

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

In the Matter of:

Determination of Royalty Rates and Terms
for Transmission of Sound Recordings by
Satellite Radio and “Preexisting”
Subscription Services (SDARS III)

Docket No. 16-CRB-001-SR/PSSR
(2018-2022)

DECLARATION OF TODD LARSON
(On behalf of Sirius XM Radio Inc.)

1. I am counsel for Sirius XM Radio Inc. (“Sirius XM”) in the above-captioned case.

I am familiar with the facts, circumstances, and proceedings in this case and submit this declaration in support of the Reply in Support of Services’ Motion to Set Specific Discovery Deadlines and Compel the Copyright Owner Participants’ Adherence to their Discovery Obligations (the “Reply”).

2. Prior to the beginning of the discovery period, when the participants began negotiations regarding the voluntary exchange of various documents, the Services discussed with SoundExchange, RIAA, and A2IM (collectively, the “Trade Association Participants”) their requests for documents from independent labels as well as the majors. *See* Ex. A to my Declaration dated July 21, 2016 (the “Larson Declaration”). During those protracted negotiations, the Services specifically requested documents from independent record companies represented on the boards of directors of the Trade Associations. *See, e.g.*, Ex. B to the Larson Declaration. Counsel for the Trade Association Participants made clear they would only produce agreements from the major labels and not from any independents.

3. On June 21, 2016, when SoundExchange served extensive document requests on the Services, it did not reserve any argument that the Preliminary Discovery Period was improper. Attached hereto as Exhibits A-B are true and correct copies of SoundExchange's requests for the production of documents directed to each of Sirius XM and Music Choice, respectively.

4. When the parties agreed in May of 2016 to exchange certain license agreements, counsel for Sirius XM gathered all of Sirius XM's direct licenses executed to date and prepared them for production. On July 19, 2016, Sirius XM's counsel produced those direct license agreements to the Copyright Owner Participants.

5. On the evening of July 20, 2016, Sirius XM's counsel received from Sirius XM's licensing agent, MRI, additional license agreements that Sirius XM had continued to execute since Sirius XM's counsel had gathered direct licenses in May. Sirius XM immediately produced those documents to counsel for the Copyright Owner Participants on July 22, 2016.

6. At the time the Services filed the Services' Motion to Set Specific Discovery Deadlines and Compel the Copyright Owner Participants' Adherence to their Discovery Obligations (the "Motion") on July 21, 2016, they had received only two out of eight sets of responses and objections in response to the Services' First Requests (from SoundExchange and RIAA).

7. On July 25, 2016, the Services received responses and objections to the Services' First Requests from the other six Copyright Owner Participants. Attached hereto as Exhibits C-H are true and correct copies of responses and objections to the Services' First Requests on behalf of Sony Music Entertainment ("SME"), Universal Music Group ("UMG"), Warner Music Group ("WMG"), the American Association of Independent Music ("A2IM"), the American

Federation of Musicians of the United States and Canada (“AFM”), and the Screen Actors Guild and American Federation of Television and Radio Artists (“SAG-AFTRA”), respectively.

8. On August 3, 2016—the date the Services’ reply filing on this Motion was due—the Services received a small production of documents from the files of SoundExchange, AFM, and SAG-AFTRA. Those documents were produced too late for review prior to submission of this declaration, but as of the date of this declaration, none of the other Copyright Owner Participants, including the three major record companies, have produced any documents responsive to the Services’ requests, including the digital service payment/usage data and financial information described in the Services’ reply brief.

9. Also on August 3, 2016, counsel for the Services met and conferred with counsel for the Copyright Owner Participants regarding their document production (or lack thereof). While counsel for the Copyright Owner Participants agreed to discuss with their clients certain compromise proposals made by the Services—for example, producing payment and usage information related to ten digital services identified by the Services—they were unable to say whether their clients would agree to such compromises or, if they did agree, when such documents would be produced. They were also unable to say when any other documents responsive to any of the Services’ requests would be produced, but only that they were discussing the requests with their clients and gathering and reviewing some other documents.

10. Based on my communications with counsel for the Copyright Owner Participants, it remains unclear when the Copyright Owner Participants intend to produce any of the other requested documents.

Pursuant to 28 U.S.C. § 1746 and 37 C.F.R. § 350.4(e)(1), I hereby declare under the penalty of perjury that, to the best of my knowledge, information and belief, the foregoing is true and correct.

Dated: August 3, 2016
New York, NY



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