

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, DC**

_____)
In the Matter of)

)
Distribution of the)
2009 Cable Royalty Funds)
_____)

Docket No. 2011-7 CRB CD 2009

**COMMENTS OF
THE PHASE I PARTIES**

The undersigned representatives of all the Phase I claimant categories to which Section 111 cable royalties have been allocated in prior cable distribution proceedings (“Phase I Parties”) submit the following Comments in response to the Notice published at 76 Fed. Reg. 55122 (September 6, 2011) (“Notice”). The Phase I Parties are identified in the Notice. *See id.* at 55123, fn 1. The Notice seeks comments related to the Motion of Phase I Claimants for Partial Distribution (filed August 5, 2011) (“Motion”), which requests an initial distribution of 50% of the 2009 cable royalties (“2009 Fund”). In addition, the Notice seeks comments regarding the existence of Phase I and Phase II controversies as to the 2009 Fund.

1. As the Notice recognizes, the Motion requests a distribution pursuant to Section 801(b)(3)(C) of the Copyright Act, 17 U.S.C. § 801(b)(3)(C), which provides:

Notwithstanding section 804(b)(8), the Copyright Royalty Judges, at any time after the filing of claims under section 111, 119, or 1007, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude 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 the fees made under subparagraph (B);

(iii) file the agreement with the Copyright Royalty Judges; and

(iv) agree that such funds are available for distribution.

17 U.S.C. § 801(b)(3)(C); *see* Notice at 55123.

In the Motion, the Phase I Parties stated that they (1) agree to the partial distribution; (2) would sign a separate agreement as contemplated by subparagraph (ii) of Section 801(b)(3)(C); (3) would file the agreement with the Judges; and (4) agree that the requested funds are available for distribution. Motion at 2-3. Consequently, under Section 801(b)(3)(C), the Judges may distribute the royalty fees sought by the Motion if, “based upon” responses timely received in response to the Notice, the Judges conclude that “no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution.” 17 U.S.C. § 801(b)(3)(C). The Phase I Parties strongly support distributing the requested portion of the 2009 Fund in accordance with the Motion, as described in Attachment A thereto.

2. The Notice requested comments on the “existence and extent of any controversies to the 2009 cable royalty funds at Phase I or Phase II with respect to those funds that would remain if the partial distribution is granted.” Notice at 55123. At the present time, a Phase I controversy exists among the Phase I Parties. However, the Phase I Parties are in the process of negotiating an agreement that, they believe, will resolve the existing controversy. The Phase I Parties will promptly notify the Judges, via a separate filing, once they execute any Phase I settlement agreement covering the 2009 Fund. The individual Phase I Parties are filing separate comments concerning Phase II controversies regarding the 2009 Fund.

3. As discussed in the Phase I Parties’ Motion and in these comments, good cause exists to grant the Motion and proceed with an expeditious partial distribution of the 2009 Fund.