

**Before the
UNITED STATES COPYRIGHT OFFICE
LIBRARY OF CONGRESS
Washington, D.C.**

In the Matter of)
)
)
Periodic Review of the Designations of) Docket No. 2024-1
Mechanical Licensing Collective and)
Digital Licensee Coordinator)
)

**PROPOSAL FOR REDESIGNATION OF
DIGITAL LICENSEE COORDINATOR, INC.**

Digital Licensee Coordinator, Inc. (“DLC, Inc.”) hereby submits its proposal for redesignation as the statutory digital licensee coordinator (“Proposal”).

I. Introduction

Since its initial designation as the digital licensee coordinator, DLC, Inc. has successfully executed its statutory functions, achieving numerous accomplishments that have been vital to fulfilling the central promises of the Music Modernization Act (“MMA”). In particular, DLC, Inc. has made concerted efforts to foster a collaborative working relationship with Mechanical Licensing Collective, Inc. (“MLC”) in order to effectively implement the blanket licensing system. As a result of those efforts, DLC, Inc. negotiated a voluntary agreement with the MLC regarding the determination and allocation of the initial administrative assessment in 2019, as well as subsequent adjustments to the assessment and its allocation. Whenever possible, DLC, Inc. has strived to collaborate with the MLC in connection with many other efforts to help the

MLC fulfill its mission and improve the blanket mechanical licensing system for all stakeholders as well.

DLC, Inc. has also been a staunch advocate for digital licensees in connection with the administration of the blanket licensing system, including through its participation in the many Copyright Office rulemakings to develop the implementing regulations for the blanket license, as well as in connection with related ongoing regulatory issues and inquiries. More generally, DLC, Inc. has also engaged in numerous outreach efforts to ensure that digital music providers (“DMPs”) have had access to important and up-to-date information regarding the blanket license both in advance of, and following, the January 1, 2021 License Availability Date.

As a result of its leadership and representation of DMPs since its initial designation, DLC, Inc. has also seen substantial growth in the organization’s membership over the past five years. As explained below, DLC, Inc.’s membership has more than tripled since 2019, leading to an increase in both the size and diversity of the organization. DLC, Inc. anticipates that this growth trend will continue into the future as well.

Overall, from its inception, DLC, Inc. has demonstrated that it is singularly dedicated to furthering the efficiency and fairness of the Section 115 mechanical licensing system. Moreover, due to its broad support among DMPs and its administrative capabilities, DLC, Inc. continues to be uniquely positioned to work with the MLC in order to successfully fulfill the promises of the MMA. As a result, DLC, Inc. is pleased to submit this Proposal to assist the Copyright Office in its review process and hopes to have the opportunity to continue its important work in the future.

II. Statutory Background

The MMA was signed into law on October 11, 2018, and created a new statutory blanket mechanical license for the reproduction and distribution of non-dramatic musical works by

DMPs in the form of digital phonorecord deliveries, including permanent and limited downloads, and interactive streams. This blanket license replaced the song-by-song “notice of intention” process for such uses that was in effect prior to the enactment of the statute.

In order to effectuate the new blanket licensing system, the MMA requires the Copyright Office to designate a mechanical licensing collective to administer the license, and further permits the Office to designate a digital licensee coordinator to represent DMPs in connection with the administration of that system.¹

The MMA sets forth several criteria that must be satisfied in order for an entity to be designated as the digital license coordinator. In particular, the digital licensee coordinator must be (1) a single non-profit entity, (2) that is endorsed by and enjoys substantial support from DMPs, and (3) possess the administrative and technological capabilities necessary to carry out its statutory responsibilities.² The digital licensee coordinator’s statutory responsibilities and functions include: (1) establishing a governance structure, criteria for membership, and any dues to be paid by its members; (2) engaging in activities related to the administrative assessment, including participating in administrative assessment proceedings before the Copyright Royalty Judges and engaging in efforts to enforce DMPs’ notice and payment obligations related to the assessment; (3) gathering and providing documentation for use in proceedings before the Copyright Royalty Judges to set the statutory mechanical license’s rates and terms; (4) initiating and participating in proceedings before the Copyright Office with respect to the blanket license;

¹ The Copyright Office may decline to designate a DLC if the Office is unable to identify an entity that fulfills each of the statutory designation criteria. *See* 17 U.S.C. §115(d)(5)(B)(iii).

² 17 U.S.C. § 115(d)(5)(A)(i)-(iii).

(5) maintaining records of its activities; and (6) assisting in publicizing the mechanical licensing collective's existence and functions to copyright owners.³ The digital licensee coordinator is also required to appoint a representative to act as a non-voting member of the mechanical licensing collective's board of directors (notably, this is the digital licensee coordinator's sole board representative within an organization wholly funded by the digital licensee coordinator's members), as well as appoint representatives to the mechanical licensing collective's Operations Advisory Committee.⁴

In December 2018, the Copyright Office published a request for proposals and information from parties interested in being designated as those entities. In response to that request, the Copyright Office received one proposal to serve as the digital licensee coordinator, from DLC, Inc., and two proposals from entities interested in serving as the mechanical licensing collective. After considering public comments submitted in response to those proposals, as well as the statutory designation criteria for each entity, the Copyright Office made its initial designations in July 2019, selecting DLC, Inc. as the digital licensee coordinator, and Mechanical Licensing Collective, Inc. as the mechanical licensing collective. In its notice announcing the designations, the Copyright Office noted that DLC, Inc. “me[t] each of the statutory criteria required of the digital licensee coordinator,” and “each of its individual board members [was] well-qualified to perform the statutory functions” of the digital licensee coordinator, in light of those individuals’ “significant and diverse background in the music

³ *Id.* at 115(d)(5)(C)(i)(I)-(VII).

⁴ *Id.* at 115(d)(3)(D)(iv)(II), (i)(IV).

licensing marketplace.”⁵ The Office also went on to state that DLC, Inc. “proposed a thorough and thoughtful governance structure, criteria for membership, and dues structure, and appears well-positioned to participate in an administrative assessment proceeding if necessary.”⁶

Pursuant to the MMA, the Copyright Office is required to review its designations of the mechanical licensing collective and digital licensee coordinator every five years, beginning in January 2024, in order to determine whether those designations should be continued. To aid the Office in its review process, the Office issued a notification of inquiry (the “NOI”) requesting certain information from DLC, Inc. regarding its past performance and capabilities, future plans, and continued fulfillment of the statutory criteria required for designation as the digital licensee coordinator. In particular, the Office has requested information regarding DLC, Inc.’s non-profit status, the organization’s level of endorsement and support from DMPs and significant non-blanket licensees, and the organization’s administrative capabilities and governance, including its efforts to enforce notice and payment obligations with respect to the administrative assessment, its participation in proceedings before the Copyright Office and Copyright Royalty Judges, its record-keeping activities, and its efforts to help publicize the MLC and the ability of copyright owners to claim unclaimed but accrued royalties through the MLC. The NOI also encourages DLC, Inc. to provide any other information that it believes is relevant to demonstrate that it continues to meet the statutory designation criteria.

⁵ 37 CFR 210.23; 84 FR at 32292, 32296.

⁶ *Id.* at 32295

III. DLC, Inc. Continues to Satisfy the Statutory Criteria for Designation as the Digital Licensee Coordinator

DLC, Inc. is pleased to report to the Office on its efforts and achievements of the last five years, and its strong footing to continue to lead DMPs in the next five years and beyond.

