribution.

¹ 81 FR 30568. The requesting claimants are Broadcast Music, Inc., the American Society of Composers, Authors and Publishers, SESAC, Inc., and The Harry Fox Agency, LLC.

² In their motion, the requesting claimants stated their willingness to agree to the required section 801(b)(3)(C) representations. *See* Motion at 4.

³ The requesting claimants reiterated their ability and willingness to comply with the requirements of section 801(b)(3)(C) of the Copyright Act. Requesting Claimants' Comment at 2. The requesting claimants also reiterated their partial distribution request in a March 16, 2017 motion. *Further Motion for Partial Distribution of the 2012-2013 Musical Works Funds to Broadcast Music, Inc., American Society of Composers, Authors and Publishers, SESAC, Inc. and The Harry Fox Agency LLC, as Settling Claimants* at 2-4.

Therefore, the Judges hereby **ORDER** that 95% of the royalties from the 2012 and 2013 DART Musical Works Funds (both the Music Publishers Subfund and Writers Subfund) be distributed to a common agent or designated agents for the requesting claimants for further distribution pursuant to the confidential settlements to which those claimants referred in their April 8, 2016, motion for partial distribution, **PROVIDED THAT** each of the claimants receiving a share of these funds provides to the Judges, with a copy to the Licensing Division of the Copyright Office, a signed agreement prepared by the Copyright Royalty Board stating that each of the claimants will repay to the Copyright Office any overpayment that results from the distribution of these funds together with interest according to the amount that would have accrued if the principal had remained in the fund.

The requesting claimants must provide to the Judges and the Licensing Division of the Copyright Office no later than August 17, 2017, all pertinent information to effect the transfer of funds.

The Licensing Division must distribute the funds to the requesting claimants on or after August 24, 2017.

SO ORDERED.

Jesse M. Feder
Copyright Royalty Judge

DATED: July 31, 2017