

Suppliers”), hereby submits comments addressing both MPAA’s opposition to the Motion and the specific questions raised in the Notice.

INTRODUCTION

As stated in the Notice, IPG has moved for partial distribution of the 2004-2009 Cable Funds and 2000-2009 Satellite Funds in the Program Suppliers category under Section 801(b)(3)(C) of the Copyright Act. This section authorizes the Judges to make a partial distribution of royalties in controversy, provided that “no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution,” and all such claimants “(i) agree to the partial distribution; (ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of fees made under subparagraph (B); (iii) file the agreement with the Copyright Royalty Judges; and (iv) agree that such funds are available for distribution.” *See* 17 U.S.C. 801(b)(3)(C).¹

The Judges and the Register of Copyrights (“Register”) previously denied IPG’s requests for a partial distribution of either cable or satellite royalties because IPG was not an “established claimant” entitled to receive partial distributions, and because they had concerns “not only about IPG’s ability, but also its willingness, to disgorge funds should the need arise.” *See* Order Denying IPG Motion For Partial Distribution, Docket Nos. 2008-2 CRB CD 2000-2003 (Phase II), *et al.*, at 4-7 (February 11, 2014) (“February 11, 2014 Order”); *see also* Order Denying Independent Producers Group’s Motion For Partial Distribution, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at 2-3 (January 17, 2012) (“January 17, 2012 Order”); Order, Docket No.

¹ This section stands in contrast to Section 801(b)(3)(A) of the Copyright Act, which permits the Judges to make partial distribution of royalties that are not in controversy without the imposition of a statutory repayment obligation on the parties receiving the partial distribution. Notably, several of the prior partial distributions the Judges made of the 2004-2009 Cable Funds and the 2000-2009 Satellite Funds were made pursuant to Section 801(b)(3)(A). *See, e.g.*, Distribution Order, Docket Nos. 2007-3 CRB CD 2004-2005, *et al.* (February 17, 2012); Distribution Order, Docket No. 2008-5 CRB SD 1999-2000 and 2005-2 CRB SD 2001-2003 (December 8, 2008); Distribution Order, Docket No. 2005-2 CRB SD 2001-2003 (September 13, 2005).

2001-8 CARP CD 98-99 at 2-4 (April 10, 2002) (“April 10, 2002 Order”). In its Motion, IPG argues that circumstances have changed, and that IPG is now an established claimant entitled to receive partial distribution of the 2004-2009 Cable Funds and 2000-2009 Satellite Funds based on (1) the D.C. Circuit’s affirmance of the Judges’ Final Distribution Order allocating IPG a percentage share of the royalties attributable to the Program Suppliers category for the 2000-2003 cable royalty funds² and (2) the fact that the Judges did not dismiss all of IPG’s claims in their interlocutory Memorandum Opinion And Ruling On Validity Of Claims (“Preliminary Hearing Order”), issued in this proceeding on March 13, 2015. *See* Motion at 2-5; Notice at 78252. IPG also disputes the Judges’ previously-stated concerns about IPG’s ability and willingness to disgorge funds, describing them as “unwarranted.” Notice at 78253.

MPAA objects to IPG receiving partial distribution of the 2004-2009 Cable Funds and 2000-2009 Satellite Funds, for the following reasons:

First, MPAA concedes that IPG-represented Program Supplier claimants may be entitled to receive a partial distribution of the 2004-2009 Cable Funds attributable to the Program Suppliers category in light of the D.C. Circuit’s ruling affirming the Judges’ Final Distribution Order in the 2000-2003 Cable Phase II Proceeding, subject to signing the disgorgement agreement contemplated by Section 801(b)(3)(C).³ The D.C. Circuit’s affirmance of the Judges’ Final Distribution Order as to the Program Suppliers category made IPG’s litigated royalty award final, and therefore made the copyright owners represented by IPG “established

² *See Independent Producers Group v. Librarian of Congress*, 792 F.3d 132, 140-44 (D.C. Cir. 2015).

