

Charles J. Sanders

Attorney at Law, PC
29 Kings Grant Way
Briarcliff Manor, New York 10510
Phone: 914 366 6642 / Fax: 347 558 9658
csanderslaw@aol.com / cjs@csanderslaw.com

Licensed to Practice:
New York
California
Washington, DC

September 14, 2020

EX PARTE MEETING WITH THE UNITED STATES COPYRIGHT OFFICE

Docket Numbers 2020-12 & 2019-6

Re: Summary of the September 11, 2020 Ex-Parte Meeting Between the United States Copyright Office and the following independent, US-based music creator organizations: the Songwriters Guild of America, Inc., the Society of Composers & Lyricists, the Alliance For Women Film Composers (AWFC) and Music Creators North America, Inc. (MCNA)

On Friday, September 11, 2020, an ex-parte teleconference call was conducted by the United States Copyright Office (USCO) with the Songwriters Guild of America, Inc. (SGA), the Society of Composers & Lyricists (SCL), the Alliance For Women Film Composers (AWFC), and Music Creators North America, Inc. (MCNA). The meeting took place at the request of those named, independent music creator organizations (IMCOs). Attending for SGA were President Rick Carnes, outside counsel Charles Sanders, and outside legislative consultants Marla Grossman and John Manchester of the American Continental Group (ACG). Attending for SCL was President Ashley Irwin. Attending for AWFC was President Starr Parodi. Attending for MCNA was President Eddie Schwartz. The meeting was chaired on behalf of the USCO delegation by its General Counsel, Regan Smith.

The IMCOs began by respectfully stressing the bedrock principle that music creators speak for themselves on all issues related to their rights and interests, and that no other music community groups have the right or authority to claim otherwise.

The majority of the meeting was devoted to the IMCOs expressing their deep concern over the issue of negotiated agreements apparently entered into between and among digital music providers (DMPs) and music publishers. Those negotiated agreements purportedly deal with the disposition of unmatched musical compositions and royalties in ways that the IMCOs believe may be antithetical to the provisions, spirit and intent of the Music Modernization Act (MMA). The IMCOs repeated the very detailed comments and questions set forth in the submissions to the USCO made by SGA and SCL, endorsed by MCNA and supported by AFWC, dated August 17, 2020 (Docket 2020-12) and August 31, 2020 (Docket 2019-6), and requested that the USCO take steps to investigate the matter further.

The USCO assured the IMCOs that it was well aware of the matter, and was still considering the scope of its authority in regard to acting to ensure transparency and potential resolutions in ways consistent with the MMA, the Administrative Procedure Act, and other potentially applicable statutes. The USCO further suggested that the IMCOs undertake to determine whether payments received by music publishers from DMPs (including those purportedly related to

unmatched musical compositions and royalties) were subsequently shared with music creators. The IMCOs explained how difficult it would be to collect such data without the cooperation of music publishers, but that they would try to canvas as many music creators as possible to ascertain whether a sharing of any such payments actually took place (and on what basis).

Both the USCO and the IMCOs agreed to continue their dialog concerning this issue, which the IMCOs believe may implicate tens if not hundreds of millions of dollars in royalties that the members of the US and global music creator community previously believed would be handled fairly under the provisions of the MMA. Those provisions include the crucial statutory mandates requiring bona fide efforts to identify the proper owners of unmatched royalties, and protections for music creators to ensure receipt of their share of “permanently” unmatched royalties --at the rates for identified compositions as set forth in their publishing agreements-- in the event that such royalties are eventually distributed to music publishers on a market share basis under the MMA.

The parties next discussed the issue of data ownership, especially as it concerns data collection and use by third-party vendors on behalf of the Mechanical Licensing Collective (MLC), and as it pertains to establishment, use and control of the Musical Works Database under the MMA. The IMCOs reiterated their concerns set forth in detail in the SGA/SCL submission to the USCO dated August 31, 2020, as noted above. The USCO again indicated it is well aware of the data collection and ownership issues that have been raised, and stated it would be issuing a call for further comments from the music community and other interested parties in the near future concerning such matters. The IMCOs expressed appreciation over the fact that the issue would be receiving the enhanced attention it warrants, and confirmed that they look forward to participating in further discussions.

Finally, the IMCOs raised their further, continuing concerns over the general lack of transparency and the pervasive use of non-disclosure agreements throughout the music industry, including but not limited to the activities of the MLC (under the direction of its music publisher-dominated board) in relation to issues such as unmatched royalties and the engagement of third-party vendors. The USCO invited the IMCOs to submit comments and suggestions addressing such concerns in the form of potential legislative solutions, including (if the IMCOs believed it necessary) the expansion of the MLC board to achieve equal board representation of music creators and music publishers.

The meeting concluded with thanks and appreciation expressed by the IMCOs to the USCO for devoting its valuable time and energies to addressing these issues of great import to the US and global music creator community.

Sincerely,



Charles J. Sanders
Outside Counsel
Songwriters Guild of America

cc: Regan Smith, General Counsel, The United States Copyright Office
All IMCO Participants
CJS:hm