

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DETERMINATION OF ROYALTY RATES AND
TERMS FOR EPHEMERAL RECORDING AND
WEBCASTING DIGITAL PERFORMANCE OF
SOUND RECORDINGS (Web IV)**

**Docket No. 14-CRB-0001-WR
(2016-20)**

ORDER REGARDING HEARING AND PREHEARING SCHEDULE

On December 10, 2014, the Copyright Royalty Judges (Judges) issued the Second Amended Case Schedule for Web IV (Case Schedule), based upon, but not conforming to a schedule proposal from the participants in the captioned proceeding. The schedule attached to this Order as “Exhibit A” is further to the December order. Participants shall follow the schedule for prehearing preparation.

Hearing schedule

The unified hearing of the participants’ direct and rebuttal cases shall occur in Room 407, James Madison Building, The Library of Congress, 101 Independence Avenue SE, Washington, D.C. (Hearing Room). The hearing will commence at 9:30 a.m. on the first day, April 27, 2015. Otherwise, the hearing shall commence at 9:00 a.m. The hearing day will end at 4:15 p.m. Monday through Thursday and at 2:00 p.m. on Fridays. The hearing is scheduled to last until May 29, but will be in recess for the holiday on May 25. The Judges intend to grant a one-hour recess for lunch and intend to recess for approximately 15 minutes during each morning and afternoon session. On Fridays, the Judges intend to grant one 30-minute recess near the middle of the session.

Opening Statements and Closing Arguments

Each participant is entitled to make a brief opening statement describing the evidence it expects to present. Unless the participants agree otherwise, the licensor participants shall have two hours for opening statements and the licensee participants shall have four hours. Participants with like interests may join forces and designate one spokesperson to make the opening statement, may allocate time among themselves, or may waive opening statement. Participants shall complete all opening statements not later than the end of the hearing day on April 27. The opening statement is not an opportunity for legal argument.

Each participant is entitled to make a concise closing argument describing the applicable legal principles and relating them to the evidence in the record. Closing arguments shall occur

on June 3, 2015, in the Hearing Room, beginning at 9:00 a.m. and ending at 4:15 p.m., with a one-hour noon recess and two 15-minute recesses during the day. Participants with like interests may agree to designate one spokesperson to make the closing argument, may share time and allocate issues for argument, or may waive closing argument. The participants should not use the time allotted for closing argument to rehash the evidence.

Prehearing schedule

On or before the relevant date listed on Exhibit A, participants shall file and deliver to all other participants a final witness list, identifying each witness and providing a summary of the substance of each witness's testimony, an estimate of the time required for direct examination, and the participant's proposed order of presentation. After consulting, the participants shall then file a joint Witness List and Time Estimate identifying each witness and providing an estimate of the time required for direct examination and for each participant's anticipated cross examination as well as the agreed order of presentation of all witnesses for the hearing.

On the date specified on Exhibit A, participants shall file and deliver to all other participants a final exhibit list, substantially in the form described on "Exhibit B." Participants shall identify objections to the admissibility of the proposed exhibits of each other participant by the date specified on Exhibit A. Unless the participants identify and communicate evidentiary objections, the Judges shall deem all evidentiary objections *except relevance* waived. Exhibits as to which no party cites an objection are *admissible*; whether the Judges *admit* the exhibits will depend upon a showing of relevance to the issues before the Judges.

The Judges are available to convene a preliminary hearing on April 22 or 23, 2015, in the Hearing Room, to resolve as many evidentiary issues as possible prior to the time for the hearing. The participants shall notify the Judges no later than noon on April 17 of the agreed date for the preliminary hearing, if any.

Form of filings

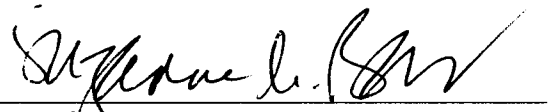
For purposes of this proceeding only, each participant shall file only an original and *three* copies of its exhibit list and proposed exhibits, *provided* the participants file with the Judges legible, bookmarked, and searchable electronic versions of their respective exhibit lists and proposed exhibits that comply with the Judges' "Guidelines for Electronic Documents."¹ Each participant shall also provide as an attachment to email an electronic copy of its exhibit list in Word format. The participants shall agree on an exhibit-numbering scheme (using a prefix, number preassignment, *e.g.*, SoundExchange 1-200, Pandora 201-300, *etc.*, or other identifiable signifier) that guarantees no duplication of exhibit numbers among participants.

Each participant shall submit to the Judges its proposed exhibits in three-ring binders, with each exhibit behind a tab bearing the exhibit number. The participants shall deliver

¹ Available online at http://www.loc.gov/crb/docs/Guidelines_for_Electronic_Documents.pdf.

simultaneously one complete, tabbed set to all other participants.² The Judges will designate one of their copies to be the official set of exhibits, which set will be in the custody of CRB staff during the hearing. Participants may question witnesses only by reference to the official exhibits.

SO ORDERED.



Suzanne M. Barnett
Chief Copyright Royalty Judge

DATED: April 9, 2015

² Participants may exchange electronic rather than paper versions of exhibits only if the receiving party agrees in writing to accept the exhibits in electronic form.

EXHIBIT A

File and deliver final witness list	April 14
File and deliver final exhibit list	April 14
File agreed time estimate for witness examination	April 16
File and deliver copies of all exhibits, numbered and tabbed	April 16
File and deliver final list of evidentiary objections	April 20
Preliminary hearing on evidentiary objections (one day)	April 21, 22, 23 ³ ?

³ At the mutual convenience of and by agreement of the parties.

EXHIBIT B
Exhibit Lists

Proponent: _____

Exhibit number	Restricted?	Description
1		
2	RESTRICTED	
3		
etc		

Proponent: _____

Exhibit number	Restricted?	Description
100		
101		
102	RESTRICTED	
etc		

Proponent: _____

Exhibit number	Restricted?	Description
200		
201	RESTRICTED	
202	RESTRICTED	
etc		

Proponent: _____

Exhibit number	Restricted?	Description
300	RESTRICTED	
301		
302		
etc		

Proponent: _____

Exhibit number	Restricted?	Description
400	RESTRICTED	
401	RESTRICTED	
402	RESTRICTED	
etc		

etc