New-media companies and record labels are feuding again. But this time, it is the digital companies that warn they may be driven out of business.

Several Internet radio companies are arguing that a recent decision by the Copyright Royalty Board, a three-member panel under the Library of Congress, would make it almost impossible for them to stay afloat.

Under the ruling released on March 2, Web broadcasters must pay each time a listener hears a song, at a rate that began at 0.08 cent in 2006 (the ruling applies retroactively) and rises to 0.19 cent in 2010. Besides increasing the charge for each song, the ruling established a $500 minimum payment for each Web channel — making it difficult for companies like RealNetworks and Pandora to offer as many different kinds of music as they do now.

“We would have to provide less choice and less diverse programming,” said Robert Kimball, senior vice president for business and legal affairs at RealNetworks.
In the last few years, as broadband Internet connections became more popular, online radio offerings have proliferated. On Wednesday, Mr. Kimball testified to the House Commerce subcommittee on telecommunications and the Internet that online radio played a greater variety of music, but that it was unfairly limited by restrictions that did not apply to conventional radio stations.

As the recording industry sees the matter, though, Web-based broadcasters are simply building a business with their content, which they deserve to be compensated for.

“They said the same thing in 2002,” the last time such fees were set, said John L. Simson, executive director of SoundExchange, the group that collects royalties from online radio and distributes them to labels and artists. “Not only did it not drive them out of business, we saw more people come online.”

Companies that operate Internet radio channels are expected to ask the Copyright Royalty Board to reconsider the case.

Internet radio royalties have become a thorny issue in part because conventional stations do not pay to use recordings. Both online and regular stations pay royalties to songwriters. But under a 1995 law, companies that transmit music using the Internet, cable or satellite must compensate both. The money is split between the owner of the recording, usually the label, and the performers.

Until the end of 2005, Internet stations could pay royalties based on either the number of songs they played or the number of hours listeners tuned in, and small companies had the option of giving SoundExchange about 12 percent of their revenue.

For some Internet radio operations, the new royalty obligations would exceed annual revenue. Kurt Hanson, who publishes a newsletter and runs AccuRadio, a site with 320 channels, said he took in $400,000 in 2006, almost all of it from advertising. He estimated
that under the new payment structure, he would have owed $600,000 for the year.

The $500 minimum for each channel is among the ruling’s more difficult aspects. Many Web radio sites offer thousands of channels, a strategy that would be impossible with this rate structure. AccuRadio, for example, offers one channel that consists entirely of classical oboe music.

“Among oboe players, it’s very popular,” Mr. Hanson remarked.

There is a question whether that minimum fee would be applied to each channel on sites like Pandora, which offers users personalized music streams. “But no one has a viable business at the new rate, regardless of what happens to the $500 fee,” Pandora’s chief executive, Joe Kennedy, said.

Many involved in Internet radio contend that the Copyright Royalty Board members do not understand the technology. At one point in the proceedings, according to the transcript, one member asked if the term “albums” could refer to CDs as well as vinyl records.

Internet radio operators also say it would not be in the interest of labels to stifle a business that is paying them fees to use their music, especially at a time of declining CD sales.

“That’s counterproductive to the copyright holders,” said Terry McBride, chief executive of the Nettwerk Music Group, a label and artist-management company, adding that the ruling could be bad for performers whose music would not be played on conventional radio.

The decision comes as sites like Pandora are only beginning to explore the possibilities of personalized online radio, said Mike McGuire, a research vice president at Gartner. “One hopes the mindset will be that nobody wants to see anybody go out of business,” he said.