PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Rolls-Royce plc: Docket No. FAA–2008–1165; Directorate Identifier 2008–NE–38–AD.

Comments Due Date

(a) We must receive comments by November 18, 2010.

Affected Airworthiness Directives (ADs)

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) models RB211–Trent 875–17, –Trent 877–17, –Trent 884–17, –Trent 884B–17, –Trent 892–17, –Trent 892B–17, and –Trent 895–17 turbofan engines, with high-pressure (HP) compressor stage 1–4 shafts, part number (P/N) FK32580, installed. These engines are installed on, but not limited to, Boeing 777 series airplanes.

Reason

(d) European Aviation Safety Agency (EASA) AD 2010–0087, dated May 5, 2010 (corrected May 6, 2010) states the unsafe condition is as follows:

During manufacture of high-pressure (HP) compressor stage 1 discs, a small number of parts have been rejected due to a machining defect that was found during inspection. Analysis of the possibility of less severe examples having been undetected and passed into service has concluded that action is required to reduce the risk of failure. It was therefore necessary to reduce the life limit.

The HP compressor stage 1 disc is part of the HP compressor stage 1–4 shaft, P/N FK32580. We are issuing this AD to prevent failure of the HP compressor stage 1 disc, uncontained engine failure, and damage to the airplane.

Actions and Compliance

(e) Unless already done, do the following actions.

Multiple Flight Profile Monitoring Parts

(1) For RB211–Trent 800 engines being monitored by "Multiple Flight Profile Monitoring," remove the HP compressor stage 1–4 shaft, P/N FK32580, before accumulating 5,580 standard duty cycles (SDC) since-new or within 960 SDC from the effective date of this AD, whichever occurs later.

Heavy Flight Profile Parts

(2) For RB211–Trent 800 engines being monitored by "Heavy Flight Profile," remove the HP compressor stage 1–4 shaft, P/N FK32580, before accumulating 5,280 flight cycles since new or within 860 flight cycles from the effective data of this AD, whichever occurs later.

FAA Differences

(f) We have found it necessary to not incorporate the June 4, 2008 compliance da which is in EASA AD 2010–0087, dated May 5, 2010 (corrected May 6, 2010). We also updated the compliance times in the AD based on a more recent assessment of the unsafe condition.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(h) Refer to EASA Airworthiness Directive 2010–0087, dated May 5, 2010 (corrected May 6, 2010), and Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AF825, Revision 3, dated August 25, 2009 for related information. Contact Rolls-Royce plc, P.O. Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242424; fax: 011–44–1332–245418, for a copy of this service information.

(i) Contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *james.lawrence@faa.gov;* telephone (781) 238–7176; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts on September 27, 2010.

Peter A. White,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2010–24745 Filed 10–1–10; 8:45 am]

BILLING CODE 4910–13–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2010–3]

Refunds Under the Cable Statutory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Office seeks comment on whether a cable operator may receive refunds in situations where it has failed to pay for the carriage of distant signals on a system–wide basis under the Copyright Act, before it was amended to allow a cable system to calculate its royalty fees on a community–by–community basis.

DATES: Written comments must be received in the Office of the General Counsel of the Copyright Office no later than November 3, 2010. Reply comments must be received in the Office of the General Counsel of the Copyright Office no later than November 3, 2010.

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 401, 101 Independence Avenue, SE, Washington, DC 20559, between 8:30 a.m. and 5 p.m. E.D.T. 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: Ben Golant, Assistant General Counsel, and Tanya M. Sandros, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: Section 111 of the Copyright Act ("Act"), title 17 of the United States Code ("Section 111"), provides cable operators with a statutory license to retransmit to the public a performance or display of a work embodied in a primary transmission made by a television station licensed by the Federal Communications Commission ("FCC"). Cable systems that retransmit broadcast signals in accordance with the provisions governing the statutory license set forth in Section 111 are required to pay royalty fees to the Copyright Office ("Office"). Payments made under the cable statutory license are remitted semi–annually to the Office which invests the royalties in United States Treasury securities pending distribution of these funds to those copyright owners who are entitled to receive a share of the fees. Section 111 was recently amended by the Satellite Television Extension and Localism Act of 2010 ("STELA"), Pub. L. No. 111–175,

which made some changes to the design of the royalty payment structure, as noted below.

Cable operators have long paid royalties for the retransmission of non–network programming carried by distant broadcast television signals under the Section 111 statutory license. The royalties are based on a percentage of gross receipts generated by a cable system. Under the licensing framework established by Congress in 1976, cable operators had to pay for the number of distant signals carried, even though some such signals were not received or made available to every subscriber of a particular cable system. Distant broadcast signals that were not made available on a system–wide basis, but on which operators were required to pay royalties, have been called "phantom signals." The Copyright Office has been aware of the phantom signal situation since at least 1983, *see* NCTA Petition for Issuance of Notice of Proposed Rulemaking (filed August 22, 1983), but the matter has only recently received legislative attention.

