

Before the  
Copyright Office  
Washington, D.C.

---

In the Matter of	)	
Section 302 Report to Congress	)	Docket No. RM 2010-10
Regarding Cable and Satellite	)	
Statutory Licenses	)	

---

COMMENTS OF DEVOTIONAL CLAIMANTS

On behalf of the Devotional Claimants,<sup>1</sup> we submit the following comments in connection with the Notice of Inquiry regarding the statutory licensing requirements in Sections 111, 119 and 122 of the Copyright Act.

Since the inception of the current compulsory licensing system, the producers and distributors of religious programs have been advocates for and active participants in the cable and satellite royalty distribution proceedings. In 2007, many of these same Devotional Claimants filed comments in connection with the Section 109 Report to Congress, which

---

<sup>1</sup> The Devotional Claimants joining in these comments are Amazing Facts, Inc.; American Religious Town Hall, Inc.; Billy Graham Evangelistic Association; Catholic Communications Corporation; The Christian Broadcasting Network, Inc.; Christian Television Corporation, Inc. and subsidiary or affiliated entities; Coral Ridge Ministries Media, Inc.; Cottonwood Christian Center; Crenshaw Christian Center; Crystal Cathedral Ministries, Inc.; Evangelical Lutheran Church in America; Faith For Today, Inc.; Family Worship Center Church, Inc.; It Is Written; John Hagee Ministries, Inc.; Joel Osteen Ministries, Inc.; Joyce Meyer Ministries, Inc.; Kerry Shook Ministries; Liberty Broadcasting Network, Inc.; In Touch Ministries, Inc.; New Psalmist Baptist Church; Oral Roberts Evangelistic Association, Inc.; Reginald B. Cherry Ministries; Rhema Bible Church aka Kenneth Hagin Ministries; RBC Ministries; Ron Phillips Ministries; Speak The Word Church International; St. Ann's Media; The Potter's House of Dallas, Inc., d/b/a T.D. Jakes Ministries; and Zola Levitt Ministries.

similarly sought the recommendations of the Copyright Office respecting retention of the copyright compulsory royalty systems.

At that time, the Devotional Claimants not only saw no need to replace the system, but also stressed the vital importance of compulsory licensing to their strategy for use of the television and cable television mediums for their public purposes. The comments filed in 2007 reflect the current position of the Devotional Claimants, who strongly believe that maintaining the cable and satellite compulsory licensing systems is in their interest and the best interests of the American viewing audience. The Devotional Claimants see no reason to replace the current system with untested and unwarranted marketplace solutions that could deny viewers the benefits of the religious programming carried locally and retransmitted to broader audiences. To that end, we resubmit the Comments of Devotional Claimants filed in 2007 as Attachment 1 hereto.

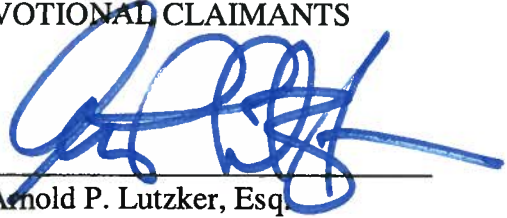
Regarding some of the pressing matters before the Copyright Office referenced in the Section 109 Comments of Devotional Claimants, some have been or are being addressed: notably, the phantom signal issue was addressed in the Satellite Television Extension and Localism Act of 2010, and the Copyright Office has initiated efforts to update the Statements of Account. While action is still required regarding fair compensation for digital signal retransmissions, some of the backlog of proceedings is being resolved by the Copyright Royalty Board. The Devotional Claimants are also gratified that their share of Phase I royalty distributions was increased in the 2004-2005 cable distribution proceeding, a step in the right direction.

While the Devotional Claimants keep an open mind and will review the comments of other interested parties, we underscore that the compulsory licensing systems are a vital part of the television and cable television landscape and should not be repealed.

