



American Association  
of Independent Music

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

**Docket No. 2014-1**

Response to Notice of Inquiry: Strategic Plan for Recordation of Documents  
Comments by The American Association of Independent Music ("A2IM") – February 28, 2014

The American Association of Independent Music ("A2IM") thanks the Copyright Office for this opportunity to comment on the Notice of Inquiry related to the Strategic Plan for Recordation of Documents.

A2IM is a 501(c)(6) not-for-profit trade organization representing a broad coalition of over 325 independently owned U.S. music labels. Billboard Magazine, using Nielsen SoundScan data, identified the Independent music label sector as 34.6 percent of the music industry's U.S. recorded music sales market in 2013 (and using the same source data by our computation approximately 40 percent of digital). Independent music labels release over 90 percent of all music released by music labels in the U.S. so related to this Notice of Inquiry our segment of the music industry will be heavily impacted. Our Independent music label community is the big tent as, while all of our members are small and medium-sized music enterprises (SMEs), it is a very diverse group. A2IM's independent community includes music labels of all sizes and staffing levels across the United States, from Hawaii to Florida, representing musical genres as diverse as our membership. All of our label members have one thing in common; they are smaller business people with a love for music who are trying to make a living. A2IM members also share the core conviction that the independent music community plays a vital role in the continued advancement of cultural diversity and innovation in music both at home and abroad.

For our members, whose livelihoods depend on the ability to invest in and create music and distribute and license copyrights in a free market, it is essential to have government partners helping advance a worldwide enforceable regime for the protection of intellectual property online. A copyright protection regime that enhances accountability at all levels of the online distribution chain and that deals effectively with any unauthorized usages is essential for our community. Without this copyright protection A2IM's members as SME's, a key economic growth engine, will be unable to continue investing in the process of musical intellectual property creation, creation that creates easily exportable IP products that improve the U.S. balance of trade thus improving the U.S. economy and creating jobs at home in the U.S.

In preparing this NOI response the A2IM staff had a discussion with the A2IM board and had additional conversations with numerous other A2IM members of varying sized businesses with varying levels of staffing and business models so as to properly represent our diverse community. Our views presented herein are based upon a consensus of our members thoughts with varying views noted. As we noted in our response to last year's NOI on "Technological Upgrades to Registration and Recordation Functions" A2IM is generally in agreement with the U.S. Copyright Office goals of standardization and automation

and we just want to highlight some considerations that the Copyright Office might want to take into account related to the concerns we have heard from the SME's that A2IM represents as follows:

The main consideration for our resource challenged community, in terms of both staffing and financial resources, is the cost benefit trade-off of any regulatory proposal, with a measurable benefit needed for compliance. Due to resource issues a majority of our members do not do an initial registration of all of their copyrights. Some do no initial registrations; other members just register key titles which are expected to garner high revenues so that at a later date they have the ability to sue infringers for statutory damages. Most of our members do not register the subsequent recordation after licensing, purchasing, or gaining security interest in a copyright covered by this NOI and some who do file just file these titles acquired as a new registration document. As a result all of our below specific comments need to be taken with the cost of implementation and ongoing compliance taken into account and A2IM and its constituents would like to have input on the specifications and procedures that will be required to ensure they do not become data heavy overkill beyond the key basic details needed for a viable system/registry.

Subjects of Inquiry:

1. A Guided Remitter Responsibility Model Of Electronic Recordation: A2IM supports electronic submission of documents in a simple standard format with an electronic signature with a Copyright Office electronic review system, thus improving efficiency and reducing Copyright Office filing fees, and thus ensuring greater music label filings. For newer music labels filing for the first time a Copyright Office help center reviewing a music label's initial filings for compliance would be a plus. Of course manual filings should remain an option.
2. Structured Electronic Documents: Structured electronic documents would be a plus; especially since our members do not want to submit underlying documents that would disclose deal terms. Again the details that will be required within the electronic documents and the preparation time required, and the ability to access interfaces to download information, will be key considerations.
3. Linking of Standard Identifiers and Other Metadata standards: Documents should be referenced to the initial registration, and visa-versa, to ensure the proper owners are contacted/paid as a number of our members obtain and register subsequent rights but find original owners still receiving compensation. Initial registration should not be required as the ISRC code reference should suffice in those cases.
4. Use of Standard Identifiers and other Metadata Standards: A2IM staff and some of our individual music label members, whom were consulted for this A2IM submission, are currently part of a IFPI led Global Metadata Advisory Group (GMAG) and firmly support the use of standard identifiers like International Standard Musical Work Codes. This will be a very complex process given the current lack of music industry controls over identifier assignments and the fact that use of international numbers will be problematic since many rights have different ownership in different territories. The number of conflicting projects, DDEX, GRD, etc. going on also could lead to confusion in what standards should be used.

Some issues, for example, include that some works currently have multiple ISWC codes. This isn't supposed to be the case but it's an issue with the ISWC system that labels are currently working to clean up through the CISAC society/publisher working group. Additionally since the sound recording owners, the people A2IM represents, don't control the ISWC numbers there's potentially room to have inaccurate data. Master owners also don't keep this ISWC information in their database systems. It will be an additional step for labels to go to the ISWC/ISAN/EIDR websites to obtain this information. Secondly if the composition copyright holder is lax in registering the work with the society the ISWC number won't be available for the work. The Copyright Office needs to also consider EIDR

numbers in addition to ISAN, EIDR and ISAN numbers as they are hopefully now working together, but this hasn't always been the case. Lastly, hopefully it can become a requirement that all services using compulsory statutory licenses can be required to use these databases as the required information when reporting activity and royalties owed to performance rights organizations and labels.

5. Additional Statutory Incentives to Record Documents Pertaining to Copyright: A2IM and its members oppose any system, including the current initial registration requirement that requires registration to enable copyright owners to get statutory damages and recovery of legal fees.

We note that overall any changes should be prospective as going back to fix prior filings/databases to populate a database could be horrifically expensive for Indies so that should be an optional step. If implemented properly going forward we believe that the Copyright Office database should become a key searchable source for copyright information so that creators' works are easily identifiable and do not become Orphan Works. A simple system with key data should be sufficient to protect creators and provide a database.

As noted above, related to codes it has come to our members' attention that there are cases where the same codes have been used more than once for different works. There should be a system in place that does not allow for musical code duplicate usages which creates an edit report and notifies duplicate claimants. No changes should be made to any prospective Copyright Office registry until the duplicate filings are resolved. Another area that will need consideration is

Related to recordation of changes on a mass basis, our members have noted cases related to performance income belonging to their labels being claimed by others with no rights, including both other SME's and major copyright owners. The prospect of others making electronic transmissions of bulk recordation changes to our existing copyrights is an area of real concern unless there is an automated notification system with appropriate approvals of the original copyright registrants required. There are similar concerns about any mass integration of third party databases controlled by any one party where our members have not vetted the data for accuracy and our member's copyright concerns are not considered, including unauthorized music that does not meet the definition of derivative works.

In conclusion we support the overall direction of the Copyright Office's proposals. A2IM and our members understand, respect and support the objectives of the Copyright Office enumerated in the NOI, and we support anything the Copyright Office does to preserve and make available to the public the music that makes up our cultural heritage. In meeting that goal we also need to protect and support small and medium sized creators so that the future creation process can continue.

We thank the Copyright Office for this opportunity to comment on this NOI of great importance to our Independent music label community related to the Strategic Plan for Recordation of Documents. Please do not hesitate to contact me with any questions you may have about our position.



Respectfully,  
Rich Bengloff, President  
American Association of Independent Music ("A2IM")