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DEPARTMENT OF COMMERCE  
INTERNET POLICY TASK FORCE

Developing the Digital Marketplace  
for Copyrighted Works  
Second Public Meeting

United States Patent and Trademark Office  
Madison Auditorium  
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Digitally recorded by: Linda D. Metcalf, CER  
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P R O C E E D I N G S

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WELCOME REMARKS

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5 MS. FERRITER: Good morning and welcome to the  
6 U.S. Patent and Trademark Office. I'm very glad to  
7 see so many with us here today in person. I'd like to  
8 also welcome those watching us via webcast and those  
9 joining us through the watch parties being held at the  
10 USPTO's regional offices in Detroit, Denver, and San  
11 Jose.

12 Today's meeting is hosted by the Department of  
13 Commerce's Internet Policy Task Force. The Task Force  
14 was formed in 2010 to review the policy and  
15 operational issues that affect the private sector's  
16 ability to spur economic growth and job creation  
17 through the internet.

18 The USPTO and NTIA have led its work on  
19 copyright policy issues, including the topic of how  
20 the government can facilitate the further development  
21 of a robust online licensing environment. We have  
22 held public meetings and received public comments on  
23 this topic, which was discussed in the Task Force's  
24 2013 Green Paper on Copyright Policy, Creativity, and  
25 Innovation in the Digital Economy.

1           The Green Paper devoted a chapter to ensuring  
2           an efficient online marketplace. It looked at  
3           then-current examples of legal licensing options and  
4           noted some impediments to efficient licensing for  
5           online distribution. These included: the complexity  
6           of licensing in the online environment, in particular  
7           in the music licensing space; challenges with mapping  
8           old contracts to new uses; and licensing across  
9           borders.

10           Copyright owners continue to face challenges in  
11           today's digital world. Today's meeting -- building on  
12           one that the Task Force held in December 2016 -- has  
13           been organized to: facilitate a cross-industry  
14           dialogue among stakeholders on ways of promoting a  
15           more robust and collaborative digital online  
16           marketplace; provide updates on various technologies;  
17           and highlight new international initiatives.

18           We've brought together a number of experts  
19           today to discuss the developments in the  
20           identification of content, the future of registries,  
21           and issues surrounding licensing and monetization of  
22           content. And this year, we have added a fourth panel  
23           to discuss global initiatives, which underscores the  
24           international nature and scope of these important  
25           discussions. We are looking forward to a productive

1 exchange of ideas today, and we are grateful for your  
2 participation.

3 A few housekeeping notes: We'll start with two  
4 panels this morning before breaking for lunch. Our  
5 panelists are invited to have lunch in the room next  
6 door. Following lunch, we will have more panels,  
7 followed by breakout sessions. The breakout sessions  
8 will follow Chatham House rules. The moderator for  
9 each session will report back to the plenary just the  
10 key points of the sessions. Finally, we have built in  
11 time for discussion. Thank you again for being here.

12 I'd now like to introduce our first speaker,  
13 Bill Rosenblatt of GiantSteps Media. Bill is a  
14 globally recognized authority on technology issues  
15 pertaining to intellectual property in the digital  
16 age. He has contributed to standards initiatives  
17 related to content identification, metadata, and  
18 rights. Bill chairs an annual Copyright and  
19 Technology conference, and is the author of several  
20 books and journal articles related to digital media  
21 and copyright.

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23 KEYNOTE SPEAKER

24 ENABLING EFFICIENT AND FAIR MARKETS FOR CONTENT

25 - - - - -

1           MR. ROSENBLATT: Good morning. Thank you very  
2 much. Thanks to Steve and Susan for inviting me here.  
3 It's really an honor to be here and to participate in  
4 this workshop, which I know was so productive last  
5 year, and I am looking forward to another productive  
6 day today.

7           I am from New York and I speak very fast, and  
8 this morning will be no exception. I have 20 minutes,  
9 and I thought, what can I do in 20 minutes? Well,  
10 first of all, just a little bit more about me. I've  
11 participated in a veritable alphabet soup of standards  
12 initiatives and with public policy organizations here  
13 in the U.S. and also abroad, in Europe and Asia and so  
14 forth, and you can just sort of read it yourself on  
15 the slides -- on the slide there. And so -- and this  
16 is in addition to the work that I do for companies as  
17 a consultant, but we're focusing here on standards,  
18 we're focusing here on policy issues, so that's what  
19 I'm highlighting here.

20           What we're talking about today is several  
21 topics under the umbrella of enabling fair and  
22 efficient content marketplaces, and specifically  
23 technical components thereof, and this is a list of a  
24 lot of the topics that we're going to discuss today:  
25 content identification, rights holder identification,

1 metadata, rights information, information about the  
2 rights being licensed or transacted. We're going to  
3 talk a lot about registries and data repositories,  
4 talk about the automation of licensing, and talk about  
5 the processing of transactions, of royalties, and  
6 other considerations for content licensing.

7           So where do these come from? It's useful to  
8 sort of enumerate the sources of these things.  
9 Industry conventions are a lot of it. How have we  
10 done things in various segments of the industries for  
11 a long time? Laws that underpin certain aspects of  
12 rights and licensing, such as compulsory licenses  
13 under Sections 114 and 115 of the Copyright Act,  
14 technical standards, business standards, and also  
15 entrepreneurship on the part of startups and  
16 experimentation in established companies, which is  
17 really important to emphasize as a source of progress  
18 in these areas, and then sharing of best practices,  
19 which is certainly something we're going to be doing  
20 here today.

21           So, you know, I've been doing this kind of  
22 thing for a while, and what I thought I'd do this  
23 morning -- again, quickly, because I only have 20  
24 minutes -- is to give you some lessons that I believe  
25 we've learned over the past 20 years since I first

1 started doing this as a member of a committee in the  
2 Association of American Publishers, when I was working  
3 in the book publishing industry.

4 This is an actual slide that I made about 20  
5 years ago or -- yeah, thereabouts, 20 years ago. I'm  
6 not going to go over this detail, but it just shows  
7 you the way we thought about this stuff back in the  
8 late 1990s, which is that you've got these various  
9 layers of technical components and potential  
10 standards, starting with the basic internet  
11 infrastructure, then going up through basic e-commerce  
12 infrastructure, then going up through things that are  
13 endemic to the content industry, such as identifiers  
14 and rights and metadata, and then going up to  
15 individual content providers who have things that are  
16 really their own competitive advantage rather than  
17 standards.

18 So I'll tell you one of the fundamental things  
19 we got wrong about this momentarily, but -- and I'm  
20 happy to share the slides for anyone who wants them,  
21 so put your cameras away, you don't need to take  
22 pictures -- but the lessons that we learned. Well,  
23 here -- there are many of them, but here's the four  
24 that I want to talk about this morning.

25 The first one is what we fundamentally got



1 wrong in that last slide, which is that we -- meaning  
2 publishers in that time -- we don't control the vast  
3 majority of the technical decisions. Publishers,  
4 record labels, movie studios, et cetera, don't really  
5 control much of the technical aspects of how content  
6 gets out into the world.

7           The distributors have come to control that, and  
8 one interesting piece of -- let's call it "anecdota"  
9 -- that I came up with when looking at this a few  
10 months ago for something I was doing is that the sum  
11 total of revenue of music distributors in the United  
12 States, the Spotifities, Apple Musics, Google Plays,  
13 Rhapsody Title, et cetera, et cetera, has exceeded the  
14 sum total of revenue in the recorded music industry,  
15 and that crossover point took place about three, four  
16 years ago, so that to me says a lot about the dynamics  
17 of the industry that's going on. So that's the first  
18 one. The remaining three lessons I'm going to talk  
19 about in a little bit more detail.

20           The first is that standards and the market must  
21 develop together. What hasn't worked is, okay, let's  
22 get in a closed room and agree on every single last  
23 detail before we let anyone implement anything. That  
24 hasn't worked. Walled garden de facto standards  
25 generally are not a good idea for reasons that are

1 fairly obvious. Two things that I think have worked  
2 or have a lot of promise are entrepreneurs getting  
3 involved in standards initiatives, and a place to look  
4 for that is the Open Music Initiative.

5 We have Panos here from the Open Music  
6 Initiative, among others, who can talk to you about  
7 that, but one of the cool things about the Open Music  
8 Initiative is that it's all about build, experiment,  
9 iterate, rather than let's go and write specs and then  
10 see if anyone wants to do anything with those specs.  
11 It's a very exciting thing, and I think it's got a lot  
12 of promise.

13 The other thing that I think is really  
14 promising now in standards is this buzz phrase  
15 "minimum viable," a "minimum viable set of minimum  
16 data," "minimum viable interoperability," which is a  
17 concept in the Open Music Initiative. The Open Music  
18 Initiative is thinking this way. They're not the  
19 first, though. How many of you are familiar with the  
20 Dublin Core Metadata Standard? Okay, some of you.

21 Well, it's a minimum viable standard for  
22 bibliographic metadata in -- that originated in the  
23 library field but has fomented around various segments  
24 of the media industry and has become very, very  
25 influential, because it was minimum -- a minimum

1 viable set. That's a very powerful concept. People  
2 can extend that, as they've done for Dublin Core, and  
3 if you stick with a then minimum viable set, you will  
4 see it extended in various ways.

5           This is a test that I have for the likelihood  
6 of success of standards, and I've played around with  
7 the acronym, but the principles are kind of the same.  
8 My latest attempt at a cute acronym is it's the SAUCE  
9 test, and it stands for scope, adoptability, urgency,  
10 complexity, and equity. And so the five factors are  
11 scope, is the scope focused and clear or are we trying  
12 to solve world hunger? Adoptability, can this work  
13 with existing processes, tools, systems, conventions,  
14 or does this require wholesale replacement thereof?  
15 Urgency, are we looking at solving a known current  
16 practical problem that people care about, or are we  
17 just sort of trying to do something that would be nice  
18 so that people can all get along? Complexity, are we  
19 dealing with something relatively simple, life is  
20 not -- the real world is not that simple, but  
21 relatively simple, or are we dealing with something  
22 that is overengineered or a camel -- which, of course,  
23 is a horse designed by a committee? And then,  
24 finally -- and I feel like the most important one --  
25 is equity, which is are the participants or those

1 potentially affected by this standard going to all  
2 benefit or is this going to create inequities among  
3 participants?

4 I don't want to name too many individuals,  
5 because I don't want to offend people who have worked  
6 very hard on certain things, but I think we all or  
7 some of us might remember SDMI, and that failed for  
8 equity reasons, among other things.

9 So the next lesson, we are talking today about  
10 registries. There's a lot of talk about registries.  
11 We still need them. We needed them 20 years ago. We  
12 need them today. But what we also need, as we found  
13 out, is incentives to build and maintain them  
14 properly. You can't just say, okay, let's have a  
15 database. Okay, we're done now. We have a database.  
16 That's not how it works.

17 Data has to be accurate, complete, up to date,  
18 it has to be true, people have to agree that it's  
19 true. Repositories, whether they're databases or  
20 whatever form they take, they must be accessible to  
21 whoever needs to use them and hopefully to the general  
22 public where it makes sense, they must be reliable,  
23 and there must be a way of disputing -- sorry, of  
24 resolving disputes among the data, such as who owns  
25 this right in this work. All of this takes time and

1 money and people and resources. It doesn't come for  
2 free, you can't wave a magic wand and have all this  
3 stuff happen, and it requires an appropriate type of  
4 governance.

5           So there are a lot of databases and registries  
6 out there -- and I'm just pulling a couple examples  
7 from each category, this is absolutely not  
8 exclusive -- but there are a lot of governance models  
9 out there, and we still don't really know, in my  
10 opinion, which is the right model. There are private  
11 for-profit repositories of data, such as R.R. Bowker,  
12 which is in the book publishing industry in the United  
13 States; the Harry Fox Agency, which keeps a lot of  
14 information about mechanical rights of music and  
15 things of that nature. There are private nonprofit  
16 repositories, such as ASCAP and BMI. There are  
17 consortia that have been formed, whether by mandate or  
18 voluntarily that are nonprofit also, such as EIDR in  
19 the motion picture industry, which is an identifier  
20 registry based on the DOI standard, which I helped to  
21 create a million years ago. And then in Canada,  
22 there's something called CMRRA-SODRAC, which is a  
23 mechanical licensing agency that was sort of induced  
24 by a court decision up there, outcome of a lawsuit,  
25 and that's kind of interesting to look at.

1           The government runs repositories, such as the  
2 Copyright Office running the Database of Registered  
3 Copyrights, and then its equivalent in Canada, the  
4 Canadian Copyrights Database. Those are two examples.  
5 Then we come to the idea of a distributed repository,  
6 a/k/a blockchain. Dot Blockchain Media is an  
7 interesting startup that's building sort of  
8 basic-level architectural components for this as  
9 opposed to e-solution. They're more like a set of  
10 fundamental technologies for blockchain-based media  
11 licensing.

12           And then I just -- I put KODAKOne there. I  
13 just noticed -- I don't know if anyone's heard of  
14 this, but Kodak recently announced that they're doing  
15 an image licensing blockchain service with their own  
16 cryptocurrency, called KODAKCoin or something like  
17 that, and it will be interesting to see what -- there  
18 aren't very many details available about that, but  
19 that's certainly an interesting one to watch. And  
20 there are many others.

21           So I've looked a lot at blockchain and I've  
22 worked with a couple of blockchain initiatives, and  
23 there's a lot of good things about blockchain. You  
24 can distribute royalty transaction processing. You  
25 can distribute the idea of metadata registries and

1 basically get individual companies out of the business  
2 of having to maintain all of this data or at least  
3 somewhat out of that business. Instead of one company  
4 bearing all the costs for processing transactions and  
5 maintaining a database, those costs are shared.

6           You can use smart contracts. They have the  
7 potential for taking a lot of the grunt work out of  
8 licensing. You can automate, you know, relatively  
9 simple licensing tasks using smart contracts,  
10 potentially. Blockchain promises transparency,  
11 certainty, and traceability of transactions. Hold  
12 that thought for a moment, we'll get back to that.  
13 Perhaps the greatest thing about blockchain nowadays  
14 is hype, money, activity, and talent in the space. A  
15 lot of entrepreneurial energy, a lot of venture money  
16 is going into it, a lot of smart people, a great  
17 influx of all those things into our industry, and that  
18 can only lead to good things.

19           Now, however, there are also perils of  
20 blockchain. Blockchain doesn't -- just like any  
21 database technology or data technology, it doesn't fix  
22 the bad data problem. The garbage-in problem still  
23 exists no matter whether you're storing it in a  
24 relational database, a blockchain, file, a card  
25 catalog, whatever you're using. Efficiency and

1 scaleability are limitations with current blockchain  
2 technology, and you know there are companies working  
3 on this, but for now, that's an issue. It doesn't  
4 scale very well.

5 I happen to believe that blockchain -- that the  
6 various models for distributing content directly to  
7 consumers through blockchain, so I buy an e-book,  
8 let's say, and my property is on a blockchain  
9 somewhere, I don't think that's a viable model. I'm  
10 happy to argue with you offline about that, but I feel  
11 like if you're looking at that, you're taking your eye  
12 off the ball, where the ball is in all this rights  
13 licensing and transaction processing stuff, which is  
14 where all the promise is, I think.

15 And then let's get back to transparency,  
16 certainty, and traceability. There are some entities  
17 out there that don't like those things, and they will  
18 sort of hedge against movements in that direction.  
19 Okay, so much for blockchain.

20 Another lesson that we learned is identifiers  
21 are harder than we thought. I am not going to go down  
22 this list. This actually is a list taken from  
23 something that the book industry study group put out a  
24 couple years ago, which I helped -- I contributed to  
25 this, I'm one of many contributors to it, and it's a



1 list of all the relevant identifiers in the book  
2 publishing industry, some of which, of course, cross  
3 over into other media segments, such as ISRC for music  
4 recordings.

5           The point I want to make here is when we looked  
6 at this 20 years ago, we were looking at things like  
7 ISBNs for physical books, and when you start to get  
8 into identifiers for things in the digital world, it  
9 gets a little bit fuzzy exactly what are you trying to  
10 identify here. The scope of what you're trying to  
11 identify becomes sort of flexible, and it's not like,  
12 oh, here's a book, this is what I'm identifying, or  
13 here's a CD, here's what I'm identifying, here's a  
14 theatrical motion picture release being sent to such  
15 and such a cinema in Manhattan, you know, that's not  
16 what you're identifying.

17           What exactly you're identifying is a little  
18 hard to nail down sometimes. There's been talk, for  
19 example, in a BISG committee that I'm on now about  
20 sort of pure intellectual property identifiers, and we  
21 went through an exercise of let's see if we can come  
22 up with a pure intellectual property identifier for  
23 book publishing, to identify an abstract item of  
24 intellectual property.

25           Well, the conclusion that I'll say I came to --

1 I can't speak for the committee -- is there ain't no  
2 such thing, or at least if there is, it doesn't really  
3 serve any practical purpose, and furthermore, any  
4 identifier that anyone characterizes in that way isn't  
5 really a pure IP identifier in the first place. So  
6 identifiers need a lot of careful consideration. It's  
7 worth it, of course, but that's the lesson we learned.

8           And the other thing I want to say about this --  
9 and then I'm going to stop -- is there are identifiers  
10 and there are processes for assigning identifiers that  
11 are very detailed and very deliberate, but then  
12 there's a lot of content that's just out there that  
13 needs to be identified after it's kind of been out  
14 into the wild, and various technologies have emerged  
15 for coping -- how do you identify something that's out  
16 in the wild? And there are basically these two  
17 technologies out there, fingerprinting and  
18 watermarking. How many people understand what  
19 fingerprinting is?

20           (Show of hands.)

21           MR. ROSENBLATT: Okay, about half. So  
22 fingerprinting is a generic term for you look at the  
23 bits of a file, whether it's an e-book or a movie or a  
24 piece of music, recording music, an image, whatever,  
25 and you take a set of core characteristics

1 mathematically of that file, which is the fingerprint,  
2 and then you go look it up in a big database of  
3 fingerprints to see if there is a match.

4           And the good technologies that exist in the  
5 fingerprinting space are pretty accurate at  
6 identifying content for various purposes. They're not  
7 100 percent accurate, but they do a pretty good job.  
8 And there have been various business models that have  
9 evolved sort of around the edges of the industry, so  
10 to speak, around the fingerprinting.

