

UNITED STATES OF AMERICA
BEFORE THE COPYRIGHT ROYALTY TRIBUNAL
WASHINGTON, D.C.

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PROCEEDING FOR DETERMINATION :
OF INTERIM ADJUSTMENTS OF : CRT Docket No. 87-_____
ROYALTY FOR MAKING AND :
DISTRIBUTING PHONORECORDS :
(MECHANICAL ROYALTY) :
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JOINT PETITION FOR AUTOMATIC ADJUSTMENTS
OF MECHANICAL ROYALTY RATE

SUBMITTED BY
NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.,
THE SONGWRITERS GUILD OF AMERICA AND
RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.

This petition is submitted jointly, pursuant to § 804(a)(2)(B) of the Copyright Act of 1976 (the "Act"), 17 U.S.C. § 804(a)(2)(B), and § 301.61(b)(2) of the Tribunal's rules, 37 C.F.R. § 301.61(b)(2), on behalf of the National Music Publishers' Association, Inc. and The Songwriters Guild of America (formerly American Guild of Authors and Composers) (hereinafter collectively referred to as the "Copyright Owners"); and the Recording Industry Association of America, Inc. (hereinafter referred to as the "Copyright Users").

National Music Publishers' Association, Inc. is a national association of over 300 commercially active American music publishers and represents the common interests of publishers of diverse types of music through a variety of legislative, legal, and public relations activities. The Songwriters Guild of America is a national association of approximately 4,000 songwriters. Its primary functions are to promote the interests of authors and composers in their dealings with those who market and use their creative works, and in legislative matters. Both of these organizations represent the interests of copyright royalty recipients. Recording Industry Association of America, Inc. is an association of approximately 43 recording companies. Its members are the principal manufacturers of the records, tapes and compact disks sold in the United States. The organization represents the interests of those who must pay royalties for use of copyrighted musical works in recordings.

The Copyright Owners and Copyright Users have held discussions for the purpose of arriving at a joint proposal respecting the 1987 mechanical royalty rate adjustment authorized under §§ 801(b)(1) and 804 of the Act. As a result of these discussions, we are pleased jointly to submit the attached "Proposal Concerning 1987 Mechanical Royalty Rate Adjustment" ("Proposal"). We

hereby petition the Tribunal to undertake a proceeding to promulgate regulations effecting an adjustment of the royalty rates provided in § 115 of the Copyright Act, as thereafter adjusted by the Tribunal, in the manner set forth in the Proposal.

In sum, the Proposal calls for the present mechanical royalty rates (5¢ per musical work, or .95¢ per minute of playing time or fraction thereof, whichever amount is larger) to be adjusted, in direct proportion to the percent change in the Consumer Price Index (all urban consumers, all items) (the "CPI"), on January 1 of 1988, 1990, 1992, 1994 and 1996; provided, however, that (a) the adjusted rates shall be no greater than 25% more than the rates in effect during the immediately preceding period, and (b) the adjusted rates shall be no lower than the 5¢/.95¢ rates presently in effect. Pursuant to § 804(a)(2)(B) of the Act, the Tribunal may be petitioned again in 1997 for adjustment of the royalty rates. The Proposal establishes the mechanism for periodic rate adjustments until that time.

Under the Proposal, the first rate adjustment would become effective on January 1, 1988, based on changes in the CPI for December 1985 through the CPI for September 1987. Thereafter, rate adjustments would be based on changes in the CPI in two-year intervals measured from the September CPI through the September

CPI two years later, with the adjusted rates becoming effective on the following January 1. Rates would be rounded to the nearest 1/20th of a cent.

In formulating this joint proposal, the parties have been guided by the approach which the Tribunal (46 Fed. Reg. 891 (Jan. 5, 1981); 46 Fed. Reg. 10466 (Feb. 3, 1981); 46 Fed. Reg. 55276 (Nov. 9, 1981); 46 Fed. Reg. 62267 (Dec. 23, 1981)) and the Court of Appeals for the District of Columbia Circuit (662 F.2d 1 (D.C. Cir. 1981)) adopted in the 1980 mechanical royalty rate adjustment proceeding. We believe that the Proposal is within the authority of the Tribunal to enact, and is calculated to achieve the objectives of § 801(b)(1)(A)-(D) of the Act.

The Copyright Owners and Copyright Users were the principal parties who participated in the 1980 mechanical royalty rate adjustment proceeding; they adequately represent the owners and users of copyrighted works whose royalty rates were specified by § 115 of the Act, and thereafter adjusted by the Tribunal; they have a "significant interest" in the mechanical royalty rates to be adjusted within the meaning of § 804(a)(2)(B) of the Act. The Copyright Owners and Copyright Users are presently unaware of any person or entity which would oppose the Proposal.

We recommend that the Tribunal make the Proposal available for public comment before determining whether to adopt its terms in a final decision.

The Proposal is submitted on the understanding that its various provisions are not severable. The Proposal is without prejudice to any position, contention, or argument which the Copyright Owners or Copyright Users may take in any proceeding or litigation, and is not intended to be, and should not constitute, a precedent in any rate adjustment proceedings in 1997 or thereafter.

Respectfully submitted,

NATIONAL MUSIC PUBLISHERS'
ASSOCIATION, INC.

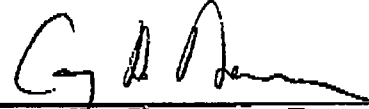
By Peter L. Felcher
Peter L. Felcher, Esq.
Paul, Weiss, Rifkind, Wharton
& Garrison
1285 Avenue of the Americas
New York, New York 10019
(212)373-3390

THE SONGWRITERS GUILD OF AMERICA

By Alvin Deutsch by PAF
Alvin Deutsch, Esq.
Linden & Deutsch
110 East 59 Street
New York, New York 10022
(212)758-1100

RECORDING INDUSTRY ASSOCIATION OF
AMERICA, INC.

By



Cary H. Sherman, Esq.
Arnold & Porter
1200 New Hampshire Ave., N.W.
Washington, D.C. 20036
(202)872-6797

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