

Lisa Thomas Music Services, LLC
GLOBAL MUSIC RIGHTS MANAGEMENT AND ADMINISTRATION

Submitted Electronically

December 10, 2012

Tanya M. Sandros
Deputy General Counsel
United States Copyright Office
101 Independence Ave. SE
Washington, DC 20559-6000

Re: In The Matter of the Mechanical and Digital Phonorecord Delivery Compulsory License,
Proposed Regulations for Reporting Monthly and Annual Statements of Account for the
making and distribution of phonorecords, **Docket No. 2012-7**

Dear Deputy General Counsel Sandros:

These comments are respectfully submitted in response to the Copyright Office's Notice of Proposed Rulemaking dated July 27, 2012 and request for written comments on issues regarding proposed regulations for reporting monthly and annual statements of account for the making and distribution of phonorecords.

Company Profile

Lisa Thomas Music Services, LLC is a privately held company established in 1993. We are currently the copyright administrator and/or publishing consultant for independent songwriter/recording artists such as Don Henley and Glenn Frey of the Eagles, Randy Newman, Janet Jackson, Walter Becker of Steely Dan, Ray Parker, Jr., Mary Chapin Carpenter and Bonnie Raitt, among others.

Because we are involved in all aspects of the management of our clients' music copyrights – use negotiations, licensing, royalty tracking and examination and rights enforcement – we believe we can offer an opinion on the impact of the use (and misuse) of the compulsory license based on our day-to-day experience that will be of value to the Copyright Office as it considers proposed alterations for the monthly and annual statements requirements.

It is our opinion and experience that the reliance upon the use of the compulsory license in lieu of direct licensing by the digital services (the "Services") has eroded the rights protections of copyright owners and has devalued music copyrights in what should be a free market. As it now stands, the compulsory license has supplanted a copyright owner's ability to license their works in the market, to effectively track and verify income derived from the exploitation of those works, and to determine how and where the works are being distributed. The compulsory license, even when valid, has effectively given the Services free rein in the market to utilize another's property for the Services' gain with limited remedy available to the copyright owner when the Services do not follow the existing rules and regulations that are the essence of the license.

We are opposed to any further expansion of the rights of exploitation and any relaxation of the current standards of accounting because we believe such actions will further weaken the very nature of copyright.

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The Services (and other interested parties) claim: "copyright is broken!" But it is our belief that they are the ones who are breaking it, and the Copyright Office has the power and the obligation to fix it.

It is our experience that most of the Services do not now comply with Certified Monthly Accountings and the required Annual Statement. We routinely receive hundreds of Notices Of Intention ("NOIs") that we know are late and therefore invalid. Most are devoid of information such as identifying codes, selection numbers, label names, and artist names. The Services sublicense rights conveyed in the compulsory license to unknown third parties. When we do receive accounting statements, it is impossible to track the statements with the NOIs. We have no way of knowing whether our clients are being paid correctly by any of the Services, and, since copyright owners are barred from auditing the Services, we either must litigate or take the statements "on faith."

We are sometimes instructed to log into a website to see if a client is owed money or how much a client is owed; yet, when we go to the website, we are required to sign a "click through" agreement that makes significant changes to the few statutory rights a copyright owner has under a compulsory license. How can this be allowed?

On the rare occasion that we do receive a certified statement from a CPA on behalf of one of the Services, we have no way of knowing if the CPA ever examined any one of our clients' particular earnings, or if there are any "black box" or "unallocated royalties" to which any of our clients may be entitled. There is absolutely no transparency in these transactions.

In conclusion, we must reiterate that we are absolutely opposed making any concessions or providing further protections to Services who have never complied with the laws they have continued to evade. To comment point-by-point to each of the Register's questions given our experience with the Services to date would be suggesting that we agree that such uses be available via compulsory license, that changes to the accounting practices that the Services already disregard should be further revised in their favor, or that the rates themselves are acceptable.

Thank you for this opportunity to comment on behalf of our company and our clients.

Yours sincerely,

Lisa Thomas

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