UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re **DETERMINATION OF ROYALTY RATES AND TERMS FOR MAKING AND DISTRIBUTING PHONORECORDS (Phonorecords III)**	**Docket No. 16-CRB-0003-PR (2018-2022)**

ORDER DENYING COPYRIGHT OWNERS' MOTION TO DENY THE PETITION TO PARTICIPATE OF PANDORA MEDIA, INC.

I. Introduction

On December 29, 2015, the Copyright Royalty Judges (Judges) announced commencement of a proceeding, pursuant to 17 U.S.C. § 115(c), to determine reasonable rates and terms for the statutory compulsory license for the making and distributing of phonorecords for the period beginning January 1, 2018, and ending December 31, 2022. *Determination of Rates and Terms for Making and Distributing Phonorecords (Phonorecords III), Notice Announcing Commencement of Proceeding with Request for Petitions to Participate*, 81 FR 255 (Dec. 29, 2015).[1]

On February 4, 2016, Pandora Media, Inc. (Pandora) filed a Petition to Participate (PTP) in this proceeding. On April 18, 2016, Copyright Owners[2] filed a Motion (Motion) seeking an order denying Pandora's PTP, thereby denying Pandora the right to participate in this proceeding. On April 21, 2016, Pandora filed its Opposition (Opposition), supported by a Declaration of Michael Herring, Pandora's President and Chief Financial Officer (Herring Declaration). On the same date, Pandora also proffered a proposed "Amended PTP." On April 27, 2016,[3] the Copyright Owners filed their Reply.

For the reasons set forth herein, the Judges **DENY** the Motion.

II. Applicable Legal Authority

The Judges may deny an entity's PTP if, upon a motion of a participant in a royalty rate-setting proceeding, they determine that the challenged participant "lacks a significant interest in

[1] This license is sometimes referred to as the "mechanical" license. *See, e.g., Mechanical and Digital Phonorecord Delivery Compulsory License (Final Rule)*, 79 FR 56190 (Sep. 18, 2014).

[2] "Copyright Owners" refers to the groups represented by the Joint PTP filed by the National Music Publishers' Association (NMPA), including (along with the NMPA) the Harry Fox Agency LLC, Nashville Songwriters Association International, Church Music Publishers Association and Songwriters of North America.

[3] The Copyright Owners timely and properly transmitted their Reply to the Judges via overnight express mail on April 27, 2016. The Judges did not receive the Reply in chambers, however, until May 2, 2016.

the proceeding …." 17 U.S.C. § 803(b)(2)(C). The statute does not define the phrase "significant interest." As the Judges have previously noted,[4] however, the legislative history guides them in applying the "significant interest" standard.

The House Judiciary Committee Report (House Report) accompanying the Copyright Royalty and Distribution Reform Act states the purpose of the significant interest requirement as ensuring that "only parties with *legally protectable and tangible interests* may take part" in proceedings. H.R. Rep. No. 108-408, at 27 (2004).[5] Additionally, the House Report states that the "significant interest" requirement is intended to

> restrict participation to those who have a stake in the outcome of the proceeding. In other words, to have a significant interest in a royalty rate, the participant must be a party directly affected by the royalty fee....

Id. As examples, the House Report identifies as entities with a "significant interest" copyright owners, copyright users, and entities involved in the collection and distribution of royalties. *Id.* Nothing in the legislative history indicates that Congress intended these examples to comprise the entire universe of entities with a "significant interest" that would permit them to participate in royalty rate-setting proceedings.

The statutory requirement is restated in the Judges' regulations. 37 C.F.R. § 351.1(c) ("A petition to participate will be deemed to have been allowed … unless the … Judges determine the petitioner *lacks a significant interest in the proceeding* ….") (emphasis added). When the (interim) Chief Copyright Royalty Judge adopted this regulation, he noted the regulatory history of the application of the statutory "significant interest" standard:

> [I]t is a term of art that had been used in the CARP[6] program to screen petitions. See, 37 CFR 251.62. In past practice, the Copyright Office has required a putative participant to show *some financial stake in the outcome of the proceeding* in order to present a 'significant interest.'

Procedural Regulations for the Copyright Royalty Board, 70 Fed. Reg. 30901, 30902 (May 31, 2005) (emphasis added).

