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LATHAM&WATKINS LLP

July 8, 2020

VIA EMAIL

Regan Smith
General Counsel and Associate Register of Copyrights
U.S. Copyright Office
101 Independence Ave. SE
Washington, D.C. 20559-6000
regans@copyright.gov

Re: DLC's Response to the Copyright Office's Request for Updated Regulatory Language Regarding Audio Links

Dear Ms. Smith,

I write on behalf of Digital Licensee Coordinator, Inc. ("DLC") following up on the *ex parte* call held on June 19, 2020, during which the Office invited participants to submit updated proposed regulatory language and an accompanying explanation, with respect to what the Office has called the "audio link" issue—*i.e.,* the MLC's request that digital music providers report "links" that would allow the MLC to develop an embedded player that can be used to listen to audio from all digital music providers.

We believe that the Office has appropriately addressed this issue in the notice of proposed rulemaking, and that no further amendment to the proposed rule is necessary. Specifically, the Office proposed requiring digital music providers to report unique DMP identifiers, which, for the largest services, can be used to listen to a particular track on the DMP's consumer facing service.[1] After our *ex parte* meeting, the MLC asked for additional detail regarding how the MLC and users of the MLC's unclaimed royalty portal can use the unique DMP identifiers to get access to audio on the DMPs' services. We provided to the MLC detailed directions, together with information about any limitations. We have attached that document as an addendum to this letter. In many instances, access to the webpage on a service can be obtained via a simple conversion of the unique identifier into URL. In those instances, the MLC—which is building the unclaimed royalty claiming portal—should easily be able to add functionality to convert the unique DMP identifier into a clickable URL on the portal.

As DLC has repeatedly emphasized, the use of unique DMP identifiers to search for audio is an operationally straightforward, low-cost solution that will provide visitors to the MLC's

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[1] 85 Fed. Reg. 22,518, 22,530-31 (Apr. 22, 2020).

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claiming portal with significant access to audio. Indeed, DLC is not aware of any claiming portal that currently offers this level of functionality; notably, SoundExchange's claiming portal does not allow users to listen to audio. Far from being evidence of an unwillingness by DLC members to work towards improvements in the mechanical licensing system, this solution would be a significant advancement over the status quo; one that will allow for gathering of real-world usage data and a far more refined understanding of the value of audio access in reducing the level of unmatched and/or unclaimed works.

DLC remains firmly of the belief that additional conversations on this topic are best conducted through the statutorily-created Operations Advisory Committee (OAC) of the MLC, rather than through regulatory mandates of unclear impact. The OAC presents the ideal forum for thoughtful and collaborative assessment of the performance of the existing solution and consideration of other potential efforts. After the *ex parte* meeting with the Office, a representative of the DLC reached out to the MLC to schedule an OAC meeting before submitting this letter, as the Office had requested. That meeting has not yet been scheduled, but the DLC representatives stand ready to meet and discuss this issue within that framework.

Ultimately, the solution consistently offered by the DLC over the past six months is just that—a direct solution to the MLC's request. DLC remains committed to the collaboration necessary to successfully launch the MLC and looks forward to continuing to work toward that goal. No further action by the Copyright Office is necessary at this time.

Best regards,

Sarang V. Damle

CC via email: Jason Sloan
                            jslo@copyright.gov

ADDENDUM

TO DLC'S JULY 8, 2020 LETTER

Digital Licensee Coordinator

Overview of Existing Capability For Audio Search Using Unique Identifiers

July 8, 2020

DMPs With Access to Audio Using Unique Identifiers

- Amazon
- Apple
- Google/YouTube
- Pandora

- Qobuz
- SoundCloud
- Spotify
- Tidal

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Amazon

- Amazon's unique identifier can be added to the end of the following URL:

  https://music.amazon.com/albums/[album ID]/[track ID]

  - That URL navigates to the album page where the particular track belongs, with the track highlighted in gray

  - After logging in, users can listen to the track

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Amazon: Example

Unique identifiers for album and track are in the URL

After logging in, users have access to the track, which is highlighted in gray on the album page

Apple

- Apple's unique identifier can be added directly to the end of the

REDACTED

  - 30-second clips of tracks can be streamed without a login or subscription

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Apple: Example

Unique identifier at end of URL,

REDACTED

30-second clip publicly available by clicking on the track

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Google / YouTube

- Option #1: YouTube's unique identifier can be added to the end of this URL: **https://www.youtube.com/watch?v=**XXXXXX

