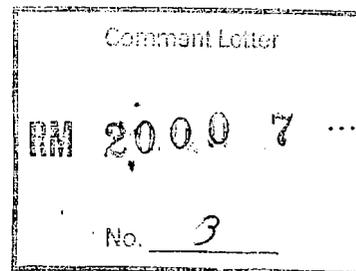


August 27, 2008

**VIA HAND DELIVERY**

Library of Congress  
U.S. Copyright Office, Room LM-401  
James Madison Building  
101 Independence Ave., SE  
Washington, DC 20559  
Attn: Office of the General Counsel of the Copyright Office



**Re: Compulsory License for Making and Distributing Phonorecords, Including Digital Phonorecord Deliveries**

Music Reports, Inc. ("MRI") provides the following comments in response to the Copyright Office's Notice of Proposed Rulemaking regarding the Section 115 statutory license, published on July 16, 2008 at 73 FR 40802 (the "NPRM").

MRI takes no position with regard to the substantive issues contained in the NPRM but comments only to remind the Copyright Office that Section 115 is currently in wide use by a number of digital music services. The statutory license could be more widely used but for the cost of filing Notices of Intent ("NOIs") for unregistered works in the Copyright Office. The Copyright Office could remove this impediment by permitting electronic filing of NOIs at a substantially reduced cost.

MRI is the leading provider of music licensing and royalty accounting services to digital music services in the United States. An area of increasing activity at MRI since 2001 is the high volume invocation of Section 115 licenses through delivery of NOIs to thousands of individual copyright owners (pursuant to 37 CFR §201.18) and the management of monthly accountings for such licenses (pursuant to 37 CFR §201.19). These services have ramped up significantly in the last two years, in response to market demand for licenses, as well as the ease of invoking Section 115, due to the Copyright Office's sensible modifications to 37 CFR §201.18. The expansions of MRI's databases and technical infrastructure have also contributed to increased reliance on Section 115 by digital music services.

MRI now provides compulsory license administration services to several of the largest digital music services operating today. These services offer ringtones, on demand streams, and limited downloads of hundreds of thousands of recordings on a per-download, subscription and/or advertiser supported basis. Typically, MRI clients do so

through a combination of voluntary licensing directly with copyright owners and NOIs issued pursuant to Section 115.

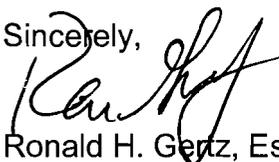
In fact, several high volume music services now rely predominantly on the Section 115 license, having found it to be administratively more convenient than voluntary licensing with copyright owners or their agents. One advantage of using Section 115 over voluntary licensing is that it may be invoked and maintained by notice and payment to only one of potentially many co-owners of a single work. Another advantage is that the compulsory license allows immediate use of current "hits", often before such works have been registered with the Copyright Office. MRI now has the ability to deliver NOIs with respect to over one million musical works in just a few weeks, allowing start-up music services to become operational with unprecedented speed.

Unfortunately, given the significant number of musical works that do not appear in searches of the online records of the Copyright Office, the aggregate fees a digital service must incur for filing NOIs with the Copyright Office (currently \$12.00 per title) are prohibitively expensive for music services seeking to make a high volume of diverse music available in response to consumer demand.

The efficiency possible through *electronic* delivery of notices could dramatically reduce the costs of such filing to the Copyright Office, relative to the costs incurred in connection with NOI filings by mail in hard copy. Since these fees are set at a level designed to cover the Copyright Office's actual costs in receiving NOIs by mail in hard copy, a consequence of allowing electronic filing should be to reduce filing fees proportionately.

We hereby renew our request that the Copyright Office permit the electronic filing of NOIs, which should allow the Office to reduce filing fees to mere pennies per title. We would be happy to assist the Copyright Office in designing, testing and implementing a system for electronic filing.

Sincerely,



Ronald H. Gertz, Esq.  
Chairman

RG/bc

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