



**Mechanical-Copyright Protection Society  
and  
Performing Right Society**

**Rules governing Infringement Claims 2012**

*PRS for Music is the trading name of Mechanical-Copyright Protection Society Limited and Performing Right Society Limited Registered office: 2 Pancras Square London N1C 4AG*

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## 1. Introduction

- 1.1 This document sets out the rules and procedures that *PRS for Music* follows when one party alleges that another has infringed the copyright in one or more of his Works ('the Rules').
- 1.2 The Rules describe matters of procedure only. Whether or not copyright in a Work has been infringed is ultimately a question of law to be determined in accordance with the facts of the case and *PRS for Music* does not undertake any adjudicative function in relation to the substantive merits of an infringement claim.
- 1.3 These Rules take effect from 28 June 2012 ('the Commencement Date') and apply to:
- 1.3.1 Infringement Claims made on or after that date, irrespective of when the infringement in question was alleged to have occurred; and
- 1.3.2 unless otherwise provided in these Rules, to Infringement Claims made before the Commencement Date.
- 1.4 The Rules apply to every Infringement Claim in which at least one of the Claimants is at the time of such Claim a Member of PRS or MCPS or an Affiliated Society, and are in all respects subject to the order of any UK court or arbitrator having jurisdiction over the matters in question.

## 2. Definitions

In these Rules unless the context requires:

- 2.1 'Affiliated Society' means any performing right and/or mechanical right society outside the UK, to which *PRS for Music* is affiliated.
- 2.2 'Claimant' means any person making an Infringement Claim.
- 2.3 'Copyright Owner' means, in respect of any act restricted by copyright in a Work, the person who has the right to authorise other persons to do that act in the UK, for the time being.
- 2.4 'CPR' means the Civil Procedure Rules which are in force in England and Wales from time to time.
- 2.5 'Disputed Royalties' means the royalties, fees or other monies received by *PRS for Music* in respect of an Infringing Work.
- 2.6 'Existing Infringement Claim' means any infringement claim which immediately before the Commencement Date was being dealt with as such under *PRS for Music* policies governing Infringement Claims.
- 2.7 'Independent Musicologist Report' means a report prepared by an expert musicologist stating that in his professional opinion there is sufficient similarity between the Musical Work or substantial part

thereof and the Infringing Work as to support the bringing of a Legal Claim for Infringement of the Musical Work by the Copyright Owner.

- 2.8 'Infringement' means the doing of any act restricted by copyright in that Work without the consent of the Copyright Owner and 'Infringed', 'Infringer' and 'Infringing' should be understood accordingly.
- 2.9 'Infringement Claim' means any claim in which a person claims to be entitled to the whole or part of the Disputed Royalties; and 'Claimant' means the person making an Infringement Claim.
- 2.10 'Infringement Dispute' means any dispute in which it is alleged that copyright in a Musical Work has been Infringed.
- 2.11 'Infringing Work' means the Musical Work that is, in its making or publication, alleged to be an infringement of the copyright in another Musical Work.
- 2.12 'in writing' means written and/or printed correspondence, and includes any mode of representing or reproducing words in readable form.
- 2.13 'Legal Claim' means a Legal Claim issued in a UK court, in accordance with Part 7 of the CPR.
- 2.14 'Member' means:
- 2.14.1 In relation to MCPS, any person, firm or corporation subject to the **Membership Agreement** for the time being, either directly or through an associated firm or company.
- 2.14.2 In relation to PRS, any person, firm or corporation that has been admitted as, and is for the time being, a member of the Society pursuant to the **Articles of Association**.
- 2.15 'Membership Agreement' means the Membership Agreement between MCPS and its members.
- 2.16 'Musical Work' means any copyright Musical Work, including any lyrics or associated words, which is, for the time being, in the repertoire of *PRS for Music*.
- 2.17 '*PRS for Music*' means either PRS and/or MCPS, as the context so requires.
- 2.18 'Share' means a proportion of the Disputed Royalties as may be allocated from time to time by *PRS for Music* for distribution to a Person interested in that Work.
- 2.19 'Supporting Documentation' means any documentation required to be supplied by a Claimant to *PRS for Music* under Rule 3.
- 2.20 'Suspense Date' means:

- 2.20.1 the date on which *PRS for Music* suspends distributions of the Disputed Royalties under these Rules; or
- 2.20.2 in relation to an Existing Infringement Claim, the date on which *PRS for Music* first suspended the distribution of the Disputed Royalties.
- 2.21 Words importing:
- 2.21.1 the singular number include the plural number and vice versa;
- 2.21.2 the masculine gender include the feminine and neuter.

All other words and expressions shall, where the context so admits, have the same meaning as under the Membership Agreement or the Articles of Association.

Note on Rule 2.7 (definition of Independent Musicologist Report) – in the content of the Rules, “independent” means independent of the composer and/or the lyricist of the work alleged to have been infringed.

