

September 12, 2014

**VIA ELECTRONIC SUBMISSION**

Jacqueline C. Charlesworth  
General Counsel and Associate Register of Copyrights  
U.S. Copyright Office, Library of Congress  
101 Independence Avenue SE  
Washington, DC 20559-6001

**Re: Music Licensing Study/Second Request for Comments/Comments of Music Reports**

Dear Jacqueline:

Music Reports appreciates the opportunity to submit these additional comments in response to the Copyright Office's second request for comments (the "Second Request"), in connection with the Notice of Inquiry regarding music licensing (the "NOI"). We limit our comments to the following topics in the Second Request:

*Data and Transparency*

1. The best, and indeed the only, viable method for ensuring the development and dissemination of comprehensive and authoritative public data related to identity and ownership of musical works and sound recordings is to maintain incentives for private actors in the commercial marketplace (like Music Reports) to develop solutions which lead to the accumulation, curation, and propagation of such data. Music Reports believes that it maintains the largest and most accurate database of sound recording and musical work copyright ownership information in the United States, the Songdex® database. The company has developed this database over 20 years in business providing services to user groups like broadcasters and digital music services. The services provided by Music Reports which led to the creation of Songdex® have fallen generally into two broad categories: (i) song-by-song license administration for synchronization licenses and Section 115 mechanical licenses; and (ii) administration of direct licenses with music copyright owners and related "adjustable fee blanket licenses" (or "AFBLs") from the performing rights organizations ("PROs") and SoundExchange. As we noted in our comments to the NOI, song-by-song licensing requires the user to identify the copyright owner of the musical work or sound recording and puts the user in privity with the copyright owner, leading to the development of databases over time. AFBLs, which also promote privity between copyright owner and licensee, also facilitate creation of databases through the operation of adjustment/reconciliation systems wherein PROs are required to identify controlled copyrights subject to fee. Accordingly, preservation of the availability to user groups of song-by-song licensing and AFBLs will ensure that databases continue to exist outside of the major music rightsholders, the PROs, SoundExchange, and agencies like the Harry Fox Agency.

It is important to remember that copyright ownership information for both sound recordings and musical works is highly dynamic and not static. There is a robust secondary market for both sound

recording and musical work catalogs. There are also joint ownership issues which arise and must be resolved. As such, it is simply impossible to maintain a “phone book” of definitive copyright ownership information at a single point in time, as this information is constantly evolving. Curating and managing that information requires an organization of people as well as technological resources like databases. Private industry is in the best position to create, fund, and manage these kinds of organizations.

2. Identifiers such as ISRC, ISWC, UPC, and individual rightsowner codes are of limited utility in administration of music licenses at the scale of the typical digital music service catalog, including tens of millions of recordings. These catalogs grow rapidly over time, and the growth skews in favor of independent rightsowners<sup>1</sup>, who are less likely to have the resources to acquire identifiers for their catalogs. There is also a trend toward artist self-publication through open platforms like SoundCloud and YouTube, which make it possible to distribute music as soon as it is created. Digital music services, and their customers, expect to have access to the music which is distributed in this manner as soon as it goes “viral” over the Internet. Requiring registration to an identifier system will add a layer of “friction” to distribution which is unlikely to be respected by independent rightsowners. Moreover, requiring a particular identifier to be attached to a piece of music as a condition of payment is likely to exclude independently-distributed and self-distributed works from royalty pool calculations. An identifier system for digital music distribution might have been a good idea twenty years ago; in the interim, private solutions have arisen for identifying music in digital distribution which serve the purpose well.

#### *Musical Works*

7. Given the wide scale reliance of all digital music services on the existing Section 115 license for many years now, which we described in detail in our comments to the NOI, it is unfathomable to consider how the license could now be eliminated. As the Office considers the possible elimination of the license, we urge it to keep in mind the following. As of this writing, Music Reports has paid almost \$20,000,000 in royalties under Section 115 mechanical licenses to music publishing administrators on behalf of its digital music service clients. Music Reports hosts approximately 40,000 password-protected Web accounts for administrators representing almost 100,000 publishers so that the administrators may log-in and download Section 115 statements of account and reports of use. Finally, we generate on average 130,000 Section 115 statements of account and post them to these Web accounts, each month.

Respectfully Submitted,



Les Watkins  
Senior Vice President, Business Affairs & Business Development

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<sup>1</sup> For example, on behalf of its digital music service clients, Music Reports identifies and reports for the first time to approximately 1,750 new music publishing administrators, on average, each quarterly period.