

UNITED STATES COPYRIGHT ROYALTY JUDGES

In the Matter of

Digital Performance Right in Sound
Recordings and Ephemeral Recordings

Docket No. 2009-1
CRB Webcasting III

ORDER GRANTING IN PART AND DENYING IN PART
THE SECOND MOTION OF REAL NETWORKS AND LIVE365
TO COMPEL SOUNDEXCHANGE TO PRODUCE DOCUMENTS

The Copyright Royalty Judges (“Judges”) have received a second motion from RealNetworks and Live365 (“Services”) seeking to compel SoundExchange to produce certain categories of documents.

The movants have classified the documents they are seeking into three categories: (1) documents relating to valuations, investor reports, projections, financial assessments and other financial information related to those webcasting services in which Sony Music Entertainment (“Sony”) has an equity interest; (2) all monthly and annual forecasts related to Sony’s digital revenues, of the kind to which Dennis Kooker referred in his deposition on January 8, 2010; and (3) certain documents related to the written testimony of W. Tucker McCrady.

With respect to the first category of documents, the motion is **denied as moot**, inasmuch it is duplicative of the seventh category of documents that the Services moved to compel in their first Motion to Compel. The Judges have previously issued an order on these requests. See *Order Granting in Part and Denying in Part the Joint Motion of Real Networks and Live365 to Compel SoundExchange to Produce Documents Requested in Movant’s First Set of Requests*, Docket No. 2009-1 CRJ Webcasting III at 2 (March 5, 2010).

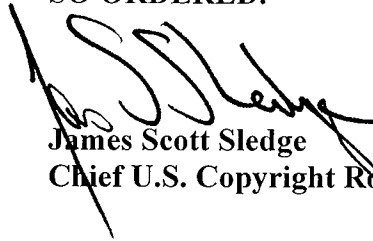
With respect to the second category of documents, the motion is **denied as moot**, inasmuch as the movants have indicated that SoundExchange has provided the requested documents.

With respect to the third category of documents, the motion is **granted to the extent that SoundExchange has not already complied with the movants’ request with respect to Document Request No. 85**, inasmuch as SoundExchange has agreed to

provide this category of documents. Lack of third-party consent will not be permitted to stand as a bar to production where raised by SoundExchange despite their witnesses reviewing or relying upon the information in the documents in preparing their written testimony. See *Order on Motion by DiMA, RadioBroadcasters, National Public Radio and Corporation for Public Broadcasting to Compel SoundExchange to Produce Documents Related to the Testimony of Barry Kessler*, Docket No. 2005-1 CRB DTRA at 2 (November 7, 2006).

All documents must be provided no later than ten (10) days after the date of this order.

SO ORDERED.

A handwritten signature in black ink, appearing to read "James Scott Sledge", is written over the typed name and title.

**James Scott Sledge
Chief U.S. Copyright Royalty Judge**

DATED: March 8, 2010