

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

DEC 13 1994

FCC MAIL ROOM

Received

DEC 19 1994

Satellite and Telecommunication Division
Policy Branch

In the matter of)
)
SATELLITE CD RADIO, INC.) File Nos. 49/50-DSS-P/LA-90;
) 58/59-DSS-Amend-90;
Application for Digital Audio) 44/45-DSS-Amend-92
Radio Service Satellite System)

To: The Commission

REPLY TO SUPPLEMENTAL COMMENTS OF SATELLITE CD RADIO, INC.

The Recording Industry Association of America ("RIAA"), a trade association representing record companies who create, manufacture and distribute over 90% of all sound recordings sold in the United States, hereby responds to a "Motion for Acceptance of Supplemental Comments" and "Supplemental Comments" filed by Satellite CD Radio, Inc. in the above captioned proceeding.

The RIAA renews our opposition to both the application of Satellite CD Radio, Inc. and the Commission's proposal to allocate spectrum to this service unless and until the Commission conditions its approval by requiring applicants' to secure license agreements from the copyright owners of sound recordings transmitted by this service.¹ RIAA continues to maintain that, as a condition to the allocation of spectrum, or the grant of the application of Satellite CD Radio, Inc. or any other application

¹ See Comments of the Recording Industry Association of America, In the Matter of Satellite CD Radio, Inc. Application for Digital Audio Radio Service Satellite System, filed November 13, 1992.

for this service, Commission rules should require applicants for this service to secure licenses from the copyright owners of the sound recordings which applicants have stated they wish to transmit. As with its "syndicated program exclusivity rules"², the Commission may properly consider and establish rules protecting copyright owners from the unauthorized exploitation of their intellectual property by transmitters.

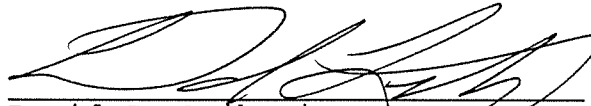
Satellite CD Radio, Inc. through this untimely maneuver wishes to circumvent the Commission's studied rulemaking procedure. Contrary to Satellite CD Radio, Inc., acceptance of its motion and supplemental comments will, among others parties, "prejudice" the owners of sound recordings who will be left with the unremunerated digital transmission of their property.

For the foregoing reasons RIAA urges the Commission to reject both the "Motion for Acceptance of Supplemental Comments" and "Supplemental Comments" of Satellite CD Radio, Inc., and postpone the allocation of spectrum for this service, unless applicants receive licenses from the copyright owners of sound recordings whose works they intend to transmit.

² Former 47 C.F.R. Sections 76.151 through 76.155 (1972).

Respectfully submitted,

RECORDING INDUSTRY ASSOCIATION
OF AMERICA, INC.
1020 19th Street, NW
Washington, D.C. 20036
(202) 775-0101



David E. Leibowitz
Executive Vice President
and General Counsel

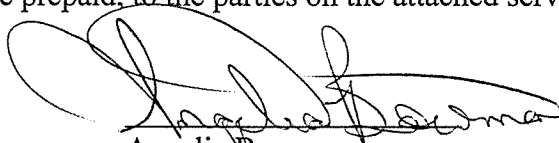


Paul D. Russinoff
Assistant General Counsel

December 13, 1994

Certificate Of Service

I hereby certify that on this 13th day of December, 1994, copies of the foregoing Reply to Supplemental Comments of Satellite CD Radio, Inc. were served by hand delivery*, or first class mail, postage prepaid, to the parties on the attached service list.



Angelia Bowman

Tim McDermott
General Manager
KSBJ
P. O. Box 187
Humble, TX 77347

Craig C. Todd
Senior Member of the
Technical Staff
Dolby Laboratories
100 Potrero Ave.
San Francisco, CA 94103

William K. Keane
Winston & Strawn
1400 L Street, NW
Washington, DC 20005

Howard F. Jaeckel
John W. Zucker
CBS, Inc.
51 West 52nd Street
New York, NY 10019

David E. Leibowitz
Jennifer L. Bendall
Recording Industry Association
of America, Inc.
1020 19th Street, NW
Washington, DC 20036

Michael A. Menius
Director, Government Relations
Common Carrier Programs
Motorola Government Relations Office
1350 I Street, NW, Suite 400
Washington, DC 20005

William J. Potts, Jr.
Haley, Bader & Potts
2000 M Street, NW
Washington, DC 20036

Neal T. Kilminster
World Systems Division
Communications Satellite Corporation
950 L'Enfant Plaza, SW
Washington, DC 20024

Lea Schuchman
Senior Vice President
Stanford Telecommunications, Inc.
2421 Mission College Blvd.
Santa Clara, CA 95054