11           One is monetization, which is the Google  
12 content ID system, whereby if one uploads a piece of  
13 music or a video to Youtube, then the content ID  
14 system will look at it and see if there is a match,  
15 and if there is a match, the rights holder has an  
16 option of getting an ad revenue share from that  
17 content or of blocking it from being uploaded. That's  
18 one model, the monetization model.

19           Another model is to use fingerprinting for  
20 detecting potential infringements of copyright, and  
21 there are a lot of services out there, MarkMonitor,  
22 MUSO, a bunch of them that do this kind of -- that do  
23 this kind of work based on fingerprinting technology,  
24 among other things. And then fingerprinting is also  
25 used as one of the tools to solve the conundrum of

1 matching recorded music files to their underlying  
2 compositions, which is a dirty problem right now  
3 plaguing the music industry.

4           Watermarking is when you embed data into a  
5 file, typically an identifier because that's all you  
6 have room for given the technology. I list Dot  
7 Blockchain Media's prototype that they announced just  
8 a couple weeks ago -- it's very interesting -- with  
9 the indie distributor FUGA, and a recording artist  
10 named Stolar, using Digimarc's watermarking  
11 technology.

12           If I had time today, I would actually show you  
13 a demo of it, but I am not going to -- we can do that  
14 offline if you want, it's a cute little demo, but the  
15 point is you can look at the file, you can see by  
16 reading the watermark the file's address on a  
17 blockchain, which then can lead you to the latest and  
18 greatest data about its ownership, the rights, the  
19 metadata, the licensing, the transactions, whatever  
20 you want. This is guaranteed 100 percent accurate  
21 because someone put it there in the first place, and  
22 it travels immutably with the content, unlike some  
23 header metadata which can just be changed or deleted.  
24 It's a quite powerful concept that I feel deserves  
25 more air play -- pun intended -- than it's getting.

1           My point about these technologies is that they  
2    kind of exist at the fringes of licensing and data  
3    management, but I feel that they -- because they are,  
4    you know, way better than nothing -- let's put it that  
5    way -- they should be mainstreamed as part of the talk  
6    about identifiers in these deliberations about how to  
7    take the industry forward.

8           So, with that, I will stop, and I don't know  
9    whether we have a couple minutes for any questions.  
10   That was a lot to go over in 25 minutes, but any  
11   questions? Any comments? I'm happy to talk offline.

12           Yes, Mark?

13           MR. ISHERWOOD: The idea of standardizing (off  
14    mic.)

15           The idea of standardizing watermarking and  
16    fingerprinting kind of sets bells ringing in my head.  
17    You don't mean the technology itself, because they  
18    are -- they have to be proprietary in order to work,  
19    but what aspect of them do you exactly mean?

20           MR. ROSENBLATT: So, for example, that's --  
21    that's -- I agree with that, and that's a good point.  
22    The technologies, with one exception, are proprietary.  
23    They are -- and, you know, the exception I have in  
24    mind is -- and I forget what it's called, but it's the  
25    one that MusicBrainz uses for fingerprinting of audio.

1 It's -- the name will come to me as soon as I walk  
2 down the steps here, but -- and I've looked at that  
3 technology, and I've evaluated it, and it's pretty  
4 good; it's pretty accurate.

5 So there are things that you can standardize  
6 on, and so one example is the RIAA created a watermark  
7 payload spec maybe ten years ago-ish, and that was  
8 going to embed identifiers in music in a standard way  
9 so that whatever watermarking technology you had, you  
10 could embed and then read in that same format, and  
11 that would get you at least part of the way.

12 It's kind of equivalent to when you've got a  
13 metadata scheme, but you don't have a standard way of  
14 associating that scheme with a piece of data. You do  
15 it however you are going to do it. In the area of  
16 associating metadata with a piece of content, the  
17 technology for doing that need not be complicated at  
18 all. This is fairly substantial technology. They are  
19 proprietary for the most part, but there are things  
20 that can be standardized that can help make this a  
21 mainstream piece of the identifier puzzle.

22 Any other questions? Going once? Twice? Yes,  
23 Panos.

24 MR. PANAY: Just real quick, can you clarify  
25 the difference between fingerprinting and

1 watermarking?

2 MR. ROSENBLATT: Yes. The question from Panos  
3 Panay from Berklee College of Music is can I identify  
4 the difference between fingerprinting and  
5 watermarking? Well, first of all, I have a white  
6 paper that tells you all about that -- which I am  
7 happy to send you if you want -- but the short answer  
8 is fingerprinting is there's a file out there and some  
9 third party that's unaffiliated with the content takes  
10 an educated guess at what that content is based on  
11 some fancy algorithms.

12 Watermarking is some party involved in the  
13 creation or distribution of that content embeds an  
14 identifier into the content in a way that is  
15 hopefully -- well, possibly invisible, inaudible,  
16 whatever. In some cases you want it to be visible or  
17 audible or viewable, but it's really data embedded  
18 into the content that identifies it.

19 So there are two advantages of watermarking.  
20 The disadvantage, of course, is that you have to go to  
21 the trouble of doing this, and that takes some effort  
22 and expense and so forth. One advantage is that you  
23 can put whatever you want into the content. All  
24 fingerprints of a file that sounds the same are going  
25 to be the same, but you can have multiple copies of a

1 file with different watermarks for different purposes.

2 So this is a file with a watermark for, let's  
3 say, interactive streaming licensing, and this is  
4 another one for download licensing, this is one from  
5 the U.S. market, this is one for the UK market, et  
6 cetera, whatever it is. This is one that we're  
7 offering under a Creative Commons license. So those  
8 are the advantages of watermarking.

9 Fingerprinting really is best used when there's  
10 just a file out there and you have no other means of  
11 figuring out just what that file is.

12 Jim?

13 MR. GRIFFIN: So the best advantage of  
14 fingerprinting is that it works backwards. You can  
15 identify files already released and in the ecosystem,  
16 whereas watermarking only works going forward (off  
17 mic).

18 MR. ROSENBLATT: Right. So Jim Griffin just  
19 said fingerprinting is best thought of as working  
20 backwards with files that are already out there.  
21 Watermarking is best considered as a going-forward  
22 technology. That's pretty much what I said, and I  
23 absolutely agree. Yeah.

24 Any other questions? I think I'm out of time  
25 anyway. Thank you very much. I'm looking forward to



1 a lot of great discussions today.

2 (Applause.)

3 MS. ALLEN: So, thank you. If we could have  
4 the first set of panelists come up, the first morning  
5 session, panel session, is on Identification:  
6 Capturing Content, People, and Permissions, and it  
7 will be moderated by Evan Sandhaus, who is the  
8 Executive Director of Knowledge and Metadata  
9 Management at the New York Times. So, welcome, all.

10 - - - - -

11 MORNING PANEL SESSION 1:

12 IDENTIFICATION: CAPTURING CONTENT, PEOPLE, PERMISSION

13 - - - - -

14 MR. SANDHAUS: Hello, everybody. Good morning.  
15 I am really excited to be here. I was something of a  
16 last-minute addition to the agenda as the moderator of  
17 this panel, but nonetheless, I think we're going to  
18 have a really interesting conversation today. Just  
19 some quick preliminaries. So you all know who I am, I  
20 am Evan Sandhaus, and I am the Executive Director of  
21 Knowledge and Metadata Management with the New York  
22 Times. I spend most of my day wondering how it is the  
23 New York Times can structure our content and then  
24 consolidate our archives into that structure, which  
25 leads me to a confession. I don't want to pass myself

1 off as an expert in the rights technology space. I  
2 have pretty deep experience in adjacent fields, but I  
3 am going to be asking lots of questions today to help  
4 inform my understanding of rights a little bit more.

5 I am -- I do have the privilege of being on the  
6 board of directors of a standards body called the  
7 International Press Telecommunications Council, so I  
8 know a fair bit about the technical standards that  
9 apply in the media space as they pertain to rights,  
10 but in listening to Bill's introduction, I was struck  
11 by something he said, because it resonates with me as  
12 a technologist.

13 My background is in computer science. I have  
14 been writing code for a living since I was 18 years  
15 old, and Bill told us that identification turned out  
16 to be harder than we thought, and it turns out that  
17 dovetails nicely with a statement that's become  
18 axiomatic in computer science, and that statement, for  
19 those of you who are technologists out there, should  
20 be familiar, and that is that there are two hard  
21 problems in computer science, cache invalidation and  
22 naming things. And I think naming things is a real  
23 challenge for us all in this room.

24 I was thinking, you know, even in the con --  
25 like in the context of the music industry, if a piece

1 of content is associated with the creator Apple, that  
2 has very different -- that can be extremely  
3 significant if you're trying to figure out who it is  
4 that owns the copyrights to the Beatles works or who  
5 has distributed the Beatles works. Apple itself does  
6 not make for much of a strong identifier in that  
7 context.

8           So it seems to me -- and this is a problem in  
9 the media space as well -- that one of the  
10 foundational enabling technologies for solving the  
11 rights attribution and flow problem is going to have  
12 to be around strong global identifiers and not just --  
13 strong identifiers within a particular ecosystem are  
14 helpful, but unless they're shared across sectors and  
15 industries, it strikes me that we're going to have a  
16 challenging time solving some of these technical  
17 problems.

18           So with that all said, we have a very great  
19 panel assembled here to talk about these issues,  
20 and -- sorry, I'm not checking my email, I have the  
21 agenda here on my phone -- and I would like to ask, to  
22 start things off, for the panel to introduce  
23 themselves. Because you all already have the benefit  
24 of their bios printed out in front of you, I am going  
25 to ask that you keep that part of your introduction to

1 a minimum, but who you are, what you do briefly, but  
2 what I would like you all to expand on in your  
3 introductions is why solving these problems matters to  
4 your agency.

5 So I'm going to start out by asking Greg Cram,  
6 who is the Associate Director for Copyright and  
7 Information Policy at The New York Public Library to  
8 introduce himself.

9 MR. CRAM: Sure. So we're different -- I'm  
10 different than most of the folks in the room. I work  
11 at a library, which means that I deal with copyrighted  
12 works throughout their life span, throughout their  
13 copyrighted life span. So we have a little different  
14 of a perspective, and I think that's part of the  
15 reason why we're here, to help remind us that when  
16 we're talking about the use of copyrighted works,  
17 we're not talking just about solutions that will work  
18 during the commercial viability of that work, but  
19 during the entire life span of that work.

20 And like you all, I also work across different  
21 types of works. We're not talking just about  
22 commercial works that were produced solely for the  
23 purpose of making money. We're talking about  
24 things -- we're talking about those things, but we're  
25 also talking about photo albums, personal photo

1 albums, personal diaries that end up in our  
2 collections. All of those things are protected by  
3 copyright. So when we're thinking about licensing  
4 schemas or standards, maybe we can work in some form  
5 hopefully across the spectrum.

6           So a little bit about NYPL for a second and  
7 then I'll pass it on. So NYPL is the largest public  
8 library system in the country. We have got 88 branch  
9 libraries, which are what you think of as neighborhood  
10 libraries, as well as four research libraries, where  
11 the bulk of the research work happens at the library.  
12 We collect, preserve, and make accessible the record  
13 of humanity, of knowledge, of creativity, essentially  
14 of our cultural heritage, and I will come back to that  
15 phrase quite a bit today.

16           Our interest in this topic is really to meet  
17 the needs of our patrons, we have been digitizing our  
18 content for at least the last 17 years. We have got a  
19 collection of over 55 million objects at this point,  
20 and we have -- all of them present a variety of  
21 copyright issues. So I'll preview a few of those for  
22 you.

23           In the archival space, I've got a lot of things  
24 from a variety of time periods, some old, some new.  
25 Depending on what we're talking about, we're looking

1 at different copyright problems for all of those  
2 things, and we'll get into that more in the panel.

3 On the trade side, the neighborhood library  
4 side, the e-book side, that's a little bit more  
5 straightforward. When we talk about problems in the  
6 industry, the going-forward e-book issue may actually  
7 not be as bad as some of the other issues that we'll  
8 encounter.

9 So some of the things that we're really  
10 interested in getting out of today and having -- and  
11 continuing this conversation is thinking about working  
12 backwards when we can. How can we solve the problem  
13 of licensing information, of rights holder  
14 information, and copyright status information for  
15 works going backwards, and then figuring out how that  
16 would work going forward.

17 MR. SANDHAUS: Great. Mark?

18 MR. ISHERWOOD: Hi, good morning. My name is  
19 Mark Isherwood. I am here today representing Digital  
20 Data Exchange for DDEX. DDEX is a not-for-profit  
21 membership organization that develops standards for  
22 communicating data up and down the supply chain, the  
23 digital supply chain mainly, and mainly with a focus  
24 on the music industry, and we have been around now for  
25 12 years. Anybody here from the music industry will

1 know what an uphill struggle it is to herd the cats,  
2 and I'm happy to say that, you know, 12 years is a  
3 short time in the music industry, and the standards  
4 that we have created are now very widely adopted.

5 DDEX is quite unique in the music industry in  
6 that it represents the whole value chain and not just  
7 silos from within the industry, which can very often  
8 cut itself up into sectors and never the 'twain shall  
9 meet. So it is quite a unique organization in that  
10 sense.

11 The reason, at its simplest, why this is  
12 important for that industry is we're no longer dealing  
13 in physical products. We're just dealing in bits and  
14 bytes. And so things like identification and  
15 descriptive metadata will actually be vital for the  
16 computers to be able to identify one thing from  
17 another, and also, just as importantly, to establish  
18 relationships between one thing and another, so  
19 establishing the relationship between a musical work  
20 and a sound recording, establishing the relationship  
21 between a musical work and its composers, a sound  
22 recording and its artists, and so on and so on.

23 So that is, at its core, why this is important.  
24 In the physical world, usually human beings were  
25 looking at things and could make decisions and make

1 judgments. Computers can't do that, and that's why  
2 this stuff is so important as we move forward.

3 MR. SANDHAUS: Excellent. Next up, we have  
4 Darren from -- Darren from -- Darren Briggs, the SVP  
5 of Data and Product for SongSpace.

6 MR. BRIGGS: Good morning, everyone. I'm  
7 representing SongSpace, which is a cloud-based  
8 platform designed to support songwriters and  
9 publishers in the -- when we talk about the supply  
10 chain or the life cycle of -- the music life cycle.  
11 We are at the beginning of the life cycle from the  
12 point of song creation really up to the point of  
13 propagation to society and so forth, where it becomes  
14 the established life cycle of licensing and  
15 accreditation.

16 So there is a whole overlooked part of that  
17 chain that really is nebulous, and there aren't  
18 identifiers when you're writing -- sitting down and  
19 writing a song and you're not thinking, what is the  
20 identifier for this song, for instance? So it's that  
21 whole life cycle that is very ambiguous, but it's at  
22 the point of creation of that whole data flow also  
23 that that part of the business, the creative part of  
24 the publishing business, for instance, and the  
25 songwriters, typically is the last on the list of the



1 prioritization of budgets when they're developing  
2 systems in these companies.

3 I've worked my whole life in music rights with  
4 Sony/ATV and BMI, and I was CTO of the company that  
5 owned all the Shazam technology, so we developed a lot  
6 of different ways to track this life cycle of music,  
7 and why it's important to me, a lot of it is a  
8 personal driver. I grew up in a music family. I grew  
9 up in a recording studio as a kid, and helping to fill  
10 out AFM sheets, which is how musicians got paid for  
11 their -- for performing and sessions, all the way  
12 through to songwriting -- growing up with songwriters  
13 and watching many of them not be paid, not be  
14 accredited, not get recognition for their  
15 participation in songs that became big hits.

16 So early on I saw the holes in the work flows  
17 of remuneration and accreditation. So for me, a lot  
18 of it's personal, and also I'm a technologist, so the  
19 marriage of music rights and technology has been a  
20 natural marriage, in my mind, seeing it in the  
21 recording studio. It's taken a while in the  
22 administration world for those two sides to meet.  
23 They are often considered on polar opposite ends of  
24 the spectrum within the business, but for me, they are  
25 a natural fit, and working with Google and

1       infrastructures like DDEX with Mark, we've really come  
2       a long way, especially with the embodied works and  
3       the work flow management and identification of those  
4       works, but there's a lot more to work on.

5               Mark and I were talking about, it's not just  
6       about identifying the -- what we call the objects in  
7       the data sense, but equal organizations, embodied  
8       works, sound recordings, it's also the relationships  
9       between those and the context of those relationships,  
10       and that's where the real complexity comes in. Each  
11       of the components in this work flow may be a subsystem  
12       of business, and they may have different definitions  
13       of the same person or the same object or the same  
14       participant. We need to tie all of those together so  
15       that there's a common lexicon across the full life  
16       cycle, and that's really the larger goal for me and I  
17       think for a lot of us.

18               MR. SANDHAUS: Thanks so much, Darren.

19               Last, but certainly not least, Stuart Myles,  
20       Director of Information Management at The Associated  
21       Press.

22               MR. MYLES: Good morning, everybody. Thanks,  
23       Evan. Yes, I'm Stuart Myles, Director of Information  
24       Management at The Associated Press, working in the  
25       technology group. So amongst other things, I manage a

1 digital archive of around 300 million digital objects.  
2 So one of the reasons that we're interested in rights  
3 is, as we do archive sales, it's often not until the  
4 point where somebody's ready to buy something, a video  
5 or something like that, that we do rights clearance,  
6 and often it has to be a manual process. So we're  
7 interested in solving that problem. We think  
8 standards are a great way to do that.

9 Another thing that we do at AP is we distribute  
10 around 200,000 items a day to our various customers  
11 and members around the world, and often there are  
12 restrictions associated with those photos or videos or  
13 text items, and the way we convey those restrictions  
14 today is still predominantly as a note, so an editor's  
15 note or a piece of context that somebody's meant to  
16 read to say, oh, we shouldn't be using this photo in  
17 Japan.

18 Unfortunately, there are fewer and fewer people  
19 in newsrooms, and so all of our customers want to move  
20 to fully automated systems where they can just process  
21 our feeds of content. So we need to have a way to  
22 convey those restrictions in a machine-readable way.  
23 So in addition to -- so sort of similar, in ways, to  
24 other people on the panel, just more focused on news  
25 and media, I suppose.

1           In addition to working for The Associated  
2 Press, I'm also Chairman of the Board of the IPTC,  
3 which is the news and media standards body that Evan  
4 mentioned, and as part of that, I'm working within  
5 that group on a standard called RightsML, which is  
6 working with WC3, another standards body, they have a  
7 standard called ODRL, Open Digital Rights Language, so  
8 we have already been working to see how do we solve  
9 those problems not just for AP, but, ideally, for news  
10 and media companies all around the world. So I'm  
11 excited to talk about that stuff and to learn from  
12 everybody here how to do those things.