³ To be clear, MPAA does not interpret the D.C. Circuit decision as affording IPG-represented claimants any entitlement to receive Section 111 royalties attributable to any Phase I category other than the Program Suppliers category. There is no basis for assuming that IPG’s establishment as a claimant in one program category should automatically transfer to another program category. This is particularly true given IPG’s penchant for pursuing unsubstantiated claims. For example, the D.C. Circuit affirmed the Judges’ determination that IPG was not entitled to receive any 2000-2003 cable royalties attributable to the Joint Sports Claimants category. In that case, IPG insisted that it represented certain claimants who made it very clear that IPG did not represent them. *See Independent Producers Group*, 792 F.3d at 140.

claimants” eligible to receive partial distribution of cable royalties in the Program Suppliers category. *See* February 11, 2014 Order at 4-5; January 17, 2012 Order at 2-3 and n.2; April 10, 2002 Order at 2-4; 57 Fed. Reg. 41478 (September 10, 1992); 47 Fed. Reg. 24175 (June 3, 1982).

However, in light of IPG’s checkered history and the record in this proceeding, MPAA objects to IPG receiving directly *any* cable partial distribution funds on behalf of its represented copyright owners absent appropriate safeguards imposed by the Judges to ensure not only return of any funds distributed in excess of a final IPG royalty award, but also that IPG actually distributes the royalties to its represented copyright owners.⁴ If appropriate safeguards cannot be established and enforced by the Judges, then MPAA objects to any partial distribution of Section 111 royalties attributable to the Program Suppliers category to IPG as an agent of copyright owners.

Second, MPAA objects to any partial distribution to IPG of the 2000-2009 Satellite Funds, as IPG has not established any entitlement to receive Section 119 royalties to date, and is thus not an established claimant entitled to receive a satellite partial distribution. MPAA further objects to use of the Judges’ interlocutory Preliminary Hearing Order as a basis for prejudging the value of any party’s claim for purposes of a partial distribution. As the Copyright Royalty Tribunal (“CRT”) held repeatedly, initial partial distributions are made only to established claimants based on final litigated awards, and not based on the “maximum claims advanced by

⁴ In MPAA’s September 25, 2015 Objection, MPAA indicated that it did not object to IPG receiving specific dollar amounts in partial distribution of the 2004-2009 Cable Funds, subject to a disgorgement agreement. IPG’s actions since the filing of MPAA’s pleading, including IPG’s intentional disclosure of confidential information provided to it as a part of a settlement offer, and in the context of a settlement negotiation, casts serious doubt on whether IPG will abide by any disgorgement agreement prepared by the Judges or the Licensing Division. MPAA also learned recently that IPG continues to withhold cable royalties it received from Public Broadcasting Service on behalf of Bob Ross, Inc. (“BRI”), even though IPG obtained those funds without the copyright owner’s authority. Accordingly, MPAA has changed its position on this issue, and objects to any partial distribution to IPG as an agent for copyright owners, absent the construction and enforcement of appropriate safeguards imposed by the Judges to protect both the other Phase II parties and IPG-represented claimants.

claimants” in a pending proceeding. *See* 51 Fed. Reg. 44331 (December 9, 1986); 48 Fed. Reg. 54679 (December 6, 1983).

Third, MPAA objects to IPG’s suggestion that production of confidential settlement agreements would ever be necessary in the context of a partial distribution of royalties subject to controversy under Section 801(b)(3)(C), or that calculation of interest should be pursued by the Judges as a part of ruling on a motion partial distribution. The Judges have already made it clear that Phase I settlement agreements are not subject to discovery in ongoing Phase II proceedings.⁵ Moreover, given the fact that any royalty award in this proceeding to IPG remains pending before the Judges, any request for confidential Phase I settlement shares or interest award at this stage of the proceedings would be premature.

