

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON COURTS, INTELLECTUAL PROPERTY AND THE INTERNET

Testimony of Tor Hansen

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Innovation in America: The Role of Copyrights

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Chairman Coble, Ranking Member Watt, and members of the sub-committee, thank you for inviting me to testify today on behalf of my company YepRoc/Redeye, headquartered in Haw River, North Carolina, and on behalf of the small and medium sized businesses that make up the American Association of Independent Music ("A2IM"), businesses that, via the creation of musical intellectual property, are improving commerce here and abroad and via exports improving America's balance of trade and thus creating jobs in America!

My name is Tor Hansen and I started working in the music business in the Boston area, working for Rounder Records Distribution (sales representative), Hear Music (Director of Merchandising) and Planet Music / Borders Group (Director of Merchandising). **Yep Roc** Records was founded in 1997 by my partner Glenn Dicker and myself and is exclusively distributed through our Redeye Distribution company. Yep Roc is home to hundreds of master recordings and includes Nick Lowe, Paul Weller, Josh Rouse, Josh Ritter, Fountains of Wayne, and many more. **Redeye Distribution** began in 1996 in my house and has grown into one of the largest Independently owned music distribution companies in the United States. Redeye has charted a course of steady, sustainable growth by developing a strong physical and digital distribution network both nationally and internationally, and providing a multitude of services to our partners. Distribution music label partners include Yep Roc, Warp, Daptone, Wichita, Kill Rock Stars, Ninja Tune, Thrill Jockey, Barsuk, Alive, and many more whose artists include U.S. Top 20 charting artists like Josh Ritter, Nick Lowe, Gillian Welch, Sharon Jones & the Dap-Kings, Paul Weller, and Grizzly Bear. Redeye's 10,000-plus title catalog is representative of a wide range of the best Independent music available. Regardless of genre, the unifying element of the catalog is an overall commitment to quality. Glenn and I started in a basement with no external funding 15+ years ago and we now currently employ more than 60 employees- a knowledgeable, passionate and dedicated staff of music lovers who make themselves accessible to everyone from the music accounts to the artists & records labels with whom we work.

I am also an elected member of the American Association of Independent Music (“A2IM”) board of directors so I can speak to our overall community’s views. A2IM is a 501(c)(6) not-for-profit trade organization representing a broad coalition of over 300 Independently owned U.S. music labels. Billboard Magazine, using Nielsen SoundScan data, identified the Independent music label sector as comprising 32.6% of the music industry’s U.S. recorded music sales market in 2012 (and by our computation using the same methodology over 39 percent of digital album sales) and 34.5% for the first half of 2013. A2IM’s music label community includes small and medium-sized music enterprises (SMEs) of all types across the United States, from Hawaii to Florida, representing musical genres as diverse as our membership. All of our label members have one thing in common; they are smaller business people with a love for music who are trying to make a living. A2IM members also share the core conviction that the Independent music community plays a vital role in the continued advancement of cultural diversity and innovation in music both at home and abroad. But we need your help to remain economically viable as musical Intellectual Property, one of the core pillars of U.S. economic competitiveness in the world market, while it creates an economic multiplier effect as it is used in film, games, ads, television, etc. and is a vital export, has become difficult to protect in the digital age.

Independent music labels are not luddites and the Internet has been the great equalizer for us and our ability to create, market, promote, monetize and introduce new music. The Internet has opened up countless opportunities for us and we would not do anything to jeopardize this improved access to music consumers. Additionally, our members have embraced new business models that allow for efficient distribution of music, such as the licensing of free-to-the user streaming services and webcasting, one-price-per-month subscription services, bundled mobile services, new devices, etc. We honestly feel there is no other industry that has embraced new forms of economic and delivery models as completely as the music industry. Many of our members also, on their own terms, give away free content to reward existing fans and cultivate new fans of their label’s artists.

That said; our small and medium sized businesses that support the creation of musical Intellectual Property need to be compensated for the creation and promotion of the music to be able to continue to invest and create jobs. A2IM members support the statutory compulsory license mechanism as well as license to services that are not covered by compulsory licenses. But our music label community needs to be able to decide which non-statutory services should have our music and at what fair price, and when it is appropriate to give away our music to super-serve our fans and to ensure that we have viable business models.