Respectfully submitted,

DEVOTIONAL CLAIMANTS

By



Arnold P. Lutzker, Esq.  
(DC Bar No. 108106)  
Lutzker & Lutzker LLP  
1233 20<sup>th</sup> Street, NW, Suite 703  
Washington, DC 20036  
Email: [arnie@lutzker.com](mailto:arnie@lutzker.com)  
Telephone: 202-408-7600  
Facsimile: 202-408-7677

Dated: April 18, 2011

ATTACHMENT 1

Before the  
COPYRIGHT OFFICE  
LIBRARY OF CONGRESS  
Washington, D.C.

**CAS**  
JUL 02 2007

\_\_\_\_\_  
In the Matter of )  
Section 109 Report to Congress )  
Notice of Inquiry )  
\_\_\_\_\_)

Docket No. 2007-1

**COMMENTS OF DEVOTIONAL CLAIMANTS**

On behalf of the Devotional Claimants,<sup>1</sup> we hereby submit these comments in connection with Notice of Inquiry (“NOI”) issued by the Copyright Office (“Office”) and published in the Federal Register on April 16, 2007. *See Section 109 Report to Congress, Notice of Inquiry*, 72 Fed. Reg. 19039 (April 16, 2007).

**I. Introduction**

Since the inception of the cable and satellite compulsory licenses, Devotional Claimants have participated actively in the administrative proceedings designed to identify and compensate the copyright owners and distributors of programs carried on cable television and via satellite. Devotional Claimants produce and distribute a wide variety of programming with religious and family value themes to audiences throughout the United States. Our programming fare consists of a diverse collection of religious services, inspirational sermons, as well as musical performances, news, talk, public affairs and children’s programs. Devotional Claimants produce shows for audiences of all ages. The ever-growing need of Americans to relate their faith to the meaning of public events and everyday life has established the programs of Devotional Claimants as an enduring fixture on television stations throughout the United States.

<sup>1</sup> The Devotional Claimants and Representative Programs they produce and distribute are set forth in Exhibit 1.

## **II. Importance of the Compulsory Licensing Systems**

Common to all Devotional Claimants is the strategy for using the medium of television as the primary means to disseminate program offerings that bring a higher purpose and meaning to the lives of our audiences. In executing this strategy, the compulsory licenses for cable and satellite have been essential to ensure the broad reach and impact of the programs. Since Devotional Claimants' programs are predominantly carried on local broadcast channels, the distant retransmission of those signals by cable and satellite expands public access to the ministries and their messages. Absent a compulsory license, the Devotional Claimants would have to individually negotiate licensing agreements covering numerous programs carried on hundreds of television stations which are retransmitted on thousands of cable systems – a practical impossibility. Devotional Claimants believe that without a robust compulsory licensing system for cable and satellite, many families would lack the opportunity to see religious programming. Therefore, maintenance of the copyright compulsory systems for cable and satellite is strongly endorsed by the Devotional Claimants.

## **III. Need for Fair Marketplace Value System of Compensation**

Devotional Claimants, all who are IRC § 501(c)(3) public charities, rely on broad public financial support for continuation of their program offerings. Compulsory royalties paid by cable and satellite subscribers that are returned to Devotional Claimants aid in the fulfillment of their charitable missions. Thus, one of the guiding principles, which Devotionals Claimants share with other copyright owners, is the copyright law's licensing system should ensure that the fair marketplace value of programming is rewarded.

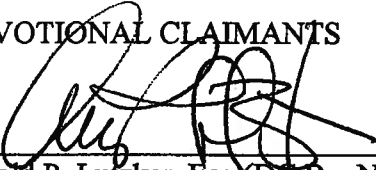
Currently, the law falls short of that goal, as the compulsory systems undervalue the program retransmitted. Compulsory license valuations for many of the highly rated programs,

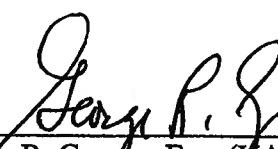
*Comments of Copyright Owners* filed separately in this proceeding. The Devotional Claimants join in those comments and herein underscore that they are ripe for action.

