



ANNOUNCEMENT

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

NOTICE OF INFORMAL PUBLIC MEETING

IMPLEMENTATION OF THE AUDIO HOME RECORDING ACT OF 1992; STATEMENTS OF ACCOUNT PUBLIC MEETING

The following excerpt is taken from Volume 58, Number 94 of the Federal Register for Tuesday, May 18, 1993 (pp. 29001-29008)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 93-4]

Implementation of the Audio Home Recording Act of 1992; Statements of Account Public Meeting

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of informal public meeting.

SUMMARY: The Copyright Office of the Library of Congress has issued interim regulations and a quarterly statement of account form as part of its mandate to implement the Audio Home Recording Act of 1992, Pub. L. 102-563. This notice invites participation in a public meeting intended to elicit comments, views, and information which will assist the Office in its review of the quarterly statement of account form and its design of the annual statement of account form. This is to be an informal meeting for exchange of opinions and information among interested parties. Written comments are welcome, but are not required. No transcript of the discussion will be made.

DATE AND ADDRESS: The meeting will be held on June 11, 1993, beginning at 1:30 p.m. in the conference room of the Register of Copyrights, LM 407, James Madison Memorial Building, Library of Congress, First St. and Independence Ave., S.E., Washington, D.C. Participants need not notify the Copyright Office of their intention to attend the meeting. Any written comments should

be submitted to the Office of Copyright General Counsel at the same address if delivered by hand. If submitted by mail, use the designation "Department 100" in addition to the above address and the zipcode "20540."

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559. Telephone (202)707-8380.

SUPPLEMENTARY INFORMATION: Effective October 28, 1992, the Audio Home Recording Act (AHRA) created new statutory obligations in chapter 10 of title 17, United States Code, relating to digital audio recording devices and media. The AHRA provides solutions to policy problems presented by consumer products that make nearly perfect copies of digital audio recordings. These include provision of an exemption for private noncommercial home recording of digital audio recordings, a restriction on serial copying of copyrightable works on digital recorders, and the requirement that manufacturers and importers of digital audio recorders and media file an initial notice of distribution, quarterly and annual statements of account, and royalty payments upon distribution in the United States of digital audio recording devices and media.

The AHRA provides that importers or manufacturers of digital audio recording devices or media shall file with the Register of Copyrights quarterly and annual statements of account in such form as the Register shall prescribe by regulation. Interim regulations were issued by the Office February 22, 1993 (58 FR 9544) governing the filing of

quarterly and annual statements of account and payment of royalties. Comments were invited, and have been received. The quarterly statement of account form was of necessity prepared and then distributed in early April without the opportunity for comment on the form design and content. The quarterly form is reprinted in an Appendix to the Notice. The meeting proposed by this notice will provide the Office with information and comments needed to review the quarterly form and prepare the annual statement of account form under the AHRA.

LIST OF SUBJECTS:
Copyright; Digital audio recording products.

Dated: May 12, 1993

Ralph Oman,
Register of Copyrights.

Appendix

DART Quarterly Statement of Account

BILLING CODE: 1410-08-M

 PRINTED ON RECYCLED PAPER

A NEW LAW

Effective October 28, 1992, the Audio Home Recording Act of 1992, Public Law 102-563, 106 Stat. 4237, created a new statutory obligation under the Copyright Act, title 17 U.S.C. This law was enacted after interested parties came to an agreement about associated rights and compensation in an age in which near-perfect copying of protected audio works by consumers is possible.

Under the Act, manufacturers and importers of digital audio recording devices and media who distribute the products in the United States must file quarterly and annual statements of account and make royalty payments to the Copyright Office.

TRANSITIONAL PERIOD REQUIREMENTS

The first Quarterly Statement of Account following enactment of the Act shall cover the period from October 28, 1992, to the end of at least one full quarter. This statement is due 45 days following the end of the first full quarter after October 28, 1992, or by May 15, 1993, whichever is later.

The first Annual Statement of Account shall cover the entire period since October 28, 1992, and is not due until March 1, 1994, or later depending upon the basis of filing.

