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The Copyright Alliance and Music Managers Forum-US (the music managers trade organization) have informed me of this welcome invitation from the Obama Administration to share my thoughts on my rights as a creator.

In addition to being a songwriter, record producer and recording artist, I am a full time entertainment lawyer, running a firm that concentrates on representation of songwriters, artists, producers, managers, agents, music publishers, record labels, etc.

Our firm, Bernard M. Resnick, Esq., P.C., has earned over 75 gold, platinum, multi-platinum, Billboard #1, Eurovision and/or BDS Certified Spin awards for deals the firm has negotiated and drafted on behalf of the firm's clients, representing sales of over 75,000,000 records.

The firm's clientele ranges across many styles and genres of talent, encompassing recording artists, songwriters, record producers, agents, managers, filmmakers, financiers, internet website designers and operators, professional athletes, etc. Clients of the firm vary from "baby bands" and neophyte filmmakers to gold and platinum-selling recording artists, producers and songwriters, Grammy award winners, members of the Rock n' Roll Hall of Fame, record labels, international entertainment businesses, and publicly-traded companies.

I am sure that you are aware that many artists who were formerly signed to long term contracts with record labels and music publishers have now been forced to go "independent". This is because the large record labels and music publishers cannot afford to carry large rosters of musicians and songwriters when their income is constantly eroded by illegal file sharing. Thus, many of our clients are well known, well regarded artists who now control their own artistic output. The difficulty is that these artists also must serve as their own promoters and their own copyright police force. Our younger clients who are new to the industry have a much lower chance of ever "getting signed" than earlier generations of artists. They are truly on their own in a "DIY" (do it yourself) world.

Intellectual property rights are vital to our firm and to our clients. Were it not for the rights guaranteed to our clients by the Copyright, Trademark, Patent and unfair competition laws, I doubt they (or our firm) would remain in business.

However, enforcement of these rights is a serious, time consuming and often fruitless exercise in futility. The threat of a Digital Millennium Copyright Act enforcement notice rarely does much in terms of cowing infringers to refrain from illegal sharing of our client's property, although it supposedly is in place to protect these rights holders. The problem is that the law is toothless when the anonymity of the internet allow rogue website operators, bit torrent and other similar sites to continue in business without our being able to discern who is running the site, or where they are even actually located. Also, by the time we find out that infringement of our client's property has occurred and we send the DMCA takedown notice, the "genie is out of the bottle", because the file sharing has already taken place. The rights in property are indeed very difficult to enforce when it is nearly impossible to figure out who is doing the stealing.

Large sites (which are in our opinion merely safe harbors for massive infringement, such as, for example, youtube.com and myspace.com) make it very difficult to jump through all of the legal hoops necessary to actually achieve a takedown. On top of that, these sites clearly want to delay the takedown as long as possible because their revenue in large part depends on the amount of content they are able to offer. Whether infringing or not, the more content, the better for them. It is nearly impossible to reach an actual person at these large sites, and the system set up to allegedly comply with the DMCA requires us to send e mails to nameless, faceless departments that do not reply with

any phone number, fax number, physical address or even the name of the person responding to our notices.

Many times, rogue website operators even argue with us, claiming (as in the Grokster case defendant) that they did not infringe - rather they rely on the old "someone using their system must have infringed" ploy. Nevertheless, pointing out to these parties that this argument was overruled by the US Supreme Court rarely persuades them to change their ways.

Our clients are thus forced to make the difficult decision of whether to try to enforce the law themselves, without the benefit of legal experience, vs. paying money they cannot afford to their lawyer (our firm) to do their enforcement for them. The most insulting part of it all is that the best we can achieve is a negative result - i.e., we "stop the bleeding" of more infringement from a particular site, but we are simply unable to recover any lost revenue for our clients. Thus, enforcement becomes a self-defeating prophecy. Either way, the client loses.

What can the U.S. government can do to better protect the rights of our creative clients? The answer is simple: put some teeth into the DMCA and the underlying copyright, trademark, patent and unfair competition laws. Allow us to report, sue and stop the availability of rogue websites that either clearly offer infringing materials or that allow their users to trade infringing content. In other words, if they don't take down the infringing content, their site is taken down in its entirety. Force all websites to publicly reveal the actual names, addresses, phone numbers and physical locations of the site's headquarters and their owners. Enact laws that hold owners and operators of these sites personally liable for massive and clear violation of US law. Turn off computers that are used to steal intellectual property, and forbid access to the internet by the crooks who use them to transmit materials that do not belong to them. Only then can we save the thousands of jobs and millions of dollars that are being lost because of rampant stealing on a worldwide scale.

Education is also a key part of any strategy to stop infringement. Just as children are taught that stealing is wrong, and that shoplifters go to jail, there should be an educational campaign which begins in primary schools, (as there is in South Korea, for example) that teaches children proper "netiquette", and shows children the difference between right and wrong doesn't evaporate when they are using a keyboard.

Thank you for your consideration and time.

Peace & love,

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