The Judges and their predecessors have described, on a case-by-case basis, the "significant interest" that is sufficient to support a PTP in a royalty rate-setting proceeding such as the instant proceeding under 17 U.S.C. § 115 An early determination by the Librarian of Congress, addressed the "significant interest" standard in former 17 U.S.C. § 803(a)(1). *In re Determination of Reasonable Rates and Terms for The Digital Performance of Sound*

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[4] See *In re Determination of Royalty Rates and Terms for Ephemeral Recording and Digital Performance of Sound Recordings ("Web IV")*, Docket No. 14-CRB-0001-WR (2016-20), Order Granting SoundExchange Motion to Deny the Petition to Participate of National Music Publishers' Association at 2-3 (Apr. 30, 2014) (*Web IV NMPA Order).*

[5] The Supreme Court has repeatedly recognized that the most authoritative extrinsic source for discerning legislative intent lies in the committee reports on a bill. *See, e.g., Thornburg v. Gingles,* 478 U.S. 30, 44, n.7 (1986).

[6] In 1993, Congress delegated the ratemaking functions to the Library of Congress. In cases in which the parties could not reach agreement, the controversies would be referred to an *ad hoc* "copyright royalty arbitration panel" (CARP). The CARP decisions were reviewed by the Librarian for possible arbitrariness. *National Ass'n of Broadcasters* v. *Librarian of Congress* 146 F.3d 907, 912-13 (D.C. Cir. 1998). Effective May 31, 2005, Title 17 of the United States Code phased out the CARP system and replaced it with three permanent Copyright Royalty Judges.

Recordings by Preexisting Subscription Services (PSS II), Docket No. 2001-1 CARP DSTRA2, 68 Fed. Reg. 39837, 39838-39 (Jul. 3, 2003).[7] In *PSS II*, the issue was whether a petitioning entity had a sufficient interest to challenge a proposed settlement regarding rates and terms and to pursue that challenge with a (late filed) Notice of Intent to Participate. *Id.*

In *PSS II*, the entity seeking leave to participate, Royalty Logic, Inc. (RLI), asserted that it had a "significant interest" in the proceedings because: (1) it had a "key business objective" to be designated as a statutory agent to distribute statutory royalties in the future on behalf of unspecified copyright owners and performers; and (2) its designation as a statutory agent would provide a "competitive choice" for the selection of an agent by licensors. *Id.* at 39839. The Librarian found neither of these reasons to be sufficient to demonstrate that RLI had a "significant interest" in the proceedings. In so holding, the Librarian set forth certain parameters for the "significant interest" test that are germane to the present Motion:

> [W]hat is a significant … interest in a rate proceeding? *The inquiry is a factual one and determinations must be made on a case-by-case basis.* Clearly, a copyright owner whose works are being used under a statutory license has a significant interest in a rate setting or adjustment of that license, as does the person or entity using those works under the statutory license.
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> A person or entity that is not a user of a statutory license but expresses *a vague or unspecified desire to form a business that would make use of the license … does not have a specific interest* …. And a person or entity that proposes or objects to a rate proceeding solely on the basis of espoused public policy or consumer interest concerns does not have a specific interest

Id. (emphasis added).[8]

More recently, in the *Web IV* proceeding, the Judges entered three separate orders that considered whether a putative participant possessed the requisite "significant interest" to support its participation in a royalty rate-setting proceeding.

On motion of SoundExchange, Inc., the Judges considered the PTP filed by NMPA. *See Web IV NMPA Order*. In addition to noting the relevant legislative history, the Judges restated the following general principle pertinent to the application of the "significant interest" standard.

> [T]here is *no categorical bright-line test* to determine whether a party has a significant interest in a given proceeding…. [W]hether a person or entity has a "significant interest" in a particular proceeding is ultimately a factual inquiry to be conducted on a *case-by-case basis*.

[7] As the Librarian noted, the then-applicable statute provided: "For each petition received, the statute requires that the 'Librarian of Congress shall, upon the recommendation of the Register of Copyrights, make a determination as to whether the petitioner has such a *significant interest* in the royalty rate in which an adjustment is requested.' 17 U.S.C. § 803(a)(1)." *Id*. (emphasis added).

[8] The Librarian also set forth a number of particular applications of this general language to support the denial of RLI's participation, which are not pertinent to the present Motion, because they relate to the purported interests of a collection/distribution agent, *see id.* at 39839-40, rather than the interests of a potential user of the statutory license in the forthcoming rate period.