In addition, whether a musicologist is “an expert” is ultimately a matter for a Court to determine and not *PRS for Music*

### 3. Notifying *PRS for Music* of an Infringement Claim

- 3.1 In this Rule:
- 3.1.1 ‘New Infringement Claim’ means any Infringement Claim made on or after the Commencement Date.
- 3.1.2 ‘Notice of Infringement Dispute’ means the written communication in which the Claimant first notifies the other party (the ‘Alleged Infringer’) of his allegation of Infringement and his intention to seek relief, whether by negotiation or otherwise, against that party.
- 3.2 A Claimant may at any time make a New Infringement Claim to *PRS for Music*.
- 3.3 An Infringement Claim shall not be treated as having been made for the purposes of these Rules unless:
- 3.3.1 it is an Existing Infringement Claim; or
- 3.3.2 in the case of a New Infringement Claim:
- a) it is made in writing and sent to the Member Services Department at:  
*PRS for Music*  
 41 Streatham High Road  
 London  
 SW16 1ER or  
[publisherquery@prsformusic.com](mailto:publisherquery@prsformusic.com)  
 and/or [writerquery@prsformusic.com](mailto:writerquery@prsformusic.com)

- b) it contains the following information:
- i) the name of the Infringing Work;
- ii) the identity of the Alleged Infringer;
- iii) in relation to the Musical Work, the copyright in which the Alleged Infringer is alleged to have Infringed:-
- aa) the name of the Work;
- bb) whether the Infringement Dispute relates -
- only to the music;
  - only to the lyrics or any other words associated with the music;
  - to the music and the lyrics/associated words;
- iv) the Share of Disputed Royalties to which the Infringement Claim relates (‘the Disputed Share’);
- v) the date on which the Infringement or, if a series of Infringements, the earliest date on which the facts giving rise to the Infringement Dispute are alleged to have occurred; and
- c) it is supported by a copy of either:
- i) the Notice of Infringement Dispute and a copy of the Independent Musicologist Report;
- or
- ii) the Legal Claim.

### 4. Procedure following receipt of an Infringement Claim

- 4.1 As soon as practicable after receipt of a New Infringement Claim and Supporting Documentation, *PRS for Music* will:
- 4.1.2 suspend the distribution of the Disputed Share (“Suspense Procedure”);
- 4.1.3 send a copy of the documents and information referred to in Rules 3.3.2(a) and 3.3.2.(c) other than the Independent Musicologist Report to the Alleged Infringer; and
- 4.1.5 notify the Alleged Infringer of:

- (a) the fact that the Suspend Procedure has been implemented;
- (b) the Disputed Share to which the Suspend Procedure will apply; and
- (c) in relation to the Disputed Share, the Suspend Date.

4.2 Where there is an Existing Infringement Claim:

- 4.2.1 in respect of which distributions of the Disputed Share had not been suspended prior to Commencement Date, *PRS for Music* will implement the Suspend Procedure and, so far as it is practicable to do so, send and advise the Alleged Infringer of the documents and matters referred to in Rules 4.1.2 and 4.1.3;
- 4.2.2 in respect of which distributions of the Disputed Share had been suspended prior to Commencement Date, *PRS for Music* will continue to operate the Suspend Procedure in accordance with and subject to the following provisions of this Rule.

4.3 *PRS for Music* will suspend the distribution of the Disputed Share under the Suspend Procedure, subject to Rule 4.4, until either:

- 4.3.1 it is notified by all parties that the Infringement Dispute has been resolved and of the person to whom the Disputed Share should be paid ('Notice'); or
- 4.3.2 it receives a certified copy of an order of a court of competent jurisdiction or arbitration order disposing of the Infringement Dispute ('Order').

4.4 *PRS for Music* will suspend the distribution of the Disputed Share until the Dispute is resolved in accordance with the provisions of Rule 4.3.

4.5 In relation to an Existing Infringement Claim to which Rule 4.2.2 applies, *PRS for Music* will continue to suspend the distribution of the Disputed Share until the expiry of the two year period from the Suspend Date (the 'Initial Period'). On expiry of the Initial Period, *PRS for Music* shall distribute the Disputed Share to the Alleged Infringer claiming to be interested in the Share in accordance with Rule 4.6 unless before the expiry of the Initial Period:

- 4.5.1 the Claimant has produced the Independent Musicologist Report; or
- 4.5.2 the Claimant has issued a Legal Claim against the Alleged Infringer the proceedings in which are still pending; or
- 4.5.3 all the parties have agreed that *PRS for Music* should continue to suspend the distribution of the Disputed Share,

in any of which cases Rule 4.4 shall apply.

