



ANNOUNCEMENT

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

INITIATION OF ARBITRATION.

DETERMINATION OF STATUTORY LICENSE RATES AND TERMS FOR CERTAIN DIGITAL SUBSCRIPTION TRANSMISSIONS OF SOUND RECORDINGS

The following excerpt is taken from Volume 62, Number 105 of the *Federal Register* for Monday June 2, 1997 (p. 29742-29743)

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 96-5 CARP DSTRA]

Determination of Statutory License Rates and Terms for Certain Digital Subscription Transmissions of Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Initiation of arbitration.

SUMMARY: The Librarian of Congress is announcing initiation of the 180-day arbitration period for determination of statutory license rates and terms for certain digital subscription transmissions of sound recordings.

EFFECTIVE DATE: June 2, 1997.

ADDRESSES: All hearings and meetings for the section 114 statutory license proceeding shall take place in the James Madison Memorial Building, Room 414, First and Independence Avenue, S.E., Washington, D.C. 20540.

FOR ADDITIONAL INFORMATION:

William Roberts, Senior Attorney, or Tanya Sandros, Attorney Advisor, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone (202) 707-8380. Telefax (202) 707-8366.

SUPPLEMENTARY INFORMATION:

Background

This notice fulfills the requirement of 37 C.F.R. 251.64 and 17 U.S.C. 803(a)(1). Section 251.64 of the CARP rules, 37 C.F.R., provides

that

After the end of the 45-day precontroversy discovery period, and after the Librarian has ruled on all motions and objections filed under §251.45, the Librarian will determine the sufficiency of the petition, including, where appropriate, whether one or more of the petitioners' interests are "significant." If the Librarian determines that a petition is significant, he or she will cause to be published in the FEDERAL REGISTER a declaration of a controversy accompanied by a notice of initiation of an arbitration proceeding.

On December 1, 1995, the Library of Congress published a notice, pursuant to 17 U.S.C. 114(f)(1), initiating a voluntary negotiation period for terms and rates for the 17 U.S.C. 114 statutory license. 60 FR 61655 (December 1, 1995). No voluntary agreements were reached.

On June 4, 1996, the Library received a petition from the Recording Industry Association of America ("RIAA"), in accordance with 17 U.S.C. 114(f)(2), to initiate an arbitration proceeding under chapter 8 of the Copyright Act for purposes of establishing the terms and rates of the section 114 license. RIAA asserted that it has a significant interest in such a proceeding because it is the principal trade association of the recording industry which creates, markets, and distributes approximately 90% of all legitimate sound recordings sold in the United States.

After the filing of this petition, the Library conducted a precontroversy discovery period under § 251.45 of the rules. See, 61 FR 40464 (August 2, 1996); Order in Docket No. 96-5 CARP DSTRA (September 18, 1996); Order in Docket No. 96-5 CARP DSTRA (November 27, 1996). The precontroversy discovery period is complete, and the Librarian has ruled upon all § 251.45 motions and objections.

Determination of Petitioner's Significant Interest in Proceeding

The Librarian has considered the petition of the RIAA and determines that RIAA has a significant interest in a CARP proceeding to establish the rates and terms of the section 114 license. RIAA is the principal trade association of the recording industry in the United States, and it is this industry that will collect royalties under the section 114 license. Further, the former Copyright Royalty Tribunal recognized that RIAA had a significant interest in copyright compulsory license rate proceedings affecting the recording industry. See, *Recording Industry Association of America v. Copyright Royalty Tribunal*, 662 F.2d 1 (D.C. Cir. 1981)(17 U.S.C. 115 license). Consequently, the Librarian determines that RIAA has a significant interest in this proceeding within the meaning of 17 U.S.C. 803(a)(1).

Selection of Arbitrators

In accordance with § 251.6 of the CARP rules, the arbitrators have been selected for this proceeding. They are:

The Honorable Lenore G. Ehrig
(Chairperson)

The Honorable Thomas A. Fortkort
The Honorable Sharon T. Nelson

Initiation of Proceeding

Pursuant to § 251.64 of the CARP rules, the Librarian is formally announcing the existence of a controversy as to the establishment of rates and terms for certain digital subscription transmissions, 17 U.S.C. 114(f)(2), and is initiating an arbitration proceeding under chapter 8 of title 17 to resolve the determination. The arbitration proceeding commences on June 2, 1997, and runs for a period of 180 days. The arbitrators shall file their written report with the Librarian by November 28, 1997, the end of the 180 day period, in accordance with § 251.53 of the rules.

A meeting between the participants in the rate adjustment proceeding and the arbitrators shall take place on Tuesday, June 3, 1997, at 1:30 p.m. at the Library of Congress, James Madison Building, LM 414, First and Independence Avenue, S.E., Washington, D.C., to discuss the hearing schedule, arbitrator billing and payment, and any other procedural matters. The meeting is open to the public. Copies of the hearing schedule, once finalized, will be available at the Copyright Office upon request.

DATED: April 21, 1997
Marybeth Peters,
Register of Copyrights.

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