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August 7, 2008

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Tanya M. Sandros, Esq.
General Counsel
Office of the General Counsel
U.S. Copyright Office, Room 401
101 Independence Ave., S.E.
Washington, D.C. 20559

Re: Request for Extension of Time to File Comments in Docket No. RM
2000-7, Compulsory License for Making and Distributing Phonorecords,
Including Digital Phonorecord Deliveries

Dear Ms. Sandros:

Please find attached a letter to Register Peters requesting an extension of time to file comments in Docket No. RM 2000-7. Please do not hesitate to contact me directly at the number above with any questions.

Sincerely,



R. Bruce Rich

Attachment

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The Honorable Marybeth Peters
Register of Copyrights
U.S. Copyright Office
101 Independence Ave., S.E.
Washington, D.C. 20559-6000

Re: Docket No. RM 2000-7, Compulsory License for Making and
Distributing Phonorecords, Including Digital Phonorecord Deliveries

Dear Register Peters:

We write on behalf of a diverse group of entities whose businesses stand to be materially affected by the culmination of the above-referenced proposed rulemaking (herein "NPRM") to request a modest extension of time for the submission of comments beyond the current August 15, 2008 deadline. As the Copyright Office is aware, the NPRM addresses extremely complex, and even first-impression, issues of copyright law laden with economic and public policy implications. Such an undertaking, with which the Copyright Office has wrestled for some eight years, warrants providing a greater period of time for consideration and thoughtful response by the affected constituencies than the thirty-day period that has been provided. The entities on whose behalf we make this request are CBS/Last.fm, MobiTV, Inc., Slacker, Inc. and YouTube — although the comments ultimately to be submitted may well embrace the views of additional entities. We specifically request that the period for public comment be extended by at least an additional 60 days.

Simply by way of illustration, one of the issues that warrants adequate time for consideration and comment is the Copyright Office's preliminary interpretation of "Digital Phonorecord Delivery" (DPD) to include computer data buffers, a conclusion that is built upon the controversial interpretation that buffered data — even where it involves only transitory captures of fragmentary elements of complete works — potentially implicates one

The Honorable Marybeth Peters
August 7, 2008
Page 2

or both of the reproduction and distribution rights. Indeed, just this past Monday, the United States Court of Appeals for the Second Circuit issued its decision in *The Cartoon Network LP v. CSC Holdings, Inc.*, 07-1480-CV (2d. Cir. Aug. 4, 2008) (slip. op.), which reverses and reaches an interpretation of the buffer-copy issue directly contrary to the District Court opinion that was expressly relied upon by the Copyright Office in the NPRM.

The manner in which the Copyright Office ultimately deals with issues of such moment can have sweeping implications for a wide range of entities engaged in digital commerce. The announced tentative view as to computer data buffers, for example, if adopted as a final position of the Copyright Office, could significantly impact established practice and settled commercial and legal expectations across many media, as well as upset the balancing of interests intended to be struck by the compulsory licensing provisions not only of Section 115, but of Section 114 as well.

The NPRM attempts to limit the precedential force of such controversial pronouncements (of which the buffer analysis is but one) by stating that the Copyright Office "take[s] no position with respect to whether and when it is necessary to obtain a license to cover the reproduction or distribution of a musical work." Yet, the juxtaposition of such a statement against the many areas of legal interpretation that follow itself raises important questions as to the proper role for the Copyright Office in interpreting copyright law and where the line should be drawn between such practice and whatever role may be appropriate for the Copyright Office to play, for example, in the implementation of Section 115.

We thank you for your timely consideration of this request and stand ready to meet or otherwise respond to any issues you may have concerning it.

Sincerely,



R. Bruce Rich



Kenneth L. Steinthal