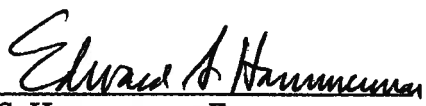
Furthermore, the time period between filing of royalties and conclusion of distribution proceedings is unduly long and protracted. There is no reasonable excuse for a system that collected royalties in Calendar 1998 and by Calendar 2007 still has not initiated, much less completed distribution proceedings. The Devotionals Claimants Phase II share for Calendar 1999 remains in limbo because no proceeding has been initiated. This delay is all the more unjust, because the cable and satellite royalties have funded the administrative costs of the Office and other compulsory systems. The copyright owners of programs retransmitted by cable and satellite deserve to have the long backlog of cases promptly addressed.

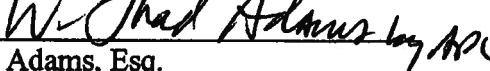
Respectfully submitted,

DEVOTIONAL CLAIMANTS

By:   
Arnold P. Lutzker, Esq. (DC Bar No. 108106)  
Allison L. Rapp, Esq. (Member Md. Bar)  
Jeannette M. Carmadella, Esq.  
(DC Bar No. 500586)  
Lutzker & Lutzker LLP  
1233 20<sup>th</sup> Street, NW  
Washington, DC 20036

By:   
George R. Grange, Esq. (VA Bar No. 34120)  
Kenneth E. Liu, Esq. (VA Bar No. 42327)  
Gammon & Grange, P.C.  
82880 Greensboro Drive, 7<sup>th</sup> Floor  
McLean, VA 22102

By:   
Edward S. Hammerman, Esq. *by APC*  
(DC Bar No. 460506)  
Intermediary Copyright Royalty Services  
a Division of Hammerman, PLLC  
5335 Wisconsin Avenue, N.W., Suite 440  
Washington, D.C. 20015-2052

By:   
W. Thad Adams, Esq. *by APC*  
(NC Bar No. 000020)  
Adams Evans P.A.  
Suite 2350 Charlotte Plaza  
201 South College Street  
Charlotte, NC 28244

By: Clifford Harrington  
Clifford Harrington Esq.  
(DC Bar No. 218107)  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, NW  
Washington, DC 20037

By: Jonathan T. McCants  
Jonathan T. McCants, Esq.  
(GA Bar No. 480485)  
Bird, Loechl, Brittain & McCants, LLC  
1150 Monarch Plaza  
3414 Peachtree Road, N.E.  
Atlanta, GA 30326

Dated: July 2, 2007



**EXHIBIT 1**

**Devotional Claimants and Representative Programs**

Amazing Facts, Inc.  
    Amazing Facts Ministry  
American Religious Town Hall Meeting, Inc.  
    American Religious Town Hall  
Billy Graham Evangelistic Association  
    Billy Graham  
    Franklin Graham  
Catholic Communications Corp.  
    Chalice of Salvation  
    Real to Reel  
Christian Broadcasting Network  
    700 Club  
    Agua Viva  
    Alabaster's Song  
    Christian World News  
    Flying House  
    Spunkey's Series  
    Storyteller's Café  
    Superbook  
Coral Ridge Ministries-Media, Inc.  
    Coral Ridge Hour  
Cottonwood Christian Center  
    Bayless Conley  
Crenshaw Christian Center  
    Frederick K.C. Price  
Crystal Cathedral Ministries  
    Hour of Power  
    Rev. Robert Schuller  
Evangelical Lutheran Church in America  
    Davey & Goliath  
    Mosaic  
Faith for Today  
    Lifestyle Magazine  
Family Worship Center Church  
    Jimmy Swaggart Telecast  
In Touch Ministries  
    In Touch  
It Is Written  
    It Is Written  
Joyce Meyer Ministries  
    Joyce Meyer  
    Life in the Word

Liberty Broadcasting Network  
Listen America  
Jerry Falwell  
Old Time Gospel Hour  
Oral Roberts Evangelical Association  
Miracles Now  
Hour of Healing  
Make Your Day Count  
RBC Ministries  
Day of Discovery  
Reginald B. Cherry Ministries  
The Doctor and the Word  
Rhema Bible Church  
Kenneth Hagin  
Rhema Praise  
Ron Phillips Ministries  
Central Baptist Church  
The Central Message  
Speak the Word Church International  
Exalted Word  
The Potter's House of Dallas, Inc.  
T.D. Jakes  
The Potter's House  
Zola Levitt Ministries, Inc.  
Zola Levitt