

workers of Electronics, Inc., San Francisco, California engaged the production of cable assemblies qualify as adversely affected secondary workers under Section 222 of the Trade Act of 1974, as amended. In accordance with the provisions of the Act, I make the following certification:

All workers of LeeMAH Electronics, Inc., San Francisco, California, who became totally or partially separated from employment on or after June 2, 2005 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 25th day of October 2006.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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**BILLING CODE 4510-30-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance And Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or

threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 13, 2006. Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 13, 2006.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 26th day of October 2006.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

#### APPENDIX—30 TAA

[Petitions Instituted Between 10/16/06 and 10/20/06]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
60245	R.L. Stowe Mills, Inc. (Comp).	Belmont, NC	10/16/06	10/12/06
60246	Weyerhaeuser Cosmopolis Pulp Mill (Union).	Cosmopolis, WA	10/16/06	10/12/06
60247	Advanced Technology Services (Wkrs).	Vinita, OK	10/16/06	10/13/06
60248	Werner Co. (Comp).	Franklin Park, IL	10/16/06	10/13/06
60249	ADVO (Comp).	Pittsburgh, PA	10/16/06	10/16/06
60250	Senco Products (Wkrs).	Cincinnati, OH	10/17/06	09/21/06
60251	Canvas Products (Union).	Detroit, MI	10/17/06	10/16/06
60252	Shogren Hosiery Mfg. Co., Inc. (Comp).	Concord, NC	10/17/06	10/17/06
60253	Metaldyne (Comp).	St. Marys, PA	10/18/06	10/12/06
60254	Consolidated Metco, Inc. (IAM).	Clackamas, OR	10/18/06	10/17/06
60255	Textron Fastening Systems (Wkrs).	Wytheville, VA	10/18/06	10/16/06
60256	Eaton Corporation (Wkrs).	Auburn, IN	10/18/06	10/16/06
60257	Benchmark Electronics (Wkrs).	Hudson, NH	10/18/06	10/16/06
60258	Woodbridge Corporation (Wkrs).	Lithonia, GA	10/18/06	10/18/06
60259	Burris Manufacturing, Inc. (Comp).	Albemarle, NC	10/18/06	10/18/06
60260	Georgia Pacific Corp. (State).	Crossett, AR	10/18/06	10/17/06
60261	Clout Financial Services, Inc. (Wkrs).	Bloomington, IN	10/18/06	10/18/06
60262	Paramount Cards, Inc. (State).	Pawtucket, RI	10/19/06	10/18/06
60263	Freedom Industries (Comp).	Liberty, MS	10/19/06	10/18/06
60264	Ibase (Comp).	Austin, TX	10/19/06	10/10/06
60265	Physical Rehab Works (State).	Herrin, IL	10/19/06	10/18/06
60266	Hanesbrands, Inc. (Comp).	Winston-Salem, NC	10/19/06	10/13/06
60267	Guide Corp. (State).	Monroe, LA	10/20/06	10/19/06
60268	Harte Hanks Marketing Intelligence (Wkrs).	Troy, MI	10/20/06	09/22/06
60269	AAR Cargo Systems (Comp).	Livonia, MI	10/20/06	10/17/06
60270	Beard Hosiery Co., Inc. (Comp).	Lenoir, NC	10/20/06	10/19/06
60271	Town of Hartland (Comp).	Hartland, ME	10/20/06	10/18/06
60272	Elder Manufacturing, Inc. (Wkrs).	St. Louis, MO	10/20/06	10/19/06
60273	Micro Motion, Inc. (State).	Boulder, CO	10/20/06	10/19/06
60274	Southern Glove Manufacturing Co., Inc. (Comp).	Conover, NC	10/20/06	10/20/06

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**LIBRARY OF CONGRESS****Copyright Office**

[Docket No. RF 2006-1]

**Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceeding****AGENCY:** Copyright Office, Library of Congress.**ACTION:** Final Order.

**SUMMARY:** The Copyright Royalty Board, acting pursuant to statute, referred two novel questions of law to the Register of Copyrights. Specifically, the Copyright Royalty Board requested a decision by the Register of Copyrights regarding whether ringtones are subject to the statutory license for making and distributing phonorecords under the Copyright Act, and if so, what legal conditions and/or limitations would apply. The Register of Copyrights, in a timely fashion, transmitted a Memorandum Opinion to the Copyright Royalty Board stating, with certain caveats, that the statutory license applies to ringtones.