A. DLC, Inc. is a Non-Profit Organization Created to Carry Out its Statutory Responsibilities

The Copyright Office has asked DLC, Inc. to demonstrate that it is a non-profit, not owned by any other entity, and created to carry out its statutory responsibilities, as required by the MMA. DLC, Inc. is a creature of the MMA, having been created and constituted specifically to answer the call of the statute and represent DMPs in relations with the mechanical licensing collective and other participants in the blanket license ecosystem. DLC, Inc.'s Certificate of Incorporation was included in the initial submission for designation, and it is enclosed herein as Exhibit A as well. DLC, Inc. is a Delaware non-profit organized to represent digital music providers in connection with the administration of the mechanical license provided under Section 115 of the United States Copyright Act. As such, DLC, Inc. satisfies this requirement.

B. DLC, Inc. Continues to Enjoy Substantial Support from DMPs and Significant Non-Blanket Licensees

The Copyright Office has also requested that DLC, Inc. demonstrate that it continues to be “endorsed by and enjoy substantial support from DMPs and significant non-blanket licensees that together represent the greatest percentage of the licensee market for uses of musical works in covered activities, as measured over the preceding 3 calendar years.”⁷ DLC, Inc. satisfies this

⁷ 17 U.S.C. § 115(d)(5)(A)(ii).

criteria as well, as it includes as members all of the largest streaming services in the market segment, as well as many medium and small-sized services.

During the initial designation process, DLC, Inc. provided aggregated metrics obtained from the Harry Fox Agency and Music Reports, Inc., two industry-recognized leaders in administering licenses and processing royalties for Section 115-covered activities, in order to demonstrate its members' relevant market share. That information reflected that the founding DLC, Inc. members combined had over 84% of the aggregate streams, over 94% of the aggregate subscribers, and over 88% of the aggregate royalties paid in each of 2016, 2017, and 2018. Now that the MLC has obtained over 35 distributions' worth of reporting data from blanket licensees, the MLC has been able to confirm that DLC, Inc. continues to represent the greatest percentage of the licensee market.⁸

C. DLC, Inc.'s Sound Governance and Administrative Capabilities Make It Uniquely Qualified to Perform its Statutory Functions.

In addition to the information provided above, the Copyright Office has also asked DLC, Inc. to provide a detailed description of its administrative capabilities and its performance of certain functions required of the digital licensee coordinator. As discussed below, DLC, Inc. has demonstrated both its administrative capabilities and sound governance through its navigation of the myriad issues facing DMPs and other stakeholders during the first five years of the MMA.

1. DLC, Inc. Governance

⁸ In response to DLC Inc.'s request, the MLC has confirmed that DLC, Inc.'s members represent the greatest percentage of the licensee market for uses of musical works in covered activities, as measured over the preceding 3 calendar years.

A copy of DLC Inc.'s current bylaws is enclosed herein as Exhibit B. DLC Inc.'s bylaws reflect its governance structure, criteria for membership, and dues paid by its members. DLC Inc.'s bylaws detail membership categories and processes, Board and Officer composition and processes, as well as voting, dues, and committee structures. Since initially adopting its bylaws, DLC, Inc. has amended its bylaws to clarify the Officer rotation structure of DLC, Inc. and add procedures to permit an individual to rotate in or out of a company's primary representative seat. These procedures are important to accommodate the fact that individuals may change roles before their term expires.

At its inception, DLC, Inc. represented the five largest digital streaming services in the industry, who were all actively involved in the legislative process to bring the MMA to life. Since that time, DLC, Inc. has steadily grown its membership, and now represents 17 companies, including many medium and small-sized services. DLC, Inc.'s current members are: Amazon, Apple, Pandora, Spotify, YouTube, Audiomack, Beatport, Hangout FM, Idagio, iHeartMedia, MedRhythms, Napster, Paste, Qobuz, Soundcloud, TIDAL and Wolfgang's. A complete list of DLC, Inc.'s members is also publicly available on its website.⁹ As mentioned above, DLC, Inc.'s growth in membership over the past five years is largely due to its outreach efforts and its leadership in the implementation of the blanket license system. DLC, Inc. is regularly in touch with companies that are not formally members of the organization, and consistently offers those companies the opportunity to join its growing ranks. In July 2020, DLC, Inc. hired a Director of Operations & Outreach who, among other things, contacted DMPs that planned to operate under the Section 115 license to educate them about the mechanical licensing collective and invite

⁹ DLC, Inc.'s website can be accessed at: <https://digitallicensecoordinator.org/>.

them to join DLC, Inc. In addition, DLC, Inc.'s website is a resource for all DMPs, as well as a means of contacting DLC, Inc., and provides extensive information about the Section 115 license, the MMA, and the MLC.

Because DLC, Inc. is committed to continuing to grow its membership, and ensuring that licensees from across the digital music landscape can participate and be represented, it has taken actions to address the concerns of smaller licensees, including by minimizing membership dues and successfully modifying the allocation of the administrative assessment to alleviate the burden on such licensees, as described in further detail below. DLC Inc. also regularly engages with non-member DMPs, responding to queries and serving as a resource, in support of its commitment to continued development of the music streaming ecosystem. DLC, Inc. expects that its membership will continue to expand if its designation is renewed by the Office.

2. DLC, Inc.'s Participation in MLC Governance

Over the past five years, DLC, Inc. has also made concerted efforts to participate in the MLC's governance, in an effort to ensure that the blanket licensing system is administered both effectively and efficiently. As required by statute, DLC, Inc. has, since its initial designation, appointed and maintained a senior-level representative to the MLC board of directors (in a non-voting capacity), prepared to participate to the extent the MLC includes DLC, Inc.'s representative in the meetings. As requested by the MLC, DLC, Inc.'s representative has served on the board pursuant to a confidentiality agreement with the MLC that is designed to keep confidential the deliberations of the MLC board, to the extent such information relates to the internal operations of the MLC and is not intended to be shared with DLC, Inc. Representation on the MLC board is intended to enable DLC, Inc. to gain important visibility into the MLC's operations.

In addition to its representation on the MLC board of directors, DLC, Inc. has also appointed representatives to serve on the MLC's Operations Advisory Committee ("OAC"), pursuant to its statutory obligations under Section 115. This committee is intended to make recommendations to the MLC's board regarding its operations, including investment in and deployment of information technology and resources. DLC, Inc. currently has six representatives serving on the MLC's OAC.¹⁰ Those individuals represent a wide range of DMPs, and have deep expertise with regard to the operational requirements of the mechanical licensing regime. Through its representatives, DLC, Inc. has sought to gain important visibility into the MLC's operations, and has worked to help facilitate discussions between DLC, Inc. and the MLC regarding the implementation of the blanket licensing system.

Similarly, DLC, Inc. has also appointed representatives to serve on the MLC's Budget Performance Advisory Committee ("BPAC"), which committee was devised by the MLC and DLC, Inc. as part of the settlement of the initial Administrative Assessment. This committee is intended to make recommendations to the MLC's board regarding the proposed MLC Budget. DLC, Inc. currently has six representatives serving on the MLC's BPAC. Similar to DLC, Inc.'s OAC representatives, these individuals represent a wide range of DMPs, and have substantial expertise on financial and accounting matters. DLC, Inc.'s representation on the MLC's BPAC is intended to allow DLC, Inc. to gain critical insight into the MLC's budget, and support DLC, Inc.'s efforts to ensure that the MLC is spending the administrative assessment paid by digital music providers as efficiently and effectively as possible.

¹⁰ The full list of individuals currently serving on the MLC's Operations Advisory Committee is available on the MLC's website at: <https://www.themlc.com/committees>.

In addition, DLC, Inc.'s representative on the MLC board has also been appointed to serve on the MLC's new Audit Committee, the purpose of which is to assist the board with oversight of the MLC's financial reporting and external audits of the MLC. DLC, Inc. hopes that this committee participation will allow DLC, Inc. to have further visibility into the MLC's operations, and will help the MLC earn the trust and support of DMPs.

