

**Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C.**

In the Matter of	)	
	)	
Distribution of the	)	Docket No. _____
2012 Cable Royalty Funds	)	
	)	

**JOINT MOTION OF PHASE I CLAIMANTS FOR EXPEDITED RESOLUTION  
OF PENDING MOTION FOR PARTIAL DISTRIBUTION**

The undersigned representatives of Phase I claimant categories to which Section 111 cable royalties have been allocated in prior cable distribution proceedings (“Phase I Parties”) respectfully move the Copyright Royalty Judges (“Judges”) for expedited resolution of the Phase I Parties’ pending motion for partial distribution of 60% of the 2012 cable royalty funds (the “2012 Funds”), filed July 25, 2014. A copy of the pending *Motion of Phase I Claimants for Partial Distribution* is attached to this motion for expedited resolution.

The attached pending motion seeks the requested partial distribution “by no later than September 30, 2014.” The Phase I Parties recognize that such a distribution cannot now occur prior to September 30, but they respectfully request that the Judges put this pending motion on a track so that the requested distribution can take place by no later than October 31, 2014, or at the very least, an Order can be entered granting the motion by October 31 and directing that the distribution proceed pursuant to that Order.

Partial distributions are very important to the budgeting and business operations of the Phase I Parties and their members. A failure to obtain a partial distribution--or at least an Order providing for such a partial distribution--prior to October 31 could have serious adverse impacts for some stakeholders whose fiscal year ends on October 31, 2014. The Phase I Parties and their

representatives are aware of the Judges' substantial docket, understand the many competing demands on the Judges and their staffs, and greatly appreciate the Judges' continuing efforts to promote the orderly, efficient, and timely distribution of royalties.

The Phase I Parties respectfully request that the Judges at their earliest feasible opportunity, and pursuant to 17 U.S.C. § 801(b)(3)(C), publish for comment in the *Federal Register* the proposed partial distribution of 60% of the cable royalties contained in the 2012 Funds, as requested and supported in the attached July 25, 2014 *Motion of Phase I Claimants for Partial Distribution*. The Phase I Parties further respectfully request that, after the 30-day comment period has passed, the Judges give expedited consideration to the pending motion for partial distribution, grant the motion and (by October 31, 2014) order a 60% partial distribution of the 2012 Funds . The Phase I Parties stand ready to file any additional proofs or take any further steps the Judges may request to help facilitate the requested partial distribution by October 31.

Dated: September 12, 2014.

Respectfully submitted,

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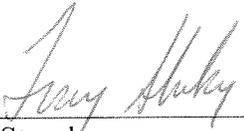
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of September, 2014, a copy of the foregoing Joint Motion of Phase I Claimants for Expending Resolution of Pending Motion for Partial distribution.

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\_\_\_\_\_  
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# **Attachment A**

**Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C.**

\_\_\_\_\_ )  
**In the Matter of** )

)  
**Distribution of the** )  
**2012 Cable Royalty Funds** )  
\_\_\_\_\_ )

**Docket No.** \_\_\_\_\_

**MOTION OF PHASE I CLAIMANTS  
FOR PARTIAL DISTRIBUTION**

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 motion to the Copyright Royalty Judges (“Judges”) for partial distribution of 60% of the 2012 cable royalty funds (the “2012 Funds”).

The Phase I Parties respectfully request that the Judges distribute the 2012 Funds by no later than September 30, 2014. According to the Licensing Division of the Copyright Office (the “Office”), as of December 31, 2013, the amount of the 2012 Funds available for distribution totals approximately \$218,384,561.84. Based on this amount, a 60% partial distribution would total \$131,030,737.10. The circumstances warrant a partial distribution of 60% of the 2012 Funds as soon as possible.

