

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

In the Matter of

**Distribution of the
2010 Satellite Royalty Funds**

Docket No. 2012-5 CRB SD 2010

COMMENTS OF BMI AND ASCAP ON THE EXISTENCE OF CONTROVERSIES

Comments of the Phase I Parties filed on September 4, 2012 in the above-referenced matter stated that there are no Phase I settlements concerning any portion of the 2010 satellite royalties, and that Phase I controversies exist among the different Phase I categories as to the distribution of the 2010 royalty funds. Additionally, the Comments stated that individual Phase I Parties would separately file comments apprising the Copyright Royalty Judges (“Judges”) of the status of any Phase II controversies existing in and among those Parties. Consistent with this statement, and pursuant to the Judges’ July 30, 2012, notice requesting comments (published at 77 Fed. Reg. 46,526 (August 3, 2012), Broadcast Music, Inc. (“BMI”) and the American Society of Composers, Authors and Publishers (“ASCAP”)¹ submit supplemental comments to report on the status of Phase II controversies in the music category with regard to the 2010 satellite royalty funds.

¹ BMI and ASCAP, together, represent hundreds of thousands of composer, lyricist, songwriter, and publisher members and affiliates with combined repertoires of millions of copyrighted musical works. On behalf of their members and affiliates, BMI and ASCAP license the public performance rights granted to their respective members and affiliates as copyright owners under Section 106(4) of the Copyright Act (17 U.S.C. § 106(4)). BMI and ASCAP are also affiliated with about ninety foreign performing rights societies around the world and license the repertoires of those societies in the United States. BMI, ASCAP, and SESAC, Inc. (“SESAC”) are collectively the Phase I Music Claimants.

The Phase I Parties have agreed to the amount of the proposed 50% partial distribution, and believe that the size of the remaining undistributed amount, along with the Phase I Parties' commitment to repay any excess distributions, would be more than sufficient to satisfy any Phase I or II claims and the costs of any distribution proceedings involving these funds. *See* Motion of Phase I Claimants for Partial Distribution of 2010 Satellite Royalties (filed June 20, 2012) in this matter.

BMI and ASCAP have executed a confidential settlement among themselves with regard to the 2010 satellite royalties. Because there is no confidential settlement among BMI, ASCAP, and SESAC with regard to the 2010 satellite royalties, a Phase II controversy currently exists between BMI and ASCAP and SESAC. BMI and ASCAP are unaware of any other Phase II controversies in the music category. If an unanticipated Phase II claim is made by an individual, there would be a controversy.

Respectfully submitted,

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Dated: September 4, 2012

CERTIFICATE OF SERVICE

I hereby certify that on this date, September 4, 2012, a copy of the foregoing Comments of BMI and ASCAP on the Existence of Controversies was sent by FedEx overnight delivery to the following:

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