

ORIGINAL
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 3/23/20

RADIO MUSIC LICENSE COMMITTEE, INC.,

Petitioner,

v.

BROADCAST MUSIC, INC.,

Respondent.

1:18-cv-04420 (LLS)

Related to United States v. Broadcast Music, Inc., 64 Civ. 3787 (LLS)

Related to Broadcast Music, Inc. v. Radio Music License Committee, Inc., 17 Civ. 4 (LLS)

~~PROPOSED~~ ORDER

LLS

Pursuant to Section XIV of the Consent Decree, as amended, in *United States v. Broadcast Music, Inc.*, 64 Civ. 3787; and petitioners Radio Music License Committee, Inc., (“Petitioners” or “RMLC”) and respondent Broadcast Music, Inc. (“BMI”), having entered into a settlement agreement in this proceeding resulting in negotiated and agreed-upon forms of BMI music performing rights license agreements; and RMLC and BMI having agreed that such forms of license agreements lawfully may be entered into by each party to this proceeding; and RMLC and BMI having consented to the entry of this Order to carry out the agreements they have reached; and notice of the settlement of this proceeding having been given to the United States of America and to all “Bound Stations” as defined in Paragraph 2 below,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The form of the BMI 2017 Radio Station Blanket/Per Program License Agreement (and its annexed exhibits), attached hereto as Exhibit A (“2017 License”), covering the period January 1, 2017 through December 31, 2021 (the “License Period”), and the final license fees and terms of the 2017 License for the period from January 1, 2017 through December 31, 2021, are as agreed to by the parties. The license fees set forth in the 2017

License are reasonable and non-discriminatory for the License Period and comply with the terms of the BMI Consent Decree.

2. BMI shall provide written notice to each station or group of stations that has agreed to be bound by the outcome of this proceeding or negotiation by the RMLC (collectively “Bound Stations”) that a copy of this Final Order and the 2017 License are available on BMI’s website (www.bmi.com) no later than April 25, 2020. All Bound Stations shall be deemed to have elected to be licensed under the 2017 License and, if applicable, under the Radio License For Group Owner Rider appended hereto as Exhibit B, in the form elected under the BMI-10 License, as of the date of this Final Order. Appended hereto as Exhibit C is a list of the Bound Stations. BMI and Applicants may, by agreement, amend or supplement the list attached as Exhibit C. Upon written request, BMI shall provide to RMLC a copy of the above-referenced notice letter sent to a particular Bound Station.

3. Each Bound Station’s license fee shall be determined in accordance with the provisions of the 2017 License.

4. Entry of this Order is without prejudice to any arguments or positions the Petitioners or any other commercial radio station, commercial radio station owner, or BMI may assert in any future proceeding to determine what constitutes reasonable blanket license or program-period license fees for commercial radio stations or commercial radio station owners; the terms of such licenses; the methodology for calculating the license fees; or the reasonableness of the structure of the licenses or license fees, for the period beginning January 1, 2021 or anytime thereafter.

5. In connection with administration of the 2017 License, some 10,860 radio stations are either represented by RMLC directly or have otherwise agreed to be bound by the licenses

negotiated by RMLC. RMLC has incurred and will incur costs in connection with the administration of the 2017 License and RMLC's ongoing representation of radio stations in regard to music performance licenses. To fairly and equitably distribute among all radio stations operating under and benefiting from the 2017 License the costs of administration of the 2017 License and RMLC's ongoing representation of the radio industry in regard to music performance licenses, each station licensed pursuant to the 2017 License shall pay to the RMLC, beginning with calendar year 2020 on presentation of a statement from the RMLC in conformity with this Order:

- i. \$19 per year if the station's annualized broadcast license fees due to BMI are less than \$6,500;
- ii. \$190 per year if the station's annualized broadcast license fees due to BMI are at least \$6,500 and less than \$20,000; and
- iii. \$720 per year if the station's annualized broadcast license fees due to BMI are \$20,000 or more.

Such payments as provided herein shall be made to the RMLC by the earlier of September 30 of each calendar year or within 30 days of receipt by Licensee of an invoice from RMLC. The BMI licensee as of June 1 of each calendar year shall be responsible for payments to RMLC for that calendar year. RMLC may impose a late payment charge of 1% per month from the date the payment was due on any payment that is received by the RMLC after the date payment was due, and RMLC may further assess stations for the full amount of costs incurred by RMLC in connection with collecting such amounts.

6. The Court retains continuing jurisdiction over this proceeding, including under docket no. 18-cv-4420 (S.D.N.Y.), for the purpose of enforcing this Order and the terms,

conditions, and obligations of BMI, RMLC, and the Bound Stations, as set forth in the 2017 License and the letter agreement between BMI and the RMLC, dated March 20, 2020.

Dated: March 23, 2020
New York, New York

Louis L. Stanton

LOUIS L. STANTON
United States District Judge