



ANNOUNCEMENT

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

NOTICE WITH REQUEST FOR COMMENTS

DISTRIBUTION OF 1990, 1991 AND 1992 CABLE ROYALTY FUNDS

The following excerpt is taken from Volume 61, Number 32 of the *Federal Register* for Thursday, February 15, 1996 (pp. 6040-6041)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 94-3 CARP-CD-90-92]

Distribution of 1990, 1991 and 1992 Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice with request for comments.

SUMMARY: The Copyright Office directs all claimants to royalty fees collected for secondary transmissions by cable systems in 1990, 1991, and 1992 to submit comments as to whether Phase II controversies exist as to the distribution of these funds. The Office is also directing those claimants reporting the existence of Phase II controversies to file a Notice of Intent to Participate.

DATES: Comments on controversies and Notices of Intent to Participate are due March 15, 1996.

ADDRESSES: If sent by mail, an original and five copies of the comments on controversies and the Notice of Intent to Participate should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, an original and five copies of the comments on controversies and the Notice of Intent to participate should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room 407, First and Independence Avenue, S.E., Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT:

Marilyn J. Kretsinger, Acting General Counsel, or William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone (202) 707-8380. Telefax (202) 707-8366.

SUPPLEMENTARY INFORMATION:

I. Background

Each year, cable systems submit royalties to the U.S. Copyright Office for a statutory license to retransmit broadcast signals to their subscribers. 17 U.S.C. 111. These royalties are, in turn, distributed to the appropriate copyright owners by means of a cable royalty distribution proceeding. Distribution proceedings were formerly conducted by the Copyright Royalty Tribunal. However, on December 17, 1993, the Tribunal was abolished. Royalty distribution proceedings are now conducted by ad hoc copyright arbitration royalty panels (CARPs) convened and supported by the Library of Congress and the Copyright Office. Copyright Royalty Tribunal Reform Act of 1993, P.L. 103-198, 107 Stat. 2304 (1993).

Currently, the Copyright Office is conducting its first distribution of cable royalties under the new CARP regime. On March 21, 1995, the Office consolidated distribution of the 1990, 1991 and 1992 cable royalty funds into a single proceeding, and announced that it would conduct Phase I and Phase II controversies sequentially. 60 FR 14971 (March 21, 1995). The Office would first conduct a proceeding and convene a CARP to resolve all Phase I controversies for the 1990-92 funds, and, after the

proceeding had been completed, would "ascertain the existence of any Phase II controversies and conduct separate proceedings." 60 FR at 14974. The Office also announced that it would resolve the issue of whether to allow a single CARP to resolve more than one Phase II controversy at the time it determined the existence of any Phase II controversies. *Id.*

The CARP proceeding to resolve Phase I controversies for the 1990-92 royalties commenced on December 4, 1995, and will close on June 1, 1996. 60 FR 58680 (November 28, 1995). CARP proceedings to resolve Phase II controversies, if any, may therefore be scheduled anytime after June 1, 1996, in accordance with the Office's decision to handle them sequentially. See 60 FR 14971, 14974. Conversely, the Office also seeks to be advised of Phase II categories that are completely settled.

II. Comments on Controversies

In order to schedule proceedings to resolve Phase II controversies as soon as possible after the conclusion of arbitration proceedings in Phase I, the Copyright Office directs all claimants to royalty fees collected in 1990, 1991 and 1992 for secondary transmissions by cable systems to submit comments as to whether controversies exist as to the distribution of these funds. If any controversies exist, the claimant should

¹The Copyright Office faces the possibility of initiating multiple CARP proceedings in 1996. Therefore, in the interest of establishing workable schedules for the Copyright Office and for the interested parties to these future proceedings, the Office requests comments concerning the ascertainment of Phase II controversies in the current cable distribution proceeding at this time.

specifically name the claimants with whom he or she has a controversy. The Office also seeks comments as to whether each Phase II controversy should be handled by a separate CARP, or whether a single CARP should handle more than one or all controversies. Comments must be submitted no later than March 15, 1996.

III. Notice of Intent to Participate

In addition to comments on controversies, the Copyright Office requests those claimants who have identified the existence of a Phase II controversy and wish to participate in a Phase II distribution proceeding, to file a Notice of Intent to Participate in the proceeding by March 15, 1996. Failure of a claimant to file a timely Notice of Intent to Participate, or to be represented by another claimant filing a timely Notice, will subject the Phase II claim to dismissal. The filing of a timely Notice of Intent to Participate is thus critical to a claimant being able to present an effective claim in a Phase II proceeding.

Dated: February 12, 1996

Marilyn J. Kretsinger,

Acting General Counsel.

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