HOW TO FILE THE STATEMENT OF ACCOUNT AND ROYALTY FEE

FIRST: Study the information and read through the instructions in the Statement of Account form. Before you start completing the form, make sure that you have collected all the necessary information and that you are using the right form.

SECOND: Complete the statement of account form, giving all of the required information. Use a typewriter, a legible printer, or hand print the information in dark ink.

THIRD: Certify the statement of account by signing in Space G. The statement of account is not acceptable unless it bears the handwritten signature of one of the individuals indicated in Space G as authorized to certify it pursuant to Copyright Office regulations.

FOURTH: Obtain a certified check, cashier's check, money order, or make an electronic payment in the amount of the royalty fee due as calculated in Space C. Payment in any other form (personal or company checks) will be returned. The remittance must be made payable to: Register of Copyrights. **DO NOT SEND CASH.**

FIFTH: Send the completed statement of account, together with the royalty fee due, to:

Licensing Division
Copyright Office
Library of Congress
Washington, DC 20557-6400

SIXTH: Retain a copy of the entire statement, as filed, in case it is needed for future reference.



UNITED STATES COPYRIGHT OFFICE


Filing Deadline: The Statement of Account must be filed within 45 days after the close of the quarter covered by the statement.


QUARTERLY STATEMENT OF ACCOUNT
For Digital Audio Recording Products

General Instructions are at the end of this form [pages i-ii].

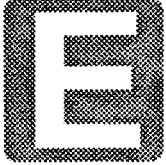
FOR COPYRIGHT OFFICE USE ONLY	
DATE RECEIVED	AMOUNT
	REMITTANCE NUMBER

FORM DART/Q
 Return to:
 Licensing Division
 Copyright Office
 Library of Congress
 Washington, DC
 20557-6400
 202-707-8150

<p>S P A C E</p> 	<p>ACCOUNTING PERIOD AND FILING STATUS COVERED BY THIS QUARTERLY STATEMENT OF ACCOUNT:</p> <p>1. Check the applicable box. If your accounting period is the calendar year, enter the year; if it is a fiscal year, enter the 12-month period and year.</p> <p><input type="checkbox"/> Calendar year: January 1 through December 31, 19____</p> <p><input type="checkbox"/> Fiscal year: beginning _____, 19____ and ending _____, 19____</p> <p>2. Check the applicable box and enter the 3-month period and year(s) for that quarter.</p> <p><input type="checkbox"/> Quarter 1</p> <p><input type="checkbox"/> Quarter 2</p> <p><input type="checkbox"/> Quarter 3</p> <p>beginning _____, 19____ and ending _____, 19____</p> <p>3. Check the applicable box(es) to identify your filing status.</p> <p><input type="checkbox"/> Manufacturer</p> <p><input type="checkbox"/> Importer</p> <p><input type="checkbox"/> Manufacturer and Importer</p>
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<p>S P A C E</p> 	<p>NAME AND ADDRESS</p> <p>Give the full legal name of the "manufacturing party" or any other name used for the purpose of conducting the business of manufacturing and distributing or importing and distributing digital audio recording products.</p> <p>1. Legal Name _____</p> <p>2. Mailing Address _____</p> <p>_____</p> <p>_____</p> <p>Give other business name(s), if different from line 1.</p> <p>3. Business Name _____</p> <p>_____</p>
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S P A C E



WORKSHEET FOR COMPUTING INTEREST

You must complete this worksheet for those royalty payments submitted as a result of a late payment or underpayment.

Line 1. Enter the amount of late payment or underpayment \$ _____
x _____ %

Line 2. Multiply line 1 by the interest rate* and enter the the sum here . . . \$ _____
x _____ days

Line 3. Multiply line 2 by the number of days late \$ _____
x .00274

Line 4. Multiply line 3 by .00274**, enter here and on line 4 in Space C . . . \$ _____
(interest charge)

*Contact the Licensing Division at 202-707-8150 for the interest rate for the accounting period in which the late payment or underpayment occurred.
 **This is the decimal equivalent of 1/365, which is the interest assessment for one day late.

S P A C E



INDIVIDUAL TO BE CONTACTED IF FURTHER INFORMATION IS NEEDED

(Identify an individual to whom we can write or call about this Statement of Account).