13           MR. SANDHAUS: It strikes me that -- it wasn't  
14 on purpose, but this panel is book-ended by two  
15 directors from the IPTC, but...

16           So I want to put the spotlight on Stuart now  
17 for just a second. You've mentioned a couple  
18 acronyms, ODRL and W3C, and one name, RightsML, which  
19 are all technologies in the digital rights space. I  
20 was wondering if we could -- if I could trouble you  
21 for, like, maybe five minutes to give us a quick  
22 overview of sort of the current state of various  
23 rights technologies.

24           MR. MYLES: Sure. And actually, I think Bill  
25 gave us a really great foundation in his opening

1 remarks. I guess I think a useful way to -- a useful  
2 metaphor for what I see going on is the one of  
3 pioneers, settlers, and town planners. So I think  
4 there were pioneer rights-related standards, such as  
5 MPEG-21, Creative Commons, and PLUS licensing, which I  
6 think have paved the way to indicate that by focusing  
7 on particular areas, focusing on particular industries  
8 or media types or problems, that you can actually  
9 solve rights expression.

10 And I think we're moving into what I see as the  
11 settler state, where we're taking those -- that  
12 initial pioneering work and figuring out how to make  
13 it more practical. So I think the ODRL standard that  
14 I mentioned, which is W3C's Open Digital Rights  
15 Language, it's designed to work for all media types,  
16 all businesses, not just for the news industry, but  
17 for -- whether you're music or selling data and so on,  
18 but trying to create a way to express permissions and  
19 restrictions and duties in a way that can be  
20 machine-processable and could stand up legally.

21 And what RightsML is is IPTC's effort to  
22 indicate to the news and media industry how you would  
23 use ODRL to solve news and media rights and  
24 restrictions issues, but -- so the settler stage is  
25 trying to figure out, like, how do you make these

1 things work, what's the software you need to use,  
2 what's the work flow, how do you use these standards.  
3 We're not yet at what I call the town planning stage,  
4 which is where all of those sorts of things have been  
5 figured out and it's more a question of just sort of  
6 operating things as efficiently as possible. We're  
7 not there yet.

8           So a great example is identifiers. So how do  
9 you identify who is it that owns the copyright for  
10 this; what is the thing that's being copyrighted. So  
11 expanding again on what Bill said, it's really quite  
12 unclear what a video is. So is it the particular  
13 technical encoding of it? Is the transcript part of  
14 that video? What if he translated it into multiple  
15 different languages? What about different -- slightly  
16 different edits of that video? And so on.

17           So I'm optimistic that I think we're moving  
18 into this phase where we're starting to apply  
19 different technical standards, beginning to make them  
20 more practical, and I also think it's great that some  
21 organizations are starting to adopt things like the  
22 standards like ISNI. I think some of you may have  
23 seen that YouTube a couple days ago announced that  
24 they are going to start supporting a scheme for  
25 identifying who are the copyright owners of videos,

1 but I think there's still a lot of work to be done,  
2 and we're not quite yet in the town planning phase.

3 MR. SANDHAUS: Thank you, Stuart. That was  
4 extremely helpful. Now that I think you have given us  
5 sort of a sense of where we are technically, I'm  
6 interested in hearing from the other panelists where  
7 you feel that -- because I think it's important to  
8 establish a baseline for the rest of the conversation  
9 today, like where do you feel your industry is right  
10 now? Like, what is the current state of affairs in  
11 your industry? And I'm going to go to Darren to  
12 start.

13 MR. BRIGGS: Actually, music is surprisingly  
14 well formed in its standards in the context of a lot  
15 of IP, but if you dig down a little deeper, the  
16 challenges we have, one is the embodied works. So  
17 publishing the embodied work is more robust, I think,  
18 than the sound recording standards definition, though  
19 we have things like DDEX -- not to keep pointing it  
20 out and supporting Mark in every answer -- but that's  
21 a full supply chain that's well defined and has a lot  
22 of uptake and interest. And YouTube, for instance,  
23 replaced its proprietary XML format with the DDEX  
24 standard. So we're making great movement in there.

25 I think the challenge is there's still a lot of

1 legacy opinion and resistance for shared information.  
2 So you have these compartmentalized segments of the  
3 industry that have well defined standards, but it --  
4 there are a lot of players who feel there's still an  
5 all-or-nothing bridge to their data provision, so if  
6 you're trying to create a streamlined, automated,  
7 efficient, end-to-end life cycle, it's very  
8 challenging if you have standards defined in step two  
9 and step four, but those standards are only available  
10 with a manual lookup on a website, for instance, or  
11 maybe those identifiers aren't available at all unless  
12 you're a member of a particular team or group. That  
13 type of legacy gatekeeping I think is a challenge for  
14 us.

15           The other challenge for us in standards is --  
16 back to the relationships is codifying or creating  
17 identifiers or automated ways to define the  
18 relationships, say, between the songwriter and a  
19 publisher, which are dynamic, and so they change over  
20 time. They're time-constrained. They're  
21 territorially constrained. How do we create  
22 generalized standards for those types of  
23 relationships? For all of those, those are imperative  
24 if we are going to automate licensing, for instance.

25           We have the objective and the subjective data



1 points. The subjective data points, that's fine, you  
2 keep those proprietary, but the objective data points  
3 really should be available to pass through the entire  
4 life cycle. So I think that's the challenge. But the  
5 good news is, I mean, we have all sorts of standards  
6 to choose from now, which in the early days, it was  
7 not the case at all, and compliance is becoming much  
8 more the case rather than the exception, so...

9 MR. SANDHAUS: To change gears, I'm curious,  
10 Greg, it sounds like the state of the art for you has  
11 widely varied, everything from copyrights that are  
12 handed out in this very building to Grandma's photo  
13 album which, by de facto, is copyrighted, but maybe  
14 not so efficiently.

15 MR. CRAM: Yeah, that's exactly right, and I'll  
16 echo something Evan said and really highlight it. The  
17 gatekeeping of data is a problem for us, where we  
18 can't get access to some of that underlying data, so  
19 what we end up having to do, because we want to be  
20 responsible copyright -- users of copyrighted works,  
21 we will have to reconstruct that data from scratch,  
22 basically.

23 So we have got a database that we've built, a  
24 custom database at NYPL that tries to cover the  
25 copyright status and related copyright information for

1 objects in our collections. That means that we spend  
2 a lot of time digging through Copyright Office records  
3 and trying to understand who owns what 20 or 30 or 70  
4 years or 100 years in some cases after that work was  
5 created. So that's a problem for us. So sharing of  
6 data is one of the problems.

7           We're trying to remedy that in two different  
8 ways. One way is to encourage our users to understand  
9 the copyright information that we've gathered, we've  
10 developed and implemented something called  
11 RightsStatements.org, and what RightsStatements.org  
12 does is it's a way -- a standardized way for cultural  
13 heritage institutions to communicate the copyright  
14 status or other licensing data that we've discovered  
15 about a particular object, so that if NYPL decides or  
16 has determined that this work is in the public domain  
17 in the United States, we can label it. Our users then  
18 have some information that will lead them to help make  
19 a better decision about how they're going to use that  
20 object, but it also eliminates or tries to eliminate  
21 some of the duplicative work that's going to be  
22 happening across libraries that have that same item.

23           RightsStatements.org is one effort to  
24 standardize the way we communicate copyright status.  
25 The other initiative that we're trying to use to solve

1 some of these issues of downstream users is around the  
2 Copyright Office records. We have -- and I'm happy to  
3 announce today -- that we yesterday or two days ago  
4 kicked off the Copyright Office records project where  
5 we're digitizing -- actually, it's already been  
6 digitized. We're actually running OCR, transcribing,  
7 and parsing data out of the catalog of copyright  
8 entries. We're running a pilot project right now  
9 where we're going to focus on a smaller set of the  
10 data, but there are 450,000 pages to get through, and  
11 we're NYPL, so we are not a huge player in the field,  
12 but our goal is to basically take the CCEs from the  
13 analog paper copies that we use today and convert them  
14 into a database that we can use in the future to help  
15 backfill some of this data that we're missing.

16 So the state of our industry is we need your  
17 help to share more of that data so that we know  
18 downstream, further down the stream, how those assets  
19 can be used and who we need to contact in 20 years or  
20 30 years after that publishing deal -- that book  
21 publishing deal is complete.

22 MR. SANDHAUS: That's really interesting.

23 Mark, could I trouble you for more info about  
24 your perspective on the music industry?

25 MR. ISHERWOOD: Yeah, I think Darren is

1 obviously a glass is half full person, and I am the  
2 opposite. The music industry is absolutely brilliant  
3 at developing standards. They're just really terrible  
4 at implementing them. And, you know, this has  
5 happened time and time again. I think the sort of  
6 silo mentality is one of the biggest problems that the  
7 industry has. It is improving, I have to say. I  
8 mean, having worked in the music industry for more  
9 years than I care to remember, there is a different  
10 mood. There is a desire to cooperate and work  
11 together to solve some of these problems, but there  
12 are still those pockets of companies and sectors who  
13 would do anything to slow progress down, basically.

14 One of the -- for example, one of the hot  
15 topics of the last year, which will carry on during  
16 this year, I'm sure, is the linking of ISWCs to ISRCs.  
17 The reason that's so important is it helps with  
18 matching, and then matching eventually helps with  
19 royalty payments. The problem is there are three or  
20 four or more projects around the world with different  
21 groups of people who are working on this thing,  
22 because the music industry works on the basis of if  
23 you could have three projects, why not have one, or  
24 the other way around, because the problem is this  
25 stuff needs to be utilized. It shouldn't be

1 proprietary. We need authoritative links that people  
2 can rely on or choose not to rely on if that's what  
3 they want to do, but they are going to have to have a  
4 damned good reason for not relying on what other  
5 people regard to be the authoritative link. And so  
6 there really is more need for more collaboration, more  
7 cooperation, rather than less.

8           So, there are a lot of good things in place. I  
9 know, you know, DDEX has been successful, but we also  
10 know that a lot of companies have implemented some of  
11 our standards in slightly different ways, and,  
12 therefore, you don't have a standard, and, you know,  
13 that's a problem. We're working to try and solve  
14 that. We squeezed the specifications as tight as we  
15 possibly can in order that there is no wiggle room in  
16 terms of implementation, but it comes back to, you  
17 know, the industry's really bad at implementing  
18 standards. You know, people will make their choices  
19 and stick with them and refuse to budge.

20           So, you know, that to me is the -- those are  
21 the sorts of things that are holding everything back,  
22 and the consequence is actually that you get  
23 entrepreneurial companies like SongSpace filling gaps  
24 that are not being filled by the -- by sort of the  
25 standards industry, because they are just not doing it

1       terribly well. I use SongSpace as simply one example  
2       of hundreds of thousands.

3               But one other thing I would say is that the  
4       data has not been collected close enough to the point  
5       of creation. What tends to happen is, you know,  
6       you're in a studio, you might write something down,  
7       you might even put some data into an app, but it's  
8       fairly minimal and not been very good quality, and I  
9       think there is a lot of work going on in a number of  
10      places to make that process simpler and to avoid any  
11      friction in terms of gathering the data as the works  
12      and the sound recordings are created.

13              There is a lot of work going on there, a lot of  
14      good work, a lot of positive work, because we have to  
15      improve the quality of the data that we get from  
16      literally day one of somebody thinking of a tune in a  
17      lyric, and I think, you know, if we keep moving in the  
18      direction we're going on that, then you will start to  
19      see better quality data coming through the whole  
20      supply chain.

21              MR. SANDHAUS: So I want to keep the soapbox  
22      under you right now because I sense -- when we talked  
23      yesterday in preparation for this panel, I brought up  
24      the idea that, you know, well, there has to be some  
25      minimum amount of data that we can use to achieve a

1 useful result for your industry -- and I think this  
2 applies to all of us, but I want to start with you,  
3 Mark -- so what do you feel that is or do you feel  
4 that can exist?

5 MR. ISHERWOOD: Personally, I have a problem  
6 with this concept of minimum viable data, and the  
7 reason I have a problem with it is the minimum viable  
8 data will depend -- will vary depending on what  
9 specific business transaction you're trying to  
10 support, and, you know, it is possible for there to be  
11 minimum viable metadata for identification, but if you  
12 look at ISRC and ISWC, they have minimum metadata sets  
13 that are linked to the numbers, and that does the job.

14 But if you just send an ISRC and its minimum  
15 metadata set, that's not going to help tell you which  
16 product that sound recording is on or whether you can  
17 stream it or whether you can put it on a subscription  
18 service. So I understand why, and I understand where  
19 this is coming from, but I think, you know, you do  
20 have to remember there are so many different, almost  
21 discrete business transactions that go on right from  
22 the beginning of the supply chain to the end, that in  
23 each step, the minimum viable metadata you need in  
24 order to support that will be different, and so there  
25 is no single answer to that question is really my

1 point.

2 MR. SANDHAUS: Excellent. I want to throw it  
3 to Darren now to see if he agrees with your take.

4 MR. BRIGGS: I totally agree. Again, it's --

5 MR. SANDHAUS: Oh, I was hoping for conflict.

6 MR. BRIGGS: No, no, no, I totally agree with  
7 this, because it depends on where you're dropping into  
8 that life cycle. So, say, at the very beginning,  
9 there isn't a viable set when you're writing a song.  
10 You don't have a lot of data to add. You have a  
11 title, you have lyrics, you may hopefully have a  
12 creation date and know who you're writing the song  
13 with, and maybe you guys discussed how much each of  
14 you is taking credit for, but there's not a lot more  
15 you can add at that point.

16 If I'm doing the royalty calculation, I'll  
17 need more information than that as a minimum viable  
18 data set to perform a royalty calculation and  
19 distribution and allocation to royalty accounts,  
20 cross-collateralization, previous existing agreements,  
21 all that type of thing. As you go further down the  
22 path, just publishing that MVD, the acronym, just  
23 grows and grows and grows down the path, but there are  
24 so many vectors in music, if you're talking about  
25 licensing -- if you're a DSP, if you have a certain



1 amount of information you need to know what to  
2 license, who to pay, what the rates are.

3 So it depends on the vector and it depends on  
4 where in the life cycle you are that the MVD -- but,  
5 you know, I do support the concept of MVD, but it is  
6 tied directly to, you know, as we say, in developing  
7 use case, so you need to clearly define the use case,  
8 and then you can pair that with a minimum viable data  
9 set.

10 MR. SANDHAUS: Gotcha. So since we haven't  
11 achieved conflict, maybe we can achieve consensus.  
12 And so it sounds like what I'm hearing from both of  
13 you is that if minimum viable data is only a useful  
14 concept in the context of a specific transaction or  
15 use case and that the whole ecosystem is composed of a  
16 sort of rich tapestry of transactions, then the  
17 minimum viable data to support that quickly scales to  
18 all of the data or a lot of data.

19 MR. BRIGGS: Not all of it. You don't all --  
20 all of the data is -- there is no definition of that  
21 because every platform and every company has a set of  
22 proprietary -- of subjective data or proprietary data  
23 or whatever. You don't know what the full complement  
24 of all the data points are for music or any of the  
25 assets we talk about. I mean, but there are core data

1 points that are required to perform a particular  
2 transaction, to perform a particular event, and those  
3 can change per use case.

4 Another great example is territorial control,  
5 for instance. So if I'm only working in the United  
6 States, which is where a lot of the legacy type of industry  
7 systems are built, they're not territorial or  
8 multiterritorial. They're single territory because  
9 they never thought about licensing things beyond  
10 geographic, you know, locality.

11 MR. ISHERWOOD: But that's a general problem  
12 that the whole industry is still grappling with --

13 MR. BRIGGS: Yes, right.

14 MR. ISHERWOOD: -- is that the whole  
15 infrastructure of whether it was physical human beings  
16 or computers or index cards was simply based on a  
17 territory-by-territory activity.

18 Now, of course, we no longer have that, and it  
19 is proving extremely painful for the industry, you  
20 know, right across the piece to actually adapt to  
21 multiterritorial licensing.

22 For the sort of legislative nerds, the -- the  
23 kickoff was in 2005 when the European Commission came  
24 up with this idea of allowing copyright owners to  
25 become members of societies outside of their own

1 territory and actually choose where the rights went.  
2 Rather than it all being very vertical, it's suddenly  
3 become horizontal, and the whole industry,  
4 particularly on the musical works side, but across  
5 sound recordings as well, is really struggling to come  
6 to terms with that.

7 MR. SANDHAUS: So it sounds, to circle back to  
8 the question, that it isn't all of the data but the  
9 minimum viable data required to support a rich  
10 ecosystem is not terribly minimum.

11 MR. ISHERWOOD: No, it depends. Yeah, there's  
12 a minimum viable data set, but it's -- it --  
13 there's -- it's different for each playspace in the  
14 chain.

15 MR. SANDHAUS: I keep seeing Stuart almost  
16 weighing in, so I'm going to provoke you to weigh in.

17 MR. MYLES: So, I mean, I just would like to  
18 come out here in support of simplicity, because I  
19 think that one of the barriers that we see for  
20 adopting standards or any kind of technology relating  
21 to the processing of rights and entitlements is that  
22 if you have to be able to accommodate everything  
23 before you can do anything, then we -- you know, you  
24 just won't start because it's too big. So I think  
25 that the success, I'd argue, of things like the

1 Creative Commons, which is essentially half a dozen  
2 different standardized licenses that you can apply to  
3 various works, and I also think that  
4 RightsStatements.org is a lot a more ambitious, more  
5 comprehensive, but also, at its core, a simple way to  
6 express standardized licenses.

7 I think that's key, and the theme that I run  
8 into then is how do you then expand that into the  
9 nonsimple cases, because certainly from my businesses  
10 and partners, they love the simplicity of, like, let's  
11 get this thing done, that's great, and now how do I  
12 add in this special case?

13 MR. ISHERWOOD: I entirely agree with you in  
14 principle from a standards development point of view,  
15 without question. The difficulties in my own  
16 experiences is the music industry is bloody  
17 complicated, and if a lawyer can think of it and write  
18 it down in a contract, it will get written down in a  
19 contract, and the poor operational IT guys have then  
20 got to figure out how to make that work, and, you  
21 know, you only have to think of controlled  
22 compositions over here.

