



ANNOUNCEMENT

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

ANNOUNCEMENT OF THE SCHEDULE FOR THE PROCEEDING

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

The following excerpt is taken from Volume 65, Number 130 of the
Federal Register of Thursday, July 6, 2000 (pp. 41737-41738)

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: Announcement of the schedule for
the proceeding.

SUMMARY: The Copyright Office of the
Library of Congress is announcing the
schedule for the 180-day arbitration period
for the Copyright Arbitration Royalty Panel
("CARP") proceeding to determine the
distribution of the 1995-98 digital audio
recording technology ("DART") royalties in
the Musical Works Funds.

DATES: Filings must be submitted
according to the announced schedule, except
as otherwise provided by Order of the
Copyright Arbitration Royalty Panel.

ADDRESSES: If hand delivered, parties
shall deliver an original and five copies of all
written filings concerning this proceeding to:
Office of the Copyright General Counsel,
James Madison Memorial Building, First and
Independence Avenue, SE., Room LM-403,
Washington, DC 20540. If sent by mail,
filings should be addressed 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
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Panel ("CARP"), PO Box 70977, Southwest
Station, Washington, DC 20024. Telephone:
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SUPPLEMENTARY INFORMATION:

A. Background

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.

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).

On April 10, 2000, the Office published a
notice initiating the 180-day arbitration
period for this proceeding. 65 FR 19025
(April 10, 2000). Once the arbitrators for this
proceeding were selected, the Office
scheduled the initial meeting between the
arbitrators and the parties for May 16, 2000.
However, the chairperson of the panel
resigned out of concern that potential
conflicts of interest, which were not known
to the arbitrator at the time of selection, may
exist under Sec. 251.32. Because of these
concerns, the Copyright Office canceled the
May 16, 2000, meeting between the parties
and the original panel of arbitrators. Pursuant
to Sec. 251.6(f), the remaining two
arbitrators selected a new chairperson. On
June 14, 2000, in accordance with Sec.
251.6(f), the Office announced the
suspension of the 180-day arbitration period
from May 16, 2000, to June 16, 2000, the
resumption of the 180-day period on June 16,
2000, the new chairperson of the panel, and
the time and place of the rescheduled initial
meeting, which took place on June 19, 2000.
See 65 FR 37412 (June 14, 2000).

B. The Schedule

Section 251.11(b) of 37 CFR provides:
"At the beginning of each proceeding, the
CARP shall develop the original schedule of
the proceeding which shall be published in
the **Federal Register** at

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least seven calendar days in advance of the
first meeting. Such announcement shall state
the times, dates, and place of the meetings,
the testimony to be heard, whether any of the
meetings, or any portion of a meeting, is to
be closed, and if so, which ones, and the
name and telephone number of the person to
contact for further information."

All meetings of the CARP are open to the public, unless otherwise specified. To ensure that the public receives adequate notice of such meetings, the rule requires that the Office publish a schedule of the meetings at least seven days before the first meeting. See 59 FR 2550 (January 18, 1994). As set forth below, there are no further meetings for this proceeding scheduled at this time; thus, the seven-day advance publication requirement is unnecessary in this instance. Accordingly, this notice fulfills the requirements of Sec. 251.11(b) for the proceeding to determine the distribution of the 1995-98 DART royalties in the Musical Works Funds.

On June 19, 2000, the parties to this proceeding met with the arbitrators for the purpose of setting a schedule and discussing the procedural aspects of this proceeding. The key procedural issue before the Panel at the outset of the proceeding was the consideration of the issue designated to the CARP of whether to suspend formal hearings

and make the determination as to the distribution of the 1995-98 DART royalties in the Musical Works Funds on the written pleadings. See Order in Docket No. 99-3 CARP DD 95-98 (December 22, 1999). After hearing argument from all parties, the Panel announced its decision to waive the requirement of oral evidentiary hearings and to proceed upon the written record alone. The Panel stated in its Order that the following schedule would govern the remainder of the proceeding:

Deadline for submission of any revision desired at this time of a party's claim, pursuant to Sec. 251.43(d): July 7, 2000.

Deadline for submission of any rebuttal case desired by a party: July 28, 2000.

Deadline for submission of findings of fact and conclusions of law and proposed orders, including specific calculations of royalty payments: August 18, 2000.

Deadline for submission of reply findings of fact and conclusions of law and proposed

orders: August 28, 2000.

Order in Docket No. 99-3 CARP DD 95-98 (June 19, 2000).

At this time, the parties have not moved to close any portion of the proceeding to the public. Further refinements to the schedule will be issued as orders to the parties participating in the proceeding. All changes will be noted in the docket file of the proceeding, as required by the Copyright Office regulations governing the administration of CARP proceedings. 37 CFR 251.11(c).

Dated: June 30, 2000.

David O. Carson,
General Counsel.

[FR Doc. 00-17108 Filed 7-5-00; 8:45 am]

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