Id. at 3. Further, the Judges noted that this test for participation "is analogous to the general principle in federal judicial actions that a putative plaintiff cannot establish standing unless it demonstrates that it falls within the groups of persons or entities (a "zone of interests") the law was intended to protect." *Id.* at 3 n.6 (citing *Ass'n of Data Processing Serv. Orgs., Inc. v. Camp*, 397 U.S. 150, 153 (1970); *Ass'n of Battery Recyclers v. EPA*, 716 F.2d 667, 675 (D.C. Cir. 2013)).[9]

In a second instance in the *Web IV* proceeding, the Judges invoked their statutory power under section 803(b)(2)(C) to determine, *sua sponte*, whether a party had the requisite "significant interest" to participate in a royalty rate-setting proceeding. The Judges entered an order dismissing the PTP filed in *Web IV* by Music Reports, Inc. (Music Reports). *Order Dismissing Petition to Participate of Music Reports* (May 30, 2014) (*Web IV Music Reports Order*). In that decision, the Judges again referred to the legislative history and concluded that references to a copyright owner, a copyright user or a royalty collection or distribution entity were *not* intended to "comprise the entire universe of such entities." *Id.* at 2. Moreover, the Judges emphasized that, beyond the interest of these enumerated economic agents, "some tangible economic interests might serve to support a petition to participate, and the Judges do not foreclose that possibility by this decision." *Id.* at 5.

Again invoking their statutory power to evaluate, *sua sponte*, a putative participant's "significant interest," the Judges dismissed a PTP filed by Triton Digital, Inc. (Triton). Triton represented that it provided "streaming services, advertising sales and audience measurement to the webcasting community," and also aspired to "'offering a full, turnkey solution to webcasters' … that "'could' in the future 'take responsibility for calculating and paying …statutory royalties on behalf of its webcaster clients.'" *Order Dismissing Petition to Participate of Triton Digital, Inc.* at 3 (Jun. 4, 2014) (*Web IV Triton Order*). The Judges reiterated in the *Web IV Triton Order* that there is no "bright-line rule" that determines whether a putative participant has the requisite "significant interest" to remain actively involved in a royalty rate proceeding. *Id.* at 2. The Judges in that instance concluded that a putative participant's claim of "a mere interest in engaging *in futuro* in a business that might have a sufficient interest … had not thereby demonstrated a *present* interest that would support participation in a royalty rate proceeding." *Id.* at 3 (emphasis in original).

As in the *Web IV NMPA Order,* in the *Web IV Triton Order* at 4 and the *Web IV Music Reports Order* at 5, the Judges also noted the analogy between the "significant interest" test and principles of standing applied by the D.C. Circuit. *Cf. United Church of Christ v. FCC*, 359 F.2d 994, 1000 n.8 (D.C. Cir. 1966) (applying same test for determining standing before agency and court). The D.C. Circuit has held that Administrative Law Judges must balance a party's right to participate in proceedings that will seriously affect its interests, against the tribunal's right to control its proceedings. *Philco Corp. v. FCC*, 257 F.2d 656, 659 (D.C. Cir. 1958).

[9] The Judges also explained in some detail why the NMPA, as an entity not intending to use the statutory licenses at issue in *Web IV* (the section 112 and 114 licenses) lacked an interest sufficient to permit its participation. The dispositive absence of any intent to use the license at issue is not at issue in this proceeding. *See Web IV NMPA Order* at 3-4.

III. Arguments

A. The Copyright Owners' Arguments

The Copyright Owners make three basic factual points in support of their argument that Pandora lacks the requisite "significant interest." First, the Copyright Owners note that in the past Pandora has been a noninteractive service and did not utilize the Section 115 phonorecords license. Motion at 4. Second, the Copyright Owners point out that Pandora has never in the past, nor now, engaged in any activities covered by the Section 115 statutory license. Motion at 4-5. Third, the Copyright Owners emphasize that Pandora merely asserts that it "may" elect to provide interactive services at some unspecified time in the future, and only then might it be required to use the Section 115 license. *Id.* In support of this last point, the Copyright Owners emphasize that Pandora acknowledges in its most recent annual 10-K Annual Report (10-K) filed with the Securities and Exchange Commission (SEC) that "[t]here is no assurance that [Pandora] will be able to successfully launch an on-demand service, if at all …." Motion at 7.

Based on these facts, the Copyright Owners conclude that Pandora lacks the necessary "stake in the outcome of the proceeding" because it is neither "directly affected" by the Section 115 royalty fee nor in possession of "legally protectable and tangible interests" necessary to participate in this proceeding. Motion at 8.