COMMENTS

I. MPAA Objects To Any Partial Distribution Of 2004-2009 Cable Royalties To IPG As An Agent Of Copyright Owners.

When faced with a partial distribution request under Section 801(b)(3)(C) of the Copyright Act, status as an “established claimant,” by itself, is an insufficient basis for the Judges to award a partial distribution where other claimants entitled to receive the royalties at issue do not agree to the distribution and have raised a reasonable objection.⁶ The record in this proceeding presents the Judges with ample bases to deny any partial distribution of Program Suppliers royalties to IPG as an agent for copyright owners.

⁵ *See* Order Granting In Part And Denying In Part Independent Producers Group’s Motion To Compel Confidential Disclosure Of The Phase I Terms Of Settlement For Those Categories Of Programming In Which IPG Has Phase II Claims To The Proposed 2000-2003 Cable Royalty Pools, Docket No. 2008-2 CRB CD 2000-2003 (Phase II), at 2 (July 20, 2012) (“July 20, 2012 Order”).

⁶ *See* February 11, 2014 Order at 7 (holding that the objecting claimants’ reasonable objection that “IPG is without evidence of an ability to disgorge funds, should the needs arise” is, standing alone, “a sufficient basis upon which to deny the requested partial distribution”).

One of the essential duties of the Judges is to “afford the copyright owner a fair return on his or her creative work.” *See* 17 U.S.C. § 801(b)(1)(B); *see also* 17 U.S.C. § 111(d)(3) and (d)(4)(B). However, IPG is not a copyright owner itself. Nor is it an organization or trade association comprised of copyright owners. Instead, “IPG is an entity formed for the sole purpose of representing claimants to royalties....a commercial enterprise performing a service for rights holders.” Preliminary Hearing Order at 6. Accordingly, in order to act as an agent for rights holders, IPG must have “representation authority from each rights holder that IPG purports to represent” and “IPG must have continuing authority to pursue the claimants’ royalty rights through the distribution proceeding(s).” *Id.* at 6-7.

The record here raises serious questions about whether IPG maintains “continuing authority” to receive any portion of the 2004-2009 Cable Funds as an agent for copyright owners, or whether IPG’s representations regarding the existence of such continuing authority can be taken at face value. In fact, the record more readily shows IPG’s engagement in numerous sufficiently questionable acts to call its representational authority into question, including the following:

- IPG filed false cable and satellite claims for 1999 on behalf of Tracee Productions, a registered fictitious name of either a co-conspirator or an alias of Mr. Raul Galaz, as part of a scheme to defraud the parties and the Copyright Office. *See* Preliminary Hearing Order at 9-10. IPG has yet to withdraw those false claims.
- Ten entities that IPG claimed to represent either produced witnesses or submitted affidavits in this proceeding attesting that IPG engaged in various forms of misconduct related to cable and satellite royalty claims for calendar years 1999-

2009. The ten entities who provided evidence were: A&E Networks; BBC Worldwide Americas, Inc.; Beyond International Limited; BRI; Devillier Donegan Enterprises, LP; Fédération Internationale de Football Association; Golden Films Finance Corporation; Pacific Family Entertainment; LATV Networks, successor in interest to Urban Latino TV, LLC; and Worldwide Pants. *See* MPAA Exhibits 308, 324-32; *see also* Tr. Vol. IV at 208-82 (December 11, 2014).⁷

- IPG filed false cable and satellite claims on behalf of BRI for 2004 through 2013, despite having no authority to do so, and even wrongfully withheld (and continues to withhold) payment to BRI for 2008 after IPG’s fraudulent conduct was brought to light. *See* Tr. Vol. IV at 208-82 (December 11, 2014). Moreover, IPG filed further false claims for BRI for 2012 and 2013, even after BRI unambiguously notified IPG that it had no authority to file the claims. SDC Exhibit 602E (letter to B. Boydston dated Jan. 16, 2013); MPAA Exhibits 356 and 357 (IPG claims, including for BRI, filed on July 31, 2014).
- IPG filed false cable and satellite claims on behalf of Feed The Children, Inc. (“FTC”) for 2013, after receiving clear notice from FTC terminating IPG’s authority to file claims FTC’s behalf. *See* MPAA Exs. 307, 356, and 357.

