

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DISTRIBUTION OF 2004, 2005, 2006, 2007,
2008, and 2009 Cable Royalty Funds**

**DOCKET NO. 2012-6 CRB CD
2004-09 (Phase II)**

In re

**DISTRIBUTION OF 1999, 2000, 2001, 2002,
2003, 2004, 2005, 2006, 2007, 2008, and 2009
Satellite Royalty Funds**

**DOCKET NO. 2012-7 CRB SD
1999-2009 (Phase II)**

**ORDER ON JOINT MOTION REGARDING DISCOVERY
RELATED TO AMENDED WRITTEN DIRECT STATEMENTS**

On July 16, 2014, the participants in the captioned proceedings¹ filed a Joint Motion seeking approval of a proposed discovery schedule relating to Amended Written Direct Statements. At the time of the Joint Motion, the Copyright Royalty Judges (Judges) were engaged in review and analysis of six pending (and interrelated) two-party discovery motions and a related motion to strike portions of a witnesses written testimony. The participants can not complete initial discovery in these proceedings until the Judges resolved issues presented in the two-party discovery motions.

No provision of the Copyright Act (Act) mandates additional discovery related to Amended Written Direct statements. *See* 17 U.S.C. § 803(b)(6)(C)(ii)(I) (following submission of Written Direct Statements and Written Rebuttal Statements, Judges shall consult with participants and determine discovery schedule); *id.* § 803(b)(6)(C)(iv) (discovery on WDS shall be 60 days, plus what is required after resolution of discovery disputes). Notwithstanding, Congress mandated that the Judges to adopt and continue in effect the procedural regulations relating to discovery in distribution proceedings that were in effect on the effective date of the current Act.

The then extant distribution discovery rules were codified at 37 C.F.R. § 251.45 and the Judges restated those rules in the current regulations found at 37 C.F.R., Part 351. According to the procedural regulations, the initial discovery period in distribution proceedings is limited to 45 days and the Judges “shall” permit a “reasonable opportunity” for discovery following the parties’ submission of Amended Written Direct Statements. *See* 37 C.F.R. § 351.6.

¹ The participants are the Motion Picture Association of America as representative of certain program suppliers, the Joint Sports Claimants, the Settling Devotional Claimants, and Independent Producers Group.

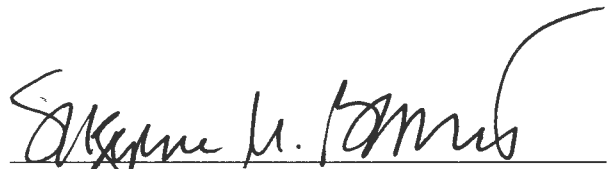
The participants have proposed a reasonable period of additional discovery for the Amended Written Direct Statements, *i.e.*, two weeks for voluntary production of documents underlying amended testimony, one week to issue follow up requests, one week to respond to the follow up requests, and almost a week to produce documents responsive to the follow up requests. The participants also volunteered a deadline for pre-hearing motions relating to Amended Written Direct Statements.

The Judges **GRANT, in part**, the participants' Joint Motion. The Judges shall allow additional discovery relating to the Amended Written Direct Statements, but shall alter slightly the participants' proposed schedule.

The revised supplemental discovery schedule shall be:

<u>ACTION</u>	<u>DATE</u>
Voluntary Production of all Documents Underlying Amended Testimony	July 28, 2014
Follow-up Requests for Underlying Documents	August 4, 2014
Responses to Follow-up Requests and Production of Responsive Documents	August 11, 2014
Deadline to File Motions Relating to Amended Written Direct Statements	August 20, 2014

SO ORDERED.



Suzanne M. Barnett
Chief Copyright Royalty Judge

DATED: July 23, 2014.