**I. The Copyright Royalty Judges Have Authority to Order Precontroversy Partial Distributions.**

Section 111 of the Copyright Act favors the early distribution of cable royalties. *See* 17 U.S.C. § 111(d)(4)(C). Chapter 8 of the Copyright Act vests the Judges with ample statutory authority to order the precontroversy distribution of cable royalties. In the Copyright Royalty Judges Program Technical Corrections Act, Congress amended Section 801(b)(3)(C) to clarify

that a partial distribution of royalties could be made at any time after the filing of claims. Pub. L. No. 109-303 §§ 3, 5, 109th Cong., 2nd Sess. (2006), 120 Stat. 1478. Congress reaffirmed the Judges' authority to partially distribute statutory royalties in advance of the declaration of a controversy. Section 801(b)(3)(C) provides:

Notwithstanding section 804(b)(8), the Copyright Royalty Judges, at any time after the filing of claims under section 111 . . . 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). The statutorily prescribed deadline for filing claims has now passed. Furthermore, the Phase I Parties (1) agree to the partial distribution; (2) agree that the requested funds are available for distribution; (3) agree to sign the separate agreement contemplated in Section 801(b)(3)(C)(ii) obligating them to return any excess royalty amounts received, in a form to be provided by the Office or the Copyright Royalty Judges, in advance of the requested distribution; and (4) agree to file such an agreement with the Copyright Royalty Judges or as otherwise directed.

## **II. Distribution of 60% of the 2012 Funds is Warranted.**

The Judges have consistently granted the Phase I Parties' requests for partial distributions of the annual cable and satellite royalty funds, including a recent partial distribution of the 2011 cable and satellite royalty funds. *See, e.g., Order Granting Phase I Claimants' Motion for Partial Distribution of 2011 Cable Royalty Funds*, Docket No. 2012-9 CRB CD 2011 (Mar. 13, 2013) (granting Phase I Parties' request for a 50% partial distribution of the 2011 cable royalty funds); *Order Granting Phase I Claimants' Motion for Partial Distribution of 2011 Satellite Royalty Funds*, Docket No. 2012-10 CRB SD 2011 (Mar. 13, 2013) (granting Phase I Parties' request for a 50% partial distribution of the 2011 satellite funds); *see also Order Granting Phase I Claimants' Motion for Partial Distribution of 2010 Cable Royalty Funds*, Docket No. 2012-4 CRB CD 2010 (Sept. 14, 2012) (granting Phase I Parties' request for a 50% partial distribution of the 2010 cable royalty funds); *Order Granting Phase I Claimants' Motion for Partial Distribution of 2010 Satellite Royalty Funds*, Docket No. 2012-5 CRB 2010 SD (Sept. 18, 2012) (granting Phase I Parties' request for a 50% partial distribution of the 2010 satellite royalty funds).

The current request for a partial distribution differs slightly from recent partial distribution requests in that the Phase I Parties seek a slightly higher partial distribution (60% rather than 50%). But the current request is certainly well within the historical norm, as the Copyright Office has in the past agreed to partial distributions well in excess of 60%. *See Order*, Docket No. 94 CARP (92-CD & 93-CD) at 2, 5 (Sept. 26, 1994) (granting request for partial distribution of 80% of 1992 and 1993 cable royalty funds); *Order*, Docket No. 2000-6 CARP CD 98 (granting Phase I Parties' request for partial distribution of 75% of the available cable royalties on deposit for the 1998 cable royalty fund and acknowledging that retention of 25% of

the available royalties would suffice to resolve any outstanding controversies related to those funds); *Distribution Order*, Docket No. 2000-7 CARP SD 96-98 (granting Phase I Parties' request for partial distribution of 75% of the available satellite royalties on deposit for the 1996, 1997, and 1998 satellite royalty fund).

A partial distribution of 60% of the 2012 Funds would ensure that Phase I Parties are not deprived of a substantial amount of the royalties that belong to them during a period that may be several years long. In the past, the Copyright Office has recognized that the earliest possible receipt of the maximum available royalties by copyright owners is an important objective of the Copyright Act. *See, e.g., Order*, Docket No. 94 CARP (92-CD & 93-CD) at 2, 5 (Sept. 26, 1994) ("September 26, 1994 Order") (Office distributed 80% of the 1992 and 1993 cable royalties, noting that "the intent of the law favored early distribution"); *see also Order*, Docket No. 94 CARP (92-CD & 93-CD) at 2 (Sept. 12, 1994) ("September 12, 1994 Order") (referring to the "overall intent of the subparagraphs in [Section 111(d)(4)] in favor of early distributions"). Accordingly, pre-proceeding distributions of cable royalties under Section 111(d)(4)(C) may be made in circumstances where there may be a significant delay between the filing of claims and the initiation of proceedings. *See, e.g., September 12, 1994 Order* at 2; *September 26, 1994 Order* at 2; *see also Order*, Docket No. 2007-3 CRB CD 2004-2005 at 3-4 (Apr. 10, 2008).