⁷ According to the affidavits and testimony submitted by these ten entities, IPG’s inappropriate conduct included: (1) filing unauthorized joint U.S. royalty claims for the 2000-2009 cable and 1999-2009 satellite royalty years; (2) misrepresenting, both in pleadings and in hearings, that IPG represents or represented entities that had terminated IPG as their agent years before those representations; (3) ignoring entities’ requests to notify the Judges that IPG was not authorized to represent them; (4) including multiple entities on IPG filings as IPG-represented claimants without authority to do so; (5) pressuring and/or misleading unwary entities that had never engaged IPG, or that had terminated IPG, into confirming non-existent or terminated representation agreements; (6) maliciously threatening copyright owners with litigation if they did not provide information to IPG regarding their programming, despite the copyright owners’ stated concerns that they were not entitled to receive royalties in the proceedings before the Judges; (7) withholding documents demonstrating that entities claimed by IPG had terminated IPG as their agent, despite the Judges’ order that all such documents be produced; and (8) failing to pay royalties to the copyright owners IPG claimed to represent and on whose behalf IPG improperly collected those royalties.

- IPG maintained its claims on behalf of FTC in the current proceedings, even after FTC terminated IPG. Although IPG’s counsel represented that FTC “is not involved in this matter” (Tr. Vol. III at 26 (December 10, 2014)), Mr. Galaz subsequently testified that IPG still claimed FTC, and that IPG’s counsel’s statement “from a literal standpoint ... was incorrect”). Tr. Vol. V at 194 (December 15, 2014).
- IPG presented a fabricated agreement between IPG and IWV Media. *See* SDC Ex. 606. Although the Judges credited IPG and IWV Media’s *post hoc* explanation that the fabricated agreement was a replacement for a lost original, this explanation does not excuse IPG’s conduct in attempting to deceive the Judges and the parties by submitting it as an original agreement in the 2000-2003 cable proceedings, only to be caught on cross-examination. *See* IPG Exhibit 71; Tr. Vol. V at 118 (December 15, 2014).
- Denise Vernon, IPG’s owner and Mr. Galaz’s sister, testified falsely that she signed IPG’s claims for several royalty years without using a rubber stamp. Tr. Vol. III at 125-27 (December 10, 2014); MPAA Exs. 356 and 357. Even Mr. Galaz could not swallow that lie. *See* Tr. Vol. V at 229 (December 15, 2014) (“I thought she was using a stamp, ... but she said that she doesn’t have one”).
- Mr. Galaz testified untruthfully before the Judges regarding IPG’s incomplete 2008 satellite claim. *See* Preliminary Hearing Order at 7-8.

There is no question that the record here contains specific evidence that IPG has filed unauthorized or fictitious royalty claims; converted partial distribution royalties it received as an agent for at least one of the claimants it purports to represent; and actively misrepresented its

authority to represent multiple copyright owners to the Judges. After considering only two of the numerous examples provided above, the Judges concluded as follows:

The Judges find that both of these examples of misconduct demonstrate Mr. Galaz's and IPG's continuing disregard for the integrity of these royalty distribution proceedings. This creates considerable uncertainty about the veracity of IPG's representations to the Judges. This uncertainty permeates, *inter alia*, all of IPG's claims for each license and year covered by this proceeding.

Preliminary Hearing Order at 10.⁸

Given the foregoing, and the Judges' stated reservations regarding "not only IPG's ability, but also its willingness, to disgorge funds should the need arise," February 11, 2014 Order at 6, MPAA has sound bases to object to the Judges' distribution of any portion of the 2004-2009 Cable Funds attributable to the Program Suppliers category to IPG absent appropriate safeguards imposed by the Judges to ensure that the specific IPG-represented claimants entitled to receive royalties are (1) aware of the royalty distribution; (2) have authorized IPG to receive the royalty distribution as their agent; and (3) *actually receive* the royalties distributed by the Licensing Division.

