

Before the
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_____)	
In the Matter of)	
)	
Distribution of)	Docket No. 2012-6 CRB CD 2004-2009
2004-2009)	(Phase 2)
Cable Royalty Funds)	
)	
Distribution of)	Docket No. 2012-7 CRB SD 1999-2009
1999-2009)	(Phase 2)
Satellite Royalty Funds _____)	

**INDEPENDENT PRODUCERS GROUP’S MOTION FOR PARTIAL
DISTRIBUTION OF 2004-2009 CABLE ROYALTIES
AND 2000-2009 SATELLITE ROYALTIES**

Worldwide Subsidy Group LLC (a Texas limited liability company) dba
Independent Producers Group ("IPG") hereby submits its “Motion for Partial Distribution
of 2004-2009 Cable Royalties and 2000-2009 Satellite Royalties”.

By this motion, IPG seeks a partial distribution of funds from the 2004 to 2009
Cable Royalty Funds in the Program Suppliers category and the 2000 to 2009 Satellite
Royalty Funds in the Program Suppliers category in the amount of 0.20% of those funds.

All prior motions of IPG for partial distributions have been denied on the grounds
that IPG was not an “established claimant”, a requirement uniquely applied only to IPG
as a Phase II claimant requesting partial advance distribution. *See* Order Denying IPG
Motion for Partial Distribution (Jan. 17, 2012); Order Denying IPG Motion for Partial
Distribution (Feb. 11, 2014). Such was the basis for denial even when IPG sought less
than one-third of the amounts that adverse parties asserted were due to IPG, and when the
only matters on appeal were raised by IPG pursuant to which IPG’s entitlement could

only increase. The final determination of the Program Suppliers aspect of the 2000-2003 cable proceeding (Phase II) disposes of this impediment.

On August 13, 2013, the Copyright Royalty Board (“CRB”) Judges issued their “Final Determination of Distributions Phase II” in the 2000-2003 Cable Royalties proceeding. On October 30, 2013, that determination was published in the Federal Register. On October 28, 2013, IPG appealed the orders of the CRB dated August 1, 2012, September 18, 2012, January 11, 2013 (based on December 5, 2012 evidentiary ruling), March 21, 2013, April 18, 2013, May 17, 2013, May 23, 2013, and August 13, 2013, regarding the Program Suppliers’ Category in Docket No. 2008-2 CRB CD 2000-2003 (Phase II). Said appeal was assigned case number 13-1274. The parties to that proceeding are IPG and the Motion Picture Association of America (“MPAA”).

On June 30, 2015, the United States Court of Appeals for the District of Columbia Circuit issued an Opinion and Judgment in Case No. 13-1274, in which it upheld the CRB orders referenced above. IPG did not seek a petition for rehearing or rehearing en banc, and the time to seek such petitions has now past, leaving the Judge’s decision in Docket No. 2008-2 CRB CD 2000-2003 (Phase II) final as to the Program Suppliers category.

According to the Judges’ Final Determination, IPG was awarded the following royalties for the following calendar years in the Program Suppliers category:

<u>Program Suppliers</u>	
2000	-- 1.16%
2001	-- 0.31%
2002	-- 0.36%
2003	-- 0.23%

According to the most recent filing by the MPAA-represented Program Suppliers,¹ a partial distribution in the amount sought by IPG would equal less than half of the minimum amount that the MPAA has argued IPG should be collectively entitled from the 2004-2009 cable and 2000-2000 satellite royalty pools.

A. 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. Section 111(d)(4)(B). Chapter 8 of the Copyright Act vests the Judges with 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 Sections 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;

¹ *See* MPAA Proposed Findings of Fact and Conclusions of Law, filed August 17, 2015.

- (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. Section 801(b)(3)(C).

B. IPG's Motion Occurs in a Context that is Fundamentally Different than Existed at the time of IPG's Prior Motions for Partial Distribution in 2012 and 2013; No Reasonable Objection Exists to the Proposed Partial Distribution.

IPG previously moved for a distribution of cable royalties, and such motion was denied pursuant to the Judges' Order of January 17, 2012. As such Order reflects, absent all claimants agreeing to a proposed partial distribution, the Judges are charged with determining the reasonableness of any objection to a proposed partial distribution. At such time, the Judges determined that a reasonable objection had been made to the partial distribution to IPG of 2000-2003 cable royalties.

Then, following the adjudication of the 2000-2003 cable royalties and the issuance of the Judge's August 13, 2013 "Final Determination of Distributions Phase II" in the 2000-2003 Cable Royalties proceeding, IPG again moved for a proposed partial distribution. The Motion Picture Association of America ("MPAA") and Settling Devotional Claimants ("SDC") objected thereto and the Judge's denied IPG's motion on the grounds that since the Judge's 2000-2003 Cable Royalty decision was on appeal, IPG did not yet qualify as an "established claimant".

Now that Court of Appeals has ruled on the appeal of the decision in the 2000-2003 Cable Royalty proceeding, and said decision is final with regard to the Program

Suppliers category, it can no longer be said that IPG is not an “established claimant”, and no reasonable objection can be sustained to the proposed partial distribution. The requested partial distribution does not exceed the amount separately awarded to IPG in the Program Suppliers category, and equals less than half of the minimum amount owed to IPG as advocated by the MPAA.

IPG agrees to sign the separate agreement contemplated in Section 801(b)(3)(C)(ii) obligating it 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 agrees to file such an agreement with the Copyright Royalty Judges or as otherwise directed.

CONCLUSION

For the foregoing reasons, IPG moves that the Judges order a partial distribution to IPG in the amount of 0.20% of the Program Suppliers share of the 2004-2009 Cable Royalty and 2000-2009 Satellite Royalty funds, to be recouped from any final award to IPG in those proceedings.

Respectfully submitted,

Dated: September 17, 2015

_____/s/_____
Brian D. Boydston, Esq.
California State Bar No. 155614

PICK & BOYDSTON, LLP
10786 Le Conte Ave.
Los Angeles, California 90024
Telephone: (213)624-1996
Facsimile: (213)624-9073
Email: brianb@ix.netcom.com

Attorneys for Independent Producers Group

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September, 2015, a copy of the foregoing was sent by overnight mail to the parties listed on the attached Service List.

_____/s/_____
Brian D. Boydston, Esq.

DEVOTIONAL CLAIMANTS:

Clifford M. Harrington
Matthew J. MacLean
Victoria N. Lynch
Pillsbury, Winthrop, et al.
P.O. Box 57197
Washington, D.C. 20036-9997

MPAA-REPRESENTED PROGRAM SUPPLIERS:

Gregory O. Olaniran, Esq.
Lucy Holmes Plovnick Esq.
Mitchell, Silberberg & Knupp LLP
1818 N Street, N.W., 8th Floor
Washington, D.C. 20036