



United States Patent and Trademark Office

*Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office*

December 9, 2025

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

The Honorable Dick Durbin
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Jamie Raskin
Ranking Member
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Messrs. Chairmen and Ranking Members:

The United States Patent and Trademark Office (USPTO) wishes to express its support of amending the Copyright Act requiring radio stations to provide fair compensation to copyright owners and performers when their sound recordings are broadcast “over the air.”

Section 106(6) of the Copyright Act stipulates that copyright holders in sound recordings have a public performance right, but that right is limited in scope to only digital audio transmissions. This right was added pursuant to the Digital Performance Right in Sound Recordings Act of 1995 and the Digital Millennium Copyright Act of 1998. Both statutes, however, exempted “over the air” (i.e., terrestrial or AM/FM radio) broadcasts of sound recordings from the public performance right.

In today’s digital music marketplace, where performers and record labels face both unprecedented challenges and opportunities, providing incentives for America’s performing artists and recording companies is particularly essential and fair. Indeed, the Department of Commerce has endorsed the passage of legislation creating a broad public performance right for sound recordings with the support of multiple administrations going back to the Carter administration.¹ These efforts failed to overcome the broadcast lobby’s campaign to maintain the status quo, to the detriment of U.S. performers and rights holders.

¹ The Department has weighed in, through testimony, letters, and/or policy papers, under the Carter, Clinton, G. W. Bush, Obama, Trump, and Biden Administrations. *See, e.g.*, Department of Commerce Internet Policy Task Force, Copyright Policy, Creativity and Innovation in the Digital Economy 12, 38, 100 (2013); Letter from Cameron Kerry, General Counsel, U.S. Department of Commerce, to Senator Patrick J. Leahy (Apr. 1, 2010); Letter from Lily Fu Claffee, General Counsel, U.S. Department of Commerce, to Representative Howard Berman (June 10, 2008); Information Infrastructure Task Force, Intellectual Property and the National Information Infrastructure, the Report of the Working Group on Intellectual Property Rights 222 (Sept. 1995); *Digital Performance Right in Sound Recordings Act of 1995: Hearing Before the Subcomm. on Courts and Intell. Prop. of the H. Comm. on the Judiciary*, 104th Cong. 156 (1995) (statement of Bruce A. Lehman, Assistant Secretary of Commerce) (endorsing the establishment of a limited public performance right when sound recordings are transmitted by digital means, but only as a step in the direction of providing a full public performance right in sound recordings); *Performance Rights in Sound Recordings Act of 1995: Hearing Before the S. Comm. on the Judiciary*, 104th Cong. 32-34 (1995) (statement of Bruce A. Lehman, Assistant Secretary of Commerce); *Performance Rights in Sound Recordings: Hearing Before the Subcomm. on Courts, Civil Liberties, and the Admin. of Justice, H. Comm. on the Judiciary*, 95th Cong. 179-81 (1978) (statement of Louise Wiener, Special Assistant to the Secretary of Commerce).

In recent years, the sound recording marketplace has morphed from a distribution model to a performance model, and consumption has transferred purchase of products to that of access. The rationale that broadcast radio would spotlight a performer's work and contribute to increased sales of albums or CDs is no longer justified, if it ever was. Streaming services now account for approximately 74% of U.S. recorded music revenues, while digital downloads and physical products (i.e., sales) only account for approximately 12%. In this marketplace, broadcast radio stations serve only to diminish the performance market for sound recordings. We recognize and appreciate the impact on broadcast radio stations, especially smaller local stations, and we acknowledge that Congress will have to balance that impact with the ongoing difficulties that artists must contend with in not receiving royalties for several decades. However, now is the time to rectify this difference that exists in current U.S. law and address this throwback to a legacy business model.

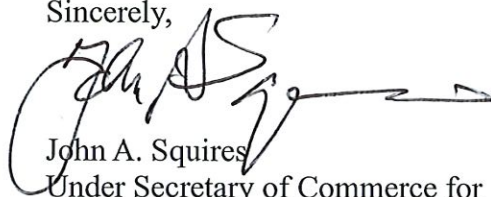
In addition, such legislation would remedy a long-standing omission in U.S. copyright law that has harmed American performers and record companies in markets around the world. The United States stands alone among industrialized nations in not recognizing a public performance right for the broadcasting of sound recordings. Rather, we belong in the same category as Afghanistan, Iran, Qatar, Sudan, Djibouti, and Micronesia, which also do not afford a sound recording broadcast right. Notably, China passed an amendment in 2021 providing a public performance right for sound recordings, bringing its copyright laws into the mainstream ahead of the United States.

Moreover, other countries use this gap in U.S. law to rationalize denying U.S. performers and producers substantial royalties for the public performance of U.S. sound recordings abroad, which is estimated at approximately \$200 million per year. Therefore, remedying this gap would also help to resolve long-standing issues that U.S. performers and record labels face in numerous major foreign markets and to achieve a more robust level of intellectual property rights protection in those markets.

In conclusion, providing the public performance right to producers and performers for the broadcast of their sound recordings over terrestrial radio is legitimate, proper, and long overdue. This equitable overhaul of our current law is especially crucial and essential given that performers' and record labels' livelihoods rely heavily on the public performance of sound recordings. In the same way that new digital services must pay royalties to transmit such performances, over-the-air radio broadcasters should be required to do so as well.

The USPTO has been advised by the Office of Management and Budget that the Administration has no objection to the submission of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Squires", with a long horizontal flourish extending to the right.

John A. Squires
Under Secretary of Commerce for
Intellectual Property and Director of the
United States Patent and Trademark Office