



ANNOUNCEMENT

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

INITIATION OF ARBITRATION AND ANNOUNCEMENT OF SCHEDULE.

DISTRIBUTION OF 1998 AND 1999 CABLE ROYALTY FUND

The following excerpt is taken from Volume 68, Number 70 of the *Federal Register* of Friday, April 11, 2003
[Notices] (pp. 17838-17839)

LIBRARY OF CONGRESS

Copyright Office
[Docket No. 2001-8 CARP CD 98-99]

Distribution of 1998 and 1999 Cable Royalty Fund

AGENCY: Copyright Office, Library of Congress.

ACTION: Initiation of arbitration and announcement of schedule.

SUMMARY: The Copyright Office of the Library of Congress is announcing the initiation of and schedule for the 180-day arbitration period for the Phase I distribution of royalties collected under the cable statutory license of the Copyright Act for the 1998 and 1999 calendar years.

EFFECTIVE DATE: April 11, 2003.

ADDRESSES: All hearings and meetings for the proceeding to distribute section 111 royalties shall take place in the James Madison Memorial Building, Room LM-414, First and Independence Avenues, SE., Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Susan N. Grimes, CARP Specialist, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION

Background

This notice fulfills the requirement of 37 CFR 251.72 and 17 U.S.C. 111(d)(4)(B). Section 251.72 of the CARP rules provides that:

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

of initiation of an arbitration proceeding. Such notice shall, to the extent feasible, describe the nature, general structure and schedule of the proceeding.
37 CFR 251.72.

Each year cable systems submit royalties to the Copyright Office for the retransmission to their subscribers of over-the-air broadcast signals. These royalties are, in turn, distributed in one of two ways to copyright owners whose works were included in a retransmission of an over-the-air broadcast signal and who timely filed a claim for royalties with the Copyright Office. The copyright owners may either negotiate the terms of a settlement as to the division of the royalty funds, or the Librarian of Congress may convene a Copyright Arbitration Royalty Panel (CARP) to determine the distribution of the royalty fees that remain in controversy. 17 U.S.C. 111(d)(4)(B).

On September 6, 2000, the Library of Congress published a notice in the **Federal Register** seeking comment as to the existence of controversies for the distribution of the 1998 cable royalties. 65 FR 54077 (September 6, 2000). The parties to the distribution reported both Phase I and Phase II controversies and filed their Notices of Intent to Participate. On October 2, 2001, the Library published a Notice in the **Federal Register** seeking comments as to the existence of controversies for the distribution of 1999 cable royalties. 66 FR 50219 (October 2, 2001). The parties to this distribution reported Phase I and Phase II controversies as well and filed their Notices of Intent to Participate. By Order dated February 20, 2002, the Library consolidated the distribution of the 1998 and 1999 cable royalties into a single proceeding before a single CARP. Order in Docket No. 2001-8 CARP CD 98-99 (February 20, 2002).

Of the eight parties that filed Notices of Intent to Participate in this consolidated Phase I distribution proceeding, two parties, National Public Radio and the Devotional Claimants Group, have settled. The parties that remain are the Joint Sports Claimants, the Music Claimants, the Program Suppliers, the Canadian Claimants, the National Association of

Broadcasters on behalf of commercial broadcasters, and the Public Television Claimants on behalf of noncommercial broadcasters. These parties have filed their written direct cases setting forth their requested distribution percentages, and the Library has conducted discovery on the written direct cases under 37 CFR 251.45. The cases are now ready for proceeding before a CARP under chapter 8 of the Copyright Act.

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 Michael Wolf (Chairperson)
The Honorable Jeffrey Gulin
The Honorable Michael Young

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Initiation of the Proceeding

Pursuant to Sec. 251.72 of the CARP rules, the Librarian is formally announcing the existence of a Phase I controversy as to the distribution of the 1998 and 1999 cable royalty funds. Any Phase II controversies will be resolved in a separate CARP proceeding.

This Phase I proceeding commences on April 24, 2003, and runs for a period of 180 days. The arbitrators shall file their written report with the Librarian on or before October 21, 2003, in accordance with Sec. 251.53 of the CARP rules.

Schedule for the Proceeding

Section 251.11(b) of the CARP rules provides that:

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 the rule.

The following is the schedule of the proceeding:

Opening Statements: April 24, 2003.

Presentation of the Direct Cases: April 24-June 11, 2003.

Witnesses for the Joint Sports Claimants:

April 24-25, 28-30, May 1, 2003: Paul Tagliabue, James Trautman, Robert Crandall, Thomas Hazlett, Michael Eagan, Judith Allan, Allan Selig, June Travis.

Witnesses for the National Association of Broadcasters:

May 6-9, 2003: Richard Ducey, Mark Fratrick, Marcellus Alexander, Jr., Laurence DeFranco, Gregory Rosston.

Witnesses for Public Television Claimants:

May 13-15, 2003: John Wilson, John Fuller, Leland Johnson.

Witnesses for Music Claimants:

May 16, 19-21, 2003: Seth Saltzman, W.G.

“Snuffly” Walden, Jeffrey Lyons, Frank Krupit, Peter Boyle.

Witnesses for Canadian Claimants:

May 22-23, 28, 2003: Janice de Freitas, Andrea Wood, Lucy Medeiros, David Bennett, Debra Ringold.

Witnesses for Program Suppliers:

June 2-5, 9-11, 2003: Jack Valenti, Babe Winkelman, Marsha Kessler, Howard Green, Carl Carey, Jonda Martin, Paul Lindstrom, Paul Donato, Arthur Gruen, Robert Thompson.

Filing of Written Rebuttal Testimony: June 20, 2003.

Hearings on Discovery Disputes: July 2, 2003.

Presentation of Rebuttal Cases: July 7-19, 2003 (includes Saturdays).

Filing of Proposed Findings of Fact and Conclusions of Law: August 22, 2003.

Filing of Replies to Proposed Findings of Fact and Conclusions of Law: September 12, 2003.

Oral Argument: TBA.

Close of 180-day period: October 21, 2003.

Hearings will begin at 10 a.m. on April 24, 2003. Thereafter, all hearings will begin at 9 a.m. At this time, none of the parties have moved for closed hearings. Further refinements to the schedule will be announced in open meetings and issued as orders to the parties in the proceeding. All changes will be noted in the docket file of the proceeding and are open to public inspection.

Dated: April 7, 2003.

David O. Carson,
General Counsel.

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