3. Efforts to Enforce Notice and Payment Obligations

Since the negotiation and adoption of the initial administrative assessment, DLC, Inc. has worked with the MLC, to ensure that the MLC has the funding it needs to perform its required functions, and to equitably allocate that funding obligation among its DMP members. With regard to the allocation of the administrative assessment, DLC, Inc. has consulted with a broad array of licensees to ensure that the approach taken strikes the balance between, on the one hand, equitable distribution among those DMPs whose use of the blanket license creates administrative burden for the MLC, and, on the other hand, minimizing the expense and burden to smaller and newer licensees in a market segment with an already-high barrier to entry. Under the current allocation approach, the minimum fee that a given licensee pays toward the MLC's administrative assessment depends on the number of unique sound recordings used and reported by that licensee in Section 115 covered activities during the relevant period. As a result, many smaller services need only pay a flat fee, while larger services are allocated an additional share of assessments beyond the annual minimum fee. DLC, Inc. believes that this approach is both fair and pragmatic, ensuring that a given licensee is not responsible for a larger portion of the administrative assessment than it can reasonably be expected to pay.

DLC, Inc. also regularly examines the allocation methodology to determine whether changes should be made in light of DLC Inc.'s growing membership and the diversity of size

among DMPs. For example, after reviewing the then-current allocation of the administrative assessment, DLC, Inc., together with the MLC, filed a motion with the Copyright Royalty Judges in December 2020 to modify the terms of the implementation of the administrative assessment. That motion was filed, in part, to amend the regulations in order to include a revised method of allocation which provided flat fee rates for smaller licensees and download stores.¹¹ DLC, Inc. has also consistently been a resource to the MLC in connection with the MLC’s enforcement efforts against DMPs who have not met their payment obligations (to the extent that those issues have arisen).

4. DLC, Inc.’s Participation in USCO or CRJ Proceedings

Following its initial designation, DLC, Inc. engaged in extensive negotiations with the MLC to reach an agreement regarding the determination of the administrative assessment, which was subsequently adopted by the CRJs. This approach reflected DLC, Inc.’s vision (which it still strives to achieve) for a collaborative and cooperative relationship in which DMPs partner with the MLC to ensure it has the resources it needs to effectively administer the blanket license, and to minimize the need for contentious and wasteful litigation. In a press release announcing that historic agreement, DLC, Inc. and the MLC described the agreement as a “landmark achievement for every facet of the music industry” that would enable the MLC “to commence operations with the resources necessary to help ensure its success.”¹²

¹¹ See Determination and Allocation of Initial Administrative Assessment To Fund Mechanical Licensing Collective, 86 Fed. Reg. 6568 (Jan. 22, 2021), <https://app.crb.gov/document/download/23723>.

¹² The Mechanical Licensing Collective, Digital Licensee Coordinator Announce Landmark Agreement, (Dec. 14, 2019), <https://blog.themlc.com/press/mechanical-licensing-collective-digital-licensee-coordinator-announce-landmark-agreement>.

Since that initial administrative assessment proceeding, DLC, Inc. has been consistent in its approach to supporting the MLC, having thus far agreed to fund every dollar of what the MLC has said it needs to effectively administer the blanket license (including approximately \$30 million in setup expenses, and additional yearly operating expenses of roughly equivalent amounts)– with the request, in exchange, that the MLC provide increased transparency into how these funds are spent and how they correlate to the MLC’s efficient performance of its statutory functions . DLC, Inc. expects that increased transparency will be required to guide future budget discussions with the MLC and help ensure that there is an appropriate balance between the MLC’s budget and the results that the organization delivers. As discussed above, DLC, Inc. has also successfully worked with digital licensees and significant non-blanket licensees to determine an equitable apportionment of the administrative assessment.

In addition to its successful resolution of the administrative assessment proceedings at the CRB, DLC, Inc. has played a central and leading role in representing DMPs in all of the Copyright Office’s relevant rulemakings. To spearhead its regulatory efforts, DLC, Inc. established the DLC Policy Committee to identify potential issues that require coordination with the MLC or regulatory action. The Policy Committee’s work includes coordinating DLC, Inc.’s responses to proposed Office rulemaking, as well as highlighting points that may require additional clarification and/or further rulemaking. Through extensive public comments and *ex parte* discussions with the Office, DLC, Inc. has informed and helped shape rulemakings concerning critical issues in every aspect of the blanket license system. This includes issues related to the public musical works database, database access and use, and issues related to

ensuring appropriate transparency of the MLC¹³; notices of license, data collection efforts, reports of usage and payment by DMP blanket licensees and related records of use, notices of non-blanket activity and reports of usage by significant non-blanket licensees, as well as data collection efforts by musical work copyright owners¹⁴; the protection of confidential information by the MLC and DLC¹⁵; the applicability of the derivative works exception to termination rights under the Copyright Act¹⁶; the appropriate treatment of public domain works¹⁷; the reporting and

¹³ See DLC, Inc., Comment Letter on Notification of Inquiry Regarding the Transparency of the Mechanical Licensing Collective and Its Database of Musical Works Information (June 8, 2020), <https://www.regulations.gov/comment/COLC-2020-0006-0018>; DLC, Inc., Comment Letter on Notice of Proposed Rulemaking Regarding the Public Musical Works Database and Transparency of the Mechanical Licensing Collective (Oct. 19, 2020), <https://www.regulations.gov/comment/COLC-2020-0006-0027>.

¹⁴ See DLC, Inc., Comment Letter on Notice of Proposed Rulemaking Regarding Music Modernization Act Notices of License, Notices of Nonblanket Activity, Data Collection and Delivery Efforts, and Reports of Usage and Payment (May 22, 2020), <https://www.regulations.gov/comment/COLC-2020-0005-0012>.

¹⁵ See DLC, Inc., Comment Letter on Notice of Proposed Rulemaking Regarding Treatment of Confidential Information by the Mechanical Licensing Collective and Digital Licensee Coordinator (June 8, 2020), <https://www.regulations.gov/comment/COLC-2020-0004-0010>.

¹⁶ See DLC, Inc., Comment Letter on Supplemental Notice of Proposed Rulemaking Regarding Termination Rights, Royalty Distributions, Ownership Transfers, Disputes, and the Music Modernization Act (Nov. 8, 2023), <https://www.regulations.gov/comment/COLC-2022-0004-0078>; DLC, Inc., Reply Comments in Response to Supplemental Notice of Proposed Rulemaking Regarding Termination Rights, Royalty Distributions, Ownership Transfers, Disputes, and the Music Modernization Act (Dec. 5, 2023), <https://www.regulations.gov/comment/COLC-2022-0004-0089>.

¹⁷ See DLC, Inc., *Ex Parte* Letter Regarding November 15 Meeting (Nov. 18, 2021), <https://www.copyright.gov/rulemaking/mma-implementation/ex-parte/digital-licensee-coordinator-9.pdf>; DLC, Inc., *Ex Parte* Letter Regarding November 19 Meeting (Nov. 23, 2021), <https://www.copyright.gov/rulemaking/mma-implementation/ex-parte/digital-licensee-coordinator-10.pdf>.

payment of accrued unmatched royalties¹⁸; and the applicability of late fees¹⁹. Through this participation, DLC, Inc. has ensured that the Copyright Office has the benefit of the DMPs' experience and insights into all of the legal and operational issues implicated by regulatory action in this arena.

