

Copyright Arbitration Royalty Panels, P.O. Box 70977, Southwest Station, Washington, D.C. 20024 (202-707-8380).

SUPPLEMENTARY INFORMATION: On December 17, 1993, the Copyright Royalty Tribunal was abolished, and its functions were transferred to copyright arbitration royalty panels (CARPs) to be convened and supported by the Library of Congress and the Copyright Office. Copyright Royalty Tribunal Reform Act of 1993 (CRT Reform Act), Pub.L. No. 103-198, 107 Stat. 2304 (1993). The CRT Reform Act directed the Library and the Office to adopt the rules and regulations of the former CRT until later rules were adopted. Accordingly, the CRT's rules were republished on December 22, 1993. 58 FR 67690 (December 22, 1993).

The Library and the Office adopted interim rules on May 9, 1994, and final rules on December 7, 1994 adapting the former CRT rules to the new copyright arbitration system. 59 FR 23964 (May 9, 1994); 59 FR 63025 (December 7, 1994).

In reviewing the former CRT rules and our new CARP rules, we have discovered a number of substantive and nonsubstantive technical errors.

The first was an error in the interim rules published on May 9, 1994, in which the reference in § 251.32(a) to "§ 251.30" should read "§ 251.31".

The second error occurred in § 251.52(c), Proposed findings and conclusions. To distinguish between proposed findings of fact and proposed conclusions, the sentence in paragraph (c) which reads, "Proposed findings shall be stated separately.", should be removed from paragraph (c) and placed in a new paragraph (d).

The third was an error in the 1992 public broadcasting rate adjustment proceeding at the CRT. In § 253.6(c)(4), the rate listed there is applicable to the years 1993-1997, not 1988-1992, as published.

The fourth error is found in § 254.2 which defines coin-operated phonorecord player. The section references the definition in former section 116 of the Copyright Act, which was repealed by the CRT Reform Act. Section 254.2 is therefore revised by inserting the definitional language formerly contained in section 116.

The fifth correction is to the mechanical royalty rates listed in § 255.3. When the CRT adjusted the royalty rate in 1993 to take effect in 1994, it dropped an earlier paragraph that described the rates that were in effect for the period 1992-1993. It left the impression that the rates effective starting in 1990 were in effect for four

years, instead of two. We are restoring that paragraph, so that all the rates, beginning in 1981, are listed in the rules.

The sixth correction is removal of the reference, "(Supp. IV 1992)", wherever it appears in part 259. The reference, "(Supp. IV 1992)", refers to the Audio Home Recording Act of 1992, Pub.L. No. 102-563, 106 Stat. 4237, which amended Title 17, of the U.S. Code, by adding a new Chapter 10. Since the Audio Home Recording Act has been incorporated into title 17 at Chapter 10, there is no need to continue citation to the Supplement.

The seventh correction is to § 259.2, the section on filing a claim for digital audio recording royalties. When we published our interim rules on May 9, 1994, the Office substituted the phrase "Library of Congress" or "Copyright Office", as appropriate, for "Copyright Royalty Tribunal" wherever the phrase was found. However, in reviewing § 259.2, it appears that it would have been more accurate to substitute the phrase "Copyright Office and/or Copyright Arbitration Panels" for "Copyright Royalty Tribunal" as a recognition of the split nature of the proceedings.

And finally, three terms will be added to the List of Subjects. Under the heading, 37 CFR Part 258, the term "Cable television" should be replaced with the term "Satellite" to more accurately reflect the content of this section. Additionally, the term "rate" shall be added to the headings, 37 CFR Part 255 and 37 CFR Part 258. The addition of this term will harmonize the subject lists for these sections with the headings for 37 CFR 253, 37 CFR Part 254 and 37 CFR Part 256. We are making that change here and correcting any nonsubstantive technical errors.

List of Subjects

37 CFR Part 251

Administrative practice and procedure, Hearing and appeal procedures.

37 CFR Part 252

Cable television, Claims, Copyright.

37 CFR Part 253

Copyright, Music, Radio, Rates, Television.

37 CFR Part 254

Copyright, Jukeboxes, Rates.

37 CFR Part 255

Copyright, Music, Recordings.

37 CFR Part 256

Cable television, Rates.

37 CFR Part 257

Claims, Copyright, Satellites.

37 CFR Part 258

Copyright, Satellites.

37 CFR Part 259

Claims, Copyright, Digital audio recording devices and media.

PART 251—COPYRIGHT ARBITRATION ROYALTY PANEL RULES OF PROCEDURE

Accordingly, 37 CFR chapter II is corrected by making the following corrections and amendments:

1. and 2. The authority citation for part 251 continues to read as follows:

Authority: 17 U.S.C. 801-803.

§ 251.13 [Corrected]

3. Section 251.13(f) is corrected by adding an "a" before the word "clearly".

§ 251.32 [Corrected]

4. In § 251.32(a), the reference to "§ 251.30" is revised to read "§ 251.31".

§ 251.33 [Corrected]

5. The first sentence in § 251.33(c) is corrected by replacing the word "a" with "an" in the phrase "to serve as an arbitrator".

§ 251.38 [Corrected]

6. In § 251.38(b), the word "for" is added before the word "travel".

§ 251.44 [Corrected]

7. In § 251.44(e)(1), the first "it" in the last sentence is revised to read "the document".

8. Section 251.44(g) is corrected by revising "telefacsimile" to read "facsimile".

9. Section 251.48(f)(1)(ii) is revised to read as follows:

§ 251.48 Rules of evidence.

* * * * *

(b) * * *

(1) * * *

(ii) An explanation of the method of selecting the sample and of the characteristics which were measured and counted.

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§ 251.50 [Corrected]

10. In § 251.50, "That" is revised to read "that".

§ 251.52 [Amended]

11. In § 251.52 the sentence which reads, "Proposed conclusions shall be stated separately." is removed from paragraph (c) and a new paragraph (d) is added to read as follows: