

From: [REDACTED]
To: FN-OMB-IntellectualProperty
Cc: info@copyrightalliance.org
Subject: Obama Administration - Invitation Response
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From: Don Rath Jr
To: Ms. Espinel

Subject: Copyright
Date: 03/24/2010

Dear Ms. Espinel,

The Copyright Alliance has informed me of this welcomed invitation from the Obama Administration to share my thoughts on my rights as a creator. Below is my reply and submission for this invitation. Thank you for your consideration.

Don Rath Jr
StringTunes – Music to Soothe Your Soul!

A Composer's Perspective on Digital Downloads & Fair Use

Without going into what one must do to secure or to describe the process of registering for Copyright or to discuss or debate the Copyright Law in general. As a Composer of music, I wanted to write about what it means to me to have the rights and privileges afforded me and others like me, as provided for in the US Constitution. Also I wanted to provide a broader perspective, my perspective, of the problems encountered with regard to downloading digital music and the issues surrounding illegal copying of music. Also included in this letter, is a possible solution and/or a focus on the issues surrounding my concerns as an intellectual property owner. Whether or not my ideas are adopted in whole or in part, maybe they can be useful in developing something that will resolve these issues.

Why Copyright

In 1978 I filed for and secured my first Trademark registration. Since then, I have secured many copyrights for new music. In one way, shape or form I have been involved in securing and furthering my understanding of intellectual property laws within the United States as well as within International Intellectual Property Law. I have a basic, although not (formal) legal, understanding of the rights afforded creators of intellectual property, under the US Constitution as detailed by our Founding Fathers. I believe that I understand their intent as; qualifying the value of the contributions made by the creative mind by designating in the adopted Constitution of the United States, the legal stature and protection of the rights of those that do create, establishing Constitutional privileges for the rightful copyright owner, for a period of time.

The achievements, improvements and the cultural and societal advances and the development of all of the products we see today come from those that create something new, whether by melding pre-

existing ideas or by creating and developing something entirely new has made our progress progressive and positive. All of us, including all of our experiences with the newly developed products, along our evolutionary pathway through to modern times, have gained from increasing our comfort levels, our standards of living, our productivity rates and through the cultural advances made possible through the creation of new products.

Constitutional protection of the rights established for those who create, has provided a strong foundation, one that is necessary for honoring and respecting the various types of investments made by creative individuals and businesses when generating new copyrightable products. This legal foundation has enabled them to continue their work as creators in hopeful anticipation of earning from their efforts and for establishing a sense of security during the term of the copyright. Without this constitutional foundation and the enforcement of the Copyright Law our very existence may be at stake in so far as without the ongoing creation of new products our current standards of living; first, could not have been possible and secondly, our future would be undermined from what achieving what is possible. In essence, without protecting the rights of creators we would remain stagnant in our attempt at forward societal and cultural advancement and in the future development of our species. Actually, when you really think about it, it is a matter of survival. Our founding Fathers knew this and we must not forget these principals.

My Story

Personally, as a composer of instrumental music, I made the decision to formally register my musical works at the US Copyright Office just in case there was any occurrence of illegal activity or copyright infringement towards any of my original musical creations. Officially, there is no real need to file for a Copyright Registration unless a person wants ownership to be a matter of public record, wants a Copyright Certificate or wants to file a lawsuit against someone who illegally infringes upon a copyrighted work. This is detailed in Copyright Law. These ideas support and strengthen the ownership position in a court of law.

Additional protections are available to the creators upon formal registration of copyrightable works. The total rights granted within Copyright Law protect the creators of new products especially if one is planning on entering the general marketplace with them. Since I had a plan to publish my creations, I felt compelled to file for the formal registrations as an insurance policy, to gain the additional protections provided under the Copyright Law, to protect my ownership rights and interests as provided for and as granted by the Constitution of the United States. Also, I knew that by registering my music that I would be standing on solid legal ground if or when I needed to defend my intellectual property rights. That is the protection I was seeking and that is why I continue to register all of my creations. I do not release into the marketplace those products that have not been registered for copyright to protect my interests.

Formalizing the copyright through registering my work has freed up my mind and has enabled me up to promote it as best I can with the ultimate goal of earning a fair and decent living writing original music. It's not easy to write, produce and manufacture musical ideas into a tangible marketable product. It's a lot of work, hard work, for which I hope to be properly paid for my efforts in creating something that brings others auditory pleasure. I believe that formally registering for a Copyright helps to ensure that or so I thought.

Ideally, everyone should honor Copyright Law. However, in the real world, there are many who do not honor it, especially those laws and provisions that would otherwise prevent them from unlawful use or outright theft of the copyrighted work. The current battle rages on industry wide in an effort to devise

methods, techniques and other mechanism that could thwart deter and stop non-owners from producing and distributing illegal copies of copyrighted works. It is difficult to prevent this type of behavior especially with the advent of the digital age of the Internet. Our lawmakers are trying to write enforceable revisions to prevent the unlawful uses of copyrighted material and many companies who advocate proper respect and use of copyrighted materials lobby Washington to further promote the enforcement of copyright law. Again, this issue is not resolved.

Of most importance to me, is the fact that through my work as a living composer and as an incredible benefit of copyright ownership, the copyright protects me during my lifetime and it provides a valuable legacy transferable to my rightful heirs, specifically, my Children and Grandchildren, hopefully, enriching their lives as well. To me, composing music is not really a selfish act but rather an act of giving even more of my self to my loved ones as well as giving joy and sonic pleasure to others, in this lifetime and beyond. Music is something we all value and it is something very real. Truly, music is an endearing gift, over time, from my soul to theirs.

The Digital Download Problem

In today's world, there are many people and businesses that would rather take a composer's work, duplicate it and distribute it to their friends and others without securing the right to do so. The worldwide music markets are up in arms about illegal duplication and distribution of copyrighted works, weak or non-existent digital copyright law, poorly designed International Copyright Law and its enforcement, business-to business and peer-to-peer issues, and how to protect the interests of the writers, producers, and distributors, and performers of music.

From this composer's perspective, those who take (read: "steal") music, duplicate and distribute it unlawfully, do not understand or respect the incredible amount of effort and resources that goes into creating a musical work or what is involved in creating other forms of intellectual property. As long as piracy and theft are not held in check all of the creators are at risk of losing income, security and confidence potentially disabling or in the least disempowering the free flow of ideas.

The Internet has provided an arena, an environment, increasing ones ability to illegally copy music, basically at will, at any time regardless of the format the music is presented in. Illegally downloading and/or copying music produces a direct loss of income for its creator(s) as well as those who helped in its creation, marketing and distribution of it and it is a direct loss to State and Federal taxes collectable through retail sales, income and estate taxes. In essence, the person who does so is stealing from many. It is the same in principal as if a person robbed a bank or stole a loaf of bread from a grocery store. It's the same in principal as not getting paid to perform your duties at your own place of employment. For example, if your boss came to you upon your arrival to work and said, *"Today I am not going to pay you for these three hours of work but, I fully expect you to do the same amount and quality of work you normally do during regularly paid hours,"* or *"I expect you to work overtime without pay today,"* how would you feel or respond to either of these requests? Of course you would be more than slightly peeved and possibly take legal recourse if that course of action was available to you. Maybe you think copyright infringement doesn't really matter, but **it really does matter**, a lot.

In music, the problem goes beyond simple copyright infringement. There is a growing belief in the population which has caused them to expect that music should be made available for free, free to copy and free download from the Internet. Part of the belief is caused by the very creators themselves in their attempt to gain exposure for their work. Their contribution is done by offering free downloads to their friends, fans and others. The problem with this marketing idea is that for every free download people have free access, the belief is fostered and has continued this way for some time now.

The belief has become an expectation from the ongoing presence of free music throughout the Internet. In an attempt to quantify the extent of this aspect of the problem, if 100,000 composers and performers throughout the world posted three compositions on the Internet under no cost terms, the marketplace becomes saturated with free music to the tune of 300,000 pieces of music. Exponentially, if 300,000 composers and performers do the same, the market has almost a million songs available for free download to anyone having Internet access. Under this thought process, what then is the enticement to actually purchase music? Secondly, where is it that a composer or performer can make a decent living doing what they do the best when there is so much free music available? If each of the persons who downloaded free music makes copies or digitally distributes the song to one or several of their friends, it is easy to understand that the marketplace becomes a virtual zone of free downloadable music greatly reducing the chance for sales of legitimate assets.

Further, it dilutes the belief of paying for music in general when one can have all of the music they could ever listen to basically at no cost to them. Hence the economic impact in essence is enormous and again, if left unchecked this path of behavior will eventually lead to the complete and total destruction of the marketplace as well as any tax revenue that otherwise could be gained from sales of digital music product.

I think there is a good chance that many people do not realize that for every song downloaded for free, or every time they give or receive a copy of a song to/from a friend, or have duplicated a file or ripped a song from a CD, that they have taken money directly out of the pocketbook of the composer of that music. Not only that, but they have broken the law as provided under copyright law. Most do not even know about the copyright laws and consequently they have no idea that they are breaking any law. The lack of or the partial understanding of the copyright law is educationally based. Therefore the need to provide this education falls to our educational system as well as to the parents of children.

As a composer, I've spent literally tens of thousands of dollars on music education, software, computers, and I mean countless hours writing and rewriting music, honing my craft, learning musical instruments, notation and orchestration - all of this unpaid to fulfill my desire to compose so that others might hear and might gain a positive influence as a result of listening to my music. We composers specifically invest in our craft in many different ways just to have our music produced. In some form, we have to pay for demos, recording time, musicians, engineers, producers, music software, etc. or, if we are lucky enough to have gained an audience with others which have the power and the systems for mass exposure and distribution, such as a music publisher, who likes what we do and takes on our projects, we still have to give up, in some cases our complete ownership rights. In other cases, we lose some of those rights, keeping only a portion through successful negotiation of contractual arrangements. If we are terrible negotiators and businesspeople, we lose in a bigger way at times, trying to learn from our mistakes we may have made with people who may have other interests than ours in mind.

In most cases, a composer's music isn't heard by anyone other than a very small group of people who know the composer directly. Except for the few who have actually been "signed" and promoted enough to the masses, most composers and performers do not actually make or earn very much directly from our own music. In fact, the majority of composers do not have the luxury of deriving livable incomes from their work, especially those who live outside of the major music centers such as Nashville, New York, and Los Angeles. This too is a shame on us as a society since we rely so heavily on the arts in all parts of the world for our daily pleasure and enjoyment.

Navigating Change

Putting the responsibility onto those businesses that provide marketing and distribution services would be one way to control and monitor the "use" of a "musical product". The RIAA has good intentions trying to stop or prevent illegal use of copyrighted material, but using their resources to go after the individual is not economical nor is it practical, in my opinion, and does not provide a sensible resolution to the problem. By refocusing all of their efforts on the businesses that market, sell and distribute music, the RIAA's effort has the potential to directly impact the individual by example and clean up unprofessional businesses that allow and/or support illegal downloading and duplication of music at the same time. In principal this organization can provide valuable support for composers by helping to police the industry rather than policing persons on an individual basis, a much wiser use of resources. I think the US Congress should support the idea of regulating these businesses by imposing the responsibility onto them for correctly reporting usage, duplication and distribution. Maybe some of them can be controlled through Congress but many of them will always remain under individual control by those who control the power in the Industry and will lobby to prevent such legislation.

At the distribution level, it is far easier to monitor the dissemination and the use of a musical work than on the individual level; however, some distribution models are not user-friendly to a composer or intellectual property owner, especially those that require a composer to lose many of the ownership rights in order to be involved with them in the first place. Composers need exposure this is what these companies offer. This is also one of the main reasons free music is made available via the Internet. Even though they offer non-exclusive rights agreements they do so while requiring a composer or artist to grant them certain rights without providing for any reporting to royalty collections agencies or PRO's for any "play" that occurs from the public's use and access to their site.

Some composers use these sites for gaining exposure exclusively by not permitting downloading; rather, they upload 0:30 second to 1:00 minute clips or examples of a work so potential customers can have a sample of a composition enticing them to purchase the work, for the networking and for use as a communication vehicle with their fans. It suits the composer and performers purpose of gaining public exposure. In that regard the association is valuable.

Still, it is the "play" or "performance" of a work that is not tracked and not reported or tracked and not reported on most of these sites. Many argue that the music sample when played is not a performance but the fact remains, when someone other than a licensed party hears the work it has to be classified by definition as a performance, albeit a digital one. A composer should be compensated for that but they are not.

Further and as an example of the above point, if an Internet site such as Myspace makes a work available through streaming and/or for download in any form, then the site should be held accountable by tracking the number of plays and downloads and reporting this to the owner of the work or their respective agent, without the composer being required to sign away any rights for using the site. The current Myspace model removes this right from a composer, by requiring the composer to sign an electronic document that frees them from that responsibility. This is great for Myspace, terrible if you're a composer, writer, performer, etc.

Another example is SnoCap. You can sign up with this organization for selling your music on the Internet, but then again you are required to sign another digital contract releasing them of certain financial and reporting responsibilities they should otherwise be held accountable for.

There is no accounting submitted by companies such as these to the Performance Rights Organizations (PROs) so that a composer or performer can be compensated for a "play" on their

website. Again, this model does not fairly compensate either the creator of the work or the performer. It also dilutes and diminishes the value of a song simply due to the base nature of the lack of requirements to report the number of plays a song receives.

Also, some web sites such as these permit copying the music onto multiple computers. They include statements in their Terms of Service that promote the fact that a person has permission to duplicate up to 10 copies of a file, they permit downloading on up to three different digital players, which takes money out of the composer's pocket. Who gave them the right to supersede the Constitution of the United States and the Copyright Law? To top it off if you are an artist or composer and you want to use a web site's distribution services they take 20% to 50% from every dollar for the right to post music on their site. This percentage is taken from every single song sold... and to think, I can't use these services unless I agree to their terms. Such a deal!

Presently, there are methods of copying music whenever it is played through a computer. Regardless of the source of the sound, if the music can be heard through a computer's speaker system it can be copied. It doesn't matter if the person is an individual or a company with large resources for mass duplication and distribution. The music no less can be easily copied by using simple software.

I found a website that promotes a music player/recorder that does just that. It makes it possible to record any music or audio file playable on a computer to be copied by anyone who has this product. By the way, this includes streaming music as well. Their claim to fame is that it will record anything you can hear from your computer speaker setup. With this device, how are composers of musical works suppose to earn a living creating music if anyone at any time can simply steal it by copying it as it plays? Seemingly, the only recourse is to stop putting new music on the Internet or to find a way to prevent companies like this from making a product available that makes duplicating possible and easy to do. FYI, that product is a free download. Go figure.

Intellectual property rights need to be protected. By requiring the distributors of music and delivery services to be fully accountable we would at least be moving in the right direction. The PROs need to have the play counts in order to process the correct payment to their clients, the copyright owners or their respective agent. They cannot do that if reporting isn't mandatory from any business whose business is to provide access to, sale of, and one which provides a download capable system and then properly reporting it.

PROs or Performance Rights Organizations, they require that you can only belong to one of them at any given time. They are supposed to pay the rights owner(s) their performance royalties. They do this regularly and for the most part do this quite well with the performance information provided to them. However, how can they do that effectively and comprehensively if they are not directly involved in the entire process, including the point of delivery or point of sale for the benefit of all composers, writers and performers under their umbrella, especially when many distribution outlets never report to them these digital performances? They currently provide licenses to television stations, radio stations and other venues for the right to have musical work performed/played. Why not require them to do the same for Internet based sites? They should require these businesses to pay as they do for other avenues of distribution including synchronized music in Film, broadcast performances in TV and radio and performance venues. If they do not do this than the requirement of only "belonging" to one of them is seemingly insufficient for collecting all performances of a work, especially if all of the reporting they receive is incomplete. How can the PRO properly compensate the composer or the performer? They can't.

Regarding other rights, such as mechanical rights, if Apple, for example, creates a new device allowing

the general public to record, duplicate, or play a musical work, why not hold them accountable for paying the creator of the work a portion of the proceeds from the sale of such a device especially devices which duplicate music or permit the transfer of music from one device to another? I acknowledge that this probably wouldn't go over very well with Apple and any other manufacturer offering similar devices. The same could be applied to manufacturers of blank CDs and DVDs or any product that supports the copy of or duplication of a digital product or a physical product. Some of this structure is already in place and does provide a level of compensation to the rights owners, however some is not. There needs to be some way to measure accurately the number of downloads, or copies from other original sources, to determine the number of times a song is downloaded and uploaded to or from one of these devices. Another supporting idea would be to mandate that these devices include a counting and reporting signal of sorts that transmits usage to a centralized location or to limit the number of times these devices are enabled to permit duplication. Although Apple probably markets a quantity of units involved in its products of some sort, the illegal reuse of the song is completely out of control. So, what can be done?

Looking at Solutions

ISRC codes can provide a basis for tracking the frequency a song is played or performed in electronic and digital formats. These codes are song-specific and give data about the composer or rights owner. Using this method and tracking the usage at the distribution and delivery levels, along with tracking by UPC codes at the retail level for hard product, by tracking the encoded works when they are slated for broadcasting in TV, film, and radio airplay, then the number of plays or performance can be tracked more effectively. Since most of these are strictly digital mechanisms in nature and by programming into the songs a traceable device during their manufacture it seems that it should be doable to provide all inclusive performance counts whether from original product or through the devices sending counts to a centralized location for tracking. If companies like GraceNote can tell you what you are playing on your computer, in your automobile or on your TV, couldn't the number of times a piece is downloaded and/or played be tracked and submitted to the PROs? I would think so. iTunes is an example of a company/website that does track and report and pay royalties due so we know it is doable.

One thing that seems to be missing is tying together the copyright number, as provided on the registration document from the US Copyright Office, with the ISRC, EAN and UPC codes. By either, replacing and producing a single number that takes in to account each of these traceable levels or tying them together which would provide a basis of continuity and accuracy of the performance counts associated to a specific creator or rights owner/agent. Also it would standardize the numbers across the industry used to identify ownership and provide for accurate counts in both play and purchase situations. One of the impediments to implementing an idea such as this is the fact that the US Copyright Office takes so long to provide the related copyright number. For example, it has been over two years since I submitted the registration documents on several of my musical works. Their reason or claim is an extreme high volume of submissions causing the delay in getting the copyright number included on a copyright certificate to those who submit to the office. With two plus years of delay in getting the number you can see that this idea could only be implemented if the Copyright Office was speedier in completing the registration of or for assigning and providing a copyright number to submitted works. One last point here is the necessity to tie in the numbers with the assigned number at the PROs. If you have your copyright number you can post it in the registration of the work within the registration with the PRO. Great if you have the number, not possible if you do not. If it takes two or more years to get all of the related numbers together either there would be a delay in releasing material or exposure to risk as proof of ownership is needed in a legal proceeding.

Further, composers do not have a union that could strengthen and support copyright enforcement and political input and influence, although just about every other profession in the Hollywood system has

one, including writers, actors, and stagehands. Maybe and most likely this is to our great loss and disadvantage when battling to gain proper royalty compensation. The Writers Union members have been fighting for the rights of intellectual property owners. Their recent strike has resulted in havoc being hoisted on the entertainment industry. The impact from this has been a wake-up call to those who battle against fair compensation to the creators of intellectual property. Kudos should go to the Writers Union for standing up for its members. Composers can learn a lot from this organization, since both instrumental composers and songwriters should be allowed to participate in this or similar unions and be permitted full membership status and support privileges.

The leverage occurs when or if composers did have a union and went on strike with the intention to keep their earnings intact, how would the world benefit from an extended strike? Music is everywhere. Without composers continuing to write new music, stopping the writing of new music or stopping the posting of music on the Internet, en masse, during a strike there would be a necessity to only play existing music and a loss of income to industries which utilize and rely on new music. Why is it that we as a society require of others the need to join forces such as a union in order to receive the rewards of our labor?

Also, if composers did stop composing there would be no new music and no new growth or forward movement to the field of music. I believe that these acts would make our lives a lot less enjoyable and there would be a direct economic impact to industry in a broad way. I also believe that it should never be necessary to strike, but, again, this is a complicated world.

All of these points are part of the whole - the entertainment industry but it goes further than that. Whether we like it or not, we are all in this together. Creators of any form of entertainment and any form of intellectual property make this world a better place in which to live. Creators should be properly compensated for their contributions. As composers, we enhance people's lives. We cause them to laugh, sing, cry, dance, fall in love, and experience moments of inspiration, sometimes great inspiration. We should be respected for our contributions in making this a better more enjoyable world in which to live.

Marking Products – Enabling Complete Tracking

There have been many other attempts to mark musical products such as watermarking. To date none of these systems provide adequate and complete protection for the copyright owners. Therein lays the importance of providing legislation that puts the onus on the deliverers of the product and the product manufacturers who produce devices supporting the sale, duplication and transfer of music. This is the strongest position for controlling the risks and possibilities of piracy and illegal duplication.

