

From:
To: [FN-OMB-IntellectualProperty](#)
Subject: How IP infringement affects my livelihood
Date: Tuesday, March 23, 2010 3:49:21 AM

Dear Ms. Espinel and the Obama Administration:

The Harry Fox agency has asked that I tell you my story and suggest ways to improve the lot of creative people. Please indulge me.

I am a musician, songwriter and music publisher, and have depended on music for my livelihood since I was 19 years old. It's been a long hard road that happily gets a little less bumpy every year, but it could be a lot less bumpy and more upwardly mobile if things were a little different.

About 10 years ago I started a music publishing company with the goal of getting songs placed in films and television shows. My company is small compared to some, but reasonably successful in that I've had hundreds of songs performed in popular TV shows like America's Next Top Model, 24, One Tree Hill, The Mentalist and others. As a result, I've been able to make my way through life, help my kids through college, and buy a modest home in a decent neighborhood.

But things could be much better if my intellectual property wasn't getting infringed on so widely, and on such a regular basis.

As an example, songs from my publishing catalog have been performed millions of times in pirated videos of America's Next Top Model that appear on various websites. I've personally logged more than 38 million performances on YouTube alone! There's one page that indicates the video on it (along with my songs) has been viewed nearly 2.5 million times!

If these songs had been performed on radio, I'd be pretty well off, but the sad fact is I haven't received one single penny for any of it. Not one.

ASCAP has told me they can do nothing about it as they have no licensing agreement with YouTube. And I can do nothing meaningful about it myself because YouTube is protected from legal action by the DMCA. Sure, I could file takedown notices, but the sheer volume of these infringements is way too much for one man to handle. In any case, filing takedowns is a joke and a practical waste of time because any such effort would produce nothing I could put in the bank.

In closing, my advice is this: Create or amend the law to make websites in general, and big companies like YouTube in particular, more responsible for the infringements they aid and abet. One solution would be to treat them like broadcasters and require them to pay a blanket fee to a central agency charged with fairly distributing that revenue to the appropriate rights holders. The PROs, Sound Exchange and/or Harry Fox are already quite capable of doing this. Give them the job.

Another solution would be to remove or reduce the DMCA protections and allow companies like mine to take them to court.

My argument is this: That companies like YouTube are worth billions is partly due to their abuse of rights holders like me. I would simply like my fair share of their success.

Thank you,



PS If possible, I would be most obliged if my name and city weren't posted on your website. Of course, please don't include this postscript in any publication. Thanks.