

May 22,2014

To the US Copyright Office --

I've been working in digital music internationally and domestically since 2001 and have held leadership roles in business development and strategy in traditional and streaming radio in the NPR and public radio network, at one of the first legal digital services (RealNetworks/MusicNet), have done international music licensing in China and Europe, led music partnerships for device manufacturer Sonos, ran my own consultancy, and most recently started and ran the US business for a global music platform 7digital.

My depth and breadth of knowledge in digital music licensing is extensive and I frequently speak at industry events, provide opinion for the news media, and in June 2014 was a guest speaker at the Library of Congress international Copyright Symposium on the complexities of international licensing.

I've directly licensed on-demand streaming services with all major and indie labels and publishers, including direct publishing agreements with Universal Music Publishing Group, Sony ATV, Warner Chappel, Harry Fox and have overseen the issuance of Notices of Intent to License.

I share this with you to demonstrate that I have a perspective from inside various industries and have been one of the digital music pioneers, seeking to move the industry forward with a robust market of various types of music services for fourteen years. There is a fundamental mismatch of old copyright laws and digital uses and I am pleased that you are taking comments.

As a music executive, a professional with an advanced degree from the London School of Economics, NYU Stern, and HEC Paris, and as a music fan, I categorize the problems with the current state of music licensing as follows:

1. The complexity of interpreting US music licensing laws and assessing risk is unintelligible to the marketplace and is hampering innovation.

Companies with innovative ideas in music – large and small -- cannot grasp the cost of licensing a music service because the number of companies that one needs to license for an on-demand streaming music service, or utilizing music in a game or other application is in the tens of thousands of different publishers and labels. As the President of 7digital Inc music platform from 2009 to May 2014, I saw hundreds of great ideas wither and die in the licensing process because it is virtually impossible to quantify at the outset the cost of securing licenses for most new business concepts. So the innovators choose to create the next Instagram or application with other media types rather than a legally licensed music service. This provides a lack of incentive for building new ideas in music.

2. The time it takes to clear licenses for a music service is out of sync with the pace of change in the market.

I have documented through my own experience that it takes a minimum of 15 months to license music from labels and publishers, and often up to 36 months of lengthy protracted negotiations. This is due

to the need to marry all agreements into one business model so that there is some level of consistency across sometimes hundreds of different simultaneous negotiations and most often with outside counsel. While this music licensing process is underway, the pace of change in the marketplace is exponential. Consumer propositions in technology, games, apps, and other media types change at such a rapid pace that new ideas become obsolete very quickly, therefore it is very typical that if a company is actually successful in acquiring licenses, by the time the 15-36 month period is complete, the market has moved on and the idea is no longer relevant.

3. The services that are licensed are often bound to undue restrictive pricing and therefore cannot provide consumers with a variety of service types and offers. In essence, this means that all subscription services are priced identically, and all are tied to Most Favored Nation clauses and Non Disclosures. So all become identical. The results are that the marketplace cannot truly reflect competition or fair market pricing.

4. There is a propensity to pay for legally licensed services, but due to the split between label rights and publishing rights, it is extremely difficult to know who needs to be paid to license a particular song. Underlying publishing songwriter splits are unknown, and entire catalogs of millions of songs are spread across many publishers and labels. If a company wished to license a subset of music for a particular niche service, it is impossible to know who to go to for those rights.

This complexity married with statutory damages makes music high complexity and high risk, therefore undesirable for application developers and innovators.

The split between label and publishing rights for a consumer service is best illustrated in film: if there was a split between the script writer and the film producer, then every movie theatre wishing to show a movie would need to strike a separate agreement with the script writer. There would not be many movie theatres if this were the case.

5. There are many companies that are benefitting from the chaos in music copyright law and this revenue is not building a healthy music ecosystem. Legal fees and service fees for rights licensing and administration far exceed the royalties that make their way through the system to artists and songwriters – the creators who are at the center of it all. There is also a practice of ‘black boxes’ where a lack of transparency also fuels an unhealthy music economy.

I sincerely hope that these comments are reviewed and I would be happy to provide any additional input, commentary, examples, and personal insights to anyone on this topic. It is essential that the copyright laws and process are reviewed by a mix of industry professionals with the aim to bring copyright reform to the digital music business. A simpler process of licensing will help to spur innovation.

Thank you.

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