- Option #2: A user can navigate to **https://www.youtube.com** and enter the unique identifier in the search bar in double quotes

  - A small percentage of content requires a subscription for access (per label policy)

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Google / YouTube: Example #1

Unique identifier at end of URL

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Google / YouTube: Example #2

Unique identifier in search bar, in double quotes

Full track publicly available

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Pandora

- Pandora's unique identifier can be added directly to the end of the following URL: **https://www.pandora.com/**XXXXXX

  - That URL navigates to a page containing information about the track (*e.g.*, album art, lyrics, song credits, genre, etc.)

  - After logging in, users can listen to the track. For free tier users, access to track would be through Pandora's "Premium Session" program.

  - Limitations: In some instances, the URL navigates to a different version of the same sound recording (*e.g.*, studio release vs. "best of")

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Pandora: Example

Unique identifier at end of URL, redirected from https://www.pandora.com/TRXp2nfwz73Vwp2

Full lyrics, song credits, and genre elements are publicly available

After logging in, users have access to full audio (including at the free tier through Premium Sessions)

Qobuz

- Qobuz's unique identifier can be added to the end of this URL: **https://open.qobuz.com/track/**XXXXXX

  - That URL navigates to a page containing information about the track (*e.g.*, album art, label, song credits, production info, etc.)

  - 30-second clips of most tracks can be streamed without a login or subscription

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Qobuz: Example

Unique identifier at end of URL

open.qobuz.com/track/30610279

qobuz

TRY FOR FREE

Holding On

Charlie Paakkari

Take Me To The Alley

▶ Listen on Qobuz | 🛍 Buy | 🖒 Share

Available in

Hi-Res AUDIO | 24-Bit CD Quality
96 kHz - Stereo

Song

#	TRACK		LENGTH
1..	Holding On		05:01

30-second clip publicly available by clicking on the track

About

Jazz

May 5, 2016 - 5m 1s

Label: Universal Music Division Decca Records France

Composer: Howard John Lawrence

Production

- Alicia Olatuja, Additional Vocals, AssociatedPerformer
- Keyon Harrold, Trumpet, Horn Arranger, AssociatedPerformer
- Gregory Porter, Producer, Co-Arranger, Vocals, MainArtist, AssociatedPerformer, ComposerLyricist
- Guy William Lawrence, ComposerLyricist
- James John Napier, ComposerLyricist
- Howard John Lawrence, ComposerLyricist
- Ondřej Pivec, Organ, AssociatedPerformer

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SoundCloud

- SoundCloud's unique identifier can be added directly to the end of the following URL:

  https://soundcloud.com/[artist name]/[song title]**?query=**[track ID]

  - That URL navigates to a webpage for the specific track

  - 30-second clips of **most** tracks can be streamed without a login or subscription