Section 104 of STELA, entitled "Modifications to Cable System Secondary Transmission Rights Under Section 111," directly addresses phantom signals. Specifically, it amends Section 111(d)(1) of the Copyright Act which sets forth the methodology for a cable operator to calculate royalty fees. Cable operators now pay royalty fees based on the communities where the distant broadcast signal is actually offered rather than on a broader cable system basis as had been the case since 1978.

Specifically, STELA amends subparagraph (C) of Section 111(d)(1) to state that if a cable system provides secondary transmissions of primary transmitters to some, but not all, communities served by the cable system, the gross receipts and distant signal equivalent values for each secondary transmission may be derived on the basis of the subscribers in those communities where the cable system actually provides such secondary transmission. Where a cable system calculates its royalties on a community–specific ("subscriber group") basis, the operator applies the methodology in Section 111(d)(1)(B)(ii)–(iv) to calculate a separate royalty for each subscriber group.

The legislation also amends subparagraph (D) of Section 111(d)(1) to state that:

> A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

In other words, operators who have heretofore based royalty payments on subscriber group calculations will not face liability for having done so. The amendments also make clear that cable operators who have paid for phantom signals in the past are not entitled to now seek refunds or offsets for those payments in any Statement of Account period from 2010/1 onward. With regard to offsets, cable operators cannot deduct the amount they paid for a phantom signal prior to STELA (*e.g.*, 2009/1) from the royalties they must pay in future Statement of Account periods.

While STELA eliminates the possibility of an action for infringement against those cable systems that did not pay for the carriage of phantom signals historically, it did not alter how a cable system was to calculate its royalty fee obligation for carriage of these signals under Section 111 prior to the passage of this legislation. Nevertheless, certain cable systems have concluded that the language which prevents a copyright owner from bringing an infringement suit against a cable system which had computed its past royalty fee obligation in a manner consistent with the methodology in new Section 111(d)(1)(D) also nullifies their obligation to have paid for carriage of all signals on a system–wide basis for the accounting periods ending prior to January 1, 2010. This approach represents one interpretation of the effect of the new provision, but it is not the only one. A more literal reading of the new statutory language is that it only shields a cable system from an infringement action and that it does not erase a cable system's obligation to have paid for the carriage of each distant signal on a system–wide basis prior to the 2010/1 accounting period. Under the latter interpretation, any underpayment for carriage of a phantom signal still remains even though the operator cannot be sued for infringement under Section 111.

We raise this issue because some cable systems which, prior to the 2010/1 accounting period, did not pay for carriage of phantom signals are now requesting refunds in cases where there are other non–related issues. In these cases, the cable system is just now replying to a pending Licensing Division initiated letter and is requesting a refund for a reporting mistake, *e.g.*, identifying a local signal as a distant signal for the 2009/2 accounting period (or an earlier accounting period), even though, according to the Copyright Office's examination of the statement of account, the cable system still has an outstanding royalty fee obligation for the retransmission of a phantom signal during the same period.

At this time, the Office is not inclined to refund any fees for a non–phantom reporting error in the case where the operator has an outstanding balance owed for the carriage of a phantom signal without accounting for that obligation too because, prior to STELA, section 111 required that royalty fees be calculated on a system–wide basis. Moreover, the language in STELA protecting a cable system from an infringement suit for failure to make these payments prior to the 2010/1 accounting period does not address a cable system's past obligation to have paid the royalty fees owed by the cable system at the time it filed the statement of accounts. Historically, cable operators have been expected to pay for each distant signal on a system–wide basis and when that did not occur, the Office would write to the cable system noting the underpayment and record it as an outstanding obligation. Moreover, the Office would not provide a refund for an overpayment for misreporting a local signal as a distant signal or similar reporting error until the outstanding obligation for carriage of the phantom signal had been satisfied. Nothing in the legislation appears to have altered this approach. Nevertheless, in light of the requests from certain cable operators, we seek comment on whether to offset the outstanding balance owed for carriage of phantom signals before providing a refund for an error unrelated to phantom signals that occurred in an accounting period prior to 2010/1.

List of Subjects in 37 CFR 201

Copyright

Proposed Regulation

For the reasons set forth in the preamble, the Copyright Office proposes to amend part 201 of title 37 of the Code of Federal Regulations as follows:

PART 201 – GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702

2. Amend section 201.17 by redesignating paragraphs (m)(1) through (4) as paragraphs (m)(2) through (5) and adding a new paragraph (m)(1) to read as follows:

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

* * * * *

(m) Corrections, supplemental payments and refunds.

(1) Royalty fee obligations under 17 U.S.C. 111 prior to the effective date of the Satellite Television Extension and Localism Act of 2010, Pub.L. No. 111–175 are determined based on carriage of each distant signal on a system–wide basis. Refunds for an overpayment of royalty fees for an accounting period prior to January 1, 2010, shall be made only when all outstanding royalty fee obligations have been met, including those for carriage of each distant signal on a system–wide basis.

* * * * *

Dated: September 28, 2010

Tanya Sandros,

Deputy General Counsel,

U.S. Copyright Office.

[FR Doc. 2010–24779 Filed 10–1–10; 8:45 am]

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