NAME _____ TELEPHONE () _____

ADDRESS _____

S P A C E



CERTIFICATION

(This Statement of Account must be certified and signed in accordance with Copyright Office Regulations.)

I, the undersigned, hereby certify that: (check ONLY ONE of the boxes listed below.)

- (Importer or manufacturer other than corporation or partnership)
I am the importer/manufacturer identified in Space B, line 1.
- (Principal of importer or manufacturer other than corporation or partnership)
I am the duly authorized agent of the importer/manufacturer identified in Space B, line 1.
- (Officer or partner)
I am an officer (if a corporation) or a partner (if a partnership) of the legal entity identified in Space B, line 1.

I have examined this Quarterly Statement of Account and hereby declare under penalty of law that all statements of fact contained herein are true, complete, and accurate to the best of my knowledge, information, and belief, and are made in good faith.

HANDWRITTEN SIGNATURE _____

TYPED OR PRINTED NAME _____

TITLE _____ DATE _____

GENERAL INSTRUCTIONS

FOR THE QUARTERLY STATEMENT OF ACCOUNT

FORM DART/Q

The Audio Home Recording Act of 1992 (Pub. L. No. 102-563)

Chapter 10 of title 17, United States Code, creates new statutory obligations for parties who import and distribute in the United States or manufacture and distribute in the U.S. any digital audio recording device or digital audio recording medium. This law was enacted after interested parties came to an agreement about associated rights and compensation in an age in which near-perfect copying of protected audio works by consumers is possible.

DEFINITIONS

- **"DIGITAL AUDIO RECORDING PRODUCT"** means digital audio recording devices and digital audio recording media.
- **"DIGITAL AUDIO RECORDING DEVICE"** is any machine or device of a type commonly distributed to individuals for use by individuals, whether or not included with or as part of some other machine or device, the digital recording function of which is designed or marketed for the primary purpose of, and that is capable of, making a digital audio copied recording for private use, except for (A) professional model products, and (B) dictation machines, answering machines, and other audio recording equipment that is designed and marketed primarily for the creation of sound recordings resulting from the fixation of nonmusical sounds.
- **"DIGITAL AUDIO RECORDING MEDIUM"** is any material object in a form commonly distributed for use by individuals, that is primarily marketed or most commonly used by consumers for the purpose of making digital audio copied recordings by use of a digital audio recording device.
- The **"PRODUCT CATEGORY"** of a device or medium is a general class of products made up of functionally equivalent digital audio recording products with substantially the same use in substantially the same environment, including, for example, hand-held portable integrated combination units ("boomboxes"), portable personal recorders, stand-alone home recorders ("tape decks"), home combination systems ("rack systems"), automobile recorders, configurations of tape media (standard cassettes or microcassettes), and configurations of disc media, such as 2-1/2", 3" or 5" discs.
- The **"TECHNOLOGY"** of a device or medium is a digital audio recording product type distinguished by different technical processes for digitally recording musical sounds, such as digital audio tape recorders (DAT), digital compact cassette (DCC), or different disc-based technologies such as minidisc (MD).
- **"MANUFACTURE"** means to produce or assemble a product in the United States. A **"manufacturer"** is a person who manufactures.
- The **"MANUFACTURING PARTY"** is any person or entity who manufactures and distributes or imports and distributes any digital audio recording device or digital audio recording medium in the United States.
- A **"QUARTERLY STATEMENT OF ACCOUNT"** is a statement accompanying royalty payments pursuant to 17 U.S.C., section 1003.
- An **"ANNUAL STATEMENT OF ACCOUNT"** is a cumulative statement accompanying annual royalty payments pursuant to 17 U.S.C., section 1003.

SPACE A: ACCOUNTING PERIOD & FILING STATUS

Statements of account may be filed on either a calendar year or fiscal year basis at the election of the manufacturer or importer. Whichever filing

basis is elected, the election stands for 3 years and may be changed for subsequent filings **only** by written request to the Copyright Office at least 60 days before the proposed effective date. The request must be approved by the Office in order to become effective.

Enter the calendar or fiscal year designation, including the beginning and ending month, day, and year of the period covered by the quarter. Space A also requires a designation of the manufacturing party's status, such as "manufacturer," "importer," or "manufacturer and importer."