  - A small percentage of content is not available for 30-second clips and requires a subscription for access (per label policy)
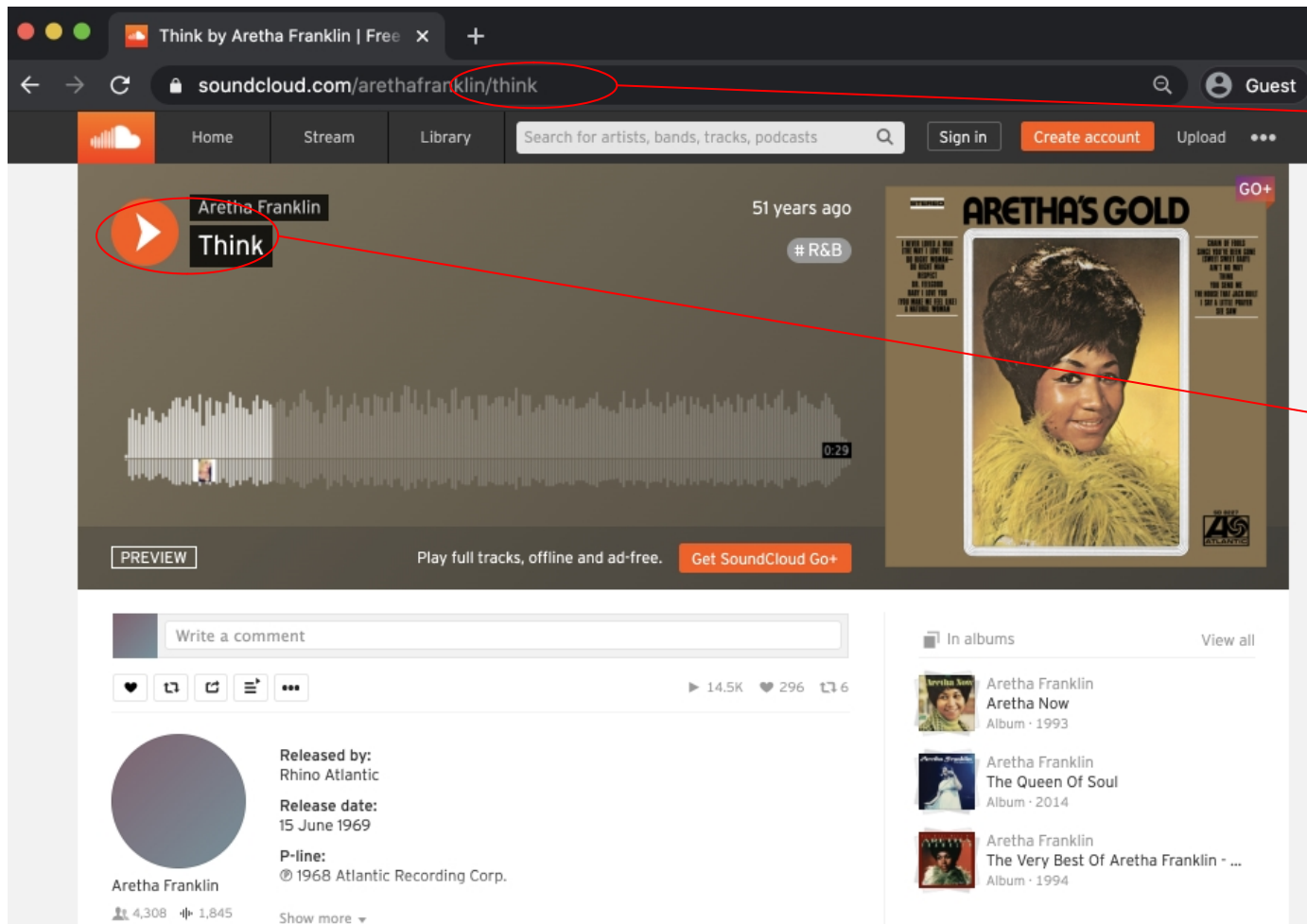
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SoundCloud: Example
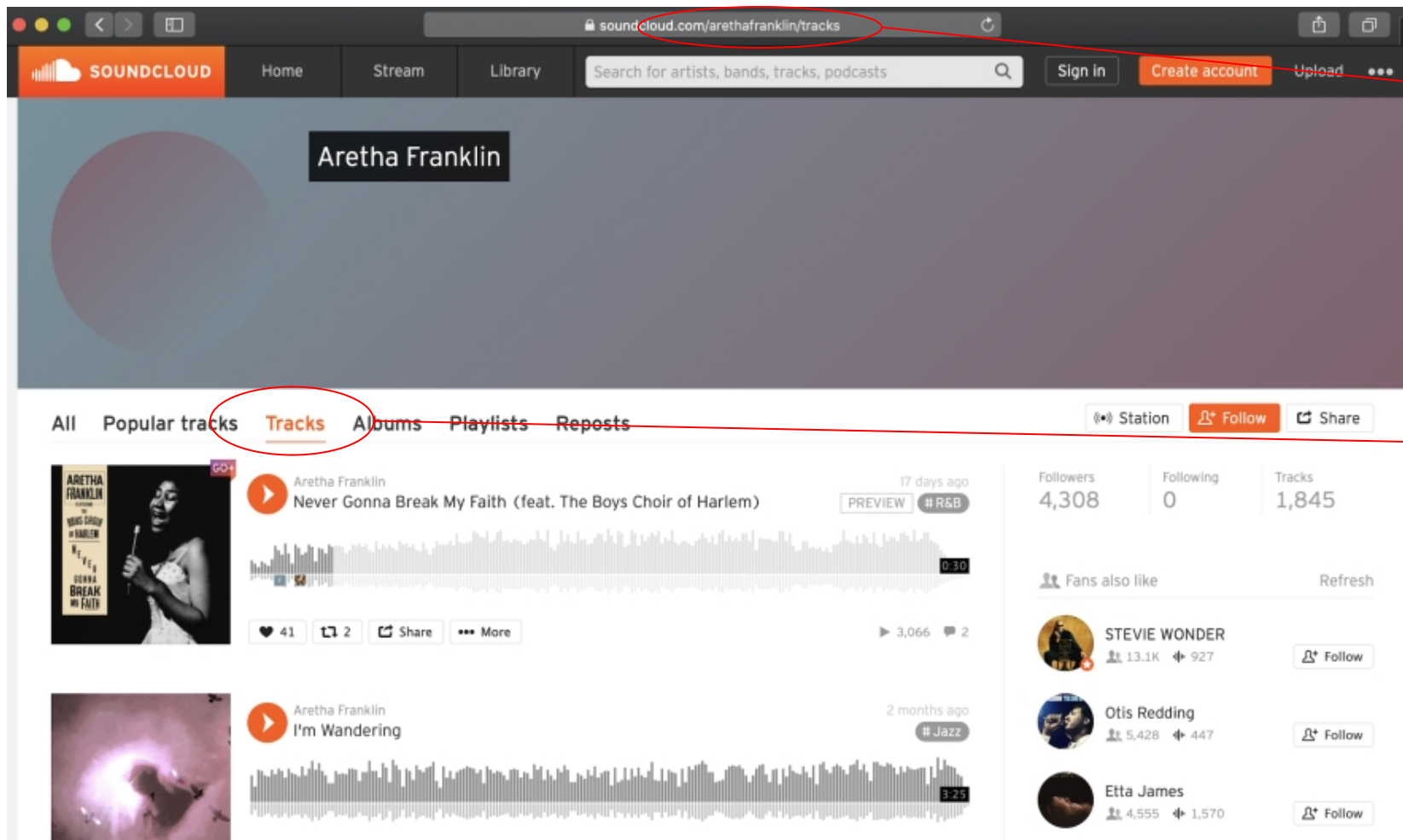
Every SoundCloud track is anchored to an Artist Profile page. In this example:

