



8306 Wilshire Blvd. • Suite 512 • Beverly Hills, California 90211 • (310) 281-2812 • www.TheSCL.com

PRESIDENT

Ashley Irwin

VICE PRESIDENTS

Joel Douek

Charles Bernstein

TREASURER

Christopher Farrell

RECORDING SECRETARY

Danny Gray

CHIEF OPERATING OFFICER

Marie Kingsley

THE SCORE

Rajasri Mallikarjuna, Editor

ADVISORY BOARD

Alan Bergman

Charles Bernstein

Bill Conti

Charles Fox

James Newton Howard

Quincy Jones

Alan Menken

Thomas Newman

Lalo Schifrin

Marc Shaiman

Howard Shore

Alan Silvestri

Diane Warren

Christopher Young

Hans Zimmer

IN MEMORIAM

Marilyn Bergman

Elmer Bernstein

John Cacavas

Jerry Goldsmith

Ron Grant

Maurice Jarre

Peter Matz

David Raksin

Patrick Williams

BOARD OF DIRECTORS

Michael Abels

Esin Aydingoz

Ramon Balcazar

Lori Barth

Michael Lehmann Boddicker

Russell Brower

David Das

Cliff Eidelman

Jack D. Elliot

Lynn F. Kowal

Mark McKenzie

Hélène Muddiman

Cindy O'Connor

Hannah Parrott

Greg Pliska

Carlos Rafael Rivera

Lolita Ritmanis

**Statement of Ashley Irwin, President
Society of Composers & Lyricists**

**Before the Subcommittee on Courts, Intellectual Property and the Internet of the
House Committee of the Judiciary Hearing on**

**Artificial Intelligence and Intellectual Property: Part I — Interoperability of AI
and Copyright Law**

Wednesday May 17, 2023

Chairman Issa, Ranking Member Johnson, distinguished members of this Subcommittee, thank you for the opportunity to testify today on the important issues involving artificial intelligence (AI) and the impact on the creative industries. My name is Ashley Irwin. I am a working composer and am currently serving my 6th term as the President of the Society of Composers & Lyricists (SCL). I am here today to advocate for my members, who are already feeling the negative impact of generative AI on their craft and its potential threat to their profession.

First, some background on me, and on the SCL.

Ashley Irwin Background

In my forty-plus years as a composer, arranger, and orchestrator, I have written music for over 1,000 hours of film and television, and more than 3,000 commercials. After three nominations, I won my first Emmy in 1992 (“Outstanding Achievement in Music Direction”) for my work on the 64th Academy Awards presentation and was again awarded in 1997 and 2003. In fact, since 1990, I have provided musical compositions and arrangements for 23 Academy Awards shows and been part of several Emmy-winning teams. I have had the pleasure of collaborating on many films with Oscar winners such as Clint Eastwood and Bill Conti. Over the years, my arrangements have been performed on numerous occasions for Presidents Clinton, Bush and Obama, and my choral orchestration of “Mansions of the Lord” was performed during President Ronald Reagan’s state funeral service. In 1998 I was commissioned to compose a new score for Alfred Hitchcock’s *The Lodger: A Story of the London Fog*, in honor of the great director’s 100th anniversary. I have also been awarded several other honors for my music throughout the world. I am an official Ambassador of the Australian Performing Right Association and Co-chair of Music Creators North America (MCNA). My election as President of the Society of Composers & Lyricists in 2013 marked the first time in its history that the SCL, or its predecessor organizations, had elected a non-U.S. born composer to the office.

The SCL Background

The Society of Composers & Lyricists is the premier U.S. organization for music creators working in all forms of visual media. With chapters in Los Angeles, New York, and Nashville, the SCL operates as the primary voice for over 3,000 members who work as creators of scores and songs for film, television, video games, and theatre. With members in every state of the U.S., and 80 countries around the world, the SCL is committed to advancing the interests of composers and lyricists and helping them achieve their full career potential in a demanding and ever-changing field. To that end, the SCL's mission is to:

- (1) Disseminate information concerning the creative and business aspects of writing music and lyrics for visual media.
- (2) Present educational seminars to provide the membership with the latest legal and technological information affecting our industry.
- (3) Enhance the workplace and working conditions in order to maintain the highest level of quality in our crafts.
- (4) Advocate for the ongoing health and well-being of our profession.

The SCL is the product of two predecessor organizations, the Screen Composers Association, which was formed in 1945, and its successor the Composers and Lyricists Guild of America (CLGA), which was certified by the National Labor Relations Board (NLRB) as a collective bargaining agent in 1955. The CLGA became, like the Writers Guild, Directors Guild, and other industry unions, a recognized and powerful entity, by giving composers and songwriters a governmentally sanctioned voice.

