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NEW YORK, NY, 10010

PETER BRODSKY
EXECUTIVE VICE PRESIDENT BUSINESS AFFAIRS AND GENERAL COUNSEL

October 28, 2020

Regan Smith
General Counsel and Associate Register of Copyrights
Library of Congress
101 Independence Avenue, SE
Washington, DC 20559-6003

VIA E-MAIL TO: REGANS@COPYRIGHT.GOV

RE: Summary of *ex parte* conversation on October 22, 2020, regarding notice of proposed rulemaking for Music Modernization Act (“MMA”) transition period transfer and reporting of royalties to the Mechanical Licensing Collective, Docket No. 2020-12

Dear Ms. Smith:

On October 22, 2020, Peter Brodsky, EVP Business Affairs and General Counsel Sony/ATV Music Publishing (“SATV”) spoke to you and Jason Sloan of the United States Copyright Office (“USCO”) regarding the applicability of private settlement agreements to the transfer of historical unclaimed royalties to the Mechanical Licensing Collective (Docket No. 2020-12).

SATV addressed the following points in our conversation:

- The MMA requires digital services who want to take advantage of the MMA provision providing for a limitation of liability starting on January 1, 2018 to turn over to the MLC on February 15, 2021 all usage reports and associated royalties for unmatched usage from the inception of the service.
- SATV does not believe that the USCO’s rulemaking related to the payment of historical unmatched should address private settlements entered into between music publishers and digital services prior to passage of the MMA. It is SATV’s understanding that the MMA requires the payment of all unmatched royalties for prior periods in order for DSPs to claim the “safe harbor” under the law. Payment by DSPs of all historical unmatched royalties is critical to ensuring the mechanical licensing collective can accomplish its mission of transparently and properly matching and distributing royalties and unmatched monies due to songwriters and music publishers.
- SATV has every incentive to work with digital services with whom a private agreement has been reached to resolve issues that may arise under those agreements and to facilitate a resolution of any conflicts between previous payments made pursuant to those agreements and the requirements under the MMA.

- SATV is open to discussing letters of direction and other potential solutions that would ensure that the requirements of the MMA are satisfied and also address the concerns raised by the digital services regarding payments made pursuant to private settlements. SATV also expressed its preference that such a market-based solution require that any potential reimbursements to digital services be made by the MLC rather than music publishers.
- Finally, SATV confirmed to the USCO that payments made by DSPs to SATV under private agreements, as well as any other distribution of unmatched funds, whether title bound or not, are always paid through to our songwriters. It has been SATV's practice to explain to our writers who inquire how these royalties are distributed and reflected on their statements.

Thank you for your time and am happy to answer any additional questions.

Sincerely,

A handwritten signature in black ink that reads "Peter Brodsky". The signature is written in a cursive, flowing style.

Peter Brodsky