A distribution of at least 60% of the 2012 Funds would ensure that the Phase I Parties are not further deprived of a substantial amount of the royalties paid for the use of their copyrighted works. The Phase I Parties have agreed to the amount of the proposed partial distribution. Furthermore, the Phase I Parties believe that the undistributed amount, which totals over \$87 million, along with the parties' commitment to repay any excess funds would be sufficient to satisfy any remaining controversies involving these funds.

Finally, the Phase I Parties request that the percentage share of the 2012 Funds distributed to each Phase I Party be in the same relative proportions of the average awards that the respective Phase I Parties received in the 2004-2005 Cable Royalty Distribution Proceeding, as announced in the Judges' Final Distribution Order of July 21, 2010, *In re Distribution of 2004 and 2005 Cable Royalty Funds*, 75 Fed. Reg. 57063 (Sept. 17, 2010). The relative percentage shares of all the Phase I Parties are set forth in Attachment A.<sup>1</sup>

### CONCLUSION

For the reasons set forth above, the Phase I Parties respectfully request that the Judges, pursuant to 17 U.S.C. § 801(b)(3)(C), publish for comment in the *Federal Register* the proposed partial distribution of 60% of the cable royalties contained in the 2012 Funds, and, thereafter, grant the Motion and order a 60% partial distribution of the 2012 Funds by no later than September 30, 2014.

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<sup>1</sup> This motion does not reflect agreement among the Phase I Parties that the final 2012 cable royalty distributions should be based on the awards made in the 2004-2005 proceeding or agreement by all the Parties with the awards made by the Copyright Royalty Judges in the 2004-2005 proceeding. Each Phase I Party reserves the right to seek shares of the 2012 Funds for itself and for other parties that differ from those awarded in the 2004-2005 proceeding. In addition, the Phase I Parties do not concede through this motion that a 60% distribution is the maximum partial distribution of cable or satellite royalties that should be made for any given year.

Respectfully submitted,

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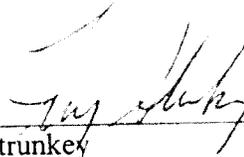
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Dated: July 25, 2014

**CERTIFICATE OF SERVICE**

I hereby certify that on this 25<sup>th</sup> day of July, a copy of the foregoing Motion of Phase I Claimants for Partial Distribution of the 2012 Cable Royalty Funds was sent via overnight Federal Express to the individuals listed below:

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## ATTACHMENT A

### CABLE ROYALTY DISTRIBUTION 2004-2005 BLENDED PERCENTAGES<sup>1</sup>

A partial distribution of 60% of the 2012 Funds should be distributed in the following percentages: NPR should first receive 0.18% of the entire amount to be distributed after which the remaining amount should be distributed as follows:

<u>CLAIMANT GROUP</u>	<u>ROYALTY FUND</u>		
	<u>BASIC</u>	<u>3.75</u>	<u>SYNDEX</u>
Program Suppliers	33.7%	36.8%	96.2%
Joint Sports Claimants	33.8%	36.9%	0.0%
U.S. Commercial Television (NAB)	16.1%	17.5%	0.0%
Public Television	7.3%	0.0%	0.0%
Music Claimants	3.8%	3.8%	3.8%
Devotional Claimants	3.4%	3.7%	0.0%
Canadian Claimants	1.9%	1.3%	0.0%

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<sup>1</sup> These percentages have been adjusted consistent with the Copyright Royalty Judges' Order for the final distribution of 2004-2005 cable royalties. *See In re Distribution of the 2004 and 2005 Cable Royalty Funds*, Dkt No. 2007-3 CRB CD 2004-2005 (July 21, 2010), 75 Fed. Reg. 57063 (Sept. 17, 2010).

