



ANNOUNCEMENT

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

NOTICES OF INTENT TO PARTICIPATE; ANNOUNCEMENT OF PRECONTROVERSY DISCOVERY SCHEDULE

DIGITAL PERFORMANCE RIGHT IN SOUND RECORDINGS AND EPHEMERAL RECORDINGS

The following excerpt is taken from Volume 65, Number 238 of the
Federal Register of Monday, December 11, 2000 (pp. 77393-77394)

LIBRARY OF CONGRESS Copyright Office

[Docket No. 2000-9 CARP DTRA1 & 2]

Digital Performance Right in Sound Recordings and Ephemeral Recordings

AGENCY: Copyright Office, Library of
Congress.

ACTION: Notices of intent to participate;
Announcement of precontroversy discovery
schedule.

SUMMARY: Due to the ruling by the
Copyright Office that broadcasters are not
exempt from copyright liability when they
retransmit over the Internet copyrighted
works contained on their AM and FM radio
signals, the Library of Congress is providing
an additional time period for filing Notices of
Intent to Participate in the above-captioned
consolidated proceedings. In addition, the
Library is announcing the precontroversy
discovery schedule for these consolidated
proceedings.

DATES: Notices of Intent to Participate are
due no later than January 10, 2001.

ADDRESSES: An original and five copies
of a Notice of Intent to Participate should be
delivered to: Office of the General Counsel,
Copyright Office, James Madison Building,
Room LM-403, First and Independence
Avenue, SE, Washington, DC 20559-6000; or
mailed to: Copyright Arbitration Royalty
Panel (CARP), P.O. Box 70977, Southwest
Station, Washington, DC 20024.

FOR FURTHER INFORMATION

CONTACT: David O. Carson, General
Counsel, or Tanya M. Sandros, Senior
Attorney, Copyright Arbitration Royalty
Panel, P.O. Box 70977, Southwest Station,
Washington, DC 20024. Telephone (202)
707-8380. Telefax (202) 252-3423.

SUPPLEMENTAL INFORMATION:

In today's *Federal Register* the
Copyright Office announces a final rule in
Docket No. RM 2000-3 concerning the
definition of a "Service" for purposes of the

statutory license governing the public
performance of sound recordings by means
of digital audio transmissions. The Office has
determined that broadcasters retransmitting
copyrighted programming contained on their
AM and FM radio signals over digital
communications networks, such as the
Internet, are not exempt from copyright
liability under section 114(d)(1)(A) of the
Copyright Act. Because such retransmissions
are not exempt, a public performance of a
copyrighted work contained on a radio signal
occurs each time it is retransmitted over a
digital communications network, such as the
Internet. Consequently, broadcasters must
license the copyrights to the programming
contained on such radio signals.

Licensing may be accomplished in one of
two ways, depending upon the nature of the
retransmissions. Broadcasters may enter into
private licensing arrangements with the
copyright holders of the programming they
wish to retransmit. Or, broadcasters may be
eligible for the statutory licenses under
sections 114(f) and 112(e) of the Copyright
Act to retransmit the works. The Library of
Congress is currently conducting Copyright
Arbitration Royalty Panel (CARP)
proceedings to establish royalty rates and
terms for these licenses.

Because today's rulemaking proceeding
makes clear that broadcasters are not exempt,
those broadcasters who intend to use the
section 114(f) and 112(e) licenses may wish
to participate in these CARP proceedings.
The time periods for filing Notices of Intent
to Participate in this proceeding, however,
has passed. See 64 FR 52107 (September 27,
1999) (1998-2000 period) and 65 FR 55302
(September 13, 2000) (2001-2002 period).
The Library has determined that, given the
uncertainty surrounding today's rulemaking
decision, it is appropriate to reopen the filing
period for a limited time to allow additional
participants in these proceedings.

Notices of Intent To Participate

Any interested party that has not filed a
Notice of Intent to Participate in the rate

proceeding for 1998-2000 or the rate
proceeding for 2001-2002 may do so on or
before January 10, 2001. The Notice of Intent
to Participate should clearly specify whether
it applies to the 1998-2000 proceeding, the
2001-2002 proceeding, or both. Failure to
submit a

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timely filed Notice will preclude a party
from participating in these proceedings.

Consolidation of Proceedings

Concurrent with today's *Federal Register*
publication, the Library is issuing an Order
consolidating the 1998-2000 and 2001-2002
proceedings before a single CARP. The
consolidation order may be found on the
Copyright Office's website at [http://
www.loc.gov/copyright/carp/
114schedule.html](http://www.loc.gov/copyright/carp/114schedule.html). Parties wishing to
participate in the CARP proceedings should
familiarize themselves with the contents of
this Order.

In consolidating these two proceedings, the
Office has assigned a single docket number
applicable to both proceedings. Parties
submitting documents to the Copyright
Office should take account of the new docket
number.

Schedule of Proceedings

The consolidation Order described above
also announces the precontroversy discovery
schedule for the CARP proceedings. For
convenience, the schedule is repeated here.

Action	Date
Negotiated Protective Order	February 1, 2001.
Filing of Written Direct Cases	February 5, 2001.
Requests for Underlying Documents	February 14, 2000.
Related to Written Direct Cases	
Responses to Requests for Underlying Documents.	February 21, 2001.
Completion of Document Production	February 26, 2001.
Follow-up Requests for Underlying Documents.	March 2, 2001.
Responses to Follow-up Requests	March 8, 2001.
Motions Related to Document Production	March 12, 2001.
Production of Documents in Response to Follow-up Requests.	March 16, 2001.
All Other Motions, Petitions and Objections.	March 21, 2001.
Initiation of Arbitration	May 21, 2001.

Dated: December 6, 2000.

David O. Carson,
General Counsel.

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