5. DLC, Inc. Maintains Comprehensive Records of its Activities

DLC, Inc. understands the importance of ensuring that records are properly created and maintained in connection with its activities, as required by statute. As a result, DLC, Inc. is diligent in its record-keeping and maintenance of records, a function that is centralized in the role of DLC, Inc.'s Director of Operations and Outreach. This includes keeping minutes of all DLC, Inc. Board meetings and Annual Meetings as well as keeping detailed membership records and list-serves to ensure broad participation by multiple individuals within DLC, Inc. member companies. DLC, Inc. also has several procedures in place to ensure that confidential, private, proprietary and/or privileged information is not improperly disclosed or used. For example, DLC, Inc. has established a Code of Conduct and Ethics that DLC, Inc. board members and committee members must sign and renew annually in order to serve in their respective roles. More broadly, DLC, Inc. also requires its members to enter into a confidentiality agreement with the organization that is designed to facilitate and safeguard the exchange of information between

¹⁸ See DLC, Inc., Comment Letter on Notice of Proposed Rulemaking Regarding Music Modernization Act Transition Period Transfer and Reporting of Royalties to the Mechanical Licensing Collective (Aug. 17, 2020)

¹⁹ See DLC, Inc., Comment Letter on Notification of Inquiry Regarding Fees for Late Royalty Payments Under the Music Modernization Act's Blanket Mechanical License (Apr. 10, 2023), <https://www.regulations.gov/comment/COLC-2023-0002-0008>; DLC, Inc., Reply Comments on Notification of Inquiry Regarding Fees for Late Royalty Payments Under the Music Modernization Act's Blanket Mechanical License (May 10, 2023), <https://www.regulations.gov/comment/COLC-2023-0002-0015>.

the organization and its members. Lastly, DLC, Inc. takes steps and implements protocols to ensure that confidential information received from the MLC is protected from improper use and disclosure.

6. DLC, Inc. Has Made Concerted Efforts to Help Publicize the MLC and the Ability of Copyright Owners to Claim Unclaimed Accrued Royalties Through the Collective

As noted above, the digital licensee coordinator has a statutory obligation to “make reasonable, good-faith efforts to assist the [MLC] . . . by encouraging digital music providers to publicize the existence of the collective and the ability of copyright owners to claim unclaimed accrued royalties.”²⁰ As discussed above, DLC, Inc. conducts regular outreach to its membership as well as non-member DMPs about Section 115 and the MLC, through both its website and direct outreach. In addition, DLC, Inc. has developed messaging that DMPs can use for industry education, including in particular, sample language that any DLC, Inc. member or other DMP can display on its website or other platform to drive copyright holders to the MLC’s website. Many DLC, Inc. members including Apple, Amazon, Spotify, YouTube, Audiomack, Napster and Qobuz, have prominently posted the MLC’s contact information on their respective websites.²¹

²⁰ 17 U.S.C §115(d)(5)(C)(iii)

²¹ See *Understanding the Basics of Music Publishing*, APPLE MUSIC FOR ARTISTS, <https://artists.apple.com/support/1116-understanding-the-basics-of-music-publishing>; *FAQs*, AMAZON MUSIC, <https://artists.amazonmusic.com/faqs>; *Performing Rights Organizations and Collecting Societies*, SPOTIFY FOR ARTISTS, <https://support.spotify.com/us/artists/article/performing-rights-organizations-and-collecting-societies>; *What is the Mechanical Licensing Collective (MLC)?*, YOUTUBE, <https://support.google.com/youtube/answer/10192537?hl=en>; *What You Need to Know About the Mechanical Licensing Collective (MLC) & Getting Paid*,

Beginning in October 2020, DLC, Inc. also engaged in a direct email campaign to DMPs relaying important information ahead of and following the January 1, 2021 License Availability Date. In addition to sharing relevant dates, deadlines, and resources, DLC, Inc. used that campaign to publicize the MLC’s education efforts and rollout of data management tools. And, in late 2020 and early 2021, DLC, Inc. hosted “open Q&A” webinars and invited DMPs to attend and receive answers to their questions regarding the Section 115 blanket license, the MLC administrative assessment allocation system, and DLC, Inc. membership. Finally executives from DLC, Inc., as well as its individual member companies, regularly participated in industry panels to explain the Section 115 license and MLC’s operations to all stakeholders—digital services, rightsholders, and creators.

IV. Conclusion

Digital Licensee Coordinator, Inc. appreciates the opportunity to submit this Proposal for redesignation as the digital licensee coordinator and hopes to be able to continue its efforts to coordinate activities on behalf of licensees, and assist in the implementation of the blanket licensing system under the MMA.

Respectfully submitted,
/s/ Allison L. Stillman

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AUDIOMACK, <https://audiomack.com/world/post/mlc>; *The Mechanical Licensing Collective*,
NAPSTER, <https://www.napster.com/us/artists/>; *Copyright Policy*, QOBUZ,
<https://www.qobuz.com/us-en/copyright-policy>.

Sarang Vijay Damle
LATHAM & WATKINS LLP
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Washington, D.C. 20004

*Counsel for Digital Licensee Coordinator,
Inc.*

Dated: April 1, 2024.

EXHIBIT A

Delaware

Page 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "DIGITAL LICENSEE COORDINATOR, INC.", FILED IN THIS OFFICE ON THE TWENTIETH DAY OF MARCH, A.D. 2019, AT 1:13 O`CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.




Jeffrey W. Bullock, Secretary of State

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Authentication: 202481131
Date: 03-20-19

You may verify this certificate online at corp.delaware.gov/authver.shtml

CERTIFICATE OF INCORPORATION OF DIGITAL LICENSEE COORDINATOR, INC.

The undersigned, a natural person acting as incorporator of a corporation under the Delaware General Corporation Law (“DGCL”), adopts the following certificate of incorporation for such corporation:

FIRST: The name of the corporation, hereinafter referred to as the “Corporation” is “Digital Licensee Coordinator, Inc.”

SECOND: The street address and initial registered office in the state of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle 19801, and the name of the registered agent at such address is The Corporation Trust Company.

THIRD: The period of duration of the Corporation is perpetual.

FOURTH: The Corporation shall be an exempt corporation. This Corporation is organized exclusively as a business league under section 501(c)(6) of the Internal Revenue Code of 1986, as amended as of the date hereof or the corresponding section of any future federal tax code (the “Code”). To the extent consistent with that limitation, the Corporation may engage in any lawful act or activity for which corporations may be organized under the Delaware General Corporation Law.

FIFTH: The Corporation is not organized for profit and shall not have any capital stock.

SIXTH: Any conditions of membership of this Corporation shall be stated in the By-Laws.

SEVENTH: No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its members, trustees, directors, officers or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article FOURTH hereof. Notwithstanding any other provision of this Certificate of Incorporation, the Corporation shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under section 501(c)(6) of the Code.

EIGHTH: Upon the dissolution of this Corporation, assets shall be distributed for one or more exempt purposes within the meaning of sections 501(c)(6) or 501(c)(3) of the Code or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of this Corporation is then located, exclusively for such purposes or to such organization or organizations, as such court shall determine, which are organized and operated exclusively for such purposes.

NINETH: To the fullest extent permitted by the Delaware General Corporation Law, as now in effect or as may hereafter be amended, no member, director, officer or agent of (i) the Corporation or (ii) a member of the Corporation shall be personally liable to the Corporation or to its members for monetary

damages for any breach of fiduciary duty as a member, director or officer; provided, however, that such relief from liability shall not be applied in any instance where such relief is inconsistent with any provision of the Code applicable to corporations described in section 501(c)(6) of the Code.

TENTH: The name and address of the initial incorporator is as follows:

Allison Stillman
Mayer Brown LLP
1221 Avenue of the Americas
New York, New York 10020

IN WITNESS WHEREOF, this Certificate of Incorporation has been subscribed as of this 20th day of March 2019, by the undersigned who affirms that the statements made in this Certificate of Incorporation are true and correct.



Incorporator – Allison Stillman

EXHIBIT B

2024
BY-LAWS
OF
DIGITAL LICENSEE COORDINATOR, INC.
(a Delaware Non-Stock, Non-Profit Organization)

ARTICLE I.

Membership

Section 1. Eligibility and Election.