23 The complexity of those things in the 30 years  
24 I've known they existed is just mind-boggling, and,  
25 you know, so it -- like a lot of life, it's finding a

1 balance between being simple but actually coping with  
2 the complexities you have actually got to deal with in  
3 real life.

4 MR. SANDHAUS: And, Greg, I'm curious on your  
5 perspective on this.

6 MR. CRAM: Yes. So, bibliographic data is  
7 something that we haven't spoken a lot about. We have  
8 talked a lot about licensing metadata, but not the  
9 bibliographic data, and often that's what we're  
10 missing. What is this thing, right? Let's find an  
11 identifier, and if there's an identifier, great, but  
12 if it links to nothing or if it links to a title, that  
13 tells me nothing as far as uses, licensing, anything.  
14 It doesn't tell me copyright status.

15 For us, that's important. Knowing what the  
16 copyright status of that object is in 50 years depends  
17 on me knowing who the creators were, to the extent --  
18 if there are -- I mean, if there are authors and it's  
19 not work for hire, and then figuring out what the  
20 dates are. Knowing those two things, knowing who  
21 created it and when it was published or when it was  
22 created and the title of that thing are really  
23 helpful, but often what we're missing is also the  
24 relational data that you're talking about, that you  
25 both talked about, knowing who that writer is.

1           So if you put a name to a person, if you write  
2           down, you know, Greg Cram on something, I need to know  
3           which Greg Cram that was. Amazingly, there are more  
4           than one of me. There is one in Australia who sells  
5           properties, who is a real estate broker, right? So  
6           having unique identifiers for each of those things is  
7           really critical just on the bibliographic metadata  
8           side, to understand what this thing is. Then you add  
9           in all the complexity of, okay, what rights can I go  
10          license, and more complexity. For me, the minimum is  
11          bibliographic metadata. We need that first.

12           MR. ISHERWOOD: And there was a project  
13          probably as far back as the nineties, which is what we  
14          called the INDECS project --

15           MR. CRAM: Yes.

16           MR. ISHERWOOD: -- where we came up with, you  
17          know, people do deals about stuff, and those are the  
18          three things that you need to identify, and if you can  
19          start with that, then -- then you're well on the way.

20           And, you know, in terms of -- in terms of  
21          identifying people or names, ISNI is one way toward  
22          that, but we are struggling within the music industry  
23          to get traction on that. They have their own  
24          proprietary versions, and why should we adopt  
25          something else, so on and so forth.

1           MR. CRAM: Yeah, nothing too technical, but  
2     who, what, and how it's done are -- the irony of  
3     triples, that's our language. We speak RDF triples,  
4     and we want to talk more about semantic web, but to do  
5     that, we need the underlying data to get there, and  
6     that relational -- setting up those relations about  
7     what each piece is is also important for us.

8           So, you know, if I'm looking at a photograph,  
9     it's often one copyright and one rights holder, that  
10    seems pretty straightforward; but when we're talking  
11    about feature films or documentary films, where there  
12    are hundreds of third-party works in that thing,  
13    having those relational understandings would be really  
14    helpful for us to know how that thing can be used  
15    later on.

16          MR. SANDHAUS: And to your point, we keep  
17    circling back to the need for strong identifiers, and  
18    I think it's really interesting, because when you look  
19    at sort of the technical landscape of standards  
20    available for attaching to media objects, I mean,  
21    starting with EXIF and moving forward from there,  
22    almost all of them let you specify a creator as a  
23    block of text, which is probably far too flexible for  
24    uniquely identifying things.

25          Now, ODRL and RightsML from the IPTC let you

1 specify a strong identifier in the form of a URI,  
2 which means something out there for all you RDF  
3 enthusiasts, but -- essentially that is a strong  
4 identifier, but only in the context of a specific  
5 vocabulary that, if not shared, will end up just  
6 getting you consistency in a sector, not universally.  
7 So how do we chip away at that problem?

8 MR. ISHERWOOD: Well, over a period of time,  
9 somehow -- and I can only speak from the position of  
10 the music industry -- we have got to build trust in  
11 the identifiers, and in the music industry at the  
12 moment, when Spotify reports to the record label,  
13 there is a whole load of metadata as well as the  
14 identifiers that goes into the message, and they use  
15 FTP, and so the files -- you know, the billions of  
16 streams we're talking about -- if -- at the moment, I  
17 can't remember what the actual number of subscribers  
18 worldwide is, but it's under a billion. If we get to  
19 2 or 3 billion using streaming services, there's no  
20 way sending files from one place to another is  
21 actually going to work. The only thing that's going  
22 to work is sending identifiers. And to be able to do  
23 that, you have got to trust them, and at the moment,  
24 that -- that isn't the case. And so certainly in the  
25 music industry, you send an identifier, but you'll



1 send all of the metadata associated with that  
2 identifier as well. So your file will automatically  
3 get ten times bigger just by doing that.

4 If you are able to just send identifiers with a  
5 link together, then you can start talking about web  
6 services, very timely messages going off in a second,  
7 then you are into a different ballgame, and the rights  
8 industries have got to get to that point in the not  
9 too long time frame, because, you know, moving huge  
10 files around on secure FTPs is the 20th Century. We  
11 are now, you know, into year 17 of the 21st. We  
12 really should be further forward with this.

13 MR. SANDHAUS: So not only is there a strong  
14 business reason for these identifiers, but from a  
15 technical efficiency standpoint --

16 MR. ISHERWOOD: Yeah. The operational overhead  
17 is mind-boggling. I mean, if you -- I know that lots  
18 of the DSPs, their margins would be much more  
19 significant if the rights holders were more  
20 sophisticated, because then their operational costs  
21 would come down significantly.

22 MR. SANDHAUS: That's interesting.

23 Stuart?

24 MR. MYLES: Yes. So I think if we were asked  
25 about a similar sort of situation in the news and

1 media industry, often, let's say, AP has done deals  
2 with newspapers. So we have individual contracts with  
3 newspapers, but newspapers are often not, in  
4 themselves, companies, so there are not company  
5 identifiers and so on. So we -- internally, we have  
6 our own identifiers, but those are not shared across  
7 the industry.

8 I mean, we -- we -- I guess we would be happy  
9 to impose our will on the rest of the news industry,  
10 but even though we are the biggest and I'd argue the  
11 best general news organization in the world, but we  
12 don't have that market power to just simply dictate to  
13 everybody what to do, and there isn't anybody else  
14 really in that position. So it's not obvious how  
15 we're going to solve that problem of shared  
16 identifiers that people agree on and understand.

17 MR. SANDHAUS: Very cool.

18 So I want to continue down this road, but I've  
19 monopolized the privilege of asking these smart people  
20 questions, and I want to open it up to the crowd to  
21 see if there are any questions for the panelists.

22 MR. CRAM: And while we're waiting, I'll just  
23 put one more plug in. So a lot of the issues that  
24 we're talking about sound a lot like data science  
25 issues and a lot like information science issues.

1 These are the issues that libraries have been tackling  
2 for many, many years. So as you're thinking about  
3 developing standards or implementing them locally,  
4 think about hiring an information scientist or, you  
5 know, someone with an MLS, because what we would -- a  
6 conversation about identifiers just perks up all of my  
7 librarian kind of feels, because we've been doing that  
8 for a long time.

9 MR. SANDHAUS: And that's information  
10 scientists, distinct from data scientists --

11 MR. CRAM: Yes.

12 MR. SANDHAUS: -- who you might also want to  
13 hire.

14 MR. CRAM: Yes.

15 MR. SANDHAUS: All right, Bill. If I could  
16 trouble you to go to the microphone.

17 MR. ROSENBLATT: Sure. So I was glad to hear  
18 Stuart mention the announcement that YouTube is  
19 adopting ISNI, because it was a huge announcement, and  
20 I'm really interested to hear from everyone up there,  
21 the idea of identifying identifiers for rights holders  
22 as opposed to for content or musical works or whatever  
23 is more and more important nowadays, and I'm wondering  
24 what potential you guys think ISNI has for being sort  
25 of a universal identifier for a rights holder in your

1 segment or anything that you care about.

2 MR. ISHERWOOD: Yes. I mean, I think that the  
3 announcement of YouTube adopting ISNI is a kick in the  
4 backside for the music industry, in particular,  
5 because it has been slow to adopt it. I think ISNI  
6 has huge potential as a linking identifier between  
7 different proprietary party identifiers.

8 MR. ROSENBLATT: For IPI you mean?

9 MR. ISHERWOOD: Yeah, IPI or IPD and others.  
10 However, there are things not right with ISNI. Again,  
11 coming purely from the music side of things, they are  
12 linking pseudonyms, and in the music industry, people  
13 generally don't like that. If I'm a classical music  
14 composer called Fred Smith, but in my spare time, I do  
15 production music, you know, with a different name, I  
16 don't want those two things linked. I don't want  
17 those two names linked together. And because ISNI is  
18 a name identifier, not a party identifier, they  
19 shouldn't be doing that, even though those two names  
20 happen to be the same person.

21 And so there are things that need to be sorted  
22 out about it, but I do think it has a lot of  
23 potential --

24 MR. ROSENBLATT: But that strikes me as a  
25 governance issue, not a --

1 MR. ISHERWOOD: Absolutely, yeah, yeah. No,  
2 no, no, I agree.

3 MR. ROSENBLATT: -- fundamental --

4 MR. ISHERWOOD: Absolutely, but it's doing the  
5 job properly, without sounding hypercritical.

6 MR. SANDHAUS: Excellent. Do we have any other  
7 questions? Could I trouble you to come to the mic?

8 MR. MYLES: While he's coming, I'll just also  
9 respond. I think that on the one hand I am always  
10 disappointed if it's only because Google or YouTube or  
11 somebody like that adopts something that people get  
12 interested in it, but on the other hand, it is, in  
13 fact, a practical way to help my management understand  
14 the value of something.

15 MR. ISHERWOOD: That's a pure frustration. I  
16 happen to know.

17 MR. SANDHAUS: Thank you.

18 JONATHAN BAND: So how do --

19 MR. SANDHAUS: Could you turn on the mic?

20 Sorry.

21 MR. CRAM: I'll repeat it. Go ahead, Jonathan.

22 JONATHAN BAND: How do you overcome the basic human  
23 problem with any -- implementing any of these  
24 standards? I just think back to 30 years ago, when my  
25 law firm, you know, who was a large law firm and they

1 identified -- they adopted certain standard  
2 identifiers so that every document we created would --  
3 you know, would indicate, you know, the client, the  
4 author, the nature of the document, you know, was it,  
5 you know, interrogatories or whatever, so that we  
6 wouldn't have to keep on recreating the wheel, even  
7 though a law firm makes more money by recreating the  
8 wheel, but it was to provide better client service and  
9 really makes things more efficient.

10 But very quickly it failed because no one could  
11 be bothered to spend the extra two minutes that it  
12 took to sort of say, okay, now I need to properly, you  
13 know, use the -- you know, put in the proper  
14 identifiers. And it really would need to be the  
15 lawyer, right? You couldn't ask, you know, the  
16 secretary or even the paralegal to do it. It would  
17 really need to be the lawyer to figure out exactly  
18 what would be the right way to classify it.

19 But it just didn't work because we couldn't be  
20 bothered to spend the, you know, small amount of time  
21 up front, because, you know, you always figure, well,  
22 I'll always remember what my stuff is, but, of course,  
23 the larger the organization, the worse that works.  
24 So, again, how do you overcome that human barrier?

25 MR. ISHERWOOD: I can give you some examples of

1 the sort of thing that needs to be done, that's  
2 developing in the music industry. I mean, the  
3 simplest answer is you've got to make it simple so  
4 that it doesn't take you two minutes out of what  
5 otherwise would be fee-earning time to actually, you  
6 know, do the job. It needs to be just part of the  
7 work cycle, and that's not easy. I'm not saying it  
8 is, but there are increasingly a number of tools for  
9 artists and creators, which are very much app -- they  
10 are app-based, all in the cloud and that kind of  
11 stuff, which are being much more adopted by those  
12 communities, and they are making it, you know, so easy  
13 to collect it, because we're so used to, you know,  
14 getting our phone out and checking something.  
15 Actually doing the same and writing down a musical  
16 work title and so on is -- makes it so much more  
17 simple, actually, than writing it down. So I think,  
18 you know, it's going to be technical tools that make  
19 it simple, that don't take any time.

20 MR. CRAM: In our experience, going -- looking  
21 backwards, one way we developed some tools to help us  
22 that might inform some of this going forward is that  
23 by -- the move from physical to digital allowed us to  
24 do lots of things, including allowing us to do  
25 full-text searches and building -- analyzing what the

1 thing is using computers instead of humans going  
2 through and trying to classify what this book is, what  
3 this item is. That's really, I think, helped us  
4 backfill some of that information, some of that  
5 description.

6 So if we can run that full-text search, I know  
7 the number of words that are used in this book, and  
8 here's how those words are used in some ways, and that  
9 might tell me more about what that document is. So  
10 the power of digitization for us has been able to  
11 backfill that metadata.

12 MR. SANDHAUS: And, Susan, if I am correct,  
13 we're nearing our time?

14 MS. ALLEN: Yes.

15 MR. SANDHAUS: All right. So I want to give  
16 Stuart the last word, because he was about to say  
17 something.

18 MR. MYLES: What I was going to say is that  
19 within AP, we have a sort of -- somewhat of a similar  
20 situation, not so much with our lawyers, but with our  
21 editors and journalists, where we have to give them  
22 the ability to create new identifiers for things,  
23 often in a breaking news context. So, yes, they can  
24 reuse identifiers, but often they don't, because it is  
25 a brand new thing, but perhaps later we decide it's



1 not.

2 So the way that we compensate for that is that  
3 actually we have librarians who work for me who  
4 examine those IDs and the metadata to do with them and  
5 will link them together later. So we don't really  
6 expect our editors to go back in time and fix things  
7 or to have to worry about that. So that's how we  
8 compensate for that.

9 MR. SANDHAUS: Well, I want to thank our  
10 panelists for leading us in a really interesting  
11 discussion today and the USPTO for hosting us here  
12 today. This is a great event, and thank you so much.

13 (Applause.)

14 MS. ALLEN: Okay, so thank you, all. I have a  
15 couple of quick announcements and a quick update to  
16 the agenda. So instead of having the presentation  
17 right now from Pex, which I believe is on the agenda,  
18 we are going to have the coffee right now, for about  
19 ten minutes, and then come back and have the  
20 presentation.

21 For those of you online, if you are watching on  
22 WebEx, there is a participant's button that needs to  
23 be pressed in order to view the video. So thank you,  
24 all, for your patience with the video, but it should  
25 be up and running. Thank you, all. So we can

1 reconvene at 10:40, and there's coffee there.

2 (A brief recess was taken.)

3 MS. ALLEN: So if everyone could please have  
4 their seats, we will get started with the next  
5 presentation.

6 So we are getting ready to begin with the next  
7 presentation, if I could ask everyone to please be  
8 seated.

9 - - - - -

10 PRESENTATION:

11 PEX

12 - - - - -

13 MR. TUREK: Hello. I think I will keep it  
14 short and sweet, so if you give me 30 seconds and then  
15 five minutes and maybe six more.

16 Hi, my name is Rasty Turek. I'm the founder of  
17 Pex. We do what was kind of described this morning,  
18 so it's a massive-scale fingerprinting across the Web.  
19 I have very simplified presentation. Don't laugh at  
20 me. It's for people that don't understand much.

21 So what Pex is, it's kind of a Google-like  
22 search engine that search through audio and video  
23 files across the Web. It functions very similarly to  
24 Google itself. So we go out, we crawl the Web,  
25 whatever that is, we pull down metadata and the

1     audiovisual files, we fingerprint those with our own  
2     technology, and then we are able to search for it.

3             So the basic logic behind it is very simple.  
4     You have original file or whatever that is, and we are  
5     able to tell you what portion of that file are found  
6     within any other asset that we find outside of your  
7     database or anywhere in the world. We deal with a lot  
8     of distortion on both audio and video. We also deal  
9     with a lot of other technological challenges. On the  
10    audio side, we have melody-matching and a couple of  
11    other things, which allows us to uncover cover  
12    versions. We also deal with mixes and remixes,  
13    sampling, and lots of other things.

14            On the video side, we deal with horizontally  
15    swapped images with added logos, changed aspect  
16    ratios, changed codex, slow down, and then put some  
17    titles on it, and we are still able to match that.  
18    Our technology allows us to go down to roughly  
19    half-second, so that's the shortest segment that we  
20    can identify within two media against each other.

21            As I said, we go across the Web. There is a  
22    ton that we cover. As of roughly end of this --  
23    beginning of this month, we processed our 7.6  
24    billionth video. It's roughly double the size of  
25    YouTube, so that's a pretty nice amount of content.

1 And then we have two main products built into both of  
2 these technologies. One is rights management and one  
3 is analytics.

4 Rights management is fairly obvious and fairly  
5 simple, so it's rights holders can -- by providing us  
6 the assets that we want to monitor or find, they can  
7 also provide us a series of rules that we can follow,  
8 meaning if we identify a content, upload it 20 seconds  
9 ago to YouTube, we can follow those rules very similar  
10 to content ID, just being as an outsider. This  
11 applies to every single platform we cover, including  
12 Chinese platforms, Russian platforms, live streaming,  
13 or whatever that is.

14 On the analytical side, because we extract all  
15 the metadata and we update all the metadata  
16 consistently, we are able to provide kind of a deep  
17 analysis of the violating of the contents, so where  
18 the contents spreads. So shows in comparison to the  
19 existing platforms today, we focus on the content  
20 itself, not the account, so we don't necessarily care  
21 who was the uploader, but what was uploaded, and off  
22 that we go.

23 This presentation is more about the analytics,  
24 so just very quickly about it, I mean, as I mentioned,  
25 we follow virality in general. One of them may be not

1 understood aspects of virality versus popularity.  
2 Popularity is how deeply are you breaking into your  
3 community, or put it differently, how many views  
4 "Gangnam Style" got as an original video. So that is  
5 the popularity of the content. Virality is how far it  
6 spreads.

7 That means how far people push it to different  
8 platforms, to the same platform, in different forms or  
9 shapes. It's the same as you have articles that are  
10 being pointed to by other journalists or something  
11 similar. So that's what we measure, and we are able  
12 to help the rights holders or the creators to  
13 understand the audience in the full picture.

