

Before the
COPYRIGHT ROYALTY BOARD
LIBRARY OF CONGRESS
Washington, DC

_____)	
In the Matter of)	
)	
Digital Performance in Sound Recordings)	Docket No. 2009-1 CRB
and Ephemeral Recordings)	Webcasting III
)	
_____)	

Settled Party College Broadcasters, Inc.'s
Objections to Non-opposing Party Intercollegiate Broadcasting Systems, Inc.'s
Document Requests

Settled party College Broadcasters, Inc. ("CBI"), by and through its attorneys, hereby responds, in accordance with 37 C.F.R. Sec. 351.5, to the Document Requests by non-opposing party Intercollegiate Broadcasting Systems, Inc. ("IBS") as follows:

GENERAL OBJECTIONS

CBI incorporates the following General Objections into each response set forth below to the specific requests contained in IBS's Document Requests. CBI does not waive any of these General Objections in response to any specific request for production propounded.

1. CBI objects to the Requests as being improperly propounded by a non-oppositional party upon CBI. 37 C.F.R. 351.5 governing discovery in royalty rate proceedings permits document production requests only from opposing participants. In this proceeding both CBI and IBS are each rate payers adverse only to Sound Exchange.
2. CBI objects to the Requests in that, having reached a settlement with SoundExchange according to 37 C.F.R. 351.2(b)(1), remains a participant in this

proceeding for the sole purpose of submitting and seeking approval by the Copyright Royalty Judges pursuant to 37 C.F.R. Sec. 351.2(b)(2). Neither SoundExchange nor CBI have propounded discovery on the other, nor has CBI propounded discovery on any other party.

3. CBI objects to the Requests, and to each individual request contained therein, to the extent that they call for privileged information, or information that is protected by the attorney-client privilege, the attorney work product doctrine, or any other constitutional, statutory or common-law privilege and/or doctrine. All such information will be withheld.

4. CBI objects to the Requests, and to each individual request contained therein, to the extent that they, in whole or in part, seek information that is neither relevant to a claim or defense in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

5. CBI objects to the Requests, and to each individual request contained therein, to the extent that they seek information not in the possession, custody, or control of CBI or that is equally available to IBS.

6. CBI objects to the Requests, and to each individual request contained therein, to the extent any Request seeks disclosure of information that reflects or discloses trade secrets or other confidential, financial, or proprietary information of CBI.

7. CBI objects to the Requests, and to each individual request contained therein, to the extent any Request seeks private information protected by the United States or any relevant state's constitutional right of privacy.

8. CBI objects to the extent that this Request seeks confidential and/or proprietary information or trade secret information in the absence of a protective order.

9. CBI objects to the extent that this Request seeks information that is protected by agreement.

10. These general objections as stated herein are hereby incorporated by reference to each and every response, and shall not necessarily be repeated in every response to which they are applicable.

11. These general objections apply to the responses below. To the extent that specific objections are cited in a response below, those specific citations are provided because they are believed to be particularly applicable to the specific request and are not to be construed as waiver of any other objection.

RESPONSES TO DOCUMENT REQUESTS

REQUEST FOR PRODUCTION NO. 1.

Copies of those formal corporate documents, e.g., state certificate of incorporation, by-laws, directors' resolutions, and the like defining (i) CBI's current corporate purposes, (ii) current and past membership categories or classes and the qualifications of each.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1.

CBI objects to the Requests for being improperly propounded by a non-oppositional party upon CBI. 37 C.F.R. 351.5 governing discovery in royalty rate proceedings permits document production requests only from opposing participants. In this proceeding both CBI and IBS are each rate payers adverse only to Sound Exchange. CBI objects to the Requests in that, having reached a settlement with SoundExchange according to 37 C.F.R. 351.2(b)(1), remains a participant in this proceeding for the sole purpose of submitting and seeking approval by the Copyright Royalty Judges pursuant to 37 C.F.R. Sec. 351.2(b)(2). Neither SoundExchange nor CBI have propounded discovery on the other, nor has CBI propounded discovery on any other party. CBI objects to the

extent this Request seeks documents and things protected from disclosure by the attorney-client privilege, work product doctrine or other judicially-recognized protection or privilege. CBI objects to this request to the extent that the documents and things sought are publicly available and on the grounds that a requirement that CBI produce such documents and things would impose an unreasonable burden on CBI. CBI further objects on grounds that this Request is overly broad and unduly burdensome and seeks documents and things not relevant to a claim or defense of any party in this proceeding. CBI objects to the extent that this Request seeks private information of third parties to whom CBI owes duties of confidentiality. CBI also objects to this Request on grounds that the words "categories," and "classes" are so vague and ambiguous as to be unintelligible. CBI objects to the extent that this Request seeks confidential and/or proprietary information or trade secret information in the absence of a protective order. CBI objects to the extent that this Request seeks information that is protected by agreement.

REQUEST FOR PRODUCTION NO. 2.

Copies of documents sufficient to show the names of all directors, officers, and employees of CBI in calendar 2008 and in calendar 2009, respectively, with their respective titles, duties, responsibilities, and concurrent affiliations relating to broadcasting and webcasting.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2.

CBI objects to the Requests for being improperly propounded by a non-oppositional party upon CBI. 37 C.F.R. 351.5 governing discovery in royalty rate proceedings permits document production requests only from opposing participants. In this proceeding both CBI and IBS are each rate payers adverse only to Sound Exchange. CBI objects to the Requests in that, having reached a settlement with SoundExchange according to 37 C.F.R. 351.2(b)(1), remains a participant in this proceeding only to the extent that its settlement is appropriately published by the Copyright Royalty Judges pursuant to 37 C.F.R. Sec. 351.2(b)(2). Neither SoundExchange nor CBI have

propounded discovery on the other, nor has CBI propounded discovery on any other party. CBI objects to the extent this Request seeks documents and things protected from disclosure by the attorney-client privilege, work product doctrine or other judicially-recognized protection or privilege. CBI objects to this request to the extent that the documents and things sought are publicly available and on the grounds that a requirement that CBI produce such documents and things would impose an unreasonable burden on CBI. CBI further objects on grounds that this Request is overly broad and unduly burdensome and seeks documents and things not relevant to a claim or defense of any party in this proceeding. CBI objects to the extent that this Request seeks private information of third parties to whom CBI owes duties of confidentiality. CBI objects to the extent that this Request seeks confidential and/or proprietary information or trade secret information in the absence of a protective order. CBI objects to the extent that this Request seeks information that is protected by agreement.

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Dated: December 21, 2009

CERTIFICATE OF SERVICE

I, Catherine Gellis do hereby certify that copies of the foregoing filing were sent via email and first class mail this 21 day of December, 2009 to the following:

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