As to how safeguards can be developed and effectively deployed to deter future acts of fraud by IPG, MPAA has some suggestions, but defers to the Judges, who are the officials charged with protecting the interests of copyright owners under the Copyright Act. One possible safeguard, previously employed by the Copyright Collective of Canada, could be to notify, in advance, all purported IPG-represented claimants of a pending royalty distribution and require each such claimant to submit a notarized affidavit before the distribution confirming that it has

⁸ The Judges' Preliminary Hearing Order declined to afford IPG a presumption of validity in this proceeding based on (1) IPG and Mr. Galaz's failure to amend its 1999 cable and satellite claims to withdraw any claim asserted on behalf of Tracee Productions, and (2) Mr. Galaz's untruthful testimony during the Preliminary Hearing regarding IPG's 2008 satellite claim. See Preliminary Hearing Order at 9-10.

authorized IPG to act as its agent to receive retransmission royalties for the particular partial distribution. *See, e.g.*, MPAA Exhibit 332 at Exhibit D. Another possible safeguard would be for the Judges to allow IPG-represented claimants the option to receive their royalty distributions directly from the Licensing Division rather than from IPG as an agent, and to require each IPG-represented claimant to execute a disgorgement agreement prior to receiving any partial distribution funds. Absent the imposition of appropriate measures to protect both the Phase II participants and copyright owners, MPAA objects to the IPG Motion.

II. MPAA Objects To Any Partial Distribution Of 2000-2009 Satellite Royalties To IPG, As It Has Not Established Any Entitlement To Receive A Section 119 Partial Distribution.

MPAA opposes IPG's Motion as it relates to the 2000-2009 Satellite Funds for three reasons. *First*, although the recently affirmed Final Distribution Order may have given IPG-represented claimants entitlement to receive cable retransmission royalties in the Program Suppliers category, that affirmance did not address, let alone create, an automatic entitlement for those claimants to receive satellite retransmission royalty funds. The cable and satellite royalty funds are separate and legally distinct funds, and the royalties collected are attributable to different sets of claimants (and programs)—not only for each royalty year,⁹ but also for each method of distribution. Until the instant proceeding concludes and the Judges' distribution determination becomes final, IPG will not be an established satellite royalties claimant.¹⁰ Thus, IPG is not entitled to receive a partial distribution of satellite retransmission royalty funds for any satellite royalty year as to any Phase I program category.

⁹ *See* February 14, 2014 Order at 6 (“Different claimants are entitled, if at all, to funds only for the years in which they have valid claims and only to the extent that they can prove the value of those claims in any given year. If the Judges were to require, or even allow, IPG to dip into funds from a different royalty year to permit a recoupment by the 2000-2003 participants, then IPG would be unable to distribute to the claimants entitled to the funds on hand.”).

¹⁰ *See* February 14, 2014 Order at 4-5.

IPG has suggested that the Judges' interlocutory Preliminary Hearing Order in this proceeding provides a basis for the Judges to award IPG a partial distribution as to the 2000-2009 Satellite Funds in the Program Suppliers category. However, reliance on a non-final, interlocutory order as a basis for a partial distribution award would run contrary to the Judges' prior distribution decisions, as well as past rulings of the Register. *See* February 11, 2014 Order at 4-5 (holding that IPG could not be considered an "established claimant" while the 2000-2003 Cable Phase II decision was pending appeal); January 17, 2012 Order at 2-4, and n.2 (rejecting IPG's partial distribution request absent a "final determination with respect to IPG for any cable royalties"); April 10, 2002 Order at 2-4 (holding that IPG is not an established claimant absent a final royalty distribution award). Moreover, CRT precedent expressly rejects any reliance on the claims advanced by parties in an ongoing proceeding as a legitimate basis for awarding a partial distribution of royalties, and instead based partial distribution awards on final litigated awards established in prior distribution proceedings. *See* 51 Fed. Reg. 44331 (December 9, 1986); 48 Fed. Reg. 54679 (December 6, 1983). Accordingly, IPG's reliance on an interlocutory order as a basis for its Motion is misplaced.