(a) Any Person who has filed a Notice of License of Notice of Nonblanket Activity with the MLC, as those terms are defined in Section 115(e) of the United States Copyright Act (17 U.S.C. § 115(e)), shall be eligible to become a Member of Digital Licensee Coordinator, Inc. (“DLC Inc.”).

(b) DLC, Inc. shall have three classes of Members: Principal Members, Charter Members and General Members.

(c) Except as otherwise expressly provided in these By-Laws, no Member shall, in its capacity as a Member, hold different rights, preferences, privileges or obligations than any other Member by virtue of its class of membership.

(d) Any Person that desires to be a Member may apply for membership by submitting to DLC, Inc. a completed written application using the form for such application as specified by the Board of DLC, Inc. to be elected as a Member. Such application shall be submitted to the Executive Committee, or, if there is no Executive Committee, the Board for approval. Upon the submission of an application for membership, the Executive Committee or, if there is no Executive

Committee, the Board, shall promptly take action to approve or deny the application for membership and notify the applying Person of its decision. Upon approval of the application, the applicant shall become a General Member.

(e) A “Qualified General Member,” as that term is defined herein, may apply to become a Charter Member. Such application, demonstrating that the Member meets the criteria as a Qualified General Member and agrees to pay dues assessed against Charter Members, shall be submitted to the Executive Committee, or, if there is no Executive Committee, the Board for approval (such approval not to be unreasonably withheld).

(f) The following terms, as used in these By-Laws, shall have the following meanings:

(i) “Affiliated” means an individual who is an officer, director, manager, proprietor, partner or employee, trustee or beneficiary of a Member.

(ii) “Business Day” means any day other than a Saturday, a Sunday or a legal holiday on which commercial banking institutions in Delaware are authorized to close for business.

(iii) “Charter Member” means the Principal Members and any Qualified General Members that become Charter Members.

(iv) “Covered Activity” shall have the meaning set forth in 17 U.S.C. § 115(e)(7).

(v) “DGCL” means the Delaware General Corporation Law.

(vi) “Founding Members” means the following entities: Spotify USA Inc.; Pandora Media, LLC.; Amazon Digital Services LLC; Google LLC; and Apple Inc.

(vii) “General Member” means any Member that is not a Charter Member.

(viii) “Good Corporate Citizenship” means adhering to the mission, ethics, qualifications, and applicable standards of DLC, Inc., as approved from time to time by the Board.

(ix) “Member” means any Person which meets the eligibility requirements, applies for membership and is approved as a member pursuant to Article I, Section 1.

(x) “Person” means an individual, corporation, partnership (including a general partnership, limited partnership or limited liability partnership), limited liability company, association, trust or other entity or organization.

(xi) “Principal Members” means, from the time these By-Laws are adopted through the end of calendar year 2023, the Founding Members. Beginning January 1, 2024, “Principal Members” shall mean the Founding Members and any other Charter Member that, among all the Members, has one of the five highest stream counts (measuring streams of musical works pursuant to Covered Activities) during the preceding two (2) calendar years. The determination of which Charter Members qualify as “Principal Members” shall be made on January 1, 2024 and every two years thereafter. Beginning January 1, 2024, “Principal Members” shall not include any Founding Member that no longer operates a service using musical works pursuant to Covered Activities, or any Founding Member that voluntarily changes its status from Principal Member to Charter Member or Member, by providing written notice to the Chair of the Board.

(xii) “Qualified General Member” means any General Member who has consistently demonstrated Good Corporate Citizenship during a 2-year period, as determined by the Board in its sole discretion. Any Qualified General Member shall cease being a Qualified General Member in the event of a break in its membership (in which case the period restarts) or no longer demonstrates Good Corporate Citizenship, as determined by the Board in its sole discretion.

Section 2. Representation of Members.

(a) A Member that is a partnership, limited liability company, corporation, or other entity or organization shall only be entitled to act at any meeting of DLC, Inc. by one of its duly authorized officers, directors, general partners, managers or other comparable authorized Person.

(b) Any Person claiming the right to vote on behalf of any Member may be required, as a condition of voting, to furnish such evidence of his/her authorization as may be specified in reasonable rules adopted from time to time by the Board at least ten (10) Business Days before the meeting or adjourned meeting to which such rules shall apply.

Section 3. Voting.

(a) With respect to any matter to be voted on by Members, except as otherwise provided by these By-Laws or by applicable law, each Member shall each have one (1) vote.

(b) Reasonable rules and regulations for implementation of the foregoing provisions established by the Board from time to time shall be binding on all Members.

(c) The following extraordinary corporate transactions will require the vote of Members holding not less than 2/3rds of the voting power from each of the Charter Members and the General Members at a meeting at which a quorum is present: (i) any proposed amendment of DLC, Inc.'s Certificate of Incorporation, (ii) a change of DLC's corporate mission, (iii) the creation of new categories of membership, (iv) initiating litigation against a digital service provider or initiating a proceeding before the Copyright Royalty Board to determine the administrative assessment, as authorized by 15 U.S.C. § 115, or (v) the liquidation or dissolution of DLC, Inc. All other matters (if any) before the members shall require a majority vote of the Members.

Section 4. Dues and Special Assessments.

(a) Each year, the Chair of the Board shall propose the annual dues in the aggregate payable by all of the Charter Members as a percentage of that year's operating budget. The Board

shall accept the Chair of the Board's proposal, or modify it as the Board determines is necessary, and approve the annual dues in the aggregate payable by all of the Charter Members. The aggregate dues payable by the Charter Members shall not be less than 60% of that year's operating budget, and shall be paid by the Charter Members in equal shares.

(b) Each year, the Chair of the Board shall propose the annual dues in the aggregate payable by all of the General Members as a percentage of the current year's operating budget. The Board shall accept the Chair of the Board's proposal, or modify it as the Board determines is necessary, and approve the annual dues in the aggregate payable by all of the General Members. The aggregate dues payable by the General Members shall not be more than 40% of that year's operating budget, and shall be paid by the General Members in equal shares, or according to an alternative equitable allocation as may be determined by the General Members.

(c) DLC, Inc. shall send an invoice for dues covering a seventh month period in 2021 to each Member on or about May 1, 2021 with payment due within thirty (30) days after receipt of such invoice. Beginning in 2022 and continuing every year thereafter, the fiscal year of DLC, Inc. shall be January 1 through December 31 and the dues for each year shall be invoiced on or about December 1 of the prior year with payment due within thirty (30) days after receipt of such invoice, with the first such invoice sent to each Member on or about December 1, 2021. The dues for the fiscal year of DLC, Inc. in which a Member is elected to Membership shall be payable within thirty (30) days after written notice of election is sent to such Member and such Member is invoiced for its dues.

(d) The Board may, in its sole and absolute discretion, impose special assessments to the extent (i) amounts received by DLC, Inc. from dues paid for that fiscal year are insufficient to fund any particular activity undertaken on behalf of digital licensees to improve business

conditions of the digital music industry and in furtherance of DLC, Inc.'s authorities and functions as described in 17 U.S.C. § 115(d)(5)(C) and (d)(6), and (ii) reasonably necessary to fund the costs of proceedings by DLC, Inc. with the United States Copyright Royalty Board and/or the United States Copyright Office, and/or any federal court action to enforce obligations of any Significant Nonblanket Licensee; provided, that any such special assessments shall be allocated between the Charter Members and General Members in accordance with the allocation requirements for annual dues set forth in Article I, Section 4(a) and (b.)

Section 5. Resignations; Change of Status.

Any Member in good standing may resign at any time from membership in DLC, Inc., or may change the status of its membership from Charter Member to General Member, by giving written notice to the Chair of the Board or to the Secretary of DLC, Inc.; provided, that no such Member or Charter Member shall receive a refund of any dues paid for the then current year. Such resignation or change of status shall take effect at the time specified therein and unless otherwise specified therein, the acceptance of such resignation or change of status shall not be necessary to make it effective.

