

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201 and 255

[Docket No. RM 2000-7]

Compulsory License for Making and Distributing Phonorecords, Including Digital Phonorecord Deliveries

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of time to file comments and reply comments; Notice of Hearing.

SUMMARY: The Copyright Office is extending the time in which comments and reply comments may be filed in response to its Notice of Proposed Rulemaking proposing to amend its regulations to clarify the scope and application of the Section 115 compulsory license to make and distribute phonorecords of a musical work by means of digital phonorecord deliveries. 73 FR 40802. The Office is also announcing a hearing on the proposed rulemaking to take place on September 19, 2008.

DATES: Comments must be received in the Office of the General Counsel of the Copyright Office no later than Thursday, August 28, 2008 at 5:00 p.m. Reply Comments must be received no later than Monday, September 15, 2008 at 5:00 p.m. The hearing will take place on Friday, September 19, 2008, commencing at 10:00 a.m. in the Copyright Hearing Room at the Library of Congress, Room LM-408, 4th Floor, James Madison Building, 101 Independence Avenue, SE, Washington, DC. Requests to testify at the hearing must be received in writing no later than Friday, September 12, 2008 at 5:00 p.m.

ADDRESSES: If hand delivered by a private party, an original and five copies of a comment or reply comment should be brought to the Library of Congress, U.S. Copyright Office, Room LM-401, James Madison Building, 101 Independence Ave., SE, Washington, DC 20559, between 8:30 a.m. and 5 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office.

If delivered by a commercial courier, an original and five copies of a comment or reply comment must be delivered to the Congressional Courier Acceptance Site ("CCAS") located at 2nd and D Streets,

NE, Washington, DC between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, LM-403, James Madison Building, 101 Independence Avenue, SE, Washington, DC 20559. Please note that CCAS will not accept delivery by means of overnight delivery services such as Federal Express, United Parcel Service or DHL.

If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment or reply comment should be addressed to U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Tanya M. Sandros, General Counsel, or Stephen Ruwe, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202)-707-8366.

SUPPLEMENTARY INFORMATION: On July 16, 2008, the Copyright Office published a Notice of Proposed Rulemaking (“NPRM”) seeking comment on proposed amendments to its regulations to clarify the scope and application of the Section 115 compulsory license to make and distribute phonorecords of a musical work by means of digital phonorecord deliveries. 73 FR 40802. The Notice stated that written comments must be received in the Office of the General Counsel of the Copyright Office no later than August 15, 2008 and reply comments must be received in the Office of the General Counsel of the Copyright Office no later than September 2, 2008.

The Copyright Office has received requests from various parties who wish to submit comments and who seek an extension of time to file those comments in this proceeding. Each of the requests referred, among other things, to the recent decision of the United States Court of Appeals for the Second Circuit in *The Cartoon Network LP v. CSC Holdings, Inc.*, 07-1480-CV (2d. Cir. Aug. 4, 2008), in which the Court of Appeals reversed a district court ruling cited by the Office in the Notice of Proposed Rulemaking.

The Office agrees that the ruling in the *Cartoon Network* case may be pertinent to the issues raised in this rulemaking and that interested parties should be given sufficient time in which to consider and comment upon the implications of that ruling. Therefore, the Office has decided to extend the deadlines for submission of comments. Comments must be received in the Office of the General Counsel of the Copyright Office no later than Thursday, August 28, 2008 at 5:00 p.m. Reply Comments must be received no later than Monday, September 15, 2008 at 5:00 p.m. The purpose of reply comments is to respond to what is said in the initial round of comments. The Office will post the initial comments on its website, www.copyright.gov, shortly after the August 28 deadline.

The Office has also determined that it would be helpful to conduct a hearing on the proposed rulemaking. The hearing will take place on Friday, September 19, 2008 in the Copyright Hearing Room at the Library of Congress, Room LM-408, 4th Floor, James Madison Building, 101 Independence Avenue, SE, Washington, DC.

Persons wishing to testify at the hearing must submit a Request to Testify, which must be received in the Office of the General Counsel of the Copyright Office no later than Friday, September 12, 2008 at 5:00 p.m. If any person wishing to testify has not submitted a written comment, the Request to Testify must be accompanied by a statement summarizing that person's testimony.

The capacity of the room in which the hearing will be held is limited. Persons other than persons testifying will be admitted on a first-come, first-served basis.

Dated: August 8, 2008

David O. Carson,
Associate Register for Policy & International
Affairs