SPACE B: NAME AND ADDRESS

The full legal name of the manufacturing party will be included, together with the fictitious or assumed name, if any, used by the person or entity for the purpose of conducting the business of manufacturing and distributing or importing and distributing digital audio recording products.

In addition, Space B requires the full mailing address of the manufacturing party, including a specific number and street name or rural route of the place of business of this person or entity. A post office box or similar designation will not be sufficient for this purpose except where it is the only address that can be used in that geographic location.

SPACE C: COMPUTATION OF ROYALTY FEE

Column 1: "Product Category"

Enter the product category of the digital audio recording products manufactured and distributed or imported and distributed by the manufacturing party during the quarter covered by the statement. Product categories include hand-held portable integrated combination units ("boomboxes"), portable personal recorders, stand-alone home recorders ("tape decks"), home combination systems ("rack systems"), automobile recorders, configurations of tape media (standard cassettes or microcassettes), and configurations of disc media, such as 2-1/2", 3", and 5" discs.

Column 2: "Technology"

Enter the technology of the digital audio recording products manufactured and distributed or imported and distributed by the manufacturing party during the quarter covered by the statement. The technology of a device or medium is a product type distinguished by different technical processes for digitally recording musical sounds, such as digital audio recorders (DAT), digital compact cassettes (DCC), or different disc-based technologies such as minidisc (MD).

Column 3: "Series or Model #"

Enter the model (or, in the case of media, series) numbers assigned by the manufacturer to the digital audio recording products manufactured and distributed or imported and distributed by the manufacturing party during the quarter covered by the statement.

Column 4: "Fee Code"

Enter the fee code that is associated with the product. Fee Code "A" applies to a digital audio recording device distributed as a physically integrated unit.

Fee Code "B" applies to a device that is **not** a physically integrated unit where substantially similar separate components have been distributed separately at any time during the previous 4 quarters using the average transfer price.

Fee Code "C" applies to a device that is **not** a physically integrated unit where such separate components have **not** been distributed separately at any time during the preceding 4 quarters using the proportional value of such devices to the combination as a whole.

Fee Code "D" applies to a digital audio recording medium. **IMPORTANT: WHEN COMPUTING THE ROYALTY FEE FOR THE RECORDING MEDIUM, DO NOT COMPLETE COLUMNS 8, 9, 12 AND 13.**

Column 5: "Source Code"

Enter the Source Code for the product category. Enter an "M" if the product was manufactured in the United States. Enter an "I" if the product was imported into the United States.

Column 6: "Transfer Price"

Enter the transfer price of the product. The transfer price in the case of imported products, is the actual entered value at United States Customs (exclusive of any freight, insurance, and applicable duty). In the case of a domestic product, the transfer price of a product is the manufacturer's transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale). If the transferor and transferee are related entities or within a single entity, the transfer price shall not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986.

Column 7: "Number of Units Distributed"

Enter the number of units distributed. "Distribute" means to sell, lease, or assign a product to consumers in the United States, or to sell, lease, or assign a product in the United States for ultimate transfer to consumers in the United States.

Column 8: "Minimum Fee Per Unit"

Enter the statutory Minimum Fee of \$1.00 for all digital recording devices.

Column 9: "Minimum Fee"

Multiply the Number of Units Distributed (column 7) by the Minimum Fee Per Unit (column 8) and enter the result in column 9 for the Minimum Fee.

Column 10: "Rate"

Enter the statutory royalty rate of 2 percent for digital audio recording devices OR 3 percent for digital audio recording media .

Column 11: "Rate Fee"

Multiply the Transfer price (column 6) by the Number of Units Distributed (column 7) and then multiply the result by the Rate (column 10) and enter that figure in column 11 for the Rate Fee.

Column 12: "Maximum Fee Per Unit"

Enter the statutory Maximum Fee Per Unit of \$8.00 for non-physically integrated units and \$12.00 for physically integrated units.

Column 13: "Maximum Fee"

Multiply the Number of Units Distributed (column 7) by the Maximum Fee Per Unit (column 12) and enter the result in column 13 for the Maximum Fee.