4.6 Following:

- 4.6.1 receipt of the Notice or Order under Rule 4.3; or
- 4.6.2 the expiry of the Initial Period referred to in Rule 4.5

*PRS for Music* shall cease to operate the Suspend Procedure in relation to a Disputed Share and will distribute such Share in accordance with the terms of the Notice or Order, or in accordance with Rule 4.5, as the case may be. The parties shall be responsible for accounting as between themselves in relation to distribution of the Disputed Royalties made to any of them prior to the Suspend Date and nothing in this Rule shall be deemed to impose or be construed as imposing on *PRS for Music* any obligation to make or effect on behalf of the parties adjustments to such distributions.

## 5. The licensing of Infringing Works in Dispute by MCPS

5.1 Licences for the use of an Infringing Work that is for the time being the subject of an Infringement Dispute will continue to be granted under the terms of any applicable Standard Licensing Agreement, Blanket Licence Agreement or Licensing Scheme.

5.2 Where no such Agreement or Scheme applies, or where such an Agreement or Scheme applies but requires that the express consent of the Member be obtained for the relevant reproduction or other use, the following provisions will apply:

5.2.1 Where all the parties to the Infringement Dispute are Members, no further licences to reproduce the relevant Work(s) will be granted by MCPS without the consent of each such Member;

5.2.2 Where all the parties to the Infringement Dispute are Members but more than one Member is involved, the consent of each such Member is again required.

5.3 Where a Member is party to an Infringement Dispute, the Member should be aware that if such Dispute is not resolved in the Member's favour, the warranties and indemnities under Clause 10 of the Membership Agreement may apply in respect of any liability incurred or loss suffered by MCPS in connection with any valid or successful claim made against MCPS in respect of a licence granted by MCPS in accordance with the Rules set out above.

5.4 Where an Infringing Work licensed by MCPS is subject of an Infringement Dispute, MCPS will suspend distribution of any Disputed Royalty collected for the Work in accordance with Rule 4.

## 6. The licensing of Infringing Works by PRS

- 6.1 PRS' blanket licences exclude from the scope of the grant the exercise of the performing right in a Musical Work by means of a recording of that Work if the making of such recording Infringed copyright in that Work.
- 6.2 Where an Infringing Work which is the subject of an Infringement Dispute is licensed by PRS, the distribution of any Disputed Share collected in respect of such Work will be suspended pursuant to and in accordance with Rule 4.
- 6.3 Members party to an Infringement Dispute should be aware that Clause 4 of the Deed of Assignment or sub-clauses 4(a) and 4(c)(i) of the new form membership agreement may apply if the Dispute is not resolved in their favour. The warranties and indemnities under Clause 4 of the Deed of Assignment or sub-clauses 4(a) and 4(c)(i) of the new form membership agreement may apply for any liability incurred or loss suffered by PRS in connection with a valid or successful claim made against PRS concerning a licence granted by PRS in accordance with Rule 6.2.

## 7. Disputed Royalties

- 7.1 This Rule sets out the extent to which *PRS for Music* undertakes to disclose details of the Disputed Royalties which are the subject of an Infringement Claim.
- 7.2 With effect from the Suspense Date until such time as *PRS for Music* ceases to operate the Suspense Procedure in accordance with these Rules, *PRS for Music* will send accounting details relating to the Infringing Work to each of the parties to the Infringement Dispute on request. Copies of royalty accountings sent to a party prior to the Suspense Date will not be provided to the Claimant without the consent of the party to whom such accountings were sent.

## 8. General

- 8.1 The parties to an Infringement Dispute must use their reasonable endeavours to resolve that Dispute as quickly as is reasonably possible.
- 8.2 Without prejudice to their obligation to provide documentation required pursuant to these Rules, the parties to an Infringement Dispute shall provide *PRS for Music* with such other information or documentation as *PRS for Music* may reasonably require in connection with the subject matter of the Infringement Dispute or the operation of these Rules.
- 8.3 In the spirit of the CPR, *PRS for Music* will send each party's documentation to the other if requested by both parties to do so. *PRS for Music* will only provide copies of documentation received specifically in connection with the Infringement Dispute. *PRS for Music* will not, in the absence of a valid Court Order or other legal obligation, search its archives for or provide documents received for other purposes, which will be kept confidential and

not disclosed, except to *PRS for Music's* professional advisers. A party may write to request copies of its own archived documentation, which will be taken into consideration, subject to payment of *PRS for Music's* reasonable expenses.

- 8.4 Provided that *PRS for Music* has acted in accordance with the Rules, no claim will lie against *PRS for Music* for any loss or damage which a party claims to have suffered by reason of *PRS for Music* granting or refusing to grant any licence in relation to the Infringing Work or collecting or distributing or suspending the payment of any Disputed Royalties or Share or making any Claim in connection therewith.

## 9. Complaints Procedure

9. Where a Claimant believes that *PRS for Music* has not acted in accordance with the Rules, he may make a complaint in accordance with *PRS for Music's* **complaints procedure**, a copy of which is available on request.