https://soundcloud.com/arethafranklin

30-second clip publicly available by clicking on the track

SoundCloud: Example

Every track is linked to a Profile (see previous slide) and can be accessed in the URL by adding a "/" and the song title

https://soundcloud.com/arethafranklin/think

30-second clip publicly available by clicking on the track

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SoundCloud: Example

Every Unique identifier at end of URL is tied to the song page and profile page

https://soundcloud.com/arethafranklin/think?query=255802686

30-second clip publicly available by clicking on the track

Spotify

- Option #1: MLC can add Spotify's embeddable player to portal

  - Instructions: https://developer.spotify.com/documentation/widgets/generate/play-button/

- Option #2: A user can go to the search bar at **https://www.open.spotify.com**, and type "**spotify:track:**" followed by Spotify's unique identifier into the search bar

  - After logging in, premium subscribers can listen to full tracks. Certain 30-second clips may be available without logging in depending on the terms of label agreements

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Spotify: Example #1

2. Paste the link or URI in the field below:

spotify:track:4yQw7FR9lcvL6RHtegbJBh

(For example, `spotify:album:1DFixLWuPkv3KT3TnV35m3` or `https://open.spotify.com/album/4RuzGKLG99XctuBMBkFFOC` .)

3. Copy the code below and paste it on your website.

`<iframe src="https://open.spotify.com/embed/track/4yQw7FR9lcvL6RHtegbJBh" width="300" height="80" frameborder="0" allowtransparency="true" allow="encrypted-media"></iframe>`

Unique identifier

Preview

Think
Aretha Franklin

-0:29
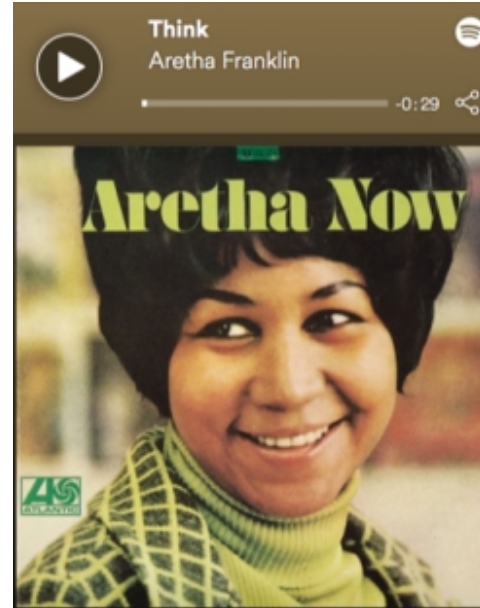
MLC can generate this code automatically and include it in the portal.