Richard E. Wiley
Michael Yourshaw
Carl R. Frank
Wiley Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Howard M. Liberman
Gerald Stevens-Kittner
Arter & Hadden
1801 K Street, N.W.
Suite 400 K
Washington, D.C. 20006

Leslie A. Taylor
Leslie Taylor Associates
6800 Carlynn Court
Bethesda, MD 20817-4302

Henry L. Baumann
Valerie Schulte
National Association of Broadcasters
1771 N Street, N.W.
Washington, D.C. 20036

Theodore A. Miles
2025 M Street, NW
Washington, DC 20036

James B. Bailey
Senior Design Engineer
Techsonic Industries, Inc.
1 Hummingbird Lane
Lake Eufaula, AL 36027

Dr. Frank R. Arams
Vice President
LNR Communications
180 Marcus Blvd.
Hauppauge, NY 11788

Rolfe Larson
Director
Minnesota Public Radio
45 East Seventh Street
Saint Paul, MN 55101

John E. Fiorini, III
Gardner, Carton & Douglas
1301 K Street, NW
Suite 900, East Tower
Washington, DC 20005

Bruce D. Jacobs
Clifford M. Harrington
Glenn R. Flick
Fisher, Wayland, Cooper &
Leader
2001 Pennsylvania Ave., NW
Suite 400
Washington, DC 20006

John M. Seavey, President
Seavey Engineering Associates, Inc.
135 King Street
Cohasset, MA 02025

Paul E. Symczak
901 E Street, NW
Washington, DC 20004

Henry Geller
United Church of Christ
1776 K Street, NW, Suite 203
Washington, DC 20006

Dr. Everett Parker
Senior Research Associate
Fordham University
The Bronx, New York 10458

David J. Del Beccaro
Digital Cable Radio
2200 Bayberry Road
Hatboro, PA 19040

Charles Reutter
ComStream Corporation
104 East Bay View Drive
Annapolis, MD 21403

Henry C. Rock, II
The Right-Roc Group
331 West 57th Street
New York, NY 10019

Rollins Hudig Hall
13873 Park Center Road
Suite 201
Herndon, VA 22071

H. J. Masoni
Manager, Advanced Programs
Hughes Aircraft company
Space and Communications
P. O. Box 92919
Los Angeles, CA 90009

Lon Levin
American Mobile Satellite Corp.
10802 Parkridge Blvd.
Reston, VA 22091

Steven A. Lerman
Sally A. Buckman
David S. Keir
Leventhal, Senter & Lerman
2000 K Street, NW, Suite 600
Washington, DC 20006

Bryan Kim
New World Sky Media
553 South Street
Suite 312
Glendale, CA 91202

Robert L. Johnstone
Director Strategic Marketing
J Boats, Inc.
30 Walnut Street
Newport, RI 02840

Peter J. Schaffer
Vice President
General Counsel
All Pro Sports and Entertainment
1999 Broadway
Denver, CO 80202

Ralph H. McBride
President
Voice Broadcasting, Inc.
P. O. Box 820
Bridge City, TX 77611

Joseph N. Pelton, Director
University of Colorado at Boulder
Interdisciplinary Telecommunications
Program
Engineering Center, OT 2-41
Campus Box 530
Boulder, CO 80309-0530

Bernard Korman
American Society of Composers
Authors & Publishers
ASCAP Building
One Lincoln Plaza
New York, NY 10023

Janice L. Stott
General Manager
KVST Radio
1212 S. Frazier
Conroe, TX 77301

Gary K. Noreen
Chairman & CEO
Radio Satellite Corporation
1167 North Holliston Ave.
Pasadena, CA 91109

Dr. Jack W. Mitchell
Director
Wisconsin Public Radio
821 University Ave.
Madison, WI 53706

Douglas A. Heydon
President
Arianespace, Inc.
700 13th Street, NW
Suite 230
Washington, DC 20005

Richard Smith*
Federal Communications Commission
Office of Engineering & Technology
2025 M Street, N.W.
Room 7002
Washington, D.C. 20554

Thomas S. Tycz*
International Bureau
Federal Communications Commission
2025 M Street, NW, Room 6010
Washington, DC 20554

Scott Blake Harris*
Chief
International Bureau
Federal Communications Commission
1919 M Street, NW, Room 658
Washington, DC 20554

Raymond LaForge*
Federal Communications Commission
Office of Engineering & Technology
2025 M Street, N.W.
Room 7334
Washington, D.C. 20554

Cecily C. Holiday*
Federal Communications Commission
International Bureau
2025 M Street, N.W.
Room 6324
Washington, D.C.

Rosalee Chiara*
Federal Communications Commission
International Bureau
2025 M Street, N.W.
Room 6114
Washington, D.C. 20554