

**ReplyBefore the  
COPYRIGHT OFFICE  
LIBRARY OF CONGRESS  
Washington D.C.**

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	X	
<b>In the Matter</b>	X	
	X	
	X	<b>Docket No. RM 2010-10</b>
	X	
<b>Section 302 Report</b>	X	
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	X	

**REPLY COMMENTS OF JAMES CANNINGS,  
OUR OWN PERFORMANCE SOCIETY INC.  
CAN CAN MUSIC PUYBLISHING**

James Cannings, an individual copyright owner, respectfully submits his reply to the Notice of Inquiry "Notice" of February 25, 2011 that was issued by the Copyright Office "Office" FR 11816 March 3, 2011, in which the Office seeks comments and replies in regard to its preparation of a report addressing possible mechanisms, methods and recommendations for phasing out of the statutory licensing requirements set forth in Sections 111, 119 and 122 of the Copyright Act. The Congressional directive, as set forth in Section 302 of the Satellite Television Extension and Localism Act of 2010, Pub. L. No. 111-175, 124 Stat. 1218 (2010), requires this of the Copyright Office...

In making its recommendations to Congress the Copyright office is respectfully requested by James Cannings to focus on the core idea of the Copyright Law as envisioned by James Madison. It is clear that his vision is to protect the Constitutional exclusive copyright of the individual. He declared: -

## Copyright Law of the United States

*and Related Laws Contained in Title 17 of the United States Code*

### **The Constitutional Provision Respecting Copyright**

*The Congress shall have Power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.*

United States Constitution, Article I, Section 8

None of the three possible marketplace alternatives to the statutory licenses, i.e. sublicensing, private licensing and collective licensing, meets James Madison's vision because individuals do not have the power to negotiate a fair market return for the use of their works by large users of copyrighted works. This therefore, exposes the individual copyright owner to abuse by these entities and may also deprive them of copyright protection.

In reviewing the Performing Rights Organizations "PRO" comments, they suggested that the Collective Licensing method be considered and adapted. However, statutory licenses already allow for that methodology. The language of sections 111 and 119 states that claimants – interested parties --- may lump their claims together and may collectively file their claims as one claim. Congress realized its Constitutional responsibility to individual copyright owners when it enacted Title 17 USC. Under the Compulsory Licenses Congress ensured that an individual<sup>1</sup> interested party could file a

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<sup>1</sup> Individual copyright owners grant to PRO the non-exclusive right of "collective" representation. .

single claim. See sections 111 (d)((4) (A), and 119 (b)(4) (A), Section 122 exempts the payment of royalty fees.<sup>2</sup>

The collective licenses free market methodology as described by the PRO (at 10) leaves an individual copyright owner, who does not seek PRO representation, vulnerable. Such a choice does not grant negotiation strength to individual copyright owners even though his/her work, now subject to sections 111 and 119, is used. Under the present regime free market copyright users are obligated to pay royalties to an individual copyright owner. The only requirement is that a copyright owner files a claim in the month of July following the year when his/her work was used.

PRO also states that they already negotiate with trade association rather than with individual cable or satellite users. (at 10 -12). As large trade organizations, representing large numbers of music suppliers, PRO are in the position to demand a fair market value from copyright users in exchange for a “blanket license” use of their thousands of members’ individual works.

Whereas, in this regard, individual copyright owners are not equally situated interested parties. The existence of sections 111, 119 protects against disparate treatment amongst equally situated parties. The Compulsory Licenses allow for a fair return for the use of individual copyright owners works.

PRO admits that their respective Consent Decrees does not grant them exclusive rights to non- dramatic musical works. The present regime allows individuals to exercise their **Constitutionally exclusive** individual right, as is in my case, to file a single claim.

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<sup>2</sup> A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall have no royalty obligation for such secondary transmissions. Title 17 USC Sect. 122 (d).

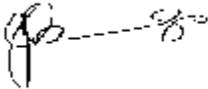
The Compulsory Licenses also provide accountability and transparency to all music suppliers. In this regard amongst other, please review the reply comments and American Arbitration Association decision available at the below links that are incorporated herein by reference.

Please see the below link to my relevant Reply Comments to the Copyright Office  
<http://www.copyright.gov/docs/section109/replies/our-own-performance-society-reply.pdf>

and the below link to an American Arbitration Association decision which led me to elect to represent self before the Copyright Office.  
[https://www.jamescannings.com/Press\\_Releases/Published/published.html](https://www.jamescannings.com/Press_Releases/Published/published.html)

In closing it is respectfully submitted that in making its recommendations to Congress that the Copyright Office maintains vigilant focus at all times on the Constitutional exclusive Copyright protection vested in the individual.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'James Canning', with a horizontal line extending to the right.

James Canning  
May 25, 2011