However, the beginning of the end for the CLGA started in February 1972, when 71 composers and lyricists filed a \$300-million class-action lawsuit against the major Hollywood film studios and other film-related conglomerates.¹ The suit charged the studios with "conspiracy in restraint of trade" by refusing to hire any composer or lyricist who failed to agree to their terms which included: complete ownership of the music and lyrics, granting publishing rights to the producer and/or his publisher (thereby relinquishing 50% of performance fees from exhibition) and surrendering all rights to exploit the music outside of the film or TV show. In April 1979, the federal district court approved a settlement between the two sides that ended the case. After the settlement, the CLGA attempted to negotiate a contract once again, but was unsuccessful. Three years later, by June 1982, the CLGA was voluntarily disbanded in favor of establishing a new representative organization.²

During the following summer of 1983, the SCL was born. In February 1984, the SCL formally met for the first time, with 310 composers and lyricists – including musical luminaries such as Henry Mancini, John Williams, Marilyn and Alan Bergman, Jerry Goldsmith, and Quincy Jones. Although the SCL petitioned the NLRB for certification as an independent union, the NLRB handed down a decision in December 1984 stating that composers and lyricists were independent contractors, not employees, and therefore not entitled to union status.³

¹ <https://thescl.com/mission-and-history/>

² <https://thescl.com/mission-and-history/>

³ <https://thescl.com/mission-and-history/>

As subsequent SCL president Mark Watters explained, “... The organization [SCL] became one of a central meeting point, a place for disseminating information about various aspects of our craft and our business. There is a need for this, simply because of the way we work; we are pretty solitary, we work alone and don't really have an occasion to interact with each other. The SCL provides that meeting point, whether it be social occasions, seminars, workshops, or various other activities.”⁴ The SCL continues to operate in its non-union role of education, advocacy, support, and mutual benefit. Its status today is the outgrowth of more than half a century of efforts by composer and songwriter activists to build a community united not only by talent but by a genuine concern for each other.

The SCL's Thoughts on Generative AI

While the SCL advocates for our members on several different fronts, the issue that has consumed the majority of our time over the last few months has been generative artificial intelligence, or generative AI. The rapid introduction of generative AI systems is seen as an existential threat to the livelihood and continuance of our creative professions, unless immediate steps are taken on legal, interpretive, and economic fronts to address these emerging issues.⁵

I want to be very clear, my goal in raising issues pertaining to the rights of writers and creators is not to block AI research and usage. We are simply advocating for the creation of a policy framework that ensures generative AI is developed and utilized responsibly, ethically, and with respect for human creators and copyright, so that the creative arts – that are the real engine of generative AI - can continue to flourish.⁶

We are not anti-AI. In fact, we are actually quite the opposite. As creators, we are on the cutting edge. We pride ourselves on our ability to innovate and adapt to new technologies. Non-generative AI-based algorithms and software tools have been integrated into our creative processes for almost 30 years, and we understand the immense value they can bring to our workflow, our industry, and our world - both culturally and economically. Accordingly, we hope to work with the AI companies to maximize the benefits and unlock new opportunities for collaboration, while also maintaining the integrity, and vitality of the creative community and its economic value.

The SCL is committed to advancing the interests of our broad membership throughout the U.S. and the world, while ensuring that AI companies, and their generative models, adhere to the fundamental “Three Cs”:

- **Credit** wherever audiovisual creators' works are used.
- **Consent** by creators for the use of their works in generative AI media.
- **Compensation** at fair market rates for the ingestion of any human creators' works by AI generative machines and the subsequent output of new derivative works.

The core copyright industries – including publishing, film, theater, television, music, software, gaming, newspapers, and magazines – combined – generated \$1.5 trillion in annual value to the

⁴ <https://thescl.com/mission-and-history/>

⁵ SCL-SGA AI Music the Creators Path Forward 5.1.23

⁶ Authors Guild AI Policy Talking Points 3.27.23

U.S. GDP in 2019. That was equivalent to 7.41% of the entire U.S. economy.⁷ In 2021 that number grew to more than \$1.8 trillion, accounting for 7.76% of the U.S. economy.⁸ Yet, we freelancers, who are responsible for most of the creative works on which these industries rely, receive insufficient compensation for our work.⁹