Section 6. Nonpayment of Dues.

If any Member shall default in the payment of dues when due, said Member shall not be entitled to take part in any of the activities of DLC, Inc., to vote at any meeting of its Members and, in the case of Charter Members, to appoint a director to the Board, unless the Board determines otherwise and/or until such dues have been paid. During the period in which any Charter Member is in default in the payment of dues, any previously-appointed director of the Board Affiliated with such defaulting Charter Member shall not be entitled to vote. Furthermore, the Board may at its option expel such Member whose dues are more than thirty (30) days overdue from DLC, Inc.

Section 7. Suspension or Expulsion for Cause.

Any complaint against any Member by reason of the alleged violation of any of the provisions of these By-Laws or any duly adopted rules or regulations of DLC, Inc. in any material respect shall be investigated by the Board at a meeting called for that purpose, and if said Member shall have been found to have violated any provisions of these By-Laws or rules or regulations of DLC, Inc. in any material respect, the Board may suspend such Member from DLC, Inc. for a limited period of time, as determined by the Board to be fair and equitable in light of the nature of such violation, or in its discretion expel such Member from DLC, Inc. The issuance of a notice of default and termination by the MLC shall not, in and of itself, be grounds for termination until all legal actions challenging such termination are exhausted and such termination is final..

ARTICLE II.

Meetings of Members

Section 1. Annual Meeting.

An annual meeting of the Members of DLC, Inc. shall be held at such place as may be fixed in the notice or waiver of notice thereof, at such hour and on such business day as determined by the Board and designated in the notice or waiver of notice thereof, for the purpose of the transaction of any business as may properly be brought before the meeting.

Section 2. Special Meetings.

A special meeting of the Members of DLC, Inc. may be called at any time by the Chair of the Board or by the Board.

Section 3. Notice of Meetings; Participation by Conference Telephone.

(a) Except as hereinafter in this Section provided, or as may be otherwise required by law, written notice of the time and place of holding each annual or special meeting of the Members of DLC, Inc. shall be delivered in accordance with the requirements of the DGCL not less than ten

(10) nor more than sixty (60) days before such meeting, to each Member entitled to vote at such meeting. If mailed, it shall be deposited in the mail within the above mentioned period and directed to such Member at his/her address as it appears in the records of DLC, Inc., unless he/she shall have filed with the Secretary of DLC, Inc. a written request that notices to him/her be mailed to some other address, in which case it shall be directed to him/her at such other address. If transmitted electronically, such notice is given when directed to the Member's electronic mail address as supplied by the Member to the Secretary of DLC, Inc. or as otherwise directed pursuant to the Member's authorization or instructions. Notice of any meeting shall state the number of votes the Member to whom such notice is sent is entitled to cast at such meeting and the aggregate number of votes entitled to be cast at such meeting by all Members. The notice of each special meeting shall state the time and place of such meeting and shall state briefly the purpose or purposes thereof, and no business other than that specified in such notice or germane thereto shall be transacted at the meeting except with the unanimous consent in writing of every Member entitled to vote at such meeting.

(b) Notice of any meeting of Members shall not be required to be given to any Member who shall attend such meeting in person or by proxy or who shall waive notice thereof in accordance with the requirements of the DGCL whether before or after such meeting is held. Notice of any adjourned meeting need not be given if the time and place to which the meeting shall be adjourned were announced at the meeting at which the adjournment is taken.

(c) One or more Persons may participate in a meeting of the Members by means of conference telephone or similar communications equipment. DLC, Inc. shall implement reasonable measures to provide such Persons a reasonable opportunity to participate in such a meeting and to vote, including an opportunity to read or hear the proceedings of the meeting

substantially concurrently with such proceedings. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

Section 4. Place of Meeting.

Every meeting of the Members of DLC, Inc. shall be held at such place as shall be specified or fixed in a notice thereof.

Section 5. Quorum.

At all meetings of the Members of DLC, Inc., except as otherwise required by law, that number of the Members who in the aggregate represent a majority of the total number of votes entitled to be cast at the meeting, shall constitute a quorum for the transaction of business. In the absence of a quorum, the meeting shall be adjourned from time to time until a quorum is obtained. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

Section 6. Organization.

At every meeting of the Members of DLC, Inc., the Chair of the Board shall be present. The Secretary, or in his/her absence the Assistant Secretary, shall act as Secretary of the meeting. In case none of the officers above designated to act as Chair or Secretary of the meeting, respectively, shall be present, a Chair or a Secretary of the meeting, as the case may be, shall be chosen by a majority of the votes cast.

Section 7. Voting.

The vote of Members entitled to vote may be given by the Member entitled thereto in person or by proxy duly attended by an instrument in writing subscribed by such Member or by his/her attorney thereunto duly authorized and delivered to the Secretary of the meeting, provided, however, that no proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless the Member executing it shall have specified therein the length of time it is to

continue in force, which shall be for a period therein limited. At all meetings of the Members, a quorum being present, all matters, except as otherwise required by applicable law or the By-Laws, shall be decided by a majority of the number of votes cast.

Section 8. Action Without a Meeting.

Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing setting forth the actions so taken shall be signed by the Members having not less than the minimum number of votes otherwise required to authorize or take such action, filed with the Secretary of DLC, Inc. and, if not signed by all of the Members, notice of such action is promptly given to the Members that did not consent to such action. The consent may be written, signed and dated in any manner authorized by applicable law.

ARTICLE III.

Board of Directors

Section 1. General Powers, Duties and Number of Directors.

The entire charge and control of DLC, Inc. and its affairs, funds and property shall be vested in a Board of Directors equal to the number of Charter Members, plus one (1) additional Director as provided in these By-Laws. The Board shall have charge, control and management of the affairs, property and funds of DLC, Inc. and shall have the power and authority to do and perform all acts and functions not inconsistent with these By-Laws, the Certificate of Incorporation and applicable law, in each case, as amended from time to time.

Section 2. Qualifications and Term of Office.

(a) Each Director shall be Affiliated with a Charter Member of DLC, Inc., except that one (1) additional Director, who shall serve as a non-voting member of the Board, shall be the Chief Executive Officer of the Digital Media Association.

(b) Each Director shall serve for such term as is determined by his or her respective Affiliated Member, except that the Director who is the Chief Executive Officer of the Digital Media Association shall serve unless and until the Board determines, by a majority vote in accordance with these By-Laws, that such Director is no longer appropriate or necessary. If any vacancy pertaining to a Director Affiliated with a Charter Member of DLC, Inc. exists on the Board by reason of death, resignation, removal, or otherwise, the respective Affiliated Member shall elect or appoint a replacement Director for the unexpired term of his or her predecessor in office.

Section 3. Appointment or Election of Directors.

Each Charter Member shall be entitled to appoint one (1) Director to the Board, by providing written notice to the Chair of the Board.

Section 4. Resignations.

(a) Any Director of DLC, Inc. shall immediately cease to be a Director if such Director ceases to be Affiliated with the Member with which he/she was Affiliated at the time of his/her appointment as Director, or if the Member with which he/she was Affiliated at the time of his/her appointment as Director ceases to be a Charter Member.

(b) Any Director of DLC, Inc. may resign at any time by giving written notice to the Chair of the Board or to the Secretary of DLC, Inc. Such resignation shall take effect at the time specified therein and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Removal of Directors.

Any Director shall be removed if such Director has been absent (without an appropriate explanation) from four (4) consecutive regular meetings of the Board. A Director may also be removed by his or her Affiliated Member upon written notice to the Chair of the Board, or, in the

case of the Director representing the Digital Media Association, as otherwise in accordance with these By-Laws.

Section 6. Annual Meeting.

