

§ 257.5

properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in August, shall be considered timely filed.

(c) Claims dated only with a business meter that are received after July 31, will not be accepted as having been timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Office, a claimant may nonetheless prove that the claim was properly filed if it was sent by certified mail return receipt requested, and the claimant can provide a receipt bearing a July date stamp of the U.S. Postal Service, except where paragraph (b) of this section applies. No affidavit of an officer or employee of the claimant, or of a U.S. postal worker will be accepted in lieu of the receipt.

[59 FR 23993, May 9, 1994, as amended at 59 FR 63043, Dec. 7, 1994; 61 FR 63718, Dec. 2, 1996; 63 FR 30636, June 5, 1998; 65 FR 39820, June 28, 2000]

§ 257.5 Copies of claims.

A claimant shall, for each claim submitted to the Copyright Office, file an original and two copies of the claim to satellite carrier royalty fees.

§ 257.6 Separate claims required.

If a party intends to file claims for both cable compulsory license and satellite carrier compulsory license royalty fees during the same month of July, that party must file separate claims with the Copyright Office. Any single claim which purports to file for both cable and satellite carrier royalty fees will be dismissed.

PART 258—ADJUSTMENT OF ROYALTY FEE FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

Sec.

258.1 General.

258.2 Definition of syndex-proof signal.

258.3 Royalty fee for secondary transmission of broadcast stations by satellite carriers.

AUTHORITY: 17 U.S.C. 702, 802.

37 CFR Ch. II (7-1-02 Edition)

§ 258.1 General.

This part 258 adjusts the rates of royalties payable under the compulsory license for the secondary transmission of broadcast stations under 17 U.S.C. 119.

[57 FR 19053, May 1, 1992. Redesignated and amended at 59 FR 23994, May 9, 1994; 63 FR 30636, June 5, 1998]

§ 258.2 Definition of syndex-proof signal.

A satellite retransmission of a broadcast signal shall be deemed “syndex-proof” for purposes of § 258.3(b) if, during any semiannual reporting period, the retransmission does not include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission.

[57 FR 19053, May 1, 1992. Redesignated and amended at 59 FR 23994, May 9, 1994]

§ 258.3 Royalty fee for secondary transmission of broadcast stations by satellite carriers.

(a) Commencing May 1, 1992, the royalty rate for the secondary transmission of broadcast stations for private home viewing by satellite carriers shall be as follows:

(1) 17.5 cents per subscriber per month for superstations.

(2) 14 cents per subscriber per month for superstations whose signals are syndex-proof, as defined in § 258.2.

(3) 6 cents per subscriber per month for network stations and noncommercial educational stations.

(b) Commencing January 1, 1998, the royalty fee for secondary transmission of broadcast stations for private home viewing by satellite carriers shall be as follows:

(1) 27 cents per subscriber per month for distant superstations.

(2) 27 cents per subscriber per month for distant network stations.

(3) No royalty rate (zero) for a superstation secondarily transmitted within the station’s local market, as defined in 17 U.S.C. 119(d)(11).

(4) No royalty rate (zero) for a network station secondarily transmitted within the station’s local market, as

defined in 17 U.S.C. 119(d)(11), to subscribers residing in unserved households, as defined in 17 U.S.C. 119(d)(10).

(c) Commencing July 1, 1999, the royalty rate for secondary transmission of broadcast stations for private home viewing by satellite carriers shall be as follows:

(1) 18.9 cents per subscriber per month for distant superstations.

(2) 14.85 cents per subscriber per month for distant network stations.

(3) 14.85 cents per subscriber per month for the Public Broadcasting Service satellite feed.

[62 FR 55759, Oct. 28, 1997, as amended at 64 FR 71660, Dec. 22, 1999]

PART 259—FILING OF CLAIMS TO DIGITAL AUDIO RECORDING DEVICES AND MEDIA ROYALTY PAYMENTS

Sec.

259.1 General.

259.2 Time of filing.

259.3 Content of claims.

259.4 Content of notices regarding independent administrators.

259.5 Compliance with statutory dates.

259.6 Copies of claims.

AUTHORITY: 17 U.S.C. 1007(a)(1).

SOURCE: 58 FR 53826, Oct. 18, 1993, unless otherwise noted. Redesignated at 59 FR 23994, May 9, 1994.

§ 259.1 General.

This part prescribes procedures pursuant to 17 U.S.C. 1007(a)(1), whereby interested copyright parties, as defined in 17 U.S.C. 1001(7), claiming to be entitled to royalty payments made for the importation and distribution in the United States, or the manufacture and distribution in the United States, of digital audio recording devices and media pursuant to 17 U.S.C. 1006, shall file claims with the Copyright Office.

[58 FR 53826, Oct. 18, 1993. Redesignated and amended at 59 FR 23994, May 9, 1994; 59 FR 33202, June 28, 1994; 60 FR 8198, Feb. 13, 1995]

§ 259.2 Time of filing.

(a) *General.* During January and February of each succeeding year, every interested copyright party claiming to be entitled to digital audio recording devices and media royalty payments

made for quarterly periods ending during the previous calendar year shall file a claim with the Copyright Office. Claimants may file claims jointly or as a single claim.

(b) *Consequences of an untimely filing.* No royalty payments for the previous calendar year shall be distributed to any interested copyright party who has not filed a claim to such royalty payments during January or February of the following calendar year.

(c) *Authorization.* Any organization or association, acting as a common agent, shall be required to obtain from its members or affiliates separate, specific, and written authorization, signed by members, affiliates, or their representatives, to file claims to the Musical Works Fund or the Sound Recordings Fund, apart from their standard agreements, for purposes of royalties filing and fee distribution. Such written authorization, however, will not be required for claimants to the Musical Works Fund where either:

(1) The agreement between the organization or association and its members or affiliates specifically authorizes such entity to represent its members or affiliates before the Copyright Office and/or the Copyright Arbitration Royalty Panels in royalty filing and fee distribution proceedings; or

(2) The agreement between the organization or association and its members or affiliates, as specified in a court order issued by a court with authority to interpret the terms of the contract, authorizes such entity to represent its members or affiliates before the Copyright Office and/or Copyright Arbitration Royalty Panels in royalty filing and fee distribution proceedings.

[60 FR 61660, Dec. 1, 1995, as amended at 61 FR 63718, Dec. 2, 1996]

§ 259.3 Content of claims.

(a) Claims filed by interested copyright parties for digital audio recording devices and media royalty payments shall include the following information:

(1) The full legal name of the person or entity claiming royalty payments.

(2) The telephone number, facsimile number, if any, and full address, including a specific number and street