14 We also, because of the precision of the  
15 algorithms, we are able to identify the segments that  
16 are being copied. So as I mentioned, it goes down to  
17 half-second, which applies to things like animated  
18 GIFs and other things, and of that, we can create maps  
19 of information like what portion of your content being  
20 the most used and in what context. So, for instance,  
21 in audio, which loop of that song was used the most  
22 and for what purpose. Maybe some commercial picked it  
23 up or something else is using it, and we can point to  
24 it.

25 We also are able to identify what we call real

1 influencers. You know the obvious ones like Beyoncé,  
2 I don't have to tell you that if she posts something,  
3 people follow; however, a kid out of Brooklyn that  
4 posted something through their audience or her  
5 audience, you don't know about these people, if  
6 they're hiding or amassing massive amounts of people  
7 around them, so we can identify them and you can do  
8 something about it, hopefully something positive.

9           And then we are also able to provide  
10 competitive landscapes because we hold lots of content  
11 for lots of different rights holders. We are able to  
12 cross-compare their market share versus somebody  
13 else's based on their content or the content of  
14 others. So that's mostly it.

15           If you have any questions, you can ask now or  
16 later or never.

17           JONATHAN BAND: So my question is one of cost, which  
18 is one of the things that individual rights holders  
19 often say is that it's too expensive for them to  
20 enforce their rights, so I'm not asking for you to  
21 give specific prices, but, you know, ballpark or  
22 whatever you're able to -- you know, what would it --  
23 if I had, you know, a thousand songs and I wanted  
24 to -- you know, how much would it cost for you to  
25 provide this service to monitor and to do the

1 automated take-downs for, you know, my catalog?

2 MR. TUREK: See, the automated take-downs is  
3 where it's costly, because they cannot usually be  
4 automated. You have to consider fair use, which fair  
5 use, there is no computer that can tell you that,  
6 because there is no human that can tell you what fair  
7 use is. The monitoring, it's always cheap; it's in  
8 cents.

9 However, the take-downs themselves require  
10 human labor. Somebody needs to go verify and make a  
11 judgment call. And at the scale that we are  
12 operating, that usually is -- it's complicated.

13 The other way to kind of deal with this is  
14 monetization. So if you don't follow the take-downs  
15 but you want to make more money, that's kind of more  
16 simplified -- more simply to be done on the automated  
17 scale. Our cost is -- I will say the lowest in the  
18 market and the scale is the largest in the market, and  
19 that was the whole goal that we were trying to build  
20 this with.

21 JONATHAN BAND: But even the monitoring part you're  
22 saying would be --

23 MR. TUREK: Cents.

24 JONATHAN BAND: -- cents. Okay, thank you very much.

25 MR. TUREK: If you buy me a coffee, I will do

1 that for a thousand songs.

2 UNIDENTIFIED MALE: So I have another question  
3 for you. It follows up on the last one which had to  
4 do with manual intervention. So you have pretty  
5 sophisticated algorithms based on this. At what point  
6 is the algorithm as reliable as a human for  
7 determining these take-downs? Are you going to get  
8 there or get to the point where 90 percent of them are  
9 automated and you only have to have a few checked, so  
10 the gray area checked by human beings? Can you talk  
11 about that a little bit?

12 MR. TUREK: Of course. I think we got to  
13 roughly 30 percent, and it's more based on what is  
14 very -- let's go to 100 percent sure. So what is 100  
15 percent sure it is one-on-one copy. Somebody takes  
16 your content and reuploads literally the same copy of  
17 it. Well, that's not fair use by any stretch. That  
18 entails roughly 30 percent of what we see for most of  
19 the rights holders.

20 Everything outside of that, I mean, we are  
21 trying to establish some boundaries, and we do believe  
22 we could get to 60, maybe 70 percent over next couple  
23 of years. Everything past that will require a more  
24 strict law with more rules in the law itself or if  
25 some precedence in the cases because we know that it's



1 kind of running blind.

2 MS. ALLEN: So, thank you very much. Rasty  
3 will be on our next -- not this coming panel, but the  
4 panel after lunch as well, talking about licensing and  
5 monetization, if anyone has further questions.

6 Right now, I would like to invite our panelists  
7 for the next panel to come up, and the panel on  
8 registries is being moderated by Jim Griffin.

9 - - - - -

10 MORNING PANEL SESSION 2:

11 THE ROLE OF REGISTRIES IN COMMERCE

12 - - - - -

13 MR. GRIFFIN: Jonathan, so you asked what  
14 motivates somebody to participate in a registry, and I  
15 was thinking \$150,000 in statutory damages is a really  
16 motivating thing, and had your law firm fined people  
17 at that level, there would be a high motivation for  
18 being a part of a registry system, especially if you  
19 got into multiples.

20 And that's part of what gets us here to talk  
21 about registries today, is that there's a kind of  
22 exigency in the industry. There's been a lot of  
23 lawsuits and so forth, and I can tell you even a year  
24 ago or in the years before that, we'd be here talking  
25 about if we need registry activity, and we'd be trying

1 to justify money spent, cost spent on building  
2 registries, and we'd be debating the relevance of this  
3 and the usefulness of it.

4 And yet today it's a joy for me to tell you  
5 that all we're going to do is review efforts from  
6 those who are working on registries, and that's a very  
7 exciting thing, because as you know, competition  
8 motivates -- or at least that's our expectation -- and  
9 the result is that we're seeing a flurry of activity  
10 towards the kind of registries that we need for  
11 commerce.

12 We're lucky to have this panel here today. We  
13 are not going to do introductions. We have got lots  
14 to talk about, and you can look up who these people  
15 are on the panel very, very easily, and I will  
16 introduce each one of them to you as we move along in  
17 some kind of cursory way.

18 But we are going to start out with Shawn  
19 Gallagher from the U.S. Copyright Office, because  
20 Shawn is the first to tell us about a new program that  
21 the Copyright Office sent a notice out about  
22 yesterday.

23 So, Shawn, I think you've got some slides --  
24 you're the only one with some slides -- so take it  
25 away. Tell us about the Virtual Card Catalog -- and I

1 have to say, that's such a joy, you know? I mean,  
2 anyone who's interacted with a library remembers the  
3 card catalog, so it's kind of funny. It's like a  
4 coder reviewing VISUAL -- or BASIC, the programming  
5 language. The card catalog, finally we virtualized  
6 it, so let's hear it.

7 MR. GALLAGHER: Great. Thanks, Jim.

8 So, again, similar to Greg, we had an  
9 announcement yesterday about the Virtual Card Catalog.  
10 So, again, I need to preface that this is a proof of  
11 concept. We have been looking at all of our analog  
12 card catalogs, everything that's pre-'78, and we have  
13 had a team coming in to develop a website and an  
14 interface for that, and what we've done so far is  
15 we've taken the two most recent indexes, so in that  
16 analog group of cards, so it's the '55 to '70 and '71  
17 to '77, and we have placed full-color scans of those  
18 cards in this website for people to be able to browse  
19 through. Again, we have been digitizing these cards  
20 for quite some time, but they have been high-  
21 resolution TIF images, so not really suitable for web  
22 presentation.

23 MR. GRIFFIN: I will interject, for how long?  
24 And by the way, for those of you in the audience,  
25 stand up and ask questions any time. We can handle

1 it. We're not waiting until the end. You've got a  
2 question, get to a microphone, we're happy to answer.

3 Go ahead. How long has it taken to get this  
4 project -- when did it start?

5 MR. GALLAGHER: Nearly about ten years ago, we  
6 began digitizing.

7 MR. GRIFFIN: About a decade.

8 MR. GALLAGHER: Um-hum.

9 MR. GRIFFIN: Right, okay. Sorry.

10 MR. GALLAGHER: But, again, we have been making  
11 smaller resolution images so we can put them up on the  
12 Web for people to view. They are suitable for mobile  
13 as well, so if you want to take out your phone and go  
14 to [vcc.copyright.gov](http://vcc.copyright.gov), you can check it out from your  
15 phone right now.

16 Again, so they're the full-color scans.  
17 They're the verso, as we've captured all the  
18 handwriting that's on them, on the backs, the notes  
19 from people who have managed the card catalog, and,  
20 again, right now it's browse functionality, so you can  
21 kind of filter by drawer, you can filter by the  
22 alphabetical listing of the drawer name, and although  
23 there's a search box in there, it's really just a text  
24 filter for the drawers at this moment.

25 Again, we're using an Agile methodology to

1 develop this, so we're looking for feedback. We have  
2 got a feedback button up there where you can let us  
3 know about a certain card; you can let us know about  
4 the entire interface in general. Again, so here's  
5 what the interface looks like. You see a card gallery  
6 where you can kind of scroll through the cards in any  
7 given drawer. You can also use the buttons on the  
8 left and the right to page through that catalog.

9           One of the things that we do really like about  
10 this is that when you get into searching -- and,  
11 librarians, you talk a lot about serendipitous  
12 discovery, because when you do a search, you might not  
13 be looking for one specific thing. Sometimes it's the  
14 item next to it, two or three locations down on a  
15 shelf, that really brings you the information that  
16 you're looking for.

17           So we think that right now the browse  
18 functionality encourages that, and, again, in the  
19 coming year, we'll be adding more features. So if  
20 people want to check it out, leave us some feedback,  
21 fill out a survey we have there -- it's a third-party  
22 website -- but we're collecting all that information  
23 and using that to figure out which features to  
24 implement in the coming year.

25           And as -- I think by the end of the year, I

1 think we're looking at having probably about 40  
2 million images available, so those will be uploaded as  
3 we're going along.

4 MR. GRIFFIN: I work for you, I work for the  
5 audience, so I have got to bridge.

6 Agile, explain to the audience, for those who  
7 are not familiar with Agile scrum methodologies.

8 MR. GALLAGHER: So really briefly, I mean,  
9 there's plenty of YouTube videos you can watch about  
10 it, but Agile is really a methodology, a way of  
11 thinking about doing something and getting to a  
12 minimum viable product, and what we try to do is go  
13 out and we want to engage our users and get as much  
14 feedback as possible before we get too far down the  
15 road, because the contrast people usually make is the  
16 waterfall of software development, where you gather  
17 your requirements, you disappear, you come back with a  
18 product, and people aren't really happy with it  
19 because it isn't what they intended or enough time has  
20 passed that their desires have changed.

21 So we're trying to work really closely with any  
22 of the feedback that we get, incorporate that, and  
23 then keep pushing out to see if this is something that  
24 we should keep moving forward with.

25 MR. GRIFFIN: It's an advanced method, and so I

1 highlight it because it's exciting to see that our  
2 government is employing it in going forward, you know,  
3 sprints and that sort of thing. It's heavy on  
4 governance. People have to report back and forth.  
5 And so I -- has your experience with it been positive?

6 MR. GALLAGHER: Ah, yes. So this project was  
7 put together I believe in about four months, we got to  
8 this state, and, again, it's just kind of a bare  
9 bones --

10 MR. GRIFFIN: Ten years of scanning, four  
11 months of assembly.

12 MR. GALLAGHER: The development cycle was  
13 pretty quick.

14 MR. GRIFFIN: It sounds like something coming  
15 over on a boat to an IKEA store.

16 MR. GALLAGHER: Exactly, exactly.

17 MR. GRIFFIN: Nine months in the process, sells  
18 in 30 days.

19 MR. GALLAGHER: Right, and it's by no means  
20 complete, but, you know, Congress and the American  
21 people have been wanting to see something that we have  
22 been working on, and so this is at least the beginning  
23 to show what our efforts have been leading up to, and  
24 there will be more to come as the year goes on.

25 MR. GRIFFIN: With handwritten cards on the

1 video screen, I have to say, you know, it's exciting  
2 just to see any progress at all. You know, it reminds  
3 you on the old thing from Dr. Johnson, you know,  
4 that -- look, this is a very indelicate statement, so  
5 I hate to make it, but Dr. Johnson once famously said,  
6 "A woman preaching is like a dog walking on its hind  
7 legs. It needn't be done well. It's amazing to see  
8 it done at all." So just the idea that you have got a  
9 software project moving forward, and though it may be  
10 handwritten cards scanned in and assembled, I think  
11 that's exciting, and I think we can look forward to  
12 the day when we can actually search for text in these  
13 cards, when OCR can accommodate the handwriting and so  
14 forth.

15 MR. GALLAGHER: Yeah, there is a lot of cleanup  
16 that needs to be done with the OCR, and we are trying  
17 to run OCR on some of the handwritten cards, and it's  
18 a messy process. So right now we're looking at, you  
19 know, card numbering and the drawers, but that OCR  
20 data, as it's being cleaned up, will be added.

21 MR. GRIFFIN: Well, that's exciting.

22 Brad? Brad Prendergast is next to you, and  
23 he's SoundExchange, and I want you to know he's  
24 working outside his field today. The rest of the  
25 office is off at the Grammys, and so Brad, who's in



1 charge of enforcement and licensing -- and, you know,  
2 and I do recommend if you ever find a streamer, you  
3 wonder if they have got a license, is send a note to  
4 Brad, because he's looking for those people who aren't  
5 licensed.

6 But he's really good at what he does, and so  
7 we're lucky to have him here today, and he's got a  
8 flurry of activity. I mean, we could spend an hour  
9 listening to what SoundExchange is doing to address a  
10 lack of data, and one of the joys of it is that they  
11 have no doubt that the principal characteristic is  
12 that it must be accessible to people, that it  
13 shouldn't be done behind a closed door, that it should  
14 be shared with the New York Public Library and anybody  
15 out there who's doing it.

16 So, Brad, could you take some time and walk us  
17 through the various initiatives that your colleagues  
18 sent you here to tell us about?

19 MR. PRENDERGAST: Of course, thank you. Thank  
20 you, Jimmy. Thank you for having me.

21 So the core principles here are actually some  
22 of the principles that Bill outlined at the beginning  
23 of the morning. We're focused on making sure that  
24 registries and the metadata incorporated in those  
25 registries are accessible, and the projects that we

1 have taken on also respond to another point that Bill  
2 made, and that is that we're -- the urgency, that  
3 we're addressing particular current problems.

4           And to take a step back in time for a moment,  
5 SoundExchange collects and distributes the royalties  
6 that are paid by digital service providers under the  
7 Section 114 statutory license, and years ago, we would  
8 get -- when we would get the play list logs from the  
9 digital music services, we would use those logs not  
10 only to identify which tracks were being performed by  
11 those services but also to identify who we should pay.  
12 And digital service providers back then especially --  
13 and still today -- are not the best at giving us the  
14 most complete and accurate data.

15           And so over time we bifurcated that, and we  
16 rely now on those play list logs to tell us what  
17 tracks, to identify the tracks that the services  
18 played, but then we use separate independent  
19 information to determine who we should pay, what  
20 featured artist and what record labels -- what rights  
21 owners we should pay for those particular tracks.

22           And so over the course of time we've developed  
23 a repertoire database, relying on DDEX feeds and other  
24 sources, and also a rights ownership database, and we  
25 keep those two separate because the repertoire

1 database contains the immutable information about a  
2 track, the artists that were involved in the creation  
3 of the track, the date of creation, et cetera, et  
4 cetera, whereas the rights ownership information can  
5 change over time as catalogs are bought and sold.

6 In the course of developing those databases, we  
7 developed a good repository of ISRCs for each of those  
8 tracks --

9 MR. GRIFFIN: Hold there just a second.

10 MR. PRENDERGAST: Yes.

11 MR. GRIFFIN: ISRC, Industry Standard --  
12 International Standard Recording Code?

13 MR. PRENDERGAST: Yes.

14 MR. GRIFFIN: It could match with the ISWC,  
15 which is for the song, which is, of course, separate.  
16 The song is by a songwriter. The sound recording is  
17 by a recording label. It has performers associated  
18 with it. There could be a cross-reference between  
19 them, but that's what ISRC is. It's the globally  
20 unique identifier for a sound recording.

21 Go ahead.

22 MR. PRENDERGAST: And they are incredibly  
23 helpful for making sure that we're identifying the  
24 correct track and then, therefore, paying the right  
25 people.

1           A few years ago, we asked the Copyright Royalty  
2 Board, which is the panel of judges that decides the  
3 rates and terms for the statutory license, to require  
4 that digital services -- digital service providers use  
5 ISRCs and report them to us when it's -- when they're  
6 available and when it's feasible to report them to us,  
7 and there was a decent amount of blow-back to that  
8 requirement, and many digital service providers said  
9 it would be too difficult to do so.

10           So we set about to accomplish those tasks of  
11 making ISRCs available and making it feasible for  
12 digital services to use them, and the way that we've  
13 done that is to develop an ISRC portal, available  
14 through our website, where people can search on  
15 particular tracks and return the ISRCs associated with  
16 those tracks. That is a simple search, and from there  
17 we've built some additional features on top of that  
18 that make the ISRCs a little bit more usable, a little  
19 bit more accessible.

20           For example, we now have a repertoire matching  
21 service where if a digital service sends to us its  
22 catalog, we will match it against our ISRC database  
23 and return to the service the ISRCs, and we encourage  
24 those digital services to, therefore, use those ISRCs  
25 when they report to us. So that's basically a bulk

1 search as opposed to a simple search.

2 The second example is the ISRCs search API.  
3 This allows not only digital music services but also  
4 the vendors -- the third-party vendors that they  
5 typically rely upon to pull back those ISRCs in a bulk  
6 fashion so that they can populate their own internal  
7 databases and then report those ISRCs to us. All of  
8 this helps to ensure that the -- that we can pay out  
9 the royalties that they pay to the artists and record  
10 labels more quickly, more efficiently, and reduce the  
11 cost of doing so.

12 So those are two of the bigger ones, and  
13 then --

14 MR. GRIFFIN: Let me stop you just for a quick  
15 second there.

16 I cannot overemphasize how important this  
17 activity is. They are wringing the ambiguity out of  
18 the process of reporting the use of music. When you  
19 wring the ambiguity out of the process, you ensure  
20 that the money gets where it's going, much more likely  
21 that it's going to happen, and the key thing here is  
22 the use of globally unique identifiers.

23 I mean, you know the globally unique  
24 identifiers work. If you buy a candy bar with your  
25 AmEx card, if you've got it set up right, you get an

1 email within about 30 seconds of paying for it in a  
2 grocery store. Our industry hasn't been able to wring  
3 the ambiguity out of the reporting process for music  
4 for quite a while, and here SoundExchange is taking  
5 globally unique identifiers that we already have and  
6 making them available to those who report the use of  
7 music.

