



ANNOUNCEMENT

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

INITIATION OF ARBITRATION.

DISTRIBUTION OF 1992, 1993, 1994, AND 1995 SATELLITE ROYALTY FUNDS

The following excerpt is taken from Volume 64, Number 95 of the
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LIBRARY OF CONGRESS

Copyright Office

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

Distribution of 1992, 1993, 1994, and 1995 Satellite Royalty Funds

AGENCY: Copyright Office, Library of Congress

TION: Initiation of arbitration.

SUMMARY: The Librarian of Congress is announcing initiation of the 180-day arbitration period for the proceeding to distribute the 1992-95 satellite carrier compulsory license royalties.

DATE: Effective May 18, 1999.

ADDRESSES: All hearings and meetings for the 1992-95 satellite distribution proceeding shall take place in the James Madison Memorial Building, Room LM-414, First and Independence Avenue, S.E., Washington, D.C. 20540.

FOR FURTHER INFORMATION

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

SUPPLEMENTARY INFORMATION:

I. Background

Section 251.72 of 37 CFR provides:

If the Librarian determines that a controversy exists among the claimants to either cable, satellite carrier, or digital audio recording services and media royalties, the Librarian shall publish in the *Federal Register* a declaration of controversy along with a notice of an initiation of an arbitration proceeding.

Such notice shall, to the extent feasible, describe the nature, general structure and schedule of the proceeding.

The notice published today fulfills the requirements of § 251.72 for the distribution of satellite carrier compulsory license royalties 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 and/or Phase II 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 Cannings;¹ 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 recontract 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.

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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 1992-95. See Order in Docket No. 97-1 CARP SD 92-95 (December 21, 1998). 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.

¹ Mr. Cannings identified only a Phase II controversy.

II. Initiation of Proceeding

Pursuant to § 251.72 of 37 CFR, the Copyright Office of the Library of Congress is formally announcing the existence of Phase I controversies to the distribution of satellite carrier compulsory license royalties for 1992, 1993, 1994 and 1995, and is initiating an arbitration proceeding under chapter 8 of title 17 of the United States Code to resolve the distribution of those funds. The arbitration proceeding commences on May 18, 1999, and runs for a period of 180 days. The arbitrators shall file their written report with the Librarian of Congress by November 15, 1999, in accordance with § 251.53 of 37 CFR.

On April 20, 1999, the parties to this proceeding met with the arbitrators for the purpose of setting a schedule for this proceeding. The Office announced the schedule and the arbitrators for the proceeding on May 11, 1999. See 64 FR 25374 (May 11, 1999). Copies of the hearing schedule are available at the Copyright Office upon request.

Dated: May 13, 1999.

David O. Carson,
General Counsel.

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