B. Pandora's Arguments

Pandora makes several points in opposition. First, it declares that it "will be a copyright user bound by the rates" established in this proceeding. Opposition at 4. Second, Pandora asserts that its intention to provide the interactive service requiring use of the Section 115 license is demonstrated by its $75 million acquisition of "technology and intellectual property assets from Rdio formerly the operator of an on-demand music service, to accelerate [Pandora's] development of … on-demand streaming," plus additional "financial investment" that brings the total investment to "in excess of $100 million." Opposition at 5; Herring Declaration ¶¶ 4; 7. Third, Pandora notes that it has entered into "direct licenses" with eight music publishers for the right to use recorded musical works in Pandora's intended interactive service, and that "[t]he rates payable under those direct licenses incorporate the statutory rate to be set" in this proceeding. Fourth, Pandora asserts that it has negotiated and secured expanded rights from ASCAP and BMI that allow Pandora to perform more than ten million musical works on an interactive service operated by Pandora. Opposition at 5-6 and n.3; Herring Decl. ¶ 5. Fifth, Pandora avers that the statement in its 10-K that it cannot assure that it will launch an interactive service that requires use of the Section 115 license is simply "cautionary language [that] is both customary and appropriate in connection with new product launches, and in no way conveys any lack of commitment on the part of Pandora to its forthcoming entry into the market for on demand streaming." Opposition at 6-7; Herring Decl. ¶ 11.

IV. Discussion

The Judges conclude, as they have previously, that there is no "bright line" test to determine whether a putative participant possesses the requisite "significant interest" to participate in a royalty rate-setting proceeding. Rather, each challenge to a PTP must be decided on a case-by-case basis. In this instance, the Judges find and conclude that Pandora has demonstrated a "significant interest" sufficient to allow it to participate in this Section 115 proceeding.

At the outset, the Judges take note that their three Orders in *Web IV* dismissing the challenged PTPs, and the analogous decision in *PSS II*, involved a putative participant that did not intend to use—and thus pay for—the statutory license at issue. For those reasons, they were unable to demonstrate that they possessed a "legally protectable and tangible interest" sufficient to take part in the proceedings or otherwise had a sufficient "stake in the outcome of the proceeding." The interests of the putative participants that were found wanting in those Orders are clearly distinguishable from the interest claimed by Pandora in this proceeding, which is premised on its intention to be a user of the Section 115 license and to pay the mechanical royalty.

The Judges find that Pandora is essentially in the same economic position as interactive services that now use the mechanical license, having incurred sunk costs to acquire and develop assets that support a business dependent in part on the Section 115 license. More particularly, because the new statutory license period has yet to commence, it is uncertain whether any interactive service participants, *regardless of whether they previously utilized the Section 115 license*, will provide interactive services using the mechanical license in the forthcoming 2018-2022 period. Nevertheless, their *present* use of the Section 115 license in conjunction with their interactive services creates a strong inference that they will use the license in the forthcoming period, indicating the requisite "significant interest." Pandora, lacking the same track record, needed to demonstrate that it possessed a similar "significant interest." Pandora has made this demonstration by representing that it has paid $75 million to acquire certain assets from Rdio,[10] a now defunct streaming service that had availed itself of the Section 115 license, in order to use those assets to provide an interactive service.[11]

For analogous reasons, the Judges reject the Copyright Owners' reliance on the conditional language contained in Pandora's 10-K—conditional language that is repeated in the Herring Declaration. *See* Reply at 2-4.[12] Pandora, like any entity intending to provide interactive services and use the Section 115 license in the 2018-2022 term, remains free to decline to operate a service using the Section 115 license if the rates, terms, and economic conditions render such a service insufficiently profitable. A participant's statement in an SEC disclosure that future use of the statutory license is dependent upon the rates and terms of that

[10] Pandora claims it invested $100 million in its interactive service, see Opposition at 5; Herring Decl. ¶ 7. However, the record does not provide evidence of the additional $25 million investment. Nonetheless, the undisputed $75 million asset acquisition, standing alone, is sufficient to demonstrate Pandora's "significant interest."

