



# ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559-6000

## DETERMINATION OF 1995 CARP ARBITRATOR LIST

### COPYRIGHT ARBITRATION ROYALTY PANELS; LIST OF ARBITRATOR NAMES

The following excerpt is taken from Volume 59, Number 249 of the Federal Register for Thursday, December 29, 1994 (pp. 67342-67344)

#### LIBRARY OF CONGRESS

#### Copyright Office

#### 37 CFR Part 253

#### [Docket No. 94-1B]

#### Copyright Arbitration Royalty Panels; List of Arbitrators

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Determination of 1995 CARP arbitrator list.

**SUMMARY:** The Copyright Office is waiving its rules and extending the effective date of its current CARP arbitrator list until the end of 1995. Those arbitrators listed for 1994 who filed financial disclosure statements with the Office will therefore be eligible to serve on a CARP for any royalty distribution or rate adjustment proceedings beginning in calendar year 1995.

**EFFECTIVE DATES:** January 30, 1995.

#### FOR FURTHER INFORMATION CONTACT:

Marilyn J. Kretsinger, Acting General Counsel, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone (202) 707-8380, FAX (202) 707-8366.

#### SUPPLEMENTARY INFORMATION:

##### Background

For royalty rate adjustments and distributions that are in controversy, section 802(b) of the Copyright Act requires the selection of a Copyright Arbitration Royalty Panel (CARP) consisting of three arbitrators from "lists provided by profes-

sional arbitration associations." 17 U.S.C. 802(b). The Librarian of Congress selects two of the arbitrators for a CARP, from a list of nominated arbitrators; these selected arbitrators then select a third to serve as their chairperson. If the two arbitrators cannot agree, the Librarian is instructed to select the third arbitrator.

To implement the CARP selection process of 17 U.S.C. 802(b), the Copyright Office issued interim regulations, 59 FR 23964 (May 9, 1994), and then, final regulations, 59 FR 63025 (Dec. 7, 1994). Section 251.3 of the interim regulations created a system whereby any professional arbitration association or organization could, before May 6, 1994, and "before January 1 of each year thereafter," submit a list of persons qualified under §251.5 of the interim rules to serve as a CARP arbitrator for that year. This system requires the Copyright Office to publish a list of qualified persons<sup>1</sup> and mandates that this list must include "at least 30, but not more than 75 persons, submitted to the Librarian from at least three professional arbitration associations or organizations." §251.3(b). This "arbitrator list" is in effect until the end of the calendar year and any and all arbitrators selected for a CARP during that year would come from the list.

In accordance with the interim regulations, the Copyright Office published the 1994 arbitrator list on May 11, 1994. 59 FR 24486 (May 11, 1994). The list contained 107 names since the "short period of time between receipt of the names from the arbitrator associations and the need to publish the arbitrator list" required the Office to waive its 75 person maximum.

<sup>1</sup> Those persons nominated after May 6, 1994, for the first list and after January of each succeeding year.

*Id.* Of these 107 persons, 77 submitted financial disclosure statements, as required by §251.32(a) of the interim rules, and were therefore eligible to serve on a CARP during 1994.

#### New List

On December 7, 1994, the Copyright Office issued final regulations governing the operation and administration of the CARPs. 59 FR 63025 (Dec. 7, 1994). The final regulations made no changes to provisions governing qualifications of the arbitrators and compilation of the arbitrator list.<sup>2</sup> Therefore, the Office is charged with gathering the name[s] of potential arbitrators prior to January 1 of each year and publishing the list in the Federal Register after that date.

The Copyright Office is republishing the names of persons from the 1994 arbitrator list who submitted timely financial disclosure statements. Today's list shall, in accordance with §251.3(b), constitute the "arbitrator list" for calendar year 1995.

By republishing the list, the Office is waiving §251.3(a), which directs arbitration associations to submit a list of persons qualified to serve as arbitrators prior to January 1 of this year, and the §251.3(b) maximum of 75 published names. We feel that it would be an unnecessary burden and expense merely to observe procedure and require a submission of new names when none of the arbitrators named in the 1994 list was selected as an arbitrator be-

<sup>2</sup> A technical change was made to § 251.3 by striking the references to May 6, 1994, for submission of names from arbitration associations and publication of the arbitrator list since there was no longer a need to make provision for the special circumstances of 1994.

cause no CARPs were convened. The Copyright Office did considerable work in processing the financial disclosure forms filed by most of the nominated arbitrators. Furthermore, we have been informed that some copyright owners likely to be involved in 1995 CARP proceedings have invested a significant amount of time becoming familiar with the background and qualifications of the arbitrators appearing on the 1994 list.

#### **Deadline for Filing Financial Disclosure Statement**

Publication of today's list triggers the requirement in §251.32 that, within one month of date of publication in the **Federal Register**, each listed person must "file with the Librarian of Congress a confidential financial disclosure statement as provided by the Library of Congress." The disclosure statement will be used by the Librarian for purposes of determining what conflicts of interest, if any, may preclude the person from serving as an arbitrator in a CARP proceeding.

As noted above, the arbitrators on today's list filed a financial disclosure statement in 1994. Therefore, the Copyright Office is sending them a simple form that will enable them to merely update the financial disclosure information they filed last year. The completed form must be timely returned to the Copyright Office even if the person's financial status and information has not changed from the previous statement.

The persons identified on today's arbitrator list have until January 30, 1995 to submit their updated financial disclosure statement. §251.32(a). Failure to file the updated statement on time may preclude consideration of the person to serve on a CARP.