The code generates an embedded player for the track.
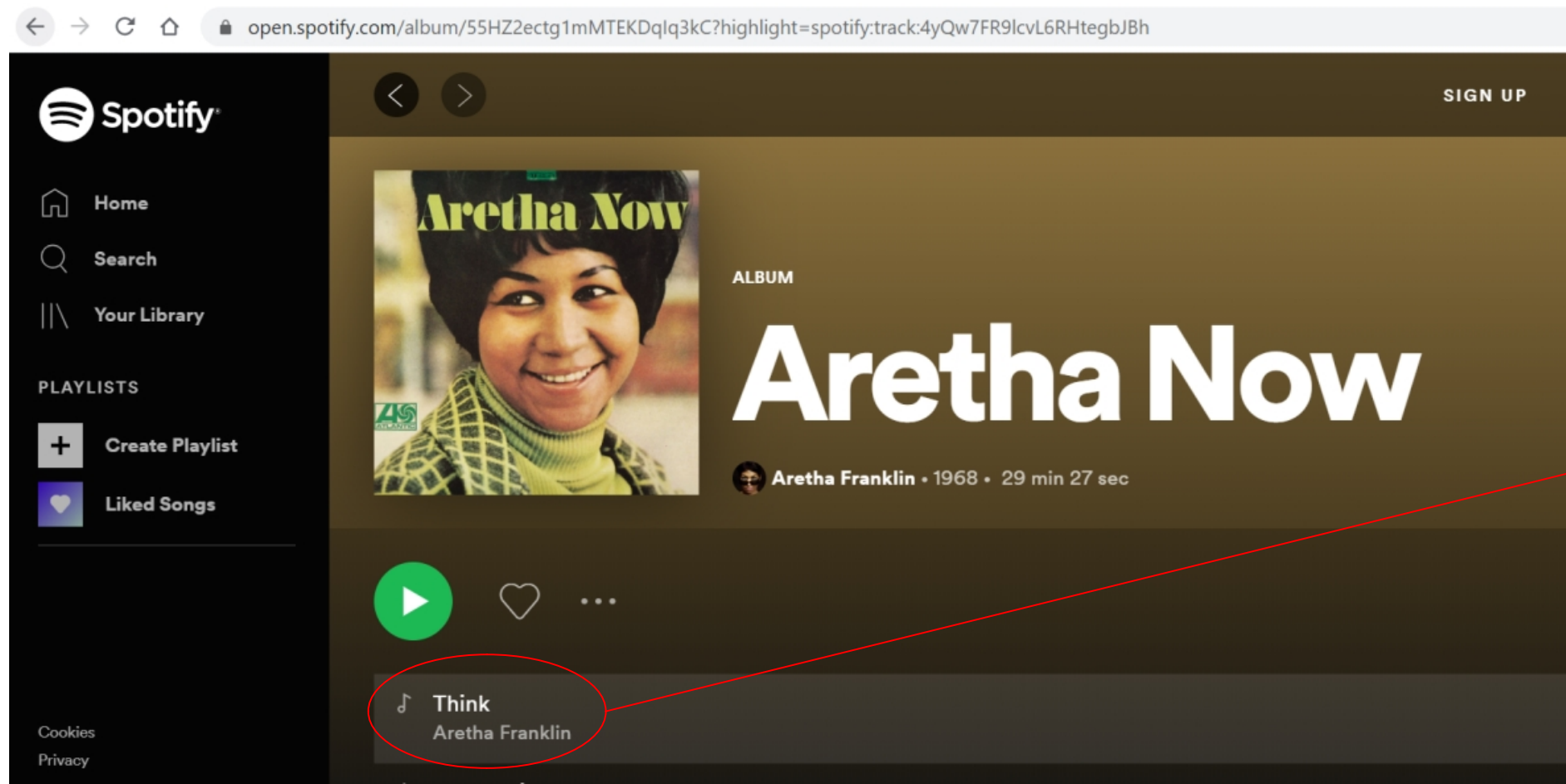
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Spotify: Example #2

Initiate a search

Spotify: Example #2

Add spotify:track:4yQw7FR9lcvL6RHtegbJBh to search bar, and hit Enter

Spotify: Example #2

Light shading distinguishes track searched for.