Three of the issues that I wanted to raise today are:¹⁰

1. Generative AI has been equipped using copyright-protected human-authored works and programmed to mimic those works without consent, compensation, or credit.
 - a. AI developers should be required to obtain licenses for the copyrighted works that they use to equip their generative AI systems. Collective licensing is a potential solution of which there are existing examples throughout the music industry.
 - b. All creator organizations should distribute a recommended clause for individual consideration by its members to include in any work contracts going forward, expressly forbidding the automatic use of any works created under the contract from being used to equip generative AI systems.
 - c. AI companies should pay a license percentage of any monies earned through the sale of AI creations and any associated advertising, as compensation to human creators for the use of their works in equipping any generative AI system.
 - d. We recommend the below legislative proposal that would add a new section (Section 123) to the Copyright Act.

Legislative Proposal to create a new Section 123: Equipping Generative Artificial Intelligence

Equipping artificial intelligence using pre-existing human-created works – notwithstanding any provision of this Act,

- i. It shall be an infringement to use, reproduce or distribute pre-existing human-created works in whole or in part for purposes of equipping artificial intelligence systems and/or to generate new works of authorship, unless the human creator(s) of the works by which the artificial intelligence system is equipped have granted prior express written permission, either directly or through privately negotiated licenses or collective licensing.
- ii. It shall not be a violation of the Sherman Antitrust Act for copyright owners to cooperate and work together for the sole purpose or creating and administering collective licenses that authorize third parties to use such copyright owners' copyrighted works to equip AI systems.

⁷ <https://www.iipa.org/files/uploads/2020/12/2020-IIPA-Report-FINAL-web.pdf>

⁸ https://www.wipo.int/export/sites/www/copyright/en/performance/pdf/report_2022_us.pdf

⁹ Creators Together – Collective Action Rights Letter 3.22.23

¹⁰ Authors Guild Policy Proposals Regarding the Development and Use of Generative AI 3.27.23

2. Copyright information (metadata) has been removed during the ingestion process of these models.
 - a. A need for transparency should be asserted in the origins of AI-created works. Methods can be discussed to etch an indelible watermark for every created work as to its original author (Blockchain, Metadata etc.), traceable throughout the AI generative process.
 - b. Proposed amendment to section 1202 of the Copyright Act, making it a violation to intentionally remove “copyright management information” from a copyrighted work without permission of the copyright owner, whether or not it can be proven that the removal was knowingly done to induce or enable infringement.
3. The market will be diluted due to AI generated works and as a result, copyright protection should not be granted to AI-generated works.
 - a. AI-generated works should not receive copyright protection. The U.S. Copyright Office (USCO) has held a firm position on this, with which we agree, but we want to make sure it remains this way. If courts find that AI authorship is copyrightable, legislation will be required to clarify that Congress did not intend for non-human authorship to be included in section 102 of the Copyright Act.¹¹
 - b. As with U.S. copyright law overall, the Fair Use Doctrine should be clarified to have relevance only for human-created works.

While I have many thoughts and proposals on how to best address these issues, overall, I believe that a legislative framework should be created to embody the above points and the growing role of AI in the human world. It should be designed to protect the creative professions and maintain the ability of human creators to be paid for their work.

I have been fortunate to meet with some of you directly, as well as many of your wonderful staff. This committee oversees many relevant and important issues, several of which are very partisan in nature. However, AI, and the regulating of generative AI models is not a partisan issue. At the end of the day, we all want to see America succeed, and continue to be the dominant power that it is.

Why is America’s success important to me? As you will no doubt note from my accent, I am not originally from the United States. I came here from Australia as a young man because I wanted to be a part of the vibrant culture that is the U.S. entertainment industry. Wherever you go in the world, U.S. entertainment dominates, and I wanted to be part of this creative ecosystem that is the best of the best. However, the rise of generative AI and large language models (LLMs) pose a threat to this unique American industry. If we do not protect and nurture our human creators, we risk losing one of our greatest exports and its profound influence. It is essential to prioritize policies and regulations that safeguard the intellectual property and copyright of creators and preserve the diverse and dynamic U.S. cultural landscape. By promoting and sustaining the creator industry, we also support the development of new talent, encourage innovation, and build a strong foundation for the future. Protecting creators and U.S. culture is a vital aspect of upholding the American spirit and ensures that the U.S. remains a beacon of creativity and

¹¹ Authors Guild AI Policy Talking Points 3.27.23

progress. I believe this committee has the power, authority, and motivation to lead this charge, and I look forward to working with each and every one of you to achieve that common goal.

I appreciate the opportunity to testify on these matters before this committee today, and I look forward to your questions.