[11] The parties do not dispute the fact that Pandora acquired Rdio's assets used for the latter's interactive service for a purchase price of $75 million. *Compare* Herring Decl. ¶ 4 (confirming asset acquisition) *with* Opposition at 6-7 (referencing Pandora's 10-K disclosing the $75 million asset acquisition). The Judges reject the Copyright Owners' assertion that the Judges should distinguish between Pandora's acquisition of assets designed to engage in an interactive business and the acquisition of Rdio's "operating business." *See* Motion at 6. In the context of identifying a "significant interest" in this proceeding, the form of the acquisition is not the salient point.

[12] The Judges do not share Pandora's dismissal of the caveats in its 10-K as simply "customary and appropriate." Rather, the Judges consider those 10-K disclosures as evincing the inevitable uncertainty as to whether any entity will be able to launch or maintain an interactive service beginning in the 2018-2022 rate period. The Judges also do not credit Pandora's unequivocal assertion in its Opposition that it "*will*" utilize the Section 115 license, given that, as the Copyright Owners note in their Reply at 4, Mr. Herring's Declaration is not unequivocal. Once again, this conditional language does not diminish Pandora's "significant interest." Uncertainty exists for all services that may intend to operate an interactive service during the forthcoming rate period, even if they currently operate a service. The only difference for Pandora is that it felt obligated to disclose that uncertainty in its 10-K with regard to its acquisition of the Rdio assets.

license is nothing other than an economic tautology; the reason why all potential licensees in forthcoming rate periods seek to participate is to advocate for rates and terms that would allow them to operate profitably. Indeed, in its 10-K Pandora explicitly notes that its obligation to pay "mechanical royalties … under the compulsory license made available by Section 115" may not be "available to us for use at current rates," and that its ability to successfully launch an on-demand service" and to "realize the benefits of the Rdio asset acquisition" are subject to "unanticipated costs" and "regulatory uncertainties." Pandora 10-K at 15; 21-22 (available at http://www.sec.gov/Archives/edgar/data/1230276/000119312512120024/d280023d10k.htm). The purpose of Pandora's participation in this proceeding is to advocate with regard to regulatory rates, costs, and uncertainties and it would be an exercise in "Catch-22" illogic to conclude that the existence of such uncertainties should preclude Pandora from participating.[13]

Moreover, the assets acquired by Pandora from Rdio, like the assets of present interactive services, have value to the extent they may create streams of revenue and profit. Rates or terms that reduce or prevent revenue or profit streams would diminish the value of the assets themselves. Thus, Pandora's ownership of the former Rdio assets alone creates a "significant interest" that Pandora can seek to protect in this proceeding.[14] In sum, Pandora has a "legally protectable and tangible interest," in the form of assets it acquired that are specifically usable to provide an interactive service that avails itself of the Section 115 license.[15]

Pandora's actions and intentions put it in a different position than RLI in the *PSS-II* proceeding. RLI expressed an intention to become an agent for distribution of royalties to copyright owners. Not only was RLI's position aspirational, the position it hoped to achieve was that of a distribution agent. RLI offered no evidence that it would or could serve as the representative of those copyright owners in any rate-setting or distribution proceeding. By contrast, Pandora's aspiration is to become a licensee under Section 115. The royalty rates and terms have a direct effect on licensees.

The Judges also agree with Pandora's argument that there is no valid reason to prohibit potential new licensees who have an existing concrete economic stake to participate in this proceeding. *See* Opposition at 5. The Judges discount the Copyright Owners' concern that allowing Pandora to participate would render the proceeding less efficient or just, or increase their length, complexity or expense. *See* Motion at 13. Although the Judges have the right to

[13] The Judges emphasize that merely because the licensee-participants would want a rate that allows them to operate profitably does not mean that the Judges will necessarily consider whether or how the rates and terms ultimately established will affect their ability to realize a profit, except to the extent such consideration may be appropriate under 17 U.S.C. § 801(b)(1), that sets forth the factors to be considered by the Judges in this Section 115 proceeding.

[14] To avoid doubt or any incorrect inference, the Judges express no opinion in this Order as to whether there is a substantive difference, when applying the Section 801(b)(1) factors, as between existing interactive services now using the Section 115 license and an entity, such as Pandora, that has yet to use that license and may have more recently acquired the assets necessary to provide such a service.