Column 14: "Royalty Fee"

The manufacturing party **must** pay either the "Rate Fee", the "Minimum Fee" or the "Maximum Fee." To determine the appropriate Royalty Fee for digital audio recording devices:

- Enter the Rate Fee (column 11) if it is greater than the Minimum Fee (column 9) and less than the Maximum Fee (column 13).

OR

- Enter the Minimum Fee (column 9) if the Rate Fee (column 11) is less than or equal to the Minimum Fee (column 9).

OR

- Enter the Maximum Fee (column 13) if the Rate Fee (column 11) is greater than or equal to the Maximum Fee (column 13).

SPACE D: REDUCTION OF ROYALTY PAYMENT

This space applies to a reduction of the royalty payment for devices in physically integrated units that were not first distributed in combination with a unit, and upon which royalty fees have been previously paid pursuant to section 1004 (a)(2)(A) of Public Law 102-563. You may give the total amount for the quarter.

SPACE E: INTEREST WORKSHEET

Interest will be imposed on underpayments and late payments of royalties due. Manufacturing parties must calculate their own interest charge on the worksheet. Manufacturers or importers submitting royalty payments in an untimely fashion should include the proper interest charge with their payments. The interest rate is the rate quoted as the Current Value

of Funds to Treasury, as published in the Federal Register, in effect on the first business day after the close of the filing deadline for the relevant accounting period.

The interest rate for a particular accounting period may be obtained by consulting the Federal Register or the Licensing Division of the Copyright Office for the applicable Current Value of Funds Rate.

For underpayments and late payments the interest shall be compounded annually and begin to accrue on the first day after the close of the filing date for that accounting period. For a late payment the accrual period ends on the date that the Statement of Account and proper form of payment are received in the Copyright Office. For underpayments the accrual period ends on the date appearing on the certified check, cashier's check, money order, or electronic payment, provided that the remittance is received in the Copyright Office within 5 business days of that date. Interest is not required to be paid on any royalty underpayment or late payment from a particular accounting period if the interest charge is less than or equal to \$5.00.

SPACE F: CONTACT

Clearly identify an individual to whom the Copyright Office can write or call about this quarterly statement of account.

SPACE G: CERTIFICATION

Each quarterly statement of account must include the handwritten signature of the manufacturing party. If the manufacturing party is a corporation, the signature must be that of a duly authorized officer of the corporation. If the manufacturing party is a partnership, the signature must be that of a partner. The signature must be accompanied by the printed or typewritten name of the person signing the quarterly statement of account. It must also note the date the document is signed. If the manufacturing party is a partnership or corporation, indicate the title or official position held in the partnership or corporation. The signature provides the certification as noted in Space G.

Note:

All information provided must be intelligible, legible, and unambiguous, and must not incorporate by reference any facts or information contained in other documents or records.

FILING DATES

Quarterly statements of account shall be filed at intervals of 3 months for the first 3 quarters of the calendar year or fiscal year cycle. Quarterly statements are due no later than 45 days after the close of the period covered by the statement. The information relating to the fourth quarter, as well as the accumulation for the year, shall be contained in the annual statement of account. Annual statements are due on or before 2 months after the close of the calendar or fiscal year covered by the statement.

CORRECTIONS AND REFUNDS

- Errors in the computation of the royalty payments that result in underpayment of royalties can be corrected and supplemental payments made upon compliance with Copyright Office procedures. Contact the Licensing Division for specific instructions.
- Refunds will not be made for alleged overpayments accompanying *quarterly* statements of account. Any such overpayment can be reconciled in the annual statement of account for the relevant accounting year.

NOTE: The annual statement of account provides credits for devices that are unsold or defective and a reconciliation of the cumulative and quarterly accounts. However, delayed payment of royalties does not affect the copyright owner's right to any remedy that is available under the law.

CONFIDENTIALITY OF STATEMENTS OF ACCOUNT

Public access will be denied to the Copyright Office files of Statements of Account for Digital Audio Recording Products. Access will only be granted to interested copyright parties in accordance with regulations prescribed by the Register of Copyrights pursuant to Section 1003(c) of title 17 United States Code, as amended by Pub. L. 102-563.