Years ago there was the seventy-eight record followed by the 33 1/3 vinyl record and the 8-track system. For the average person it was very difficult to duplicate these products without expensive equipment. Nowadays, the digital products are cheap to copy and very easy to duplicate and to distribute them. The only way to control this is by putting into place a surcharge of sorts onto the products and services, "delivery devices" if you will, at the point-of-delivery, as mentioned above. This pool of money would then be 100% distributed to the composers and performers of the work. Monies needed to cost justify this program comes from added costs to the point-of-delivery providers as a fee imposed upon them and from penalties to those who attempt to cheat the system or otherwise avoid being involved in the program.

Identifying the locations for tracking, as far as my knowledge goes, is best done where product is transferred, stored, duplicated and sold (tangible product). All of these can be classified as the "point-

of-delivery” and all can be the location where the tracking can occur.

Creating a standardized numeric value for a given musical product; such as a CD, mp3 file, wav file, pdf file for notation, book or other digital, detectable or printable or copy able file types can make it possible to track usage and performance when associated to a given number that represents the rightful creators, performers, owners or agents of the copyright for that product. Installing some tracking device or mechanism capable of reading and tallying usage for a given product, specific counts can be made while in the process of delivering those products. Products such as cell phones or other telecommunication devices, computers, music players both tangible and digital and any and all additional digital devices where a transfer can occur, etc. can provide a location and a streamlined methodology for tracking the number of copies made, plays and/or transfers from these devices. Establishing a centralized location where all devices “report” the number of copies, sales, plays or performances, will establish a complete total for a given title or product. Since all of the tracking is done digitally, the amount of error will be minimal and hence the accuracy of the tally will be considerably more comprehensive and more accurate than when using the current systems and the various methods of tracking usage.

The tracking devices must be able to do three things; read (count and associate to a given number), tally (add each transfer to an ongoing amount) and to transmit the cumulative total to a centralized location where a grand total in a given time frame can be completed.

The collective total will provide a numerical and hierarchal structure based upon the total of the count of each traceable product. This count would be one of three ways to measure the amount of payable “royalties” on each piece of music. The second method is inclusive of the type of performance such as a performance, copy or broadcast. The third rating would be how long the specific song has been under formal copyright based upon the registration date. Collectively, these three numeric values can be totaled providing a single figure. This figure can then be transferred to a by multiplying the percentage into the total pool of collected fees (as discussed above), a total dollar amount can be established and paid to the rightful owners of the copyright and/or the agent of the copyright holder through their associated and established PRO's.

Again but more succinctly, all traceability is done at the point of delivery and reported back to a centralized location for completing the tally. All counts are product specific and identifiable and matched to their rightful owners or owner's agent through a single number. The collected pool of funds is then divided up among those titles or products based upon a valuation system comprised of the total number of transfers, the frequency of transfers and the type of transfer each with a specific numeric rating. The total rating for a given title or product is transferred to a percentage and the percentage is multiplied into the total pool of collected fees. After totaling together all dollars payable under a given owner or owner's agent the amount in full is then transferred with an accounting report to the proper and related PRO and to the copyright holder for distribution.

There are additional considerations to work through in order for this program to work. Such as; monitoring or regulating the number of copies a device can produce, collecting from individuals who distribute beyond the “Fair Use” laws without a license and preventing the manufacturing of non-regulated copying devices to name a few. I think I am on the right track though with tacking counts from the point of delivery or transfer.

Direct Impact

What is most frustrating to me is that as long as the risk of illegal use and copyright infringement

remains unchecked, I personally feel restricted in what I can freely post on the Internet. I'll use myself as the example.

I own over 150 copyrighted songs. Only 36 audio files are posted on the Internet for this very reason. Also, the secondary products, specifically music notation, are not posted at all. As a result of this choice, my potential income as a composer is severely limited. Yes, it is my conscious choice to withhold but as long as anyone anywhere can illegally copy my music where I do not have the luxury of potentially earning a living from it, why should I? Exposing or not exposing my music makes no difference. The direct risks and the potential threat of theft of my music have resulted in my unwillingness to expose most of my creative work. The net impact is a direct loss of income to me personally and a direct loss of income from retail tax revenue to both the State I live in and the Federal Government. Overall, this is a direct and negative result for all.

