

The Limited Waiver of 37 CFR 2.190(a) Is Hereby Extended to November 2, 2004

Please note that any trademark-related correspondence other than international applications, subsequent designations, and responses to irregularity notices that is sent to the above-identified address will not be accepted, and will be returned to the sender.

If a submission mailed to the above address pursuant to this document and to the document of November 7, 2003, is delivered by the Express Mail service of the United States Postal Service, the USPTO will deem that the date of receipt of the submission in the USPTO is the date the submission was deposited as Express Mail, provided that the submitter complies with the requirements set forth in 37 CFR 2.198.

Please note that the USPTO is not suspending those rules that require electronic filing of extensions of time to oppose and notices of opposition with the Trademark Trial and Appeal Board, namely 37 CFR 2.101(b)2 and 37 CFR 2.102(a)2.

Dated: December 18, 2003.

Jon W. Dudas,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 259

[Docket No. 2003-4 CARP]

Filing of Claims for DART Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Waiver of regulation.

SUMMARY: Due to continuing delays in the receipt of mail, the Copyright Office of the Library of Congress is announcing alternative methods for the filing of claims to the DART royalty funds for the year 2003. In order to ensure that claims are timely received, claimants are encouraged to file their DART claims online or by fax, utilizing the special procedures described in this document.

EFFECTIVE DATE: January 1, 2004.

ADDRESSES: Claims may be filed online through the Copyright Office Web site at <http://www.copyright.gov/carp/dart/index.html>. Submissions by facsimile should be sent to (202) 252-3423. Submissions sent by a commercial

courier must be delivered to the Congressional Courier Acceptance Site, located at 2nd and D Streets, NE., between 8:30 a.m. and 4 p.m. If sent by mail, an original and two copies of each claim should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered by a party, an original and two copies of each claim should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, room 403, First and Independence Avenue, SE., Washington, DC 20540. See **SUPPLEMENTARY INFORMATION** for information about online electronic filing through the Copyright Office Web site.

FOR FURTHER INFORMATION CONTACT:

William J. Roberts, Jr., Senior Attorney, Susan Grimes, CARP Specialist, or Raphael Small, Telephone: (202) 707-8380. Telefax: (202) 252-3423.

SUPPLEMENTARY INFORMATION:

Background

Chapter 10 of the Copyright Act, 17 U.S.C., places a statutory obligation on manufacturers and importers of digital audio recording devices and media ("DART") who distribute the products in the United States to submit royalty fees to the Copyright Office. 17 U.S.C. 1003. Distribution of these royalty fees may be made to any interested copyright owner who has filed a claim and (1) whose sound recording was distributed in the form of digital musical recordings or analog musical recordings and (2) whose musical work was distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions. 17 U.S.C. 1006.

Section 1007 provides that claims to these royalty fees must be filed "[d]uring the first 2 months of each calendar year" with the Librarian of Congress "in such form and manner as the Librarian of Congress shall prescribe by regulation." 17 U.S.C. 1007. Part 259 of title 37 of the Code of Federal Regulations sets forth the procedures for the filing of claims to the DART royalty funds. Section 259.5 states that in order for a claim to be considered timely filed with the Copyright Office, the claims either have to be hand delivered to the Office by the last day in February¹ or if

sent by mail, received by the Office by the last day in February or bear a January or February United States Postal Service postmark. 37 CFR 259.5(a). Claims received after the last day in February will be accepted as timely filed only upon proof that the claim was placed within the United States Postal Service during the months of January or February. 37 CFR 259.5(e). A January or February postmark of the United States Postal Service on the envelope containing the claim or, if sent by certified mail return receipt requested, on the certified mail receipt constitutes sufficient proof that the claim was timely filed.² 37 CFR 259.5(e). The regulations do not provide for the filing of DART claims by alternative methods such as online submission or facsimile transmission.

In the year 2001, due to severe disruptions in the delivery of mail to the Office caused by threat of possible anthrax contamination, the Copyright Office waived the regulations requiring that claims bear "the original signature of the claimant or of a duly authorized representative of the claimant," 37 CFR 259.3(b), and prohibiting the filing by "facsimile transmission," 37 CFR 259.5(d), for the filing of claims to the DART royalty funds for the year 2001. See 67 FR 5213 (February 5, 2002). Due to continued security measures affecting the delivery of mail, the Copyright Office waived regulations for the filing of 2002 DART claims last year as well. Certain incoming mail continues to be irradiated and all mail is diverted to an off-site location for screening, resulting in delays in its delivery to the Office. In light of these continuing delays, the Office once again is waiving §§ 259.3(b) and 259.5(d) and allowing the online and facsimile submission of DART claims to the 2003 royalty funds. Online forms are available and may be submitted via the Office's Web site. Note however, that the alternative methods set forth in this Notice apply only to the filing of DART claims for the 2003 royalties which are due by March 1, 2004, and in no way apply to other filings with the Office. Please note that as a result of the last date in February occurring on a Sunday this year, the DART claims are due on Monday, March 1, 2004, in accordance with 37 CFR 259.5(b).

This Notice covers only the means by which claims may be accepted as timely filed; all other filing requirements, such

¹ In any year in which the last day of February falls on Saturday, Sunday, a holiday or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Office by the first business day in March, or properly addressed and deposited with sufficient postage with the United States Postal Service and

postmarked by the first business day in March, shall be considered timely filed. 37 CFR 259.5(b).

² Claims dated only with a business meter that are received after the last day in February will not be accepted as having been timely filed. 37 CFR 259.5(c).