



## **Settlement Reached in Canadian Music Industry "Pending Lists" Lawsuit**

January 10, 2011 by Bob Tarantino

A settlement, which remains subject to court approval, has been reached in the "Pending Lists" class action copyright infringement lawsuit: Major Canadian Record Labels Reach Agreement Regarding Payments to Songwriters and Publishers. From the press release:

EMI Music Canada Inc., Sony Music Entertainment Canada Inc., Universal Music Canada Inc. and Warner Music Canada Co. have reached an agreement to pay songwriters and music publishers for outstanding "pending list" claims and to resolve a proposed class action lawsuit.

The current music licensing system allows for recordings to be issued without preclearance from copyright owners but subject to licensing agreements with CMRRA and SODRAC, who represent most publishers and songwriters. The vast majority of royalties owing for such sales have always been and will continue to be paid promptly by the record labels. The proposed agreement settles all alleged copyright infringement liability related to that small minority of unlicensed works that have accumulated over the years. The proposed agreement also establishes a new mechanism that will expedite future payments of mechanical royalties to music rights holders.

As also noted in the press release, the "settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing by the record labels". Michael Geist is reporting that the settlement involves a \$45 million payment (though that number doesn't appear in the press release). The amended Statement of Claim in the class action can be found here. The plaintiffs' lawyers maintain a website with details about the lawsuit here. It will be particularly interesting to see the details of the "new mechanism" which has been agreed to, which, in the words of Alain Lauzon, the General Manager of SODRAC, "will keep the pending list problem from building up again".

The Pending Lists lawsuit became the subject of online debate about a year ago, when Michael originally reported on it (Canadian Recording Industry Faces \$6 Billion Copyright Infringement Lawsuit), which prompted a fairly blistering response from Barry Sookman (Geist inflates pending lists claim to vilify record labels). The legal press also got in on the action, with The Lawyers Weekly providing coverage.

**UPDATE (1/10/11 - 1pm):** The Harrison Pensa website for the case has been updated to include copies of the various settlement agreements with each of the defendants.

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