

made under this title that has been distributed, and

(B) distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions, during the period to which such payments pertain; and

(2) who has filed a claim under section 1007.

(b) ALLOCATION OF ROYALTY PAYMENTS TO GROUPS.—The royalty payments shall be divided into 2 funds as follows:

(1) THE SOUND RECORDINGS FUND.—66 $\frac{2}{3}$  percent of the royalty payments shall be allocated to the Sound Recordings Fund. 2 $\frac{5}{8}$  percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians or any successor entity) who have performed on sound recordings distributed in the United States. 1 $\frac{3}{8}$  percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists or any successor entity) who have performed on sound recordings distributed in the United States. 40 percent of the remaining royalty payments in the Sound Recordings Fund shall be distributed to the interested copyright parties described in section 1001(7)(C), and 60 percent of such remaining royalty payments shall be distributed to the interested copyright parties described in section 1001(7)(A).

(2) THE MUSICAL WORKS FUND.—

(A) 33 $\frac{1}{3}$  percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties described in section 1001(7)(B).

(B)(i) Music publishers shall be entitled to 50 percent of the royalty payments allocated to the Musical Works Fund.

(ii) Writers shall be entitled to the other 50 percent of the royalty payments allocated to the Musical Works Fund.

(c) ALLOCATION OF ROYALTY PAYMENTS WITHIN GROUPS.—If all interested copyright parties within a group specified in subsection (b) do not agree on a voluntary proposal for the distribution of the royalty payments within each group, the Copyright Royalty Judges shall, pursuant to the procedures specified under section 1007(c), allocate royalty payments under this section based on the extent to which, during the relevant period—

(1) for the Sound Recordings Fund, each sound recording was distributed in the form of digital musical recordings or analog musical recordings; and

(2) for the Musical Works Fund, each musical work was distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions.

(Added Pub. L. 102-563, § 2, Oct. 28, 1992, 106 Stat. 4242; amended Pub. L. 103-198, § 6(b)(3), Dec. 17, 1993, 107 Stat. 2312; Pub. L. 105-80, § 12(a)(24), Nov. 13, 1997, 111 Stat. 1535; Pub. L. 108-419, § 5(i)(2), Nov. 30, 2004, 118 Stat. 2368.)

#### AMENDMENTS

2004—Subsec. (c). Pub. L. 108-419 substituted “Copyright Royalty Judges” for “Librarian of Congress shall convene a copyright arbitration royalty panel which” in introductory provisions.

1997—Subsec. (b)(1). Pub. L. 105-80 substituted “Federation of Television” for “Federation Television” before “and Radio Artists or any successor entity”.

1993—Subsec. (c). Pub. L. 103-198 substituted “Librarian of Congress shall convene a copyright arbitration royalty panel which” for “Copyright Royalty Tribunal” in introductory provisions.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-419 effective 6 months after Nov. 30, 2004, subject to transition provisions, see section 6 of Pub. L. 108-419, set out as an Effective Date; Transition Provisions note under section 801 of this title.

### § 1007. Procedures for distributing royalty payments

(a) FILING OF CLAIMS AND NEGOTIATIONS.—

(1) FILING OF CLAIMS.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation.

(2) NEGOTIATIONS.—Notwithstanding any provision of the antitrust laws, for purposes of this section interested copyright parties within each group specified in section 1006(b) may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent, including any organization described in section 1001(7)(D), to negotiate or receive payment on their behalf; except that no agreement under this subsection may modify the allocation of royalties specified in section 1006(b).

(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, de-

duct the reasonable administrative costs incurred under this section.

(c) RESOLUTION OF DISPUTES.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred under this section.