Digital Licensee Coordinator
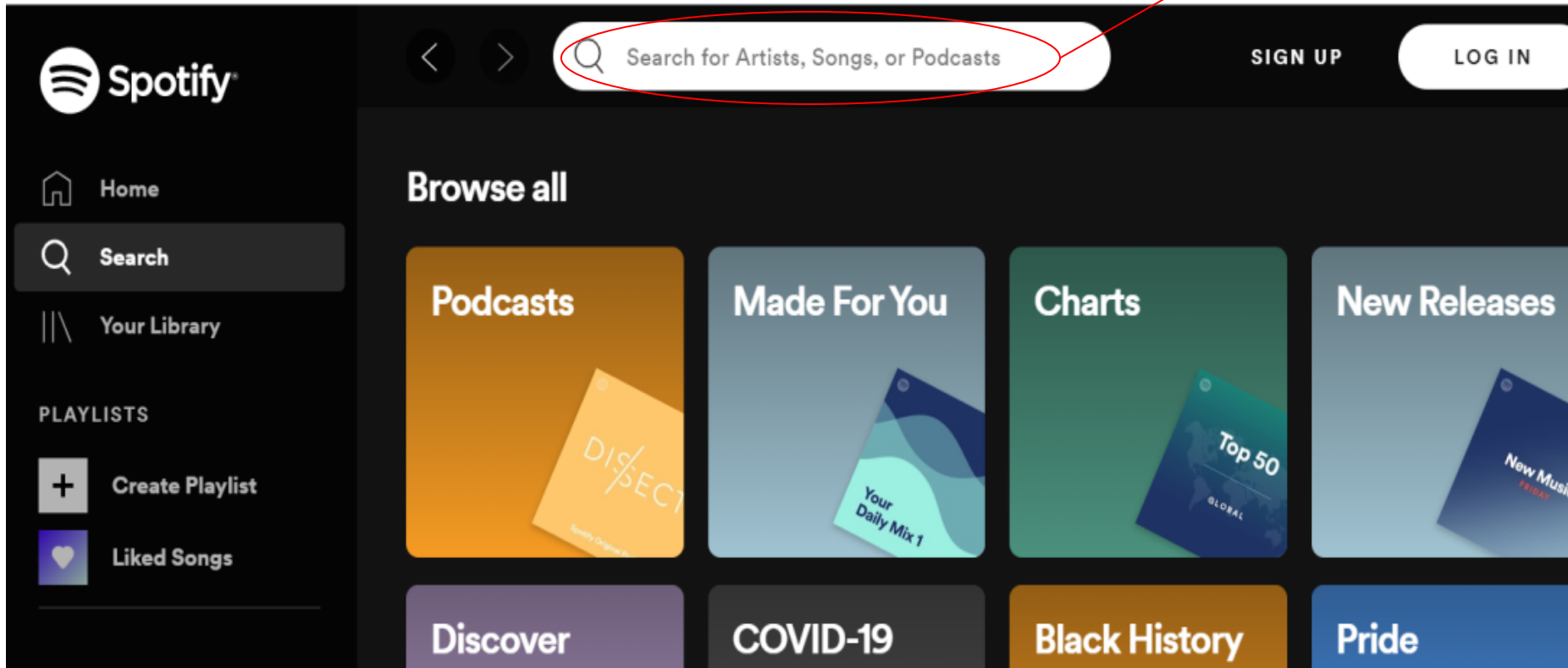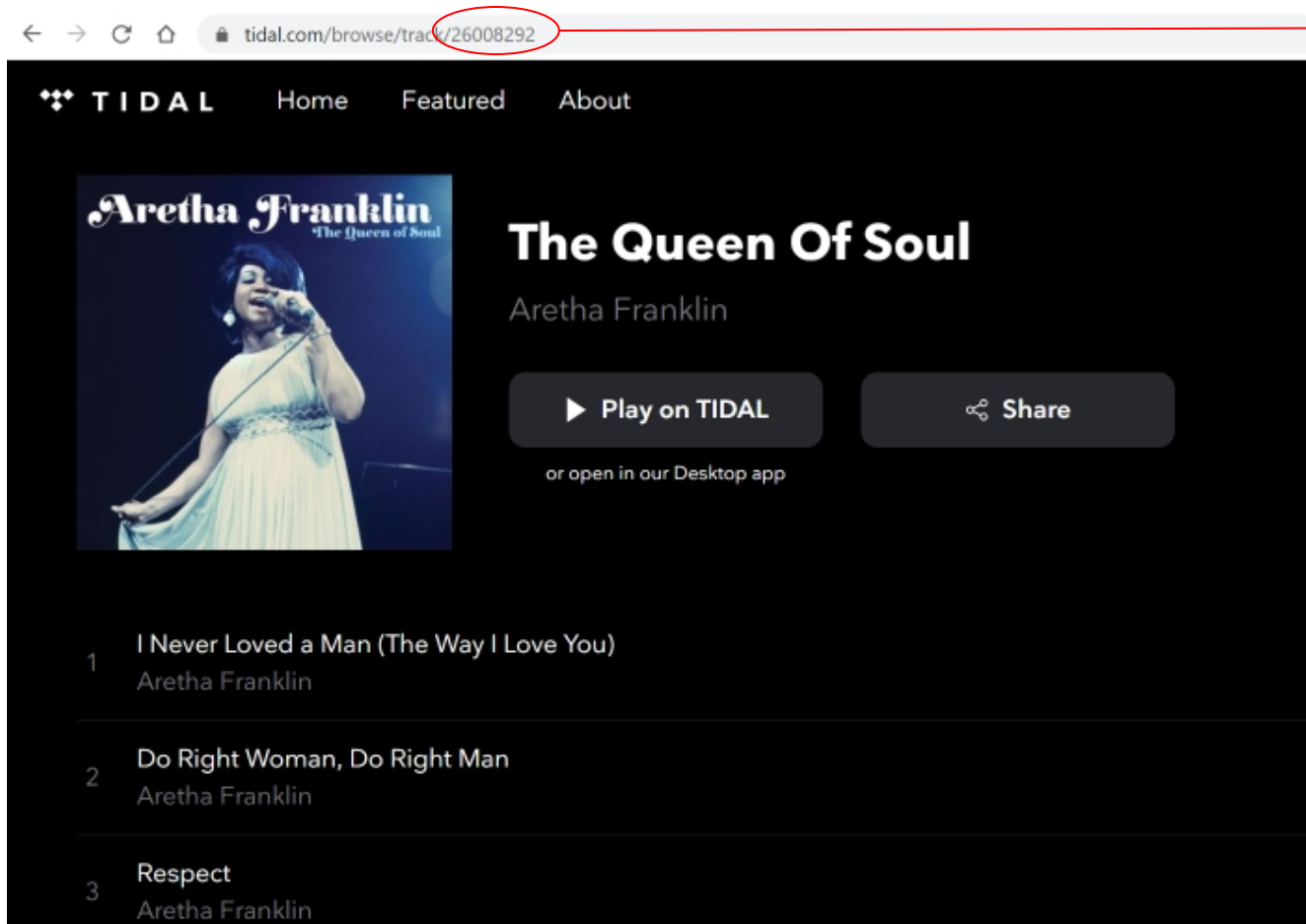
Tidal

- Tidal's unique identifier can be added directly to the end of the following URL: **https://tidal.com/browse/track/**XXXXXX

  - That URL navigates to a page containing the specific track

  - 30-second clips of all tracks can be streamed without a login or subscription

Tidal: Example

Unique identifier at end of URL

Tidal: Example

Light shading distinguishes the track that was searched

30-second clip publicly available by clicking on the track

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DMPs Without Access to Audio Using Unique Identifiers

- MediaNet

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MediaNet

- As previously noted in DLC's June 15, 2020 letter, MediaNet does not own or operate a consumer-facing service in which playing audio tracks is possible for any purpose

- Accordingly, MediaNet does not have a publicly accessible search function that uses unique identifiers as inputs; MediaNet utilizes unique links that are usable for a single play only

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