One of the strengths of a good strong regime supporting copyright ownership support international commerce by U.S. businesses. In 2005 the U.S.'s share of the international music market was **34%**. For 2012, the latest available data, the IFPI reported a U.S. share of worldwide wholesale recorded music revenues of only **27%**. For our members, most sales traditionally have been in the U.S. market however it is now clear that we must expand our reach and we need to look abroad to survive which is what the National Export Initiative (NEI) is all about, supporting SME's that can grow faster, like our music loving Indie creators who invest in the music they love and make little in profits as they reinvest, and who can create exports that can improve our balance of trade as they export American know-how and improve the U.S. balance of trade and create jobs thus becoming a major growth engine for the U.S. economy.

Exports include physical recorded music, digital, mobile, touring, synchronization licenses, etc. with, again, music being that great economic multiplier that fuel areas like musical instrument purchases.

We thank the U.S. government, specifically U.S. Commerce Department ITA and the Small Business Administration, for their support of SME music creator international trade initiatives, for which my own business has been a beneficiary on a very successful Brazil trade mission.

As I noted earlier the Internet has transformed how consumers access music and as creators we have adapted to this change which has been a boon for Independents to reach an expanded and open

audience eager to hear our music. In the monetization area the changes in consumer consumption have presented financial challenges. The value of a copyright must be maintained for the music creation process to continue. We as Independents support the compulsory statutory licensing of music to services such as Pandora, iHeart radio, Sirius/XM and others and the Copyright Royalty Board (“CRB”) mechanism of rate setting. It ensures that all sound recording copyrights are created equally and should be paid equally. This issue cuts directly to the core of A2IM's mission: insuring a fair marketplace for Independents where the value of a song or performance must not be determined by which music label created or owns the song. If that is allowed to stand, Independent labels and artists will always be treated unfairly, as lesser, when there is ample proof that music fans want our music. CRB decisions and the resulting statutory rates ensure that the value of every creator’s sound recording is equal, that our copyrights are worth as much as any other copyright!

The missing element in this discussion of internet streaming royalties is over-the-air radio performance royalties. For the over-the-air traditional AM/FM dial Independents have made inroads in airplay, and we thank terrestrial radio for the increased access and airplay. But we still don’t have a performance right that would ensure music creators get paid when their sound recordings are broadcast on over-the-air radio, the only major country in the world without this right. That needs to change- AM/FM makes billions selling ads to folks who tune in for our music – while sound recording creators get nothing. That’s just not right. In addition this impacts on our international business, our royalties sit overseas remain captive to the fact that, unlike other industrialized nations, we don’t compensate performers for terrestrial airplay so without this legal reciprocity right those royalties are not available to U.S. based Independent creators. We don’t make “content”, a product, we make music! If we allow radio or internet services to force below market rates on us to subsidize Internet business models, we will have allowed the gift wrapping to take on greater importance than the treasure that is in the box. Our artist’s music that fuels AM/FM radio and every other platform that features music must be compensated.

Finally, I would like to touch on the issue of Copyright protection. Unfortunately due to the ever-shrinking overall music market revenue base, A2IM member music labels like mine as SME's simply do not have the financial means or resources to engage in widespread copyright monitoring on the Internet. The time and capital investment required for our community of like-minded, but proudly Independent small business people to monitor the web for usage and take subsequent legal action simply does not exist. A2IM member music labels do not have the financial means or resources to house a stable of systems people and lawyers to monitor the Internet and bombard users with DMCA takedown notices for seemingly endless illegal links to our musical copyrights. Our members have limited budgets and whatever revenues and profits they can eke out are directed toward their primary goals, music creation by their music label's artists and then the marketing and promotion of this music to the American public so they are able to continue this creation process. For our members whose livelihoods depend on the ability to license copyrights in a free market, it is essential to have government partners helping advance a worldwide enforceable regime for the protection of intellectual property copyrights online that enhances accountability at all levels of the online distribution chain and that deals effectively with unauthorized usages.

The bottom line is the Independent music label sector and our artists have aligned ourselves with new consumer models based upon music consumption using many different new technologies and devices. We embrace this responsiveness to new ideas and consumer adoption but request the governments continued support of copyright monetization and protection to ensure that the music creation process and the resulting commerce and job creation continue.

I thank you for your time today and I welcome any questions.