Second, for the majority of the royalty years, the 0.20% share that IPG seeks is well in excess of the typical partial distribution awards distributed by the Judges and the predecessors when the ultimate allocation of the royalties remains in controversy. The CRT and the Copyright Office typically limited initial partial distribution awards of royalties to a reasonable percentage (typically 50%) of an established claimant's prior litigated award. *See* April 10, 2002 Order at 2; 47 Fed. Reg. at 21475. More recently, the Judges have limited initial partial distributions of royalties subject to controversy under Section 801(b)(3)(C) to 60% of an established claimant's

prior litigated award.¹¹ However, as the chart below demonstrates for the majority of the years at issue, IPG seeks satellite partial distribution shares that are significantly higher than 50% (or even 60%) of the royalty awards that MPAA proposed for IPG to receive as its Program Suppliers share in this proceeding. Even worse, for the 2002 and 2004 satellite royalty years, the 0.20% partial distribution shares sought by IPG are actually greater than, or equivalent to, the entire satellite royalty share that MPAA proposed for IPG in this proceeding.¹²

SATELLITE ROYALTY YEAR	IPG SHARE OF PS FUND PROPOSED BY MPAA	0.20% OF MPAA PROPOSED PS SHARE FOR IPG
2000	0.35%	57%
2001	0.23%	87%
2002	0.20%	100%
2003	0.39%	51%
2004	0.13%	154%
2005	0.22%	91%
2006	0.27%	74%
2007	0.26%	77%
2008	0.23%	87%
2009	0.42%	48%

As the Judges previously observed, “[n]othing in the record engenders confidence that IPG would disgorge funds, if a partial distribution were determined finally to have been inconsistent with a potential decision by the D.C. Circuit or with any subsequent proceeding before the Judges in the event of remand.” February 14, 2014 Order at 6. As stated *supra*, MPAA shares the Judges’ concerns “not only about IPG’s ability, but also its willingness, to disgorge funds, should the need arise.” *See id.* Accordingly, to the extent there would be a distribution to IPG (which MPAA strongly opposes), MPAA objects to such a distribution if it is

¹¹ *See, e.g.*, Order Granting Motion Of Phase I Claimants For Partial Distribution, Docket No. 14-CRB-0010 CD (2013) at 1-2 and Attachment A (May 28, 2015); Order Granting Motion Of Phase I Claimants For Partial Distribution, Docket No. 14-CRB-0011 SD (2013) at 1-2 (May 28, 2015).

¹² *See* MPAA Proposed Conclusions of Law at ¶ 71 (August 17, 2015).

more than 50% of the satellite royalty shares that MPAA proposed for IPG in this proceeding for any particular year.

Third, as stated *supra*, in light of the record in this proceeding, MPAA further objects to any partial distribution of funds attributable to the 2000-2009 Satellite Funds in the Program Suppliers category absent the imposition of reasonable safeguards to protect the Phase II participants and copyright owners from further acts of fraud. *See text, supra*, at 6-10.

III. Phase I Settlement Agreements Are Not Subject To Production In Phase II Proceedings, And Disclosure Of Phase I Settlement Percentages Is Inappropriate In A Partial Distribution Under Section 801(b)(3)(C) Of The Copyright Act.

The Phase I Parties' confidential Phase I settlement agreements have no bearing on IPG's Motion for partial distribution for the 2004-2009 Cable Funds and 2000-2009 Satellite Funds in the Program Suppliers category. *First*, the Judges have already ruled that Phase I settlement agreements and their terms are irrelevant to Phase II royalty distributions, and not subject to discovery in Phase II proceedings.¹³ IPG has provided no justification for a different conclusion here.

