



ANNOUNCEMENT

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

INITIATION OF ARBITRATION.

DISTRIBUTION OF 1995, 1996, 1997, AND 1998 DIGITAL AUDIO RECORDING TECHNOLOGY ROYALTIES

The following excerpt is taken from Volume 65, Number 69 of the
Federal Register for Monday, April 10, 2000 (pp. 19025-19026)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 99-3 CARP DD 95-98]

Distribution of 1995, 1996, 1997, and 1998 Digital Audio Recording Technology Royalties

AGENCY: Copyright Office, Library of
Congress

ACTION: Initiation of arbitration.

SUMMARY: The Copyright Office of the
Library of Congress is announcing initiation
of the 180-day arbitration period for the
distribution of the 1995-98 digital audio
recording technology ("DART") royalties in
the Musical Works Funds.

EFFECTIVE DATE: April 10, 2000.

ADDRESSES: All hearings and meetings
proceeding shall take place in the James
Madison Memorial Building, Room LM-414,
First and Independence Avenue, SE,
Washington, DC 20540.

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FOR FURTHER INFORMATION

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SUPPLEMENTARY INFORMATION:

Background

Section 251.72 of 37 CFR provides:

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.

The notice published today fulfills the
requirements of Sec. 251.72 for the
distribution of DART royalties in the Musical
Works Funds for the years 1995, 1996, 1997,
and 1998.

On May 4, 1999, the Copyright Office
published a notice in the **Federal Register**
requesting comment as to the existence of a
controversy concerning the distribution of the
1995, 1996, 1997, and 1998 DART royalty
fees in the Musical Works Funds and
consolidating the consideration of the
distribution of the 1995-98 Musical Works
Funds into a single proceeding. 64 FR 23875
(May 4, 1999). The following parties filed
comments and Notices of Intent to
Participate: Carl DeMonbrun/Polyphonic
Music, Inc. ("DeMonbrun"); Broadcast
Music, Inc. ("BMI"), the American Society
of Composers, Authors and Publishers
("ASCAP"), SESAC, Inc. ("SESAC"), the
Harry Fox Agency ("HFA"), the Songwriters
Guild of America ("SGA"), and Copyright
Management, Inc. ("CMI") (collectively the
"Settling Parties"); James Cannings/Can Can
Music ("Cannings"); Alicia Carolyn Evelyn
("Evelyn"); and Eugene "Lambchops" Curry/
Tajai Music, Inc. ("Curry").

On September 21, 1999, the Office issued
an Order announcing the precontroversy
discovery schedule for the proceeding,
beginning on November 15, 1999. See Order
in Docket No. 99-3 CARP DD 95-98
(September 21, 1999). Prior to
commencement of the 45-day precontroversy
discovery period, the Office was notified that
Cannings and DeMonbrun had settled their
respective controversies with the Settling

Parties. Thus, the parties who will appear
before the CARP in the current proceeding
are the Settling Parties, Evelyn, and Curry.

On November 15, 1999, the Settling
Parties filed a motion requesting that the
controversy be decided on the basis of
written pleadings. The Office designated to
the CARP the issue of whether to suspend
formal hearings and decide the case on the
written pleadings. See Order in Docket No.
99-3 CARP DD 95-98 (December 22, 1999).

The September 21, 1999, Order also set
the initiation of the arbitration for February
28, 2000. However, the Office's duty to
publish every two years a new list of
arbitrators eligible to serve on a CARP
rendered the February 28 initiation date
unworkable. See 37 CFR 251.3. On January
14, 2000, in accordance with Sec. 251.3(b),
the Office published the list of arbitrators
eligible to serve on a CARP initiated during
2000 and 2001. 65 FR 2439 (January 14,
2000). Because the time period between the
publication of the arbitrator list and the
February 28 initiation date was not sufficient
to complete the selection of arbitrators for
this proceeding, the Office reset the initiation
of the arbitration to April 10, 2000. See
Order in Docket No. 99-3 CARP DD 95-98
(March 14, 2000).

Selection of Arbitrators

Section 802(b) of the Copyright Act
instructs the Librarian to select two
arbitrators within 10 days of initiation of the
proceeding. The Librarian has already
completed this task, and the two arbitrators
are:

The Honorable John B. Farmakides
The Honorable Harold E. Himmelman

The third arbitrator, who shall serve as
Chairperson, will be selected in accordance
with section 802(b).

Initiation of Proceeding

Pursuant to Sec. 251.72 of 37 CFR, the Copyright Office of the Library of Congress is formally announcing the existence of controversies in the distribution of digital audio recording technology royalties in the Musical Works Funds for the years 1995, 1996, 1997, and 1998, and is initiating an arbitration proceeding under chapter 8 of title 17 of the United States Code to resolve distribution of these funds. The arbitration proceeding commences on April 10, 2000, and runs for a period of 180 days. The arbitrators shall file their written report with the Librarian of Congress by October 10, 2000, in accordance with Sec. 251.53 of 37 CFR.

Scheduling of the 1995-98 DART royalty distribution proceeding is within the discretion of the CARP. The Library will publish the schedule of the proceedings, as required by 37 CFR 251.11(b), as soon as it is available.

Dated: April 4, 2000.

David O. Carson,
General Counsel.

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