ANNOUNCEMENT
from the Copyright Office, Library of Congress,
101 Independence Avenue, S.E., Washington, D.C. 20559-6000

ANNOUNCEMENT OF THE SCHEDULE FOR THE PROCEEDING.


The following excerpt is taken from Volume 64, Number 90 of the Federal Register for Tuesday, May 11, 1999 (pp. 25374-25375)

LIBRARY OF CONGRESS
Copyright Office

[Docket No. 97-1 CARP SD 92-95]

AGENCY: Copyright Office, Library of Congress
ACTION: Announcement of the schedule for the proceeding.

SUMMARY: The Librarian of Congress is announcing the schedule for the 180-day arbitration period for the distribution of the 1992-95 satellite carrier compulsory license royalty fees.

ADDRESSES: All hearings and meetings for the 1992-95 satellite distribution proceeding shall take place at the Library of Congress, James Madison Memorial Building, Room LM-414, First and Independence Avenue, SE., Washington, DC. 20540.

FOR FURTHER INFORMATION
CONTACT: David O. Carson, General Counsel, or William J. Roberts, Jr., Senior Attorney, PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION:

Background
Section 251.11(b) of 37 CFR provides:
At the beginning of each proceeding, the CARP shall develop the original schedule of the proceeding which shall be published in the Federal Register at least seven calendar days in advance of the first meeting. Such announcement shall state the times, dates, and place of the meetings, the testimony to be heard, whether any of the meetings, or any portion of a meeting, is to be closed, and if so, which ones, and the name and telephone number of the person to contact for further information.

This notice fulfills the requirements of Sec. 251.11(b) for Phase I of the proceeding to determine the distribution of satellite carrier compulsory license royalty fees for the years 1992-95.

On January 31, 1997, the Copyright Office published a notice in the Federal Register requesting comment as to the existence of Phase I controversies concerning the distribution of the 1992, 1993, 1994, and 1995 satellite royalty fees, and in the event that a controversy exists, whether to consolidate the determination of the distribution of the 1992-95 royalty fees into a single proceeding, or to conduct multiple proceedings. 62 FR 4814 (January 31, 1997). The notice also requested that each interested party file a Notice of Intent to Participate, indicating the level of participation for each year, i.e., Phase I, Phase II, or both, with the Office. In response to this notice, the following parties identified the existence of controversies for distribution of the 1992-95 funds: James Canning; the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc. (collectively the Music Claimants); Program Suppliers; CBS, Inc.; ABC, Inc.; Public Television Claimants; Devotional Claimants; Home Shopping Network; Multimedia Entertainment, Inc.; National Broadcasting Company, Inc.; Joint Sports Claimants; and Broadcaster claimants.

All but one party favored consolidating the 1992-95 satellite funds into a single distribution proceeding.

On June 4, 1997, the Office issued an Order consolidating the determination of the distribution of the 1992-95 satellite royalty fees into a single proceeding and announcing the precontroversy discovery schedule for a Phase I proceeding. See Order in Docket No. 97-1 CARP SD 92-95 (June 4, 1997). The June 4, 1997, Order set September 8, 1997, as the beginning of the 45-day recontroversy discovery period, with the initiation of the arbitration set for December 1, 1997. This schedule, however, proved unworkable, so at the request of the parties, the Copyright Office rescheduled the start of the 45-day precontroversy discovery period. See Order in Docket No. 97-1 CARP SD 92-95 (August 20, 1997). In fact, the Office reset the schedule three times before establishing a schedule which met the needs of all the parties. See also Orders in Docket No. 97-1 CARP SD 92-95 (January 15, 1998, July 20, 1998, and October 15, 1998).

During this time, the parties continued to negotiate among themselves. As a result, all of the Phase I parties, with the exception of Joint Sports Claimants and Program Suppliers, settled their Phase I claims for 15.5% of the total aggregate amount of the satellite royalty fees for the years 1992-1995. See Order in Docket No. 97-1 CARP SD 92-95 (December 21, 1998).

Mr. Canning identified only a Phase II controversy.

Thus, the only parties who will appear before the CARP in the current Phase I proceeding are the Joint Sports Claimants and the Program Suppliers. The 45-day precontroversy discovery period for these parties began on January 8, 1999, and proceeded according to the schedule announced in the October 15, 1998, Order. However, the April 5 initiation date set in that schedule has been rescheduled for May 18, 1999, in order to accommodate conflicts in
both the arbitrators' and the parties' schedules. The Office will publish the initiation of the arbitration in the Federal Register on May 18, 1999.

Selection of Arbitrators

In accordance with Sec. 251.6 of the CARP rules, the arbitrators have been selected for this proceeding. They are:

The Honorable John W. Cooley  
(Chairperson)
The Honorable Jeffrey Gulin  
The Honorable Curtis E. von Kann.

Schedule for the Proceeding

On April 20, 1999, the parties to this proceeding met with the arbitrators for the purpose of setting a schedule for this proceeding. At that meeting, the parties and the arbitrators agreed to the following schedule:

**Presentation of Direct Cases:**
Testimony for JSC:
Witnesses: (week 1)
Paul Beeston, Paul Bortz, James Trautman,  
Witnesses: (week 2)
Glen Friedman, Jeffrey Treeman, Jody Kaveney,  
Testimony for Program Suppliers:
Marsha Kessler ................................................................. June 7, 1999.
Linda McLaughlin .......................................................... June 14, 1999.
James Von Schilling ........................................................ June 17, 1999.
Additional Hearing Days (if necessary) .................. June 22-25, 1999.
Filing Deadline for Written Rebuttal Cases. ............. June 28, 1999.
Presentation of Rebuttal Cases ................................. July 26-27, 1999; August 11-20, 1999.
Closing Arguments ............................................................ October 14, 1999.
Closing of the 180-day period ................................. November 15, 1999.

JSC did not designate specific dates for the presentation of testimony by its witnesses.

All hearings will begin at 9:30 a.m. and end at 4:30 p.m. At this time, the parties have not moved to close any portion of the proceeding to the public. Further refinements to the schedule will be announced in open meetings and issued as orders to the parties participating in the proceeding. All changes will be noted in the docket file of the proceeding, as required by the Copyright Office regulations governing the administration of CARP proceedings. 37 CFR 251.11(c).

Dated: May 6, 1999.
David O. Carson,  
General Counsel.

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