8           Keeping them in-house didn't help us doing  
9 that. Making them available, which is the key point  
10 that SoundExchange is on here, publicly accessible,  
11 this is an important step forward. So I just wanted  
12 to stop for a moment and just pat SoundExchange on the  
13 back for an extraordinary move forward. I think  
14 you're up to -- what? How many of these do you have  
15 public now?

16           MR. PRENDERGAST: I think you can get up to 40  
17 million in the database, and that's -- that's a number  
18 from a while ago, so I'm not certain exactly now,  
19 but --

20           MR. GRIFFIN: Well, it's a big leap forward.

21           MR. PRENDERGAST: Yeah, yeah.

22           MR. GRIFFIN: I mean, it was 6 million, I  
23 think, a year ago, and maybe iTunes has between 80 and  
24 100 million tracks on board, so they're nearing the  
25 point where they've disambiguated entire catalogs.

1 So, please proceed.

2 MR. PRENDERGAST: Yeah, and another way that  
3 we're trying to make sure that creators are paid is on  
4 the music publishing side. So we've announced earlier  
5 this week that we've established this service called  
6 the NOI lookup, and this refers to the Section 115  
7 address-unknown NOIs, those infamous NOIs that digital  
8 service providers can send to the Copyright Office to  
9 rely on the 115 statutory license for the mechanical  
10 right in the musical work that underlies these sound  
11 recordings that these digital services stream.

12 Under the --

13 MR. GRIFFIN: Got to stop you just real quick,  
14 just for a second, just to interpret for the audience.

15 MR. PRENDERGAST: Yeah.

16 MR. GRIFFIN: If you are not properly  
17 registered with the Copyright Office, you're not  
18 entitled to get paid for a compulsory license.

19 MR. PRENDERGAST: Yeah.

20 MR. GRIFFIN: And, what, there were 60 million  
21 of these you found?

22 MR. PRENDERGAST: That's right.

23 MR. GRIFFIN: I mean, do you see how they are  
24 disambiguating this process? But it's also important  
25 to add that in some people's minds out there, they're

1 thinking soundExchange is about sound recordings.  
2 What the hell are you doing dealing with song  
3 publishing? And so maybe they missed an announcement  
4 from SoundExchange that is a predicate for this.

5 MR. PRENDERGAST: Yes. Well, fundamentally,  
6 we're trying to make sure that all creators are paid  
7 fairly whenever their creations are being used, and  
8 that extends now to the publishing side, and so we  
9 have a --

10 MR. GRIFFIN: Because you bought --

11 MR. PRENDERGAST: CMRA, yeah.

12 MR. GRIFFIN: Exactly.

13 MR. PRENDERGAST: Yeah.

14 MR. GRIFFIN: They bought the Canadian  
15 Mechanical Rights Organization, CMRRA, so you now have  
16 in one organization or loosely one organization --  
17 affiliated -- the sound recording rights and the  
18 mechanical rights that affect the songwriters. I just  
19 wanted to make clear to everyone they now own that and  
20 are integrating these into an operation which brings  
21 you into that field.

22 MR. PRENDERGAST: Right, so that -- and the  
23 first initiative in that new field for us is this NOI  
24 lookup. So as Jim mentioned, there are 60 million  
25 address unknown NOIs that have been filed with the



1 Copyright Office, and they're delivered as zip files.  
2 They are available to the public as zip files in the  
3 Copyright Office's website, and within each zip file  
4 are CSE files that list all of these different notices  
5 that digital services, Google, Amazon, Spotify, from  
6 the large down to the small, have filed to basically  
7 ensure that they have the license to use the  
8 mechanical right of the musical work.

9           That's -- that's not easy for music publishers  
10 and songwriters to search, and so we have taken all of  
11 those address unknown mass NOIs and populated a  
12 database and then made that database accessible to the  
13 public for them to be able to search across all of  
14 these different files. You can search on artist, you  
15 can search on track, you can search on label, whatever  
16 information would happen to be contained within that  
17 NOI.

18           MR. ROSENBLATT: Question.

19           MR. GRIFFIN: Bill Rosenblatt.

20           MR. ROSENBLATT: Thank you, Jim.

21           Have you been in discussions with any of the  
22 mechanical agencies, like Harry Fox Music Reports,  
23 Loudr, et cetera, about integrating what you've just  
24 announced into their proprietary NOI databases?

25           MR. PRENDERGAST: I don't think we have, no.

1 The -- this is -- in the -- and it goes back to an  
2 earlier point. This is just a first step.

3 MR. ROSENBLATT: Sure.

4 MR. PRENDERGAST: Secondly, this is something  
5 that's designed to address just a simple problem,  
6 making these mass NOIs searchable. There are --

7 MR. ROSENBLATT: Yeah, no, it's the 80/20 rule.  
8 It's a great -- it's a great first step.

9 MR. PRENDERGAST: Totally, yeah. So there's  
10 more to come.

11 MR. ROSENBLATT: Okay.

12 MR. GRIFFIN: And by the way, NOI, notice of  
13 intent. If you file an NOI with the U.S. Copyright  
14 Office saying I intend to use this, but it -- I can't  
15 match it with anything in your database, you're now  
16 covered going forward to use that work that you could  
17 not match, and so I just wanted to be clear what an  
18 NOI is. And there have been a flood of them from  
19 digital service providers looking to reduce their risk  
20 in liability such that they do not have to pay, but I  
21 see we have Bill Colitre here from Music Reports, and  
22 so fire away, Bill.

23 MR. COLITRE: Hi, yes, Bill Colitre from Music  
24 Reports. Would love to talk to you about working  
25 together to enhance the finding of rights owners for

1 the tracks that are filed in the Copyright Office  
2 because the -- usually the sound recording information  
3 is very ambiguous. We receive sound recording  
4 information from all of the digital music services  
5 that use our platform -- Amazon, Pandora, Slacker,  
6 TIDAL, Deezer, Microsoft, et cetera, et cetera, et  
7 cetera. So we also have an enormous library of sound  
8 recording rows.

9           You have 40 million ISRCs available through  
10 your searchable system -- wonderful, applauded -- but  
11 unfortunately, we're mostly aware in this space that  
12 ISRC is a very flawed standard. It's an attempt to be  
13 a unique identifier for sound recordings, but it's  
14 very ambiguous in many cases, and so it requires  
15 validation on the far end.

16           So I wanted to ask, you know, when you provide  
17 that ISRC database to the public, do you indemnify the  
18 users of that database with respect to the quality of  
19 the ISRCs that you feed out of it?

20           MR. PRENDERGAST: Yeah, that's a great  
21 question. So the -- so you bring back -- you put in  
22 the name of any particular track, you might bring back  
23 very well many different ISRCs, because the execution  
24 of ISRC sometimes is flawed, as you point out, and a  
25 track that appears on different products might

1 erroneously have different ISRCs associated with it,  
2 and in a world where digital streaming services are  
3 not necessarily relying on a particular album or  
4 making it clear which album they're relying on to  
5 stream a particular track, sometimes it can be very  
6 ambiguous about which ISRC actually applies.

7           So when we make these ISRCs available, we make  
8 it clear -- and in all of the features that we  
9 provide -- that you, the digital service provider,  
10 need to review this and determine which of these ISRCs  
11 is associated with the track that you either have in  
12 your catalog or the track that you're performing, et  
13 cetera.

14           MR. COLITRE: Great. And I just wanted to  
15 point out in addition that for over a year and a half,  
16 Music Reports has hosted a claiming system for all of  
17 the NOIs we've filed on the Copyright Office on behalf  
18 of the services we work for. That's entirely  
19 searchable by all the various fields that you  
20 suggested, and it ties directly to the liquidation of  
21 the royalties that are pending because of those NOIs  
22 on the Office. To date, all of our clients have  
23 agreed to pay retroactive royalties, even though they  
24 are not obligated to do so under Section 115, so there  
25 actually is pending money there to be had, and there's

1 no service charge for signing up and using the service  
2 at all.

3 So I -- while you did a great job of focusing  
4 the world's attention on this particular issue, I just  
5 wanted to make clear that this search capability has  
6 been existent for a very long time, and it's very  
7 efficient, and if anyone wants to use it, just go to  
8 MusicReports.com.

9 MR. PRENDERGAST: That's great.

10 MR. GRIFFIN: It's exciting all of this is  
11 coming together, that people are working to resolve  
12 this problem, and so I thank Bill for his contribution  
13 here.

14 So, please proceed.

15 MR. PRENDERGAST: So that's where we are right  
16 now, and the -- there are a lot of changes going on on  
17 the musical publishing side, the musical works side.  
18 The Musical Modernization Act has now been introduced  
19 in the Senate, and that might have significant  
20 implications -- reform implications for the Section  
21 115 license. So, you know, we might be in a world  
22 where the address NOI or the unknown-address NOI goes  
23 away if there's a blanket license, in addition to  
24 being a statutory license, but that's to be seen.

25 MR. GRIFFIN: And you're referring to the Music

1 Modernization Act, of course.

2 MR. PRENDERGAST: Right. That's right.

3 MR. GRIFFIN: Yeah. Look, I'll just say  
4 personally that I'm excited that we have an  
5 organization that works for licenses for both sound  
6 recordings and for songwriters. I think that's  
7 enormous progress, because there are so many instances  
8 of licensing where we've literally failed over the  
9 past decade to even extend the licensing.

10 Podcasting is a great example. For over a  
11 decade this thing's been thriving and growing and  
12 doubling in power, but we don't really have any  
13 licensing of traditional or of commercial music into  
14 them, and yet I think this is a possibility now that  
15 we have songwriters with their mechanicals and sound  
16 recordings into at least an organization that could,  
17 using various databases, figure out which it has the  
18 rights to do both for. So there's progress here.

19 Look, if I can go to my left again, it's a  
20 political statement -- so here we are at the  
21 government, I have to be careful -- and my friend  
22 Panos is down there pondering what he's going to tell  
23 us about the Open Music Initiative, which I've been  
24 watching and a part of and I think so very highly of,  
25 and, Panos, you have been a great ambassador for the

1 organization. I don't think they could have picked  
2 someone better. So, please, share your wisdom with  
3 the audience and let us know how things are going in  
4 the Open Music Initiative.

5 MR. PANAY: Sure. My name is Panos Panay. I'm  
6 Vice President for Innovation and Strategy at the  
7 Berklee College of Music, and we launched the Open  
8 Music Initiative about 18 months ago, and our angle in  
9 this is that as the preeminent institution that  
10 educates about 5 1/2 thousand of the world's future  
11 creators and graduates about a thousand of them every  
12 year, and this cuts across a spectrum, right? So it's  
13 not just songwriters and performers, but we also have  
14 engineers and producers and --

15 MR. GRIFFIN: Didn't you graduate Psy, the  
16 "Gangnam Style" guy?

17 MR. PANAY: We did, we did, and Charlie Puth  
18 and Imagine Dragons and Quincy Jones and many others.

19 MR. GRIFFIN: Great.

20 MR. PANAY: But we launched an initiative about  
21 18 months ago with the objective of what I'll call  
22 interoperability and the aim of creating an open  
23 protocol for sharing data across industries. So we're  
24 not here to create a registry, which is often the  
25 perception about open music. We're not here to

1 actually compete with any of the existing standards  
2 and services, but quite the contrary. We want to make  
3 it easy for all these different platforms and all  
4 these different standards that already exist to  
5 fundamentally talk to each other and interoperate.

6 When you are looking at the history of  
7 innovation, creating open standards such as TCP/IP or  
8 SMTP or any of the other standards that Bill was kind  
9 enough to put out there, open standards foster  
10 innovation, foster entrepreneurialism. We think that  
11 in order for the industry to fundamentally grow, you  
12 need to be able to make this information regarding who  
13 should get paid what accessible to new companies that  
14 are able to build applications on top of these  
15 protocols --

16 MR. GRIFFIN: I am just going to interrupt you  
17 for a second --

18 MR. PANAY: Um-hum.

19 MR. GRIFFIN: -- because lest you think it's  
20 just commercial, in Europe there's a moral right to  
21 attribution. So these databases are important even to  
22 those who are not thinking about money at the time.

23 MR. PANAY: That's correct, and, I mean, I come  
24 from a standpoint where the majority of the students  
25 at Berklee -- and this is also a -- you know, a pretty



1 select cohort -- are not necessarily just at a place  
2 right now when they are necessarily thinking about  
3 monetization, right? They are thinking about creative  
4 expression and reaching an audience. So my view is  
5 that if you build technology right, it takes  
6 complexity outside of things and enables the  
7 remuneration and attribution to be done, if you will,  
8 behind -- you know, behind the scenes.

9           Now, I think I regret to say that there's over  
10 200 companies involved in the initiative, including  
11 many of you in this room. The three major labels are  
12 part of it, companies like Pandora, SoundCloud,  
13 YouTube, Spotify, Netflix, Intel, and many, many  
14 others are part of it. So there's a genuine intent to  
15 coalesce around making this thing happen. I think the  
16 fact that we're a neutral academic institution that's  
17 collaborating with other similar institutions in the  
18 Boston area, like the MIT Media Lab, to advance this  
19 has been important.

20           But I want to specify that we're not here to  
21 create, you know, some sort of blockchain-based  
22 registry, which I think is some of the misnomers that  
23 exist out there about the initiative. If  
24 blockchain-based implementations on top of the  
25 protocol happen and they become the market standard,

1       fantastic. That's not what we're here for today, and  
2       we are certainly not here to compete with any of the  
3       existing standards that exist.

4               MR. GRIFFIN: Well, speaking of blockchain, to  
5       my -- also to my right, David Holtzman, Bigchain.  
6       Tell us what you're up to there. I know you're a  
7       technical advisor, I believe, but what can you tell us  
8       about Bigchain and its role in, of course, these  
9       registries and in the music industry and others?

10              MR. HOLTZMAN: Sure. I think Trent McConaghy  
11       was here at last year's talking about Bigchain.  
12       Bigchain started as a company called Ascribe, and they  
13       pivoted a couple of times because of the changing  
14       technological nature of blockchain. Several years  
15       ago, Ascribe sort of followed the technological change  
16       of Bitcoin, and they started as a relatively small  
17       company, mostly bootstrapped, to be able to protect  
18       art, copyrights for art, photography, mostly in  
19       Germany and in the European Union, and they made a  
20       nice living out of it.

21              The way they worked is they would do -- if  
22       anybody even knows what I'm talking about -- they  
23       would do hashes and various kinds of --

24              MR. GRIFFIN: Now, this isn't the hash that I  
25       was experimenting with in college, is it?

1           MR. HOLTZMAN: Well, it depends. What kind  
2 were you experimenting with in college?

3           MR. GRIFFIN: I wasn't a math student. I'll be  
4 clear.

5           MR. HOLTZMAN: It depends which college you  
6 went to, man. I was originally a philosophy major, so  
7 I am going to pretend I don't know what you're talking  
8 about.

9           But the -- there's a mathematical thing  
10 where --

11          MR. GRIFFIN: A check sum of sorts.

12          MR. HOLTZMAN: -- yeah, it's a check sum of  
13 sorts, yes, exactly. So Trent developed a number of  
14 techniques to where he could identify one photograph,  
15 say, from another photograph even if it was broken  
16 apart or you had taken a piece of it or expanded it or  
17 turned it upside down or whatever, and then he built  
18 some web crawlers so that he could validate whether  
19 somebody had used it somewhere else on the Web, and it  
20 was really good for his customers.

21          So you would -- if you were -- you worked with  
22 a lot of famous photographers in Germany and you would  
23 buy his services at Ascribe, put your work on  
24 Ascribe's blockchains -- so, of course, they were  
25 permanent -- and then the Web crawlers would go and

1 look, and if they found anybody who was violating your  
2 copyright, they would send you a message, and then you  
3 could take whatever legal steps you wanted to take.  
4 So that worked out pretty well.

5 Then, as the blockchain world continued, they  
6 created -- they morphed into this company BigchainDB,  
7 which is when Trent came here last year, and they  
8 opened the services up to a wider audience. And then  
9 other companies started using their databases and  
10 their technology because they went more into an open  
11 software kind of capability, and I know some of your  
12 stuff is working with them, because they were here at  
13 our conference last year in Germany.

14 So Bigchain had a big conference about six  
15 months ago. I was the keynote speaker in Berlin.  
16 We -- it was sold out within days. We had a lot of  
17 people there, and there are literally dozens and  
18 dozens of companies that are using the BigchainDB  
19 toolkits, and they're building just crazy things on  
20 top of it, voting systems, music registration systems.  
21 It's really encouraging what they're doing with it.

22 MR. PANAY: Actually, maybe to build quickly on  
23 what you were saying --

24 MR. HOLTZMAN: Yes, sure.

25 MR. PANAY: -- so we released an API end of

1 last year, so this workshop that Bigchain did in  
2 Berlin brought together SoundCloud, Amazon, Spotify,  
3 and then with the -- and GEMA together to start  
4 experimenting with this concept of interoperability of  
5 data using, you know, the Bigchain technology.

6 MR. HOLTZMAN: Yeah, it was really exciting.  
7 So there were people like a lot of you there, there  
8 were a lot of technologists, there were a group of  
9 people that I would best call cryptoanarchists. It  
10 was a very interesting mix of people meeting for beers  
11 at night in Berlin. So I had a really great time.

12 The people came and they talked about the  
13 future of copyright, the future of technology, and how  
14 blockchain-type things might be best used, because the  
15 nature of blockchain is very interesting when you  
16 apply it to copyright, because blockchain is --  
17 effectively is permanent. When you commit something  
18 to a blockchain, there's no really known technological  
19 way of diddling with the committed blockchain unit.

20 MR. GRIFFIN: Well, this is where I've got to  
21 start working on behalf of the audience, because some  
22 of them are wondering -- and they have always been  
23 wondering -- what the hell is blockchain doing with,  
24 say, copyrighted content, music, books, whatever? So  
25 now let's drill down. What do you propose should be

1 put into the blockchain about, say, a book that is  
2 used or a song that is listened to or a movie that is  
3 watched?

4 MR. HOLTZMAN: Well, that's a good question,  
5 but -- I don't propose anything, but what I --

6 MR. GRIFFIN: No, but I mean, Bigchain, what  
7 would it think the role might be?

8 MR. HOLTZMAN: Okay. So I also want to finish  
9 up on what Bigchain's doing, because they morphed into  
10 another thing, and then I'll answer that question if  
11 that's okay.

