



ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559-6000

NOTICE OF TIME PERIOD TO FILE MOTIONS AND OBJECTIONS

1992 AND 1993 DIGITAL AUDIO RECORDING ROYALTY FUNDS; MOTIONS AND OBJECTIONS

The following excerpt is taken from Volume 59, Number 93 of the Federal Register for Monday, May 16, 1994 (pp.25506-25507)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 94-2A CARP DD]

1992 and 1993 Digital Audio Recording Royalty Funds; Motions and Objections

AGENCY: Copyright Office, Library of Congress

ACTION: Notice of time period to file motions and objections

SUMMARY: The Copyright Office is giving notice to the claimants to the 1992 and 1993 Digital Audio Recording Royalty Funds of the commencement of a 30-day period to file any precontroversy motions or objections. This includes any objections for cause to the arbitrators nominated by various professional arbitration associations.

DATES: Any motions or objections are due June 15, 1994.

ADDRESSES: If sent by mail, an original and five copies should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. If hand delivered, an original and five copies should be brought to: Office of the General Counsel, Copyright Office, Room LM-407, James Madison Memorial Building, 101 Independence Avenue, S.E., Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20540. Telephone (202) 707-8380.

SUPPLEMENTARY INFORMATION: On May 9, 1994, the Copyright Office of the

Library of Congress published in the **Federal Register** the interim regulations that govern the distribution and ratemaking proceedings conducted by the Copyright Arbitration Royalty Panels (CARP), as specified by the Copyright Royalty Tribunal Reform Act of 1993. 59 FR 23964 (May 9, 1994).

Section 251.45 of these interim regulations provides that, before the initiation of any CARP royalty distribution proceeding, the Librarian of Congress will "designate a 30-day period in which any party to the proceeding may file with the Librarian of Congress objections to, or motions to dismiss, any party's royalty claim, or motions for declaratory rulings, or for procedural or evidentiary rulings, on any proper ground."

At the same time, §251.4 of the CARP rules provides that, during this same 30-day period, "any party to the proceeding may *** file an objection with the Librarian of Congress to one or more of the persons contained on the arbitrator list for the proceeding. Such objection shall plainly state the grounds and reasons for each person claimed to be objectionable."

We are currently anticipating that a CARP proceeding may be required for the distribution of 1992 and 1993 digital audio recording royalties (DART). On March 1, 1994, we published in the **Federal Register** a notice asking the claimants to those two funds whether any controversies exist, and requested their filing of a notice of intention to participate. We stated that, if controversies do exist, we would initiate the proceeding on June 30, 1994. 59 FR 9773 (Mar. 1, 1994).

Precontroversy motion and objection period for 1992 and 1993 DART.

Therefore, by this Notice, we are establishing the 30-day precontroversy period called for by §§ 251.4 and 251.45 for the filing of precontroversy motions and objections, and for the filing of objections to the list of arbitrators nominated by professional arbitration association. The precontroversy motion and objection period begins today and ends June 15, 1994.

The list of nominated arbitrators was published in the **Federal Register** on May 11, 1994, and is available, with accompanying supporting materials, by contacting the Office of the General Counsel, Copyright Office. 59 FR 24486 (May 11, 1994).

Other matters. In our March 1, 1994, notice, we asked whether the claimants wanted to file a motion for consolidation of the 1992 and 1993 DART distribution proceedings. We requested comments by June 10, 1994. Although a motion for consolidation is typical of the types of motions for which the 30-day precontroversy period (ending on June 15, 1994) is designed, we have already set the deadline for the motion for consolidation as June 10, 1994, and we are not changing that slightly earlier deadline by our action today.

Handling of precontroversy motions and objections. For any precontroversy motion or objection, the Librarian of Congress has discretion either to rule on it or to refer it to the CARP panel. See, §251.45(b). As explained in our preamble to the interim CARP regulations issued on May 9, 1994, we have decided that, unlike the situation with respect to precontroversy motions and objections, there is no practical way to allow for precontroversy discovery under the statute. Thus, any motion that is in the

nature of precontroversy discovery will be referred by the Librarian to the CARP panel to be handled during the controversy. See, 59 FR 23964, 23977 (May 9, 1994).

For any objection to one or more listed arbitrators, the Librarian will take into account the objection as part of the entire consideration of each nominee at the time he is required to select two arbitrators for the proceeding. The mere filing of an objection will not, in and of itself disqualify an arbitrator or, without supporting reasons, diminish the person's chances of being selected. As we have said earlier, peremptory challenges will not be allowed, and all objections must be fully substantiated. See, 59 FR 2550, 2552 (Jan. 18, 1994); 59 FR 23964, 23969 (May 9, 1994).

Dated: May 9, 1994.

Barbara Ringer,
Acting Register of Copyrights.

Approved by:

James H. Billington,
The Librarian of Congress.

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