

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-63,817]

**JHP Transport LLC, Myerstown,
Pennsylvania; Notice of Termination of
Investigation**

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 5, 2008, in response to a worker petition filed by a company official on behalf of workers at JHP Transport LLC, Myerstown, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 8th day of August 2008.

Linda G. Poole,

*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. E8-19183 Filed 8-18-08; 8:45 am]

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LIBRARY OF CONGRESS**Copyright Office**

[Docket No. RF 2008-1]

**Division of Authority Between the
Copyright Royalty Judges and the
Register of Copyrights under the
Section 115 Statutory License**

AGENCY: Copyright Office, Library of Congress.

ACTION: Final Order.

SUMMARY: The Copyright Royalty Judges, acting pursuant to statute, referred material questions of substantive law to the Register of Copyrights concerning the division of authority between the Judges and the Register of Copyrights under the section 115 statutory license. Specifically, the Copyright Royalty Board requested a decision by the Register of Copyrights regarding whether the Judges' authority to adopt terms under the section 115 license is solely limited to late payment, notice of use and recordkeeping regulations; and if the answer is no, what other categories or types of terms may the Judges prescribe by regulation. The Register of Copyrights responded in a timely fashion by delivering a Memorandum Opinion to the Copyright Royalty Board on August 8, 2008.

DATES: Effective Date: August 8, 2008.

FOR FURTHER INFORMATION CONTACT: Stephen Ruwe, Attorney Advisor, and Tanya M. Sandros, General Counsel,

Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION: In the Copyright Royalty and Distribution Reform Act of 2004, Congress amended Title 17 to replace the copyright arbitration royalty panel with the Copyright Royalty Judges ("CRJs"). One of the functions of the CRJs is to make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004 of the Copyright Act. The CRJs have the authority to request from the Register of Copyrights ("Register") an interpretation of any material question of substantive law that relates to the construction of provisions of Title 17 and arises out of the course of the proceeding before the CRJs. See 17 U.S.C. 802(f)(1)(A)(ii).

On July 25, 2008, the CRJs delivered to the Register: (1) an Order referring material questions of substantive law; and (2) the Briefs filed with the CRJs by the Recording Industry Association of America; the Digital Media Association; and National Music Publishers' Association, Inc., the Songwriters Guild of America, and the Nashville Songwriters Association International. The CRJs' delivery of the request for an interpretation triggered the 14-day response period prescribed in Section 802 of the Copyright Act. This statutory provision states that the Register "shall deliver to the Copyright Royalty Judges a written response within 14 days after the receipt of all briefs and comments from the participants." See 17 U.S.C. 802(f)(1)(A)(ii). The statute also requires that "[t]he Copyright Royalty Judges shall apply the legal interpretation embodied in the response of the Register of Copyrights if it is timely delivered, and [that] the response shall be included in the record that accompanies the final determination." *Id.* On August 8, 2008, the Register responded in a Memorandum Opinion to the CRJs that addressed the material questions of law. To provide the public with notice of the decision rendered by the Register, the Memorandum Opinion is reproduced in its entirety, below.

Dated: August 12, 2008

David O. Carson,

*Associate Register for Policy and
International Affairs*

Before the
U.S. Copyright Office
Library of Congress
Washington, D.C. 20559

In the Matter of

Mechanical and Digital Phonorecord
Delivery Rate Adjustment Proceeding

Docket No. RF 2008-1

**MEMORANDUM OPINION
ON MATERIAL QUESTIONS OF
SUBSTANTIVE LAW****I. Procedural Background**

On July 25, 2008, under the terms of 17 U.S.C. § 802(f)(1)(A)(ii), the Copyright Royalty Judges ("CRJs") referred to the Register of Copyrights material questions of substantive law which have arisen in this proceeding. The Copyright Royalty Judges included briefs from the parties to the proceeding that had been submitted in February, 2008 relating to the authority of the CRJs to set terms governing the section 115 compulsory license.

After recounting the relevant statutory provisions of section 115 and Chapter 8 of Title 17, the CRJs posed the following questions:

Is the Judges' authority to adopt terms under the section 115 license solely limited to late payment, notice of use and recordkeeping regulations? If the answer is no, what other categories or types of terms may the Judges' prescribe by regulation?

In addition, a footnote to the referral indicates that the CRJs are particularly interested in knowing whether it is the CRJs or the Register that have authority to prescribe regulations governing categories or types of terms where those categories or types of terms are not specifically identified or delineated in the statute.

As required by 17 U.S.C. § 802(f)(1)(A)(ii), the Register hereby responds to the CRJs.

**II. Statutory Authority in Section 115
and Chapter 8 of Title 17.**

Prior to 1995, the copyright law empowered the Copyright Royalty Tribunal and, subsequently, the Copyright Arbitration Royalty Panels ("CARPs") and the Librarian of Congress, to set only the rates applicable to the section 115 license. This authority was modified in 1995 by the Digital Performance Right in Sound Recording Act of 1995 in which Congress added provisions to section 115 for "digital phonorecord deliveries." The CARPs became authorized to set "reasonable terms and rates of royalty payments" for digital phonorecord deliveries ("DPDs"), and these rates and terms were subject to modification by the Librarian on recommendation by the Register of Copyrights. The same legislation authorized the Librarian to "establish requirements by which copyright owners may receive reasonable notice of