After each annual meeting of Members, the Board shall meet at the next designated, scheduled meeting of the Board for the purpose of organization, election of officers and the transaction of other business. Notice of such meeting need not be given. Such meeting may be held at any other time which shall be specified in a notice given as hereinafter provided for special meetings of the Board, or in a consent and waiver of notice thereof signed by all of the Directors.

Section 7. Regular Meetings.

Regular meetings of the Board shall be held four (4) times each year. If any day fixed for a regular meeting shall be a legal holiday at the place where the meeting is to be held, then the meeting which would otherwise be held on that day shall be held at the same hour on the next succeeding Business Day. Notice of regular meetings of the Board need not be given except as otherwise required by applicable law or these By-Laws.

Section 8. Special Meetings.

Special meetings of the Board shall be held whenever called by the Chair of the Board or by any two (2) of the Directors in good standing. Notice of the time and place, which may be within or without the State of Delaware, and purpose of each such meeting shall be given to each Director in accordance with the requirements of the DGCL, but in any event at least two (2) Business Days before the day on which the meeting is scheduled to be held. No business except that of which notice shall have been given in the call therefor shall be transacted at any such special meeting.

Section 9. Waiver of Notice of Meeting.

Notice of any meeting of the Board need not be given to any Director if such notice shall be waived by him/her in writing whether before or after such meeting is held, or if he/she shall be present at the meeting, and any meeting of the Board shall be a legal meeting without any notice having been given or regardless of the giving of any notice or the adoption of any resolution in reference thereto if all the Directors shall be present thereat or shall have so waived notice thereof.

Section 10. Quorum.

A majority of the total number of Directors entitled to vote which DLC, Inc. would have then serving if there were no vacancies, shall constitute a quorum for the transaction of business at any meeting of the Board. In the absence of a quorum the majority of the Directors present at any meeting may adjourn such meeting from time to time until a quorum is present.

Section 11. Action by the Board.

(a) The act of a majority of Directors entitled to vote, including at least 3 Directors Affiliated with a Principal Member, at a meeting at which a quorum is present shall be necessary and sufficient to take any action by the Board, except as otherwise required by applicable law or these By-Laws. Members of the Board may participate in any meeting of the Board by means of conference telephone or other communications equipment by means of which all individuals participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting. Any Director may designate a proxy to attend any meeting of the Board or, except in the case of the Director representing the Digital Media Association, may vote by proxy on any action to be taken by the Board, provided that the proxy is Affiliated with the DLC Charter Member with whom the Director is Affiliated, or, in the case of the Director representing the Digital Media Association, is Affiliated with the Digital Media Association, and provided that any proxy is designated in advance and otherwise in accordance with these By-Laws.

(b) Unless otherwise restricted by the Certificate of Incorporation or By-Laws of DLC, Inc., any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting if a majority of the voting members of the Board or committee, as the case may be, consent thereto in writing, or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board, or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 12. Compensation.

No Director of DLC, Inc. shall receive, directly or indirectly, any salary, compensation or emolument from DLC, Inc. as a Director or in any other capacity unless authorized by the concurring vote of two-thirds ($\frac{2}{3}$) of all the Directors, including all of the Directors appointed by the Principal Members.

ARTICLE IV.

Executive Committee and Other Committees

Section 1. Executive Committee.

In the event that the number of individuals serving on the Board exceeds nine (9), the Board shall form an Executive Committee which shall consist of the Chair of the Board, Treasurer Secretary, and two other Directors. Of those five (5) members of the Executive Committee, at least three (3) shall be Directors Affiliated with Principal Members. Except as otherwise provided for in the DGCL or these By-Laws, the Board may authorize and empower the Executive Committee to have and to exercise any and all powers of the Board in the management of the business and affairs of DLC, Inc. The Chair of the Board or, in the absence of the Chair of the

Board, one of the members of the Executive Committee designated by the Committee, shall preside at all meetings of the Executive Committee.

Section 2. Other Committees.

The Board may appoint, from among the members of the Board or from among any duly-authorized representatives of the members of the Board, other committees, with such number of members, and with such authority and power as appropriate for such committees, as determined by the Board.

Section 3. Powers and Action.

In addition to the limitations set forth in Section 1 of this Article, no committee designated by the Board pursuant to this Article shall have the power to select its members or the power to fill vacancies in it or the Board nor to (i) approve, amend or terminate any operating budget nor (ii) commence, join in, or settle any claim, action, suit or proceeding with the Copyright Royalty Board, the Mechanical Licensing Collective, the Copyright Office, any Significant Nonblanket Licensee, or otherwise nor (iii) make any decisions relating directly and indirectly to public relations. A majority of any such committee shall constitute a quorum for the transaction of business, and any action taken by a majority of the members of such committee present at a meeting at which a quorum is present shall constitute the act of such committee. Members of any such committee may participate in any meeting thereof by means of conference telephone or similar communications equipment by means of which all individuals participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting.

ARTICLE V.

Officers

Section 1. Number.

The officers of DLC, Inc. shall be a Chair of the Board, Secretary and Treasurer and such other officers as the Board may determine (who may be designated by the Board by descriptive words or phrases to indicate areas of special competence or for purposes of identification).

Section 2. Election: Term of Office: Qualification.

The initial officers of DLC, Inc. shall be appointed by the Board at the time the By-Laws are adopted, or as soon thereafter as practicable. The Chair of the Board, Secretary and Treasurer shall be members of the Board of Directors. The Chair of the Board shall be Affiliated with a Principal Member. Other officers of DLC, Inc. are not required to be Directors of DLC, Inc., and, unless Affiliated with a Charter Member, shall not be members of the Executive Committee of DLC, Inc. The Chair of the Board shall hold their office until they resign or until they have been removed in the manner hereinafter provided, at which time the office will rotate via the alphabetical order of Principal Members on the Board of Directors, with the alphabetical order beginning again after it is exhausted. Two other initial officers of the DLC, Inc., separate from the Chair of the Board, shall serve as the Secretary and Treasurer of the Board. The Secretary and Treasurer shall also hold their respective offices until they resign or until they have been removed in the manner hereinafter provided, at which time the office will rotate via the alphabetical order of members of the Board of Directors, with the alphabetical order beginning again after it is exhausted. At no time shall any Member have more than one officer of DLC, Inc. To the extent the appointment of an officer pursuant to alphabetical order as outlined above would result in the same member of the Board of Directors holding more than one office, the alphabetical order will proceed to the next Member.

Section 3. Removal.

Any officer, agent or employee of DLC, Inc. may be removed either with or without cause by a majority of the Board.

Section 4. Resignations.

Any officer may resign at any time by giving written notice to the Board, or to the Chair of the Board or to the Secretary of DLC, Inc. Any such resignation shall take effect at the time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies.

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled for the unexpired portion of the term in the manner described in these By-Laws for the regular election to such office or as otherwise permitted by applicable law.

Section 6. Powers and Duties of the Chair of the Board.

The Chair of the Board shall, if present, preside at all meetings of the Members of DLC, Inc., of the Board and, if applicable, of the Executive Committee. He/she may sign and execute in the name of DLC, Inc. deeds, mortgages, bonds, contracts and other instruments, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by the By-Laws to some other officer or agent of DLC, Inc., or shall be required by law otherwise to be signed or executed; and, in general, he/she shall be vested with all the powers necessary for the carrying on of the business and the promotion of the objects, purposes and welfare of DLC, Inc. and shall perform all duties incident to the office of Chair of the Board and such other duties as from time to time may be assigned to him/her by the Board.

Section 7. Powers and Duties of the Treasurer.