The CARP arbitrator list for 1995 includes:

#### *Name and Affiliation*

Eugene N. Aleinikoff, Esq. — *American Arbitration Association*  
John S. Barr, Esq. — *American Arbitration Association*  
Professor Hadley Batchelder — *"Judge-Net"*  
William W. Becker, Esq. — *American Arbitration Association*  
Rosalyn B. Bell, Esq. — *American Arbitration Association*  
Richard Bennett, Esq. — *American Arbitration Association*  
Richard M. Berman, Esq. — *American Arbitration Association*  
Bruce K. Brickman, Esq. — *American Arbitration Association*  
Stuart N. Brotman, Esq. — *American Arbitration Association*  
The Honorable J. Robert Brown — *Judicate, Inc.*  
The Honorable Charles Clark — *Center for Public Resources, Inc.*  
Herbert B. Cohn, Esq. — *American Arbitration Association*

Joel Davidow, Esq. — *American Arbitration Association*  
James F. Davis, Esq. — *Center for Public Resources, Inc.*  
Robert E. Donnelly, Esq. — *American Arbitration Association*  
The Honorable Michael Dontzin — *Endispute, Inc.*  
Edward Dreyfus, Esq. — *American Arbitration Association*  
Corydon B. Dunham, Esq. — *American Arbitration Association*  
Stuart D. Dwork, Esq. — *American Arbitration Association*  
The Honorable Lenore G. Ehrig — *Judicate, Inc. and American Arbitration Association*  
The Honorable Jesse Etelson — *Judicate, Inc.*  
John B. Farmakides, Esq. — *American Arbitration Association*  
Paul W. Fish, Esq. — *American Intellectual Property Law Association*  
The Honorable Donald W. Frenzen — *American Arbitration Association*  
The Honorable George R. Gallagher — *Judicate, Inc.*  
David A. Gauntlett, Esq. — *"Judge-Net"*  
Eric D. Green, Esq. — *Endispute, Inc.*  
Joseph A. Greenwald, Esq. — *American Arbitration Association*  
The Honorable Philip A. Gruccio — *Endispute, Inc.*  
The Honorable Jeffery S. Gulin — *Judicate, Inc.*  
Michael R. Hafitz, Esq. — *American Arbitration Association*  
Lawrence K. Harris, Esq. — *American Arbitration Association*  
David C. Hilliard, Esq. — *Center for Public Resources, Inc.*  
James R. Hobson, Esq. — *American Arbitration Association*  
David H. Horowitz, Esq. — *American Arbitration Association*  
George A. Hovanec, Esq. — *American Intellectual Property Law Association*  
Scott Hunter, Esq. — *"Judge-Net"*  
The Honorable Laurance M. Hyde, Jr. (Retired) — *"Judge-Net"*  
The Honorable Bernard H. Jackson — *Endispute, Inc.*  
The Honorable Mel R. Jiganti — *Endispute, Inc.*  
James H. Johnston, Esq. — *American Arbitration Association*  
John J. Jordan, Esq. — *American Arbitration Association*  
Judy A. Julian, Esq. — *Endispute, Inc.*  
Robert M. Landis, Esq. — *Center for Public Resources, Inc.*  
The Honorable William B. Lawless (Retired) — *"Judge-Net"*  
Michael K. Lewis, Esq. — *Center for Public Resources, Inc.*  
Burton L. Litwin, Esq. — *American Arbitration Association*  
Lee Loevinger, Esq. — *American Arbitration Association*  
The Honorable Reuben Lozner — *Judicate, Inc.*

The Honorable James P. Lynch, Jr. — *Endispute, Inc.*  
Jonathan B. Marks, Esq. — *Endispute, Inc.*  
The Honorable Frank J. McGarr — *Center for Public Resources, Inc. and Endispute, Inc.*  
The Honorable H. Curtis Meanor — *Center for Public Resources, Inc.*  
Bernard A. Meany, Esq. — *American Intellectual Property Law Association and American Arbitration Association*  
Barry William Messinger, Esq. — *American Arbitration Association*  
The Honorable Andrew Gill Meyer — *Endispute, Inc.*  
Albert I. Moon, Jr., Esq. — *"Judge-Net"*  
Charles B. Molineaux, Esq. — *American Arbitration Association*  
The Honorable Sharon T. Nelson — *Judicate, Inc. and American Arbitration Association*  
Harry R. Olsson, Jr., Esq. — *American Arbitration Association*  
The Honorable Paul N. Pfeiffer — *Judicate, Inc.*  
Joseph B. Russell, Esq. — *American Arbitration Association*  
The Honorable James V. Ryan — *Endispute, Inc.*  
Jeffrey M. Samuels, Esq. — *American Intellectual Property Law Association*  
The Honorable Herbert Silberman — *Judicate, Inc.*  
Linda R. Singer, Esq. — *Center for Public Resources, Inc.*  
Michael R. Slobasky, Esq. — *American Intellectual Property Law Association*  
The Honorable Harvey Smith — *Endispute, Inc.*  
Jeffrey L. Squires, Esq. — *American Arbitration Association*  
The Honorable Alfred T. Sulmonetti (Retired) — *"Judge-Net"*  
The Honorable Robert E. Tarleton — *Endispute, Inc.*  
John M. Townsend, Esq. — *American Arbitration Association*  
Paul C. Van Slyke, Esq. — *Center for Public Resources, Inc.*  
The Honorable Ronald P. Wertheim — *Judicate, Inc.*  
James C. Wray, Esq. — *American Intellectual Property Law Association*  
Michael D. Young, Esq. — *Endispute, Inc.*  
Bruce Zagaris, Esq. — *American Arbitration Association*

Dated: December 22, 1994

**Marybeth Peters**  
*Register of Copyrights*

Approved by:  
**James H. Billington**  
*The Librarian of Congress*

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