[15] Indeed, existing interactive services using the Section 115 license have not demonstrated any greater "*legally* protectable" interest going forward into the next rate period merely because they utilize that license in the current rate period. Accordingly, several participants in this proceeding who now use the Section 115 license further note in their PTPs that they "expect," "intend," or "may" use the Section 115 license in the forthcoming rate period. *See* PTPs filed by Amazon Digital Services, Inc., Apple Inc., Deezer S.A., Omnifone Group Limited, SoundCloud Limited and Spotify USA Inc. The Judges and the licensors implicitly (and reasonably) assume that existing interactive services, like Pandora, have legally protectable possessory rights over assets necessary to provide interactive services in the forthcoming rate period. Pandora has made that implicit understanding explicit.

balance a participant's interest with the Judges' inherent right to control their proceedings, there is no basis in this record to single out and diminish Pandora's "significant interest" and bar Pandora from participating. *See United Church of Christ*, 359 F.2d at 1006 ("fears of regulatory agencies that their processes will be inundated by expansion of standing criteria are rarely borne out" given filtering of participation based "the expense of participation").

The Judges also do not credit the Copyright Owners' assertion that Pandora, as an existing noninteractive service may lack "an incentive to advocate on behalf of the interactive services" in this proceeding. Motion at 3. The Copyright Owners raise this unsubstantiated claim without detailing how or why Pandora would decline to advocate on behalf of interactive services.[16]

The Judges find as confirmation of Pandora's "significant interest" its negotiating and securing of expanded rights from the two largest U.S. performing rights organizations, ASCAP and BMI, allowing Pandora to perform the musical works in their repertoires in an interactive service. Herring Decl. ¶ 5. However, the Judges do not rely on Pandora's assertion that it has entered into "direct licenses" with "eight music publishers" in which "[t]he rates payable for mechanical rights under those direct licenses incorporate the statutory rate to be set here." Opposition at 6. As the Copyright Owners note, these "direct licenses" are "nonstatutory licenses …. regardless of the extent to which they may incorporate statutory terms." Reply at 5. In light of the sufficiency of Pandora's acquisition of Rdio's assets for $75 million to demonstrate its "significant interest" in this proceeding, plus its negotiation of expanded rights to the musical works repertoires of ASCAP and BMI, the Judges find it unnecessary to consider whether Pandora's direct nonstatutory licenses further demonstrate a "significant interest" sufficient to allow it to participate in this statutory proceeding.[17]

Finally, in light of this Order, the Judges deem moot Pandora's proffer of an amended PTP. *See* Opposition at 2, n.2 and Exhibit A thereto. The Judges further note that there is no statutory or regulatory requirement regarding the level of detail a participant must include in its PTP regarding its "significant interest in the subject matter of the proceeding." 37 C.F.R. § 351.1(b)((2)(C).[18] Rather, additional detail may be required only if another participant, or the Judges, *sua sponte*, seek to deny a PTP. 17 U.S.C. § 803((b)(2)(C). As explained in detail in this Order, Pandora has offered sufficient additional detail in its opposition papers to support its present PTP.

[16] This argument is as odd as it is unsubstantiated. If the Copyright Owners believe that Pandora may be a "Trojan Horse" seeking to orchestrate *higher* mechanical rates (to raise rivals' costs relative to noninteractive services), it is unclear why the Copyright Owners, as licensors who will receive the royalties, are complaining. Perhaps they find inapplicable the old adage that "the enemy of my enemy is my friend." In any event, the Judges cannot deny a party with *a bona fide* "significant interest" the right to participate on the speculative assertion that the party may have conflicting goals across product lines. The Judges can weigh the merits of the parties' proposals and determine whether the rates and terms are consistent with the appropriate standard and factors set forth in 17 U.S.C. § 801(b)(1).

[17] More broadly, the Judges are concerned that parties who elect to link their direct (private contract) *nonstatutory* rates to the statutory rate would use that link to manufacture a "significant interest" to obtain participation in the *statutory* rate proceeding. Such a bootstrap argument could raise the specter of numerous additional parties crowding into statutory rate-setting proceedings, a consequence that, under principles of standing discussed in this order, the Judges may seek to avoid.

[18] Additionally, the statute and regulations do not explicitly provide for the filing of an amended PTP.

V. Conclusion

In sum, Pandora has a specific financial stake, a legally protectable interest, and a definite economic expectancy clearly sufficient to demonstrate a "significant interest" necessary to fall within the zone of interests properly advanced through its participation in this Section 115 proceeding. Accordingly, the Judges **DENY** the Copyright Owners' Motion.

SO ORDERED.

Suzanne M. Barnett
Suzanne M. Barnett
Chief Copyright Royalty Judge

DATED: May 10, 2016.