12 MR. GRIFFIN: I won't let go. That's okay.

13 MR. HOLTZMAN: No, no, don't let go. Be  
14 tenacious, that's my model.

15 So the Bigchain has moved one more step. They  
16 also created a company -- a foundation called IPDB. I  
17 was the president of it, Interplanetary Database.  
18 They have moved on. That's being taken over by  
19 another German nonprofit, and they have also now done  
20 this Ocean Protocol -- I encourage everybody to look  
21 at it -- it's tokenized, and they're doing it with the  
22 Government of Singapore, and the idea is they found  
23 that the real money for them as a company is still the  
24 same technology, still the same protocol, but they're  
25 now going to make their money out of the tokens, and

1 if anybody wants, I can explain this later, but --

2 MR. GRIFFIN: These are physical tokens or  
3 virtual tokens?

4 MR. HOLTZMAN: Cryptotokens, virtual tokens.  
5 So each token -- Ethereum is doing this, too, and each  
6 token is both something that people invest in to fund  
7 the company and a unit of transaction to commit  
8 something to the database, which is --

9 MR. GRIFFIN: Is it a hexadecimal string?

10 MR. HOLTZMAN: Ah, it doesn't have to be.

11 MR. GRIFFIN: But it's a unique string of --

12 MR. HOLTZMAN: Yeah, it's a unique string.

13 MR. GRIFFIN: -- of characters --

14 MR. HOLTZMAN: It's a bunch of numbers.

15 MR. GRIFFIN: Just so people can picture it,  
16 you know.

17 MR. HOLTZMAN: Yeah, yeah, it's -- it's  
18 numbers.

19 MR. GRIFFIN: It needn't be embedded on, say,  
20 an RFID or a tangible object. It can be a virtual  
21 object.

22 MR. HOLTZMAN: It's numbers.

23 MR. GRIFFIN: Right.

24 MR. HOLTZMAN: You could put it on a USB  
25 dongle.

1 MR. GRIFFIN: Okay, good.

2 MR. HOLTZMAN: Okay. So it's a bunch of  
3 numbers. So it's like a Bitcoin. That's probably the  
4 right way to think about it.

5 MR. GRIFFIN: Yeah. Well, a lot of people  
6 don't know what a Bitcoin is, so it's just helpful  
7 when you've explained here, I think, to the average  
8 person.

9 MR. HOLTZMAN: Okay. I wasn't sure what the  
10 background was.

11 MR. GRIFFIN: No, no, very good.

12 MR. HOLTZMAN: Okay. So it's a bunch of  
13 numbers. So you have these numbers, and it's a token,  
14 and this token can be both an investment in the  
15 company and like an arcade -- well, actually, an  
16 arcade is a good example. So you go into an arcade  
17 that pays off, and you can both get paid off in tokens  
18 or you can play a game with tokens, like in a casino.  
19 So you can put a token in, you can play a slot, or you  
20 get a whole bunch of tokens back if you win at the  
21 slot. So it's kind of a neat idea.

22 MR. GRIFFIN: So I see how that could be money.

23 MR. HOLTZMAN: Oh, it is money.

24 MR. GRIFFIN: Right. No, no, I know.

25 MR. HOLTZMAN: Oh, it's money, all right.



1           MR. GRIFFIN: But now I'm hunting for how that  
2 applies to the copyrighted material, because that's  
3 the essence of our visit today.

4           MR. HOLTZMAN: It's not the copyrighted  
5 material. It's the -- it's the money that it takes to  
6 store the copyrighted material. So the token is the  
7 payment it takes to store the material. So the way  
8 Singapore is working, they had a thing called DEC  
9 (phonetic), which was their own digital corporation to  
10 store material inside Singapore, and they are now  
11 using this system, and then the token that they're  
12 coming up with is Ocean Protocol, is going to be the  
13 currency that's used to store data.

14          MR. GRIFFIN: So this -- in this element, it's  
15 restricted to value. The blockchain stores the value  
16 of the currency that's used to pay for the copyrighted  
17 material but not the material itself.

18          MR. HOLTZMAN: Yeah. Think of it -- I will go  
19 back to token again. Anybody used to play pinball or  
20 anything like that? Just think of it as like a little  
21 token, and you put it in, and you can store a song  
22 for, like, 20 years.

23          MR. GRIFFIN: Well, it represents value that  
24 entitles you to something. Now, let me ask, does it  
25 record the use of those materials and who the user

1 might be?

2 MR. HOLTZMAN: It could.

3 MR. GRIFFIN: But does it? In other words, in  
4 the implementations you know about, are we storing  
5 each use of a piece of copyrighted material somewhere?

6 MR. HOLTZMAN: Probably not.

7 MR. GRIFFIN: I would agree with you on that.  
8 I think it would have a chilling effect on the use of  
9 copyrighted material.

10 MR. HOLTZMAN: Well, so, maybe this is a bigger  
11 discussion.

12 MR. GRIFFIN: Well, it probably is.

13 MR. HOLTZMAN: I mean, my personal opinion is a  
14 lot of what you guys are building probably isn't  
15 really going to be functional in a couple of years  
16 because of this, but that's just -- that's just my  
17 opinion, but a lot of blockchain technology is  
18 fundamentally anonymous transactions and -- or at  
19 least pseudonymous, and I don't know how you get past  
20 that.

21 MR. GRIFFIN: Yeah, no, I agree with you,  
22 because that's --

23 MR. HOLTZMAN: So that's just the way it is.

24 MR. GRIFFIN: -- let's pick a number here,  
25 right, because we say we want transparency and that

1 blockchain represents it, but I think most people  
2 would find it offensive to store forever everyone's  
3 use of intellectual property such that you could trace  
4 it back in a transparent way.

5 MR. HOLTZMAN: Right.

6 MR. GRIFFIN: People probably wouldn't  
7 cooperate with such a system, which would lead us into  
8 an SDMI-type past, and so that's why I'm being tough.  
9 I'm interrogating just to help everyone understand.

10 MR. HOLTZMAN: No, but there's a really  
11 interesting point here.

12 MR. GRIFFIN: Yeah.

13 MR. HOLTZMAN: And the question is, do you want  
14 to monetize the demographics of the user or do you  
15 just want the money? Because if you just want the  
16 money, you can get the money, but you have to be  
17 willing to give up the demographics, and that's, I  
18 think, the world we're coming to in usage of certain  
19 copyrighted material, because you might be able to get  
20 an anonymous user and make them pay for usage of the  
21 material, but you may not really be able to know any  
22 more, who that -- what that person is, because it may  
23 not even be a person. It may be a bot, because we're  
24 having more and more bots that utilize content, and  
25 that bot doesn't even have demographics.

1           MR. GRIFFIN:  But I think you can see why this  
2           strains the question of transparency, that if we are  
3           now dealing with things that are untraceable and so  
4           forth, I think people worry that how does this reduce  
5           gaming of the system?  Perhaps the system gets more  
6           gamed in a world of anonymous usage and so forth.  
7           It's a tough one.  It's a hard thing, and I think  
8           you're right, that it's a much bigger topic, and so I  
9           apologize --

10          MR. HOLTZMAN:  No, no.

11          MR. GRIFFIN:  -- but I just felt like we could  
12          get something here that would help the audience lot,  
13          and I think we have.  So I am just going to say I  
14          definitely want to get to Mario, and so I think we've  
15          done good on a little bit of a drill-down here, but I  
16          think it's got to lead us further, and so I apologize  
17          to you that we just haven't made the whole panel about  
18          blockchain, because in some ways, that topic probably  
19          could use a whole day.

20          MR. HOLTZMAN:  But could I just make a  
21          finishing comment on this?

22          MR. GRIFFIN:  Oh, please do.  Please do.

23          MR. HOLTZMAN:  I don't want to scare anybody  
24          too much on this, but I think you need to keep an eye  
25          on where blockchain is going.

1 MR. GRIFFIN: Oh, yeah.

2 MR. HOLTZMAN: It's not going to be done by  
3 governments, I don't believe, because it's just too  
4 disruptive, but what I've seen in Europe mostly, not  
5 in the United States, it is -- there is an energy  
6 level behind blockchain-based technologies that is  
7 amazing. I've seen entire governments using it.  
8 Iceland, Estonia, every single government service in  
9 Estonia is built on blockchain, and it is -- it is  
10 pervasive, amazing, and extraordinarily disruptive.  
11 So I would keep an eye on it. That's my cautionary  
12 note.

13 MR. GRIFFIN: I agree with you. I think you've  
14 got to keep an eye on it. I mean, and I think it does  
15 amaze people, you know, that a sandwich shop adds  
16 blockchain to its name and all of a sudden its  
17 investment goes up overnight.

18 MR. HOLTZMAN: Do you mean Hooters? Are you  
19 describing Hooters as a sandwich chain, because that's  
20 what happened.

21 MR. GRIFFIN: No, no. I mean, most people  
22 would use the word Tulip when they talked about  
23 blockchain --

24 MR. HOLTZMAN: Because Hooters doubled their  
25 stock value by calling themselves a blockchain

1 company.

2 MR. GRIFFIN: Well, you know, that says it all,  
3 I think. So I am going to move on just for a second,  
4 not because I don't think that it's really  
5 interesting, and I think you'd be a guy I'd want to  
6 talk to all day, so -- and I think the audience  
7 probably shares that, but we do want to hear from  
8 Mario, who has probably come here farthest of anyone,  
9 come from Spain, although we have others from Italy  
10 and so forth.

11 So let us hear about Safe Creative, because the  
12 name is fascinating, and that you're building  
13 registries without the government, that's interesting,  
14 too. And so tell us more about what's going on at  
15 Safe Creative, Mario.

16 MR. PENA: Well, actually, we started -- I  
17 think it was the first copyright -- private copyright  
18 registration service in the world, private, about ten  
19 years ago when -- basically asking the question, I  
20 have written a book, and I want to register it in a  
21 Copyright Office, and I couldn't find a digital place  
22 to do so. So we decided, why not create one on the  
23 internet? We got the funding. We started proof of  
24 concept.

25 MR. GRIFFIN: And where did you get the

1 funding? I just should ask for the audience.

2 MR. PENA: Private funding from --

3 MR. GRIFFIN: Private funding, yes.

4 MR. PENA: Yes, to make a proof of concept  
5 using scrum management, the system that he talked  
6 about --

7 MR. GRIFFIN: Agile scrum development  
8 methodology.

9 MR. PENA: Agile methodology, yes, to test the  
10 proof of concept ten years ago, and we got a good  
11 feedback from the creators. They really found it  
12 useful to be able to declare that they were the  
13 authors of those works, any kind of work, any kind of  
14 rights, information, telling about if it was full  
15 copyright or Creative Commons, any kind of thing.

16 So we started with that, and we -- from there,  
17 we begin to -- through this journey to develop more  
18 complete platform, and it -- we reached around 3  
19 million works registered and a quarter of a million of  
20 creators using our platform daily.

21 MR. GRIFFIN: And these are works of all kinds,  
22 right? Books --

23 MR. PENA: Of all kinds.

24 MR. GRIFFIN: -- music, movies --

25 MR. PENA: Music, yes.

1           MR. GRIFFIN: -- video, photographs?

2           MR. PENA: Anything you can imagine, software,  
3 anything that can be copyrighted. And also it's -- a  
4 very important moment in our company was when we  
5 realized that we had to somehow facilitate the  
6 registration of those works that we had in our  
7 database in the U.S. Copyright Office, which we did  
8 back around eight years ago, and now we are planning  
9 to -- not planning, actually, we are developing a  
10 system to even simplify that more so that people  
11 automatically will be able to register in the U.S.  
12 Copyright Office all of the works, whatever the nature  
13 of --

14           MR. GRIFFIN: Tell us more about that, about  
15 your intentions there. I say that because I have  
16 spoken a great deal to the U.S. Copyright Office, and  
17 I'm not here to speak for Shawn, but, you know, their  
18 mission, as they see it, is vetting copyrights such  
19 that they're appropriate and so forth, and they have  
20 some resistance to the notion that there would be an  
21 API and you would just shovel it into their database,  
22 because they take some time to review these things,  
23 and once they have issued a copyright, it's  
24 presumptively valid.

25           And so they have a resistance to the idea that



1 someone should simply be able to shove into their  
2 database a copyright and then make a claim about it,  
3 and it's not that they don't get the idea or the value  
4 of the idea, but that's not their statutory mission,  
5 and some day it might be.

6 Shawn, is this a fair statement about what's  
7 going on or do you welcome the idea that Safe Creative  
8 will just populate your database with copyright  
9 claims?

10 MR. GALLAGHER: Well, I don't think they're  
11 just going to populate their database out of the blue.  
12 There will be a permission-based system, but maybe --

13 MR. GRIFFIN: Yeah, yeah.

14 MR. GALLAGHER: You know, we are looking at how  
15 to collaborate with external forces, and we are  
16 talking about ways that we do want to modernize the  
17 Copyright Office, and I'm sure everyone's familiar  
18 with some of the NPRMs that have gone out and the IT  
19 modernization plan that we have.

20 MR. GRIFFIN: Sure.

21 MR. GALLAGHER: So we're looking forward to  
22 working with people and making use of technology, but  
23 I can't speak to legally what we will and won't accept  
24 or have made rulings on.

25 MR. GRIFFIN: Sure, I think that's for the

1 future, but please proceed, because, look, I think  
2 it's fantastic, the thought that one could more easily  
3 register with the Copyright Office a claim to a  
4 copyright. I think that's at the essence of the  
5 activity.

6 MR. PENA: Well, this is very important. As it  
7 was mentioned before, in Europe, we have this moral  
8 right, so it is very important to have any -- with any  
9 technology, modern technology that you have, we use  
10 timestamp and hashing, and also blockchain is another  
11 technology that can -- that is being used, and we are  
12 checking, of course, and those are ways to generate  
13 this evidence that people need in the case there is  
14 any kind of trouble or just only to inform people  
15 about the situation of the works of -- where they have  
16 the evidence, where they -- what they allow or what  
17 they don't.

18 That's one of the parts, but also we have  
19 under -- we understand that after ten years, we have  
20 learned that huge amount of creators that know nothing  
21 or almost nothing about copyright issues. So we have  
22 been struggling these years not only to create a  
23 sustainable company, which is important, but also to  
24 explain to people why it's important to register, what  
25 it means to have copyrights, what -- that copyrights,

1 it's automatic when you create the work.

2 But also, at the same time, there are some  
3 creators that they have a lot of commercial interest,  
4 and they can have real interest if they register with  
5 U.S. Copyright Office. Our -- we -- for those  
6 creators, we facilitate that. We make it a gateway  
7 for the U.S. Copyright Office. Of course, not all of  
8 them are going to use it, though. It's going to be  
9 more selective and specifically oriented to those  
10 creators that have their most important presence in  
11 the U.S., for instance, but it also applies to  
12 creators from all over the world.

13 MR. PANAY: Jim, can I --

14 MR. GRIFFIN: You can do it quickly.

15 MR. PANAY: I think we're out of time, right?

16 MR. GRIFFIN: We're close to it, but we're  
17 right there, and I have only got one more thing to ask  
18 of the group, so --

19 MR. PANAY: I'll just be really quick. I mean,  
20 for me, this is why the industry coalescing around  
21 this concept of interoperability is key, because  
22 closed databases will always exist, you know, and  
23 every company brings something different to the table,  
24 and that's their value-add. So for me, you know, when  
25 you look at a global hit like a Taylor Swift, you

1     could have as many as 600,000-plus different lines of  
2     revenue, and, you know, depending on where that's  
3     consumed, you could have as many as 50 different  
4     intermediaries, and all these databases don't really  
5     talk to each other.

6             I think the approach for the industry of  
7     agreeing to a certain amount of data that is -- we're  
8     able to freely exchange with each other that is  
9     interoperable, in my opinion, that's a way to the  
10    future. You know, the idea of, let's say, an entity  
11    that somehow houses all of the world's information  
12    around creative -- you know, around creative works or  
13    copyrights or so forth, I think that's panacea and  
14    it's just never going to happen, you know, precisely  
15    because of all the organizations that are here.

16            Everybody brings something different to the  
17    table, but similar to the way that, let's say, when it  
18    comes to streaming sound or accessing the Web,  
19    interoperable standards enable us to do that, or  
20    sending email, right? I can send an email from my  
21    iPhone using my Gmail inbox, and Brad could get email  
22    on his desktop using Microsoft Outlook, and that  
23    interoperability is making it possible for us to  
24    exchange, but each company brings something different  
25    to the table.

1           So, you know, for me, this is the need -- why  
2     the need exists, because I think, you know, Mario's  
3     company should be able to compete in the open market,  
4     if you will, and if it becomes a de facto standard,  
5     you know, fantastic, rather than some mandated  
6     standard. And I am worried about this generation of  
7     creators, if you will, that don't -- you know,  
8     thinking about registering with a Copyright Office is  
9     not their first -- you know, their first thinking, but  
10    this is something you said a while back. If you get  
11    it to the point where, you know, somebody wants to put  
12    up a website, what's the first thing that they do?  
13    They know they have to go and register the domain  
14    name. We want to get to a point where if I'm creating  
15    something on a DAW, you know, or a digital audio  
16    workstation -- I don't want to use acronyms -- like,  
17    you know, a Protools or a Logic, why not have the  
18    opportunity right then and there to be able to, you  
19    know, say, yeah, I want to register this.

20           And, again, that interoperability that the DAW  
21    has with the Copyright Office, with SoundExchange, and  
22    everything else makes it now possible, you know, to  
23    have that attribution back to me irrespective of how  
24    many times that baseline that I created, or whatever  
25    it is, you know, gets reused or remixed or matched up.

1           MR. GRIFFIN: Well, that interoperability line  
2 gets us right to my last question, which makes some  
3 people uncomfortable, but I am going to lead you  
4 through it.

5           Panos, give the people in the audience your  
6 email address so they can interoperate with you.

7           MR. PANAY: You just -- I have a  
8 (indiscernible) institutions, so we are not exactly  
9 hidden behind the shroud of secrecy. You know, it's  
10 ppanay@berklee.edu, P-P-A-N-A-Y-@-B-E-R-K-L-E-E, not  
11 the UC Berkley, but the Berklee College of Music one.

12          MR. GRIFFIN: Yeah, and Berklee was founded by  
13 a guy named Lee Berk, right?

14          MR. PANAY: No, it was founded by a guy called  
15 Lawrence Berk.

16          MR. GRIFFIN: No? Lawrence Berk, okay.

17          MR. PANAY: But an MIT graduate.

18          MR. GRIFFIN: Okay, very good.

19          David, your email address for the audience such  
20 that they may interact with you.

21          MR. HOLTZMAN: david@globalpov --  
22 G-L-O-B-A-L-P-O-V -- as in Victor -- .com.

23          MR. GRIFFIN: Shawn?

24          MR. GALLAGHER: shga@loc.gov, and I'd be happy  
25 to point you to the right folks to talk to if I can't

1 answer your questions.