Further still, my knowledge of the lack of restraint and the disrespect for copyright law, when it is not enforced, creates a fear inside me to the point of making this type of decision the correct one. The fear is not overpowering however it reminds me of the risks involved in exposing music in a digital format. Aside from the direct loss of income as described above, there is another and somewhat larger problem. Should someone illegally steal my music, my recourse is a lawsuit. The cost of pursuing those who have done so, both financially and in the loss of attention to what I do best, are costs I am not in a position to bear. If I have to involve myself in multiple legal disputes over copyright infringement then when am I going to have the time to create more music and to create it from a mind seriously encumbered by direct involvements in the legal system? The risks of theft and piracy are increased with each exposed new composition. Since I choose to continue to create new music, the only choice I have as far as exposure is to limit what is made available. New works are not posted until the copyright registration is complete and I hold the copyright document.

Until such time as the copyright law is fully supported preventing and eliminating as much as possible both the possibilities of illegal copyright infringement acts and the maintenance of the choice to keep secure the majority of my work by withholding, my decision will likely remain the same even with the option of the legal recourse available to me as detailed in the current copyright law. I know I am not the only one who feels this way. The real loser in this case is all of us, me included. Others do not get the chance to hear this music, distribution outlets do not have my music to sell, I receive no income from my efforts and withholding products from an uncontrolled marketplace generates no tax revenue from these products.

In order for me to survive I am then forced to work in a job to create the money needed to live and additional investments that can enhance my products are limited to out of pocket investments only. Because of the geographic and industry limitations as to the primary music industry I am forced to work outside of my chosen field of music creation thus limiting my output and potentially limiting my income to a working wage. This is another area where we all lose. Again, I am not the only one in this situation and that compounds the situation also in a negative manner.

From this more personal influence, it becomes even more necessary to correct the situation regarding copyright protection. I am only one creator of music. If others like me feel the same way, you can see that potentially this is disastrous for our economy and for the ability for others to enjoy the newly created musical works. I do not have the "numbers" involved or related to the losses being incurred due to the current situation throughout the world regarding the current lack of protection of copyrights. I could not even guess, but I do know that the loss just on my own products is substantial to me personally. The loss is cumulatively I'm afraid, is much larger in the big picture of things.

Final Thoughts

It is far past the time to have a meaningful, fair and just resolution to this issue. A balanced compensation program for creators, detailed in a set of effective and enforceable domestic and international laws is vital for our collective future. If you are going to stand up and provide a corrected or improved set of laws supporting copyright and the enforcement thereof, then stand up and fight for the rights of the creators of intellectual property. Scream if you must to provide a just and proper IP protection program, but make certain you are standing on knowledgeable and defensible ground. Operate through principal and not from some special interest group or influence that causes you to take a stance that may result in weakening the law or its enforcement through poorly designed revisions or inappropriate new laws. I believe that this report submission and others like it from other respondents to your request for input can provide an overall new focus and maybe some enlightenment for designing a system that actually works.

Our Founding Fathers believed that protection of the creators of new things provided a basis of legal rights which in turn provides strength for the individual and for society at large. It is our duty to uphold the principals under which the original law was created. After all is said and done it is our culture as well as other cultures who find that creation of new ideas and things is a valuable contribution to the race of man. If we think in small terms we all will suffer. We must consider the value of and the contribution from creators in a broad sense and form a coalition of nation states on a worldwide basis that will provide for the protection of the intellectual property creators. I believe that failure to do so will result in a great societal loss and produce a stifling of our collective evolution as a species.

I dislike the idea of "Big Brother" monitoring my life. The concept presented here is invasive and does not sit well with me either however I am unable to think of any other way to prevent the illegal use of copyrighted material. Monitoring the transfer of digital products at the point of delivery or the point of sale is the least invasive of the choices in my opinion. I do know that it will be much easier monitoring at those levels than at the individual level simply because there are less of them. We do live in a different world than I would have preferred. As long as the risks exists there appears to be no other practical way to stop bad behavior unless there is some profound consciousness change for all people.

I hope that this letter helps to support a plan for a broad based balanced program that supports both the creators of intellectual property and the businesses that support the sale and distribution of the resulting products, all with the intent of and for the betterment of our world. Make some money but don't rob the creators out of their fair share. We need each other in this world. We should respect that.

Highest Regards,

Don Rath Jr
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