(a) The Treasurer shall have charge and custody of and be responsible for all funds and securities of DLC, Inc., and shall deposit all such funds in the name of, and to the credit of DLC, Inc., in such banks, trust companies or other depositories as shall be designated by the Board. The Treasurer shall regularly enter or cause to be entered in books to be kept by him/her or under his/her direction, for this purpose a full and adequate account of all moneys received and paid by him/her for the account of DLC, Inc., and in accounting for the receipt and expenditure of funds will specify funds received and expended pursuant to special assessments as opposed to annual dues. The Treasurer shall exhibit his/her books of account and records to any of the Directors of DLC, Inc. at any time upon request at the office of DLC, Inc. where such books and records are kept, and shall render a detailed statement of his/her accounts and records to the Board as often as it shall require the same; and, in general, shall perform all other duties incident to the office of Treasurer, and such other duties as from time to time may be assigned to him/her by the Board.

(b) The Treasurer shall prepare an annual operating budget, which shall be consistent with any operating plan or financial plan adopted or approved by the Board and then in effect. The Treasurer shall also prepare a litigation budget and/or extraordinary litigation budget when requested by the Board.

Section 8. Powers and Duties of the Secretary.

The Secretary shall attend all meetings of the Members of DLC, Inc. and the Board and of all committees, and shall keep correct minutes of the proceedings of such meetings, and shall make all such minutes available to any Member who wishes to review such minutes. The Secretary shall see that all notices are duly given in accordance with the provisions of these By-Laws and as required by law. The Secretary shall keep a register of the post-office address of each Member and shall make proper changes in such register. The Secretary shall see that the books, reports,

statements, certificates and all other documents and records required by law are properly kept and filed and, in general, shall perform all the duties incident to the office of Secretary and such other duties as may from time to time be assigned to him/her by the Board.

The Secretary may designate a representative, who is either another Director of DLC, Inc. or is outside counsel to DLC, Inc., to perform any of the functions of the Secretary under the Secretary's direction and supervision.

Section 9. Assistant Secretaries and Assistant Treasurers.

Assistant Secretaries and Assistant Treasurers (if any) shall perform such duties as shall be assigned to them by the Secretary or by the Treasurer, respectively, or by the Board or the Chair of the Board.

Section 10. Executive Director.

(a) The Board may hire or otherwise contract for an Executive Director to oversee the daily operations of DLC, Inc. Subject to the supervision of the Board, the Executive Director shall perform all duties customary to that office and as prescribed by the Board and shall supervise and control affairs of DLC, Inc. in accordance with policies and directives approved by the Board. The Executive Director shall serve as an ex officio non-voting member of the Board and, if applicable, the Executive Committee. The Executive Director may engage (and terminate the engagement of) agents and, if any, employees who shall have such authority and perform such duties as may be prescribed by the Executive Director, subject to approval of the Board.

Section 11. Representative of Corporation to Serve on MLC Board.

DLC, Inc. shall appoint a representative to serve as a non-voting member of the board of directors of the mechanical licensing collective, consistent with its authority under 17 U.S.C.

§115(d)(3)(D)(IV). Such representative may or may not be an officer, director, or employee of DLC, Inc.

Section 12. Salaries.

The salary, if any, of any officer of DLC, Inc. shall be fixed by the Board.

ARTICLE VI.

Reliance; Limitation on Liability; Indemnification

Section 1. Reliance.

In performing his or her duties, each Director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following: (a) one or more officers or employees of DLC, Inc. whom the Director reasonably believes to be reliable and competent in the matters presented; (b) counsel, public accountants or other Persons as to matters which the Director reasonably believes to be within the professional or expert competence of such Persons; and (c) a committee of the Board of DLC, Inc. upon which the Director does not serve, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.

Section 2. Limitation on Liability.

Neither the Members nor any Director of DLC, Inc. shall be personally liable for monetary damages for any action taken, or any failure to take any action, provided however, that this provision shall not eliminate or limit the liability of any Member or any Director to the extent that such elimination or limitation of liability is expressly prohibited by applicable law, as in effect at the time of the alleged action or failure to take action by such Member or Director.

Section 3. Preservation of Rights.

Any repeal or modification of this Article VI shall not adversely affect any right or protection existing at the time of such repeal or modification to which any Member, Director or former Member or Director may be entitled under this Article VI. The rights conferred by this Article VI shall continue as to any Person who has ceased to be a Member or a Director of DLC, Inc. and shall inure to the benefit of the successors, heirs, executors, and administrators of such Person.

Section 4. Indemnification.

(a) DLC, Inc. shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he/she is or was a Director or officer of DLC, Inc., or is or was serving any corporation or any partnership, joint venture, trust or other enterprise, in any capacity at the request of DLC, Inc., to the fullest extent and in the manner set forth in and permitted by the DGCL, as from time to time in effect. Such right of indemnification shall not be deemed exclusive of any other rights to which such Director or officer may be entitled apart from the foregoing provisions.

(b) DLC, Inc. shall pay expenses (including attorneys' fees) incurred by a Director or officer of DLC, Inc. referred to in Section 4(a) of this Article VI in defending or appearing as a witness in any civil or criminal action, suit or proceeding described in Section 4(a) of this Article VI in advance of the final disposition of such action, suit or proceeding. The expenses incurred by such Director or officer shall be paid by DLC, Inc. in advance of the final disposition of such action, suit or proceeding only upon receipt of an undertaking by or on behalf of such Director or officer to repay all amounts advanced if it shall ultimately be determined that the Director or officer is not entitled to be indemnified by DLC, Inc.

(c) The foregoing provisions of this Article VI shall be deemed to be a contract between DLC, Inc. and each Director and officer who serves or served in such capacity at any time while this Article VI and the relevant provisions of the DGCL, if any, are in effect, and, except to the extent otherwise required by law, any repeal or modification thereof shall not affect any rights or obligations then existing or thereafter arising with respect to any state of facts then or theretofore existing or thereafter arising or any action, suit or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.

(d) The Board in its discretion shall have power on behalf of DLC, Inc. to indemnify any Person, other than a Director or officer, made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he/she is or was an employee of DLC, Inc.

(e) The Board in its discretion shall have the power to purchase and maintain insurance in accordance with, and subject to, the provisions of DGCL.

ARTICLE VII.

Contracts, Checks, Drafts, Bank Accounts, Etc.

Section 1. Execution of Contracts.

The Board may authorize any officer or officers, agent or agents, in the name of and on behalf of DLC, Inc., to enter into any contract or execute and deliver any instrument, and such authority may be granted or confined to special instances, and unless so authorized by the Board or expressly authorized by these By-Laws, no officer or agent or employee shall have any power or authority to bind DLC, Inc. by any contract or engagement, or to pledge its credit, or to render it liable for any purpose or in any amount.

Section 2. Checks, Drafts, Etc.

All checks, drafts and other orders for the payment of money out of the funds of DLC, Inc., and all notes or other evidences of indebtedness of DLC, Inc., shall be signed on behalf of DLC, Inc. in such manner as shall from time to time be determined by resolution of the Board.

Section 3. Deposits.

All funds of DLC, Inc. not otherwise employed shall be deposited from time to time to the credit of DLC, Inc. in such banks, trust companies or other depositaries as the Board may select or as may be selected by any officer or officers, agent or agents of DLC, Inc. to whom such power may from time to time be delegated by the Board, and for the purpose of such deposit. The Chair of the Board, the Treasurer, the Secretary, or any officer, agent or employee of DLC, Inc. to whom such power may be delegated by the Board, may endorse and deliver checks, drafts and other orders for the payment of money which are payable to the order of DLC, Inc.

ARTICLE VIII.

Uncertificated Membership

Unless otherwise approved by the Board, membership in DLC, Inc. shall be uncertificated.

ARTICLE IX.

Amendments

These By-Laws, or any of them, may be altered, amended or repealed, or new By-Laws may be adopted by the Board at any regular or special meeting of the Board by an affirmative vote of any majority of the Board that includes all Directors Affiliated with Principal Members.