

Before the  
UNITED STATES COPYRIGHT ROYALTY JUDGES  
in the Library of Congress  
Washington, D.C. 20559

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In the Matter of )  
 )  
 )  
Digital Performance in Sound Recordings )  
and Ephemeral Recordings )  
\_\_\_\_\_ )

Docket No. 2009-1  
CRB Webcasting III

OPPOSITION TO MOTION OF  
SOUNDEXCHANGE

Intercollegiate Broadcasting System, Inc., a party to this proceeding, opposes the motion of SoundExchange for an order requiring all participants to file a notice of intention to submit a written direct statement. The motion is overly broad, being based on a faulty reading of Section 803(b)(2) of the Copyright Act of 1976, as amended, 17 U.S.C. § 803(b)(2),

Section 803(b)(2) (Participation in general) now reads:

Subject to paragraph (4), a person may participate in a proceeding under this chapter, including through the submission of briefs or other information, only if –

(A) that person has filed a petition to participate in accordance with paragraph (1) (either individually or as a group under paragraph [1][B]);

\* \* \*

We understand the purpose and effect of the order sought by SoundExchange to be to foreclose participation of parties that have already filed petitions to participate following publication of the Judges’ notice in the Federal Register, thereby cutting off their statutory right to participate at some level lesser than that specified in the proposed order, viz., “to participate fully in this proceeding.”

While IBS does not question the discretion of the Judges to provide for orderly conduct of proceedings before them, "orderly conduct" does not extend to cutting off the statutory rights to participate at a lesser level than specified in SoundExchange's motion.

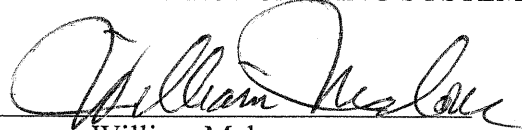
There appear to be a number of smaller entities who lack the financial ability to participate "fully," and whose statutory rights to defend themselves as best they can cannot be cut off by a procedural order such as that sought here by SoundExchange. The Judges will recall in this connection that Webcasting II involved 48 days of testimony.

Accordingly, the motion should be denied as overly broad.

Respectfully submitted,

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by:



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August 31, 2009

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Certificate of Service

I hereby certify that I have caused the foregoing opposition to be mailed and e-mailed to the following persons:

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