

Before the  
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COPYRIGHT OFFICE,  
Washington, D.C.

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GENERAL COUNSEL  
OF COPYRIGHT

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Ascertainment of Controversy  
for the 2000 and 2001  
Satellite Royalty Funds

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Docket No. 2001-7 CARP SD 2000

**MOTION FOR EXTENSION OF TIME**

The Motion Picture Association of America, Inc. ("MPAA"), on behalf of its represented member companies and other MPAA-represented producers and/or distributors of syndicated series, movies, and specials broadcast by television stations ("Program Suppliers"), hereby moves for an extension of the time for submitting comments and notices of intent to participate in response to the *Notice with request for comments and notices of intention to participate*, 66 *Fed. Reg.* 54789 (October 30, 2001) [hereinafter cited as *Notice*] in the above captioned proceeding. Under the schedule announced in the *Notice*, parties must submit comments and notices of intent no later than November 29, 2001. MPAA requests that the Copyright Office extend the due date for comments and notices of intent to January 15, 2002, and the reply comment date to February 15, 2002. As explained more fully below, the additional time is necessary to

enable MPAA and, possibly, other claimants, to ascertain the identity of all satellite claimants for 2000 and secure representation agreements, as required by the instructions in the *Notice*. Furthermore, the brief delay ultimately will add efficiency to the process while imposing no material prejudice on any party. Therefore, MPAA urges the Copyright Office to extend the time periods for submission of comments/notices of intent and reply comments to January 15, 2002, and February 15, 2002, respectively.

**1. Compliance with the Copyright Office's Instructions for Notices of Intent Will Be Impossible in the Time Presently Allowed for Submitting Notices of Intent.**

MPAA will be unable to comply with the Copyright Office's instructions for filing notices of intent under the present schedule. The Copyright Office requires that parties submitting joint notices of intent list all claimants they represent and certify that they are authorized to represent the listed claimants.<sup>1</sup> MPAA routinely files a joint notice of intent for numerous program supplier claimants. In order to do so consistent with the rubrics for joint notices stated in the *Notice*, MPAA must first secure representation agreements with the claimants it will list on its notice of intent. However, MPAA cannot solicit representation agreements from program supplier claimants until the Copyright Office compiles and releases its list of claimants for the pertinent royalty pool. The Copyright Office staff on October 30, 2001, advised MPAA that the Copyright Office's list of claimants for 2000 satellite royalties had not yet been compiled. MPAA was advised to

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<sup>1</sup> *Notice, supra*, 66 *Fed. Reg.* at 54790.

contact the Copyright Office again in two or three weeks.<sup>2</sup> Without the list of claimants, MPAA remains unable to compile a complete of Program Supplier claimants.

Consequently, pending release of the Copyright Office claimant list, MPAA is unable to contact claimants, secure representation agreements, prepare a complete list of MPAA-represented claimants, and properly certify its representation of claimants in its notice of intent.

Even if the list were released in two or three weeks (*e.g.*, November 19, 2001), MPAA would face an impossible task. This would allow only ten days to contact all claimants and secure written representation agreements. Ten or even 20 days is facially insufficient, especially when the Thanksgiving holiday weekend punctuates the brief ten days allowed for the process. And an additional 30 days would place the deadline in the midst of the Christmas-New Year's holiday, a time uniquely ill suited to contacting and following up with claimants concerning execution and return of representation agreements. Consequently, MPAA has posited an extension through January 15, 2002, for submission of notices of intent. This would allow MPAA adequate time to secure the requisite representation agreements and compile and complete its list of represented program suppliers.

Otherwise, MPAA would face a literally impossible task.

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<sup>2</sup> In no way is MPAA complaining that the list is unavailable. MPAA fully understands the weight of the normal, ongoing demands on the Copyright Office staff and hardly may ignore the extraordinary safety concerns and logistical difficulties confronting the Copyright Office in

**2. The Interests of Program Supplier Claimants Stand to be Prejudiced in the Absence of a Reasonable Extension.**

If MPAA is placed in the impossible position of contacting Program Supplier claimants and securing written representation agreements from them by November 29, then some, perhaps, many program supplier claimants might be foreclosed from participation in the 2000 satellite royalty distribution. A program supplier claimant that was unable to respond in the abbreviated time available would suffer the risk of exclusion from participation in the royalty distribution proceeding and denied a share of the 2000 satellite royalties.

MPAA recognizes and appreciates that the Copyright Office has maintained a policy of permitting additions to claimant lists accompanying joint notices of intent.<sup>3</sup> And, indeed, rational and consistent application of that policy might appear to suffice in the present circumstances. However, two factors militate against falling back on the policy concerning amendments to notices of intent. First, the present impediment to timely filing is unrelated to any conduct by the parties. It results from the present lack of availability of the official claimant list for 2000 satellite royalties.<sup>4</sup> Second, a general extension applicable to all parties places all parties in the same posture; moreover, it is considerably more efficient. The likelihood of straggler claimants is reduced, thereby reducing the potential for submission of amendments and the resultant administrative

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recent weeks. To the contrary, MPAA is gratified and grateful that the Copyright Office has issued its *Noticei* so promptly in response to the request of MPAA, among others.

<sup>3</sup> See, e.g., *Order*, Docket No. 2000-2 CARP CD 93-97 Ph. II (June 22, 2000) at 8-9.

<sup>4</sup> See n.1, *supra*.

burden on the Copyright Office. Therefore, an appropriate extension of the comment date would provide a fair, efficient mechanism for submission of notices of intent.

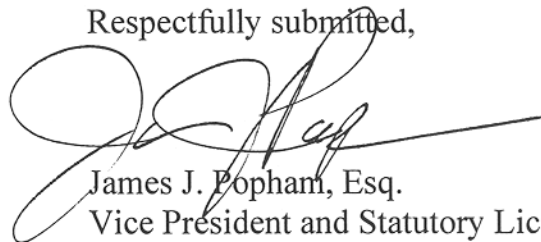
**3. The Extension Would Interpose No Material Delay in the Distribution Process.**

The delay resulting from grant of the requested extension would be immaterial. First, the 2000 distribution process is young. Second, the delay is minimal. Third, the delay occurs predominantly over a period of holiday distraction. Fourth, the funds at issue are earning interest. Therefore, the cost of extending the due date would be negligible.

**4. Conclusion**

In view of the above, MPAA respectfully urges the Copyright Office to grant this motion and extend the due date for filing comments and notices of intent to January 15, 2002, and the due date for filing reply comments to February 15, 2002.

Respectfully submitted,



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November 5, 2001

## CERTIFICATE OF SERVICE

I, Jo P. Popham, hereby certify that I have caused copies of the foregoing “**MOTION FOR EXTENSION OF TIME**” in Docket No. 2001-7 CARP SD 2000 to be sent via first-class, postage pre-paid mail, this 6th day of November 2001, to the following:

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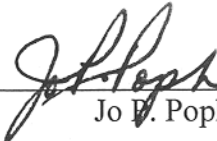
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