**DATES: Effective Date:** October 16, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ben Golant, Senior Attorney, and Tanya M. Sandros, Associate General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, 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 Board ("Board"). One of the functions of the new Board 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. In any case in which a novel question of law concerning an interpretation of a provision of the Copyright Act is presented in a ratesetting proceeding, the Board has the authority to request a decision of the Register of Copyrights ("Register"), in writing, to resolve such questions. See 17 U.S.C. 802(f)(1)(B)(i). For this purpose, a "novel question of law" is a question of law that has not been determined in prior decisions, determinations, and rulings described in Section 803(a) of the Copyright Act.

On August 1, 2006, the Recording Industry Association of America

("RIAA") requested that the Board refer a question to the Register of Copyrights regarding the eligibility of ringtones (i.e., short digital sound recording file distributed for use in a cellular telephone or similar device) for statutory licensing under Section 115 of the Copyright Act. An opposition to the RIAA's referral motion was submitted, collectively, by the National Music Publishers Association, Inc., the Songwriters Guild of America, and the Nashville Songwriters Association International ("Copyright Owners"). After considering the arguments of the parties, the Board agreed that the matters raised by the RIAA motion did present novel questions of law and agreed to submit the questions to the Register. Accordingly, on September 14, 2006, the Board transmitted to the Register: (1) an Order, dated August 18, 2006, referring two novel questions of law; and (2) the Initial and Reply Briefs filed with the Board by RIAA and the Copyright Owners. The Board's transmittal triggered the 30-day decision period prescribed in Section 802 of the Copyright Act. This statutory provision states that the Register "shall transmit his or her decision to the Copyright Royalty Judges within 30 days after the Register of Copyrights receives all of the briefs or comments of the participants." See 17 U.S.C. 802(f)(1)(B)(i). On October 16, 2006, the Register transmitted a Memorandum Opinion to the Board that answered the novel 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: October 26, 2006

**Marybeth Peters,**  
*Register of Copyrights.*

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

**Docket No. RF 2006-1  
In the Matter of  
Mechanical and Digital Phonorecord  
Delivery Rate Adjustment Proceeding**

**MEMORANDUM OPINION****I. Introduction**

On September 14, 2006, the Copyright Royalty Board ("Board"), acting on a request by the Recording Industry Association of America, Inc. ("RIAA"), and pursuant to 17 U.S.C. § 802(f)(1)(B), referred two novel questions of law<sup>1</sup> to

the Register of Copyrights ("Register"). Specifically, the Board requested a decision by the Register as to the following:

1. Does a ringtone, made available for use on a cellular telephone or similar device, constitute delivery of a digital phonorecord that is subject to statutory licensing under 17 U.S.C. § 115, irrespective of whether the ringtone is monophonic (having only a single melodic line), polyphonic (having both melody and harmony), or a mastertone (a digital sound recording or excerpt thereof)?
2. If so, what are the legal conditions and/or limitations on such statutory licensing?<sup>2</sup>

In sum, and as stated more fully below, we believe that ringtones (including monophonic and polyphonic ringtones, as well as mastertones) qualify as digital phonorecord deliveries ("DPDs") as defined in 17 U.S.C. § 15. Apart from meeting the formal requirements of Section 115 (e.g., service of a notice of intention to obtain a compulsory license under Section 115(b)(1), submission of statements of account and royalty payments, etc.), whether a particular ringtone falls within the scope of the statutory license will depend primarily upon whether what is performed is simply the original musical work (or a portion thereof), or a derivative work (i.e., a musical work based on the original musical work but which is recast, transformed, or adapted in such a way that it becomes an original work of authorship and would be entitled to copyright protection as a derivative work).

**Procedural Background.** On August 1, 2006, the RIAA requested that the Copyright Royalty Board refer a question to the Register of Copyrights regarding the eligibility of a mastertone, a short digital sound recording file distributed for use in a cellular telephone or similar device, for statutory licensing under 17 U.S.C. § 115.<sup>3</sup> An opposition to the RIAA's

determinations, and rulings described in Section 803(a) of the Copyright Act. See 17 U.S.C. § 802(f)(1)(B)(ii).

<sup>2</sup> See *Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceeding*, Order Granting in Part the Request for Referral of a Novel Question of Law, Docket No. 2006-3 CRB DPRA (Aug. 18, 2006) ("Order").

<sup>3</sup> The Copyright Royalty Board is currently conducting a proceeding to determine the reasonable rates and terms for the making and distribution of phonorecords under the Section 115 license. See *Adjustments or Determination of Compulsory License Rates for Making and Distributing Phonorecords*, 71 Fed Reg 1454 (Jan. 9, 2006). The answers to the two questions referred to

<sup>1</sup> A "novel question of law" is a question of law that has not been determined in prior decisions,