(Added Pub. L. 102-563, § 2, Oct. 28, 1992, 106 Stat. 4244; amended Pub. L. 103-198, § 6(b)(4), Dec. 17, 1993, 107 Stat. 2312; Pub. L. 105-80, §§ 9, 12(a)(25), Nov. 13, 1997, 111 Stat. 1534, 1535; Pub. L. 108-419, § 5(i)(3), Nov. 30, 2004, 118 Stat. 2368; Pub. L. 109-303, § 4(f), Oct. 6, 2006, 120 Stat. 1483.)

#### AMENDMENTS

2006—Subsec. (b). Pub. L. 109-303, § 4(f)(1), substituted “Copyright Royalty Judges” for “Librarian of Congress” in second sentence and struck out “by the Librarian” after “administrative costs incurred” in last sentence.

Subsec. (c). Pub. L. 109-303, § 4(f)(2), struck out “by the Librarian” after “administrative costs incurred” in last sentence.

2004—Subsec. (a)(1). Pub. L. 108-419, § 5(i)(3)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “During the first 2 months of each calendar year after calendar year 1992, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Librarian of Congress a claim for payments collected during the preceding year in such form and manner as the Librarian of Congress shall prescribe by regulation.”

Subsec. (b). Pub. L. 108-419, § 5(i)(3)(B), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “After the period established for the filing of claims under subsection (a), in each year after 1992, the Librarian of Congress shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Librarian of Congress determines that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a), after deducting its reasonable administrative costs under this section.”

Subsec. (c). Pub. L. 108-419, § 5(i)(3)(B), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “If the Librarian of Congress finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty payments. During the pendency of such a proceeding, the Librarian of Congress shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before authorizing the distribution of such royalty payments, deduct the reasonable administrative costs incurred by the Librarian under this section.”

1997—Subsec. (a)(1). Pub. L. 105-80, § 12(a)(25)(A), substituted “calendar year 1992” for “the calendar year in which this chapter takes effect”.

Subsec. (b). Pub. L. 105-80, §§ 9, 12(a)(25)(B), substituted “After the period established” for “Within 30 days after the period established” and “each year after 1992” for “each year after the year in which this section takes effect”.

1993—Subsec. (a)(1). Pub. L. 103-198, § 6(b)(4)(A), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” before “a claim for” and for “Tribunal” before “shall prescribe”.

Subsec. (b). Pub. L. 103-198, § 6(b)(4)(B), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” before “shall determine whether” and for “Tribunal” wherever appearing.

Subsec. (c). Pub. L. 103-198, § 6(b)(4)(C), substituted first sentence for “If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments.”, substituted “Librarian of Congress” for “Tribunal” wherever appearing in second and third sentences, and “the reasonable administrative costs incurred by the Librarian” for “its reasonable administrative costs” in last sentence.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-303 effective as if included in the Copyright Royalty and Distribution Reform Act of 2004, Pub. L. 108-419, see section 6 of Pub. L. 109-303, set out as a note under section 111 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-419 effective 6 months after Nov. 30, 2004, subject to transition provisions, see section 6 of Pub. L. 108-419, set out as an Effective Date; Transition Provisions note under section 801 of this title.

### SUBCHAPTER D—PROHIBITION ON CERTAIN INFRINGEMENT ACTIONS, REMEDIES, AND ARBITRATION

#### § 1008. Prohibition on certain infringement actions

No action may be brought under this title alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or based on the noncommercial use by a consumer of such a device or medium for making digital musical recordings or analog musical recordings.

(Added Pub. L. 102-563, § 2, Oct. 28, 1992, 106 Stat. 4244.)

#### § 1009. Civil remedies

(a) CIVIL ACTIONS.—Any interested copyright party injured by a violation of section 1002 or 1003 may bring a civil action in an appropriate United States district court against any person for such violation.

(b) OTHER CIVIL ACTIONS.—Any person injured by a violation of this chapter may bring a civil action in an appropriate United States district court for actual damages incurred as a result of such violation.

(c) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

(2) in the case of a violation of section 1002, or in the case of an injury resulting from a failure to make royalty payments required by section 1003, shall award damages under subsection (d);