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Mr. Chairman and Members of the Committee:

My name is James Hazen Griffin. I am Managing Director of my consulting firm, OneHouse, in The Plains, Virginia, where we are focused on the digital delivery of art, especially music and its monetization.

I thank you for the opportunity to appear today. My independent voice is like that of many independent creators who in aggregate outnumber the media companies that sometimes purchase their work for distribution and delivery.

There are so very many issues at the forefront of today's hearing. I enjoy discussing all of them but for clarity and purpose I will focus on just one: The growing need for registries and our need for global, comprehensive databases of information related to creative works.

Essentially, my remarks focus on half a dozen fundamental points:

1. <u>The Goal</u>: Make it fast, easy and simple to pay for music, movies, books, art and other expressions of ideas such that the market can work with alacrity and efficiency. Essentially, the playing field levels with global access to complete information about creative works, a prime reason this goal has not been accomplished and may never be.

In other words, public registries of creative works are lighthouses for users, creators and those who enable the connection between them. Lighthouses are classic public goods, loaded with economic externalities. Relying upon purely private efforts will not deliver a lighthouse (or its modern equivalent, the Global Positioning System).

2. <u>Comprehensive public directories</u>: It is unnecessarily difficult to pay or license from those difficult to identify or locate. We must work to record, enumerate, update public databases that get creators paid and works licensed, let alone provide proper attribution and create an historic record of our culture's heritage.

Last year, the United States Patent and trademark Office issued a green paper that highlighted the current problem:

> *The most basic prerequisite for obtaining licenses is reliable, up-to-date information about who owns what rights in what territories. Users need to find the rights holders from whom to obtain permission, and right holders or their representatives need to be contacted to determine terms of use. As online businesses seek licenses for large repertoires of works to be offered in multiple countries in a variety of formats, and as multimedia uses become more common, the need for comprehensive globally-linked databases is growing.*

Two years ago I co-authored a scholarly paper for the *Entertainment Law Journal* with PTO attorney Ann Chaitovitz that we entitled "Rights Unenumerated, Rights Disrespected." The title tells the story.

3. Include all creators: Performers, featured artists, background artists, writers, editors, translators, owners and all associated with a copyright should be included in efforts to record and enumerate copyright information because they often have remuneration and attribution rights, and they can help elucidate ambiguous information. Much as we do with land ownership records, we should welcome any claim related to any work.

Here's a clear example: Featured artists, background singers and studio musicians are entitled to half the money collected from non-interactive digital music services, now north of $500 million dollars, headed towards a billion in short order. These creators often have no copyright interest in their own work, but they do have remuneration rights under the law.

In addition, the moral right to attribution for creative efforts should be recognized and observed by all, a task rendered exceedingly difficult by a lack of public databases on creative works.

4. GUIDs are essential: We must support GUIDs (Globally Unique Identifiers) and public databases that include them. Semantic matches are not fit for the digital global age.

A GUID is easy to explain: It's like the VIN number on a car. It's an unambiguous description that works regardless of language, culture or character set.

Difficult to explain: In spite of the International Standards Organization (ISO) suggestion that such identifiers should be accessible through a public database, this does not now happen in the music business.

Worse still: There is no authoritative database of them, public or not. No records are kept when numbers are assigned. Private databases do exist for the use of companies and organizations, but they are neither comprehensive nor authoritative.

In short, the idea that media companies can assign identifiers in accordance with international public standards without feeling obliged to tell anyone what they have identified with the code is absurd.

My colleague Paul Jessop, amongst the world's leading experts in this field,  says (according to my notes) that "For identity management to be trustworthy you need to be able to find out what something is called and to find out what lies behind something with a name. Currently there is not effective access to this information, and that¹s before you get to the ownership of the rights in the things identified, which cannot be managed without effective identity management.

As a result, we do not now have appropriate databases for music, photos or graphics, to cite a few examples where we do not have proper GUID implementation. Semantic match is especially challenging in a truly global, multilingual, multiple character-set world; GUIDs are essential to matching rights with works.

A client of mine recently explained that more than 90 percent of the money they receive carries no GUID for connection to downstream revenue participants. As a result, they must use semantic matching for distribution, highly inefficient, a roadblock to proper revenue sharing.

I asked a number of the music-using companies why they do not attach a GUID to music-use reports and their answers were identical: There is no authoritative database of them, let alone a public accessible database of them, so we cannot use them in commerce.

This has many impacts, but the key concern is that absent the use of GUIDs money disappears along its path to its intended receiver. Where does that money go? To pools of unattributed income, divided through market share formulas at the organizations that collect the money.

5. There is a market solution: On the Internet there are no unregistered computers. Every computer has an address registered directly or indirectly with the Internet Corporation for Assigned Names and Numbers (ICANN).

ICANN registration works in large part because it is based on the profit motive. There is a non-profit wholesale core (ICANN) to set standards and incentivize a profit-seeking retail edge (for examples, Go Daddy or ENOM). The IP world can learn a lesson here: What IP sees as cost can instead generate profits, both directly (fees) and indirectly (licensing).

In my opinion, past efforts at copyright registries fail for a number of reasons, principally because they are not market-oriented. No hands are nearly so powerful as those of Adam Smith, author of the Wealth of Nations and a principal chronicler of the free market. Many hands make light work of difficult problems, especially with registries.

Given a core, wholesale, globally accessible public registry of creative claims, I believe a powerful market will develop to fill those registries with claims from creators. Outreach is the key, with profit potential motivating marketing, advertising, outreach and education.

Equally, I feel sure that the continuation of past efforts, which center around expecting private companies to release to the public their internal information, will produce more on-going failure.

A market solution for registries requires a wholesale core, much as has ICANN created the Internet's Domain Naming System. It is profitable, reliable, globally distributed and financed through registrant fees.  In my opinion, as regards music, SoundExchange could perform this role well, as could similar organizations that exist for other media types.

6. The problem grows exponentially: We are watching creative expression shift from the center of the network to its edge. We need registry services optimized for dramatic growth from the edge of networks, commonly called User Generated Content (UGC).

Examples: Soundcloud alone reports a 2014 average of 12 hours of audio uploaded every minute (every 60 seconds). YouTube reports 100 hours of audio/video uploaded every minute. These numbers will likely double bare minimum every year or two.

By comparison: When at the global music industry's height it counted roughly 50,000 albums per year, conservatively counted Soundcloud now ingests more music than this every four days. The growth is even greater as regards video at YouTube. We have inadequate registry efforts now and they're getting worse.

Conclusion

If we expect respect for rights, those rights need recordation and enumeration. The world cannot be expected to respect, pay and attribute where that information is unavailable.

This is not a subjective discussion, as is the case with licensing and the proper role of government. Respectfully, reasonable people can and do disagree on these matters.

This issue cuts across those concerns. Regardless of one's views on copyright and licensing, proper databases are essential, whether to seek permission for direct licensing, to process payment if statutorily licensed, or even if simply needed to properly attribute the work to its creators.

The irony: Writing was developed to track property, clay tablets and reeds reducing the need for walls and physical property markers. Writing has grown to express our dreams, but recording the data behind those expressions fails us, and we are the losers because without information, permission, money, incentive and more are all elusive.

My friend Daryl Friedman at the National Academy for Recording Arts and Sciences (NARAS) puts it better than me: "Artists deserve cash and credit." Well put. I couldn't agree more.