Second, as MPAA has explained repeatedly, the Phase I settlement shares, as well as the settlement agreements associated with those shares, are subject to a confidentiality agreement among the Phase I Parties. MPAA cannot unilaterally choose to disclose the percentage shares associated with the Program Suppliers fund for any of the royalty years at issue; it has an obligation to first obtain the consent of the other Phase I Parties before it can make such a disclosure. Moreover, in the context of a partial distribution under Section 801(b)(3)(C) of the Copyright Act, the Judges need only determine whether all interested parties agree to the distribution, or, in the event that they do not agree, whether any party entitled to the funds has

¹³ *See* July 20, 2012 Order at 2.

raised a reasonable objection.¹⁴ MPAA has raised reasonable objections to IPG's requested partial distribution of the 2004-2009 Cable Funds and 2000-2009 Satellite Funds, and so the Judges' inquiry can (and should) end there. Given the foregoing, and the fact that the ultimate royalty distribution allocation in this proceeding remains pending before the Judges, any request for Phase I settlement percentage shares at this stage of the proceeding is premature.¹⁵

However, even if the Judges were to disregard MPAA's reasonable objections and order a partial distribution of either the 2004-2009 Cable Funds and 2000-2009 Satellite Funds to IPG, it would still be inappropriate to require production of confidential Phase I settlement information in the context of a Section 801(b)(3)(C) partial distribution. Precedent addressing partial distributions makes it clear that the portion of a fund that should be distributed when some portion of the royalties are subject to controversy is determined by the Judges based on the recommendation of the parties. *See* April 10, 2002 Order at 2 (noting that the task of determining the amount of a partial distribution "is performed by the parties to the distribution proceeding" who "recommend the amount of funds" for the distribution). Precedent also dictates that initial partial distributions are to be based on a reasonable percentage of a prior litigated award (historically, 50%), to which no party entitled to receive the funds has stated a reasonable objection. *See id.* at 2-4; *see also* 47 Fed. Reg. 24175 (June 3, 1982). Given that the Judges are already in possession of all the information necessary to calculate IPG's final dollar share in the Program Suppliers category for the 2000-2003 cable funds (the only final, litigated award that IPG has ever received in a royalty distribution proceeding), no additional information should be required to address IPG's Motion.

¹⁴ *See* February 11, 2014 Order at 3.

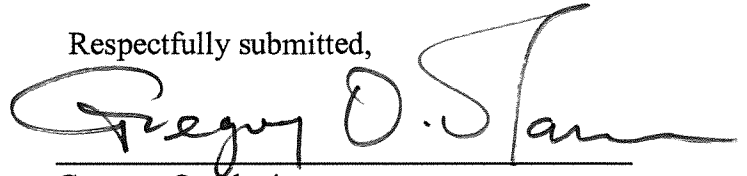
¹⁵ *See* Order Denying Independent Producers Group's Motion To Compel Confidential Disclosure Of The Phase I Terms Of Settlement, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at 1 (August 6, 2013).

The Notice also seeks comment on whether interest should be taken into account in determining the amount of a partial distribution. The only interest calculation applicable to partial distributions made under Section 801(b)(3)(C) is limited to interest due on “excess amounts to the extent necessary to comply with the final determination of fees.” *See* 17 U.S.C. § 801(b)(3)(C); *see also* 57 Fed. Reg. 41478 (September 10, 1992) (noting that, should the partial distribution amount differ from the final award “reimbursement from the other claimants shall be the amount owed plus the interest that would have accrued had the royalties remained with the Copyright Office.”). Here, the final distribution amount of the 2004-2009 Cable Funds and the 2000-2009 Satellite Funds in the Program Suppliers category remains pending before the Judges, so it is impossible for there to be any determination that a party has received “excess amounts” beyond their ultimate royalty award. Accordingly, consideration of interest in the context of a partial distribution motion is premature.

CONCLUSION

For all of the foregoing reasons, MPAA respectfully requests that the Judges deny the IPG Motion for partial distribution of the 2004-2009 Cable Funds and 2000-2009 Satellite Funds in the Program Suppliers category.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of January, 2016, a copy of the foregoing pleading was sent by Federal Express overnight mail to the parties listed on the attached Service List.

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