2 MR. GRIFFIN: Brad?

3 MR. PRENDERGAST: bprendergast@soundexchange.

4 com. The hardest part of that is the Prendergast

5 part. It's in the materials.

6 MR. GRIFFIN: Mario?

7 MR. PENA: mpena@safecreative.org.

8 MR. GRIFFIN: .org? Yes, very good.

9 Well, look, you have been a great audience.

10 You have asked some terrific questions, made some fine

11 points. I have had a good time with this panel. I

12 apologize for all of the interjections, but I felt I

13 was working on your behalf. I think it went very

14 well, and I'd say a good round of applause for these

15 people is a good idea.

16 (Applause.)

17 MS. ALLEN: So, thank you all. We will have

18 two quick presentations before breaking for lunch. So

19 if I could please ask Mark Isherwood and Sacha Berkman

20 to come up, they will give a quick presentation.

21 - - - - -

22 PRESENTATION:

23 LOBSTER

24 - - - - -

25 MS. BERKMAN: Hi, everybody. I'm Sacha

1 Berkman. I'm the head of business development and  
2 sales at Lobster. Lobster is the AI-powered  
3 marketplace for copyrighted social media content.

4           We created Lobster because we felt that content  
5 at the time that was professional, that was  
6 licensable, all looked the same, so much like this,  
7 not a whole lot of variety in all the professional  
8 content you could find out there. So how do you go  
9 about finding content that is authentic, fresh,  
10 readily licensable without infringing on any copyright  
11 laws? And enter Lobster.

12           Every day, about 2 billion pieces of photos and  
13 video content are posted to social media, and contrary  
14 to popular belief, all of the copyright holders are  
15 the authors of that content. Many times the  
16 copyrights of the authors are infringed upon. The  
17 image providers or video providers have no way of  
18 tracing where their content is being used, how, and  
19 requesting payment for that.

20           Also, the companies that are using the content  
21 have no way to request the licensing and pay for that  
22 content. That's one of the things that Lobster  
23 solves, is making that connection between the content  
24 creator and the purchaser. Lobster uses AI technology  
25 to filter and find people's faces. We also use these



1 faces to detect when a model release is necessary for  
2 that content and then require the appropriate  
3 licensing.

4 Another way we use AI technology is to filter  
5 by color pattern, by style, also filter by object.  
6 One of our AI filters also deals with geolocation, so  
7 you can specifically request content that is very  
8 localized as well as this geolocation filter helps us  
9 to verify the authenticity of the content that's been  
10 submitted.

11 There's a few ways to buy content on Lobster,  
12 either a single content purchase, photos or videos,  
13 through our integrations with some partners, or as  
14 many of our agency clients have purchased through  
15 subscriptions. This is an example of a Hill's  
16 campaign that we did. We sourced and created fresh  
17 content that was generated by the company, by Lobster,  
18 for the specific demands of Hill's in this case. So  
19 it was content that did not previously exist.

20 The way in which Lobster differs from typical  
21 stock photo sites is that we solve the problem of  
22 licensing and we make all this content available  
23 globally and in a democratized fashion.

24 A few key milestones for Lobster as well as  
25 some key for development, in 2014 -- oh, I have a loud

1 voice anyway, so I didn't even notice. In 2014, we  
2 actually launched a tech crunch, and then in 2015 and  
3 2016, we began gathering all our contributors. Then  
4 in 2017, we introduced our AI photo search and machine  
5 learning ranking technology, which I briefly touched  
6 upon, helping to identify, sort, tag, and so forth.  
7 And one of the things we're looking to do in 2018 is  
8 the global AI copyright checks and post-licensing  
9 platform development.

10           What that is is that with the help of AI, we're  
11 actually going to be able to verify the authenticity  
12 of a piece of content to check that the content is  
13 actually from the content provider, and then also  
14 empower that content provider with the platform so  
15 that they may check in the whole of the internet where  
16 and how their content is being used. So in this way,  
17 they're going to be able to reach out to any people  
18 who are misusing their content and request  
19 licensing -- appropriate licensing for their content,  
20 as well as payment.

21           Everybody's going to be happy with this. Of  
22 course, it's going to avoid a lot of suing that was  
23 typical in the marketplace in years past, and so this  
24 is a more scalable way to transact in image licensing,  
25 especially because there's a lot of small players and

1 a lot of image licensing taking place.

2 And then we're also going to implement  
3 blockchain for copyright management. So, again, on  
4 the theme of blockchain, we're going to provide all  
5 the licenses and rights in a transparent fashion so  
6 that everybody may see who is the copyright holder and  
7 what the rights are for the content.

8 That's a little bit about Lobster. Thank you.

9 (Applause.)

10 MS. ALLEN: Thank you very much. I think part  
11 of that is just to introduce, again, how new  
12 technologies are being deployed in this space,  
13 specifically, artificial intelligence.

14 We want to turn now to Mark Isherwood again,  
15 who will be wearing a new hat, talking about his role  
16 with the UK Copyright Hub.

17 - - - - -

18 PRESENTATION:

19 UK COPYRIGHT HUB FOUNDATION

20 - - - - -

21 MR. ISHERWOOD: Good morning again. One of the  
22 things with being a consultant is people never know  
23 who you really are. On this occasion, I am  
24 representing the Copyright Hub, as I do some work with  
25 them through the ARDITO Project, in particular, and

1 Carolyn Boyd, who's the COO of Copyright Hub, asked me  
2 to give you an update of what's been going on with the  
3 Copyright Hub.

4 I mean, to a certain extent, for this audience,  
5 none of this is news to you. In terms of trying to  
6 manage copyrights, we need to be able to work the way  
7 that the internet works, which means allowing machines  
8 to talk to machines as well as to humans, and part of  
9 that in terms of ensuring rights are correctly  
10 licensed is ensuring that rights are asserted in a way  
11 that machines can read and people can understand.

12 And that's one step along the way of then being  
13 able to actually allow humans to action against those  
14 assertions and be able to do things that both they and  
15 rights owners want them to do, and in the context of  
16 all of that, we still have to evolve around the  
17 regulatory and environmental changes that we have to  
18 all deal with on a day-to-day basis.

19 So what the Copyright Hub was all about was  
20 trying to do things that could be achieved relatively  
21 quickly without everybody having to build systems from  
22 the ground up and would also be something that is  
23 simple to use and which can be universal, and then you  
24 can add capability to what you've created as time  
25 moves forward and people become more sophisticated.

1           So what's happened since the last public  
2 meeting here is the introduction of the e-copyright  
3 symbol, which is the symbol in the bottom right-hand  
4 corner of the slide here. It's really trying to  
5 activate the circle-c symbol that we are all familiar  
6 with and have been familiar with for decades that we  
7 see on copyrighted material, and the idea is that it  
8 was simple to invent and not terribly hard in  
9 technical terms. Over time, we want to see it put  
10 onto everything, and, most importantly, when people  
11 click on it, they are able to action what they want to  
12 do. And in addition, the machines are able to read  
13 and action as well as the human beings that interact  
14 with it.

15           I have an example here. Is this machine linked  
16 to the Web? Okay, well, I will not tempt fate in that  
17 case.

18           NEW SPEAKER: (Inaudible).

19           MR. ISHERWOOD: Well, it doesn't look like it.

20           Anyway, so, the Ron Burton photograph catalog  
21 has been given the facility around the e-copyright  
22 symbol, and what you can do is, as you can see -- just  
23 about see on the slide deck, with each photograph,  
24 it's the e-copyright symbol there. You right-click on  
25 that, and then up comes a box there which is the

1 licensing organization for the use of his photographs.

2 Obviously, you can't see the different licenses  
3 that are available there, but that is the way that  
4 this operates, that the -- the user can then actually  
5 make a choice about what license they want to take  
6 out.

7 It's entirely up to the rights owner whether  
8 that facility is stored within the Copyright Hub or  
9 whether it actually points or moves the user into the  
10 environment of the rights owner themselves, and  
11 obviously each rights owner is able to make that  
12 choice according to their own particular needs.

13 And what's important, although obviously you  
14 can't read this, that's what the machines see, and  
15 basically that's saying to the machines, you know, you  
16 can't -- you can't use this unless you talk to me  
17 first about what it is you want to do.

18 One of the things that has already been  
19 mentioned -- and partly by Bill and also picked up by  
20 the panels -- is this is all very well if you have got  
21 your content nicely corralled and it's all in the  
22 right place and you have got everything under control.  
23 Once it goes wild and is out there, it becomes a lot  
24 more difficult, and the ARDITO Project is looking at  
25 how that particular problem can be used using

1     watermarks and fingerprints and how that is integrated  
2     into the hub infrastructure.

3             I'm not going to say anything more about that  
4     for now, because Anna is here and will talk about  
5     ARDITO on one of the panels later on, but the point is  
6     that it -- you know, it can be, and clearly the ARDITO  
7     is showing, it can be done even once things are out in  
8     the wild and you haven't already done the preparatory  
9     work with the e-commerce system.

10            The one thing we wanted to draw out is a  
11     project that the Copyright Hub is doing and working  
12     with the newspaper industry. Here is The Telegraph  
13     with a UK print newspaper, which is obviously online  
14     as well, and this is an article about PTSD, and the  
15     opportunity is there for people to license what they  
16     want from the article. And, again, with the right  
17     clicking, you create -- you bring up this information,  
18     obviously The Daily Telegraph -- it's branded Daily  
19     Telegraph, and the description and the identifiers  
20     they have are all there, and then there is the  
21     opportunity to click on a license that you might want,  
22     depending on the particular circumstances of the  
23     activity you need.

24            What we also wanted to show is within the same  
25     article, there is another -- there is another

1 photograph, which if you right-click on that, it goes  
2 to a different place, goes to Alamy, because they are  
3 the rights owner in the photograph, not The Daily  
4 Telegraph, but the same principle applies, that you  
5 can then use the facility to take out a license for  
6 whatever the usage is that you have in mind.

7           So that was all I wanted to bring to your  
8 attention. Clearly, if you go and look at the  
9 photography websites, you can -- you can experiment  
10 with that yourselves, because that is -- that is  
11 online and within -- you know, I think it's available  
12 as a closed environment -- as a website. Sorry. And  
13 then you can see how the e-copyright symbol can work.

14           And the last point I would make is that  
15 obviously, as those of you who know anything about the  
16 history of the Copyright Hub, it came out of some  
17 government studies that were done in the United  
18 Kingdom. Clearly, in the context of the internet, it  
19 can be international, and the Copyright Hub is very  
20 much looking at working with other activities of this  
21 nature that are going on around the globe. And most  
22 recently, we have hooked up with contacts in China to  
23 start looking at how that synergy might be used in the  
24 Chinese market. Very early days on that at the  
25 moment, but clearly there is a global element to this



1       that has to be worked on.

2                So, that's it. Happy to take any questions,  
3 but I'm aware that I'm between you and lunch.

4                Okay, thanks very much.

5                (Applause.)

6                MS. ALLEN: Well, thank you, all. It is now  
7 lunchtime. If you are a presenter or facilitator, we  
8 have lunch next-door ready. Then anyone else, there  
9 is a cafeteria right down the hall, and there's also  
10 places to eat across the street. We will convene back  
11 here at 1:00 p.m. So thank you very much.

12               (Whereupon, at 12:06 p.m., a lunch recess was  
13 taken.)

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## 1 AFTERNOON SESSION

2 (1:08 p.m.)

3 MS. ALLEN: Welcome back from lunch, everyone.

4 I'm pleased to invite our next panel to come forward,  
5 and the first panel session will be Licensing and  
6 Monetization, moderated by Vickie Nauman. And there's  
7 been one change to the agenda. Unfortunately, Thomas  
8 Minkus had to go home, and instead, Kris Kleimann will  
9 be stepping in to represent the publishing sector on  
10 licensing and monetization. So we are gratefully  
11 appreciative of her for her last-minute efforts to  
12 join the conversation. With that, I'll invite them to  
13 all come up.

14 - - - - -

## 15 AFTERNOON PANEL SESSION 1:

## 16 LICENSING AND MONETIZATION

17 - - - - -

18 MS. NAUMAN: All right. So it looks like we're  
19 still missing some people, but I think we do have a  
20 schedule, so we will go ahead and get started on that.

21 I'm Vickie Nauman, and I am really excited to  
22 be here with this group, because we're going to talk  
23 about licensing, and I'm going to have everyone  
24 introduce themselves, but I think a good framework for  
25 this conversation, especially after being on the

1 tail-end of the metadata and registration discussions,  
2 is that people oftentimes conflate what licensing is.

3 Just because you have data doesn't mean you  
4 have a license, and because you have a license doesn't  
5 mean you have data, and if you have a license and the  
6 data, it also doesn't mean that you can necessarily  
7 know who to pay or how to pay them. And so, you know,  
8 we have got this -- we have got a continuum of  
9 intellectual property that needs all of these pieces  
10 in place, and this discussion is really about the  
11 licensing landscape, the changes that are happening,  
12 and the -- you know, from the value chain all the way  
13 down to the natural friction that occurs between  
14 licensees and licensors.

15 So we're going to cover music. We've got video  
16 or film and images, lots and lots of different  
17 initiatives on that, and we will go a little bit  
18 deeper into publishing and images, as well as music,  
19 on this panel. So why don't we start with you and  
20 have you introduce yourselves.

21 MS. KLEIMANN: Hi. I'm the last-minute  
22 substitution, handwritten name tag. I'm Kris  
23 Kleimann. I'm a long-time rights director, really  
24 within book publishing, book and journal publishing,  
25 currently a consultant on my own working for a variety

1 of companies, but I grew up in rights departments in  
2 book publishers, if that means anything to someone  
3 here in this room, thinking a lot about how every  
4 transaction we made in our departments was, of course,  
5 on behalf of our company, who had acquired rights from  
6 an author, but also equally -- in many cases literally  
7 equally, 50/50 share -- we were transacting on behalf  
8 of authors, and always looking to expand that author's  
9 presence into markets that our own company was not  
10 reaching. And that was the beauty of rights  
11 licensing, that we were able to expand content out  
12 into marketplaces and into formats that weren't  
13 happening within the company where I worked at the  
14 time.

15 So now I spend a lot of time with companies  
16 trying to help them figure out ways to do that more  
17 efficiently. Back in the day, the beginning, the  
18 rights person was the publisher's assistant. Then  
19 there were departments because there was all kinds of  
20 money around. And now, of course, it's shrinking  
21 again, and there are fewer and fewer actual humans  
22 working on rights licensing. So being able to make  
23 that process more efficient using technology is a big  
24 part of my focus.

25 MR. COLITRE: I'm Bill Colitre. I'm the Vice

1 President and General Counsel of Music Reports.  
2 Before I continue, I just wanted to say thank you to  
3 the USPTO for putting on this event. I think this is  
4 one of the most interesting groups of people that I  
5 get to sit with once a year to talk about how the  
6 emergence of the digital network economy is  
7 transforming the space for copyright, and I really  
8 appreciate the opportunity.

9 Music Reports is a music licensing and royalty  
10 accounting consultancy. It's a tech company married  
11 to music business affairs expertise that helps  
12 particularly the large users of music deal with their  
13 licensing and royalty accounting challenges. We  
14 represent the local television broadcast industry, the  
15 satellite industry, the on-demand streaming services,  
16 OTT providers, background/foreground music services,  
17 any user of music who needs to obtain a catalog of  
18 millions of recordings and then reliably account to  
19 the sound recording owners, the music publishers, the  
20 performance rights organizations, et cetera.

21 We do that on the basis of the Songdex  
22 registry, which is the world's largest database of  
23 music rights and related business information,  
24 including the full relational structure of all the  
25 sound recordings that have been seen across all of

1 those platforms that I just mentioned, as well as all  
2 of the underlying embodied musical compositions, all  
3 of their relational ownership, from the songwriter to  
4 the publisher to the publishing administrator to the  
5 collective management organization, for every  
6 territory in the world, for all rights types, and that  
7 database was painstakingly assembled over 20 years of  
8 work, collaborating with the music publishers and the  
9 collective management organizations. And at this  
10 point, we've married that database of music rights  
11 information to an accounting platform that is  
12 cloud-scalable and capable of managing the billions  
13 and billions of royalty transactions per month that  
14 occur across all of those platforms.

15 I think at the present time we're generating a  
16 million royalty statements a month to 67,000  
17 publishing administrators, representing 160,000  
18 publishing catalogs. So it's a very, very large-scale  
19 organization, and that's what we do.

20 MR. SEDLIK: My name is Jeff Sedlik, and I am  
21 up here wearing a bunch of hats today. I am the  
22 President and CEO of the PLUS Coalition and a Director  
23 of the Linked Content Coalition and a Director of the  
24 American Society for Collective Rights Licensing,  
25 which is the first nonprofit CMO for the visual arts.

1           With my PLUS hat on up here, PLUS is a  
2 coalition of all the communities engaged in creating,  
3 distributing, using, and preserving images, so we have  
4 the photographers, the illustrators, painters, and  
5 then we have the book publishers, magazine publishers,  
6 and news publishers, museums, libraries, and  
7 educational institutions, advertising agencies and  
8 design firms, all operating a nonprofit board of  
9 directors.

10           And we have worked out a language for  
11 communicating rights human to human, machine to human,  
12 machine to machine, and, you know, in parallel with  
13 the fantastic work done by Stuart Myles with RightsML  
14 for the IPTC, I'm also on the IPTC photo metadata  
15 working group, and I have a -- my wife complains about  
16 the number of nonprofits that I'm involved in,  
17 actually -- and also with the great work under Mark  
18 Isherwood's leadership on the UK Copyright Hub.

19           All of these are all pointed in the same  
20 direction and all in communication with each other  
21 attempting to solve a huge problem in the visual arts  
22 sector, which, you know, a complete lack of  
23 identifiers, a complete lack of -- well, let's say a  
24 lack of adopted standards for communicating rights  
25 information in a landscape that has multiple rights

1 licensing models, that you can't really enforce any  
2 particular -- force any particular rights licensing  
3 model on any particular stakeholder. That would be a  
4 mistake. So these standards have to support existing,  
5 current, and future rights licensing models for the  
6 visual arts.

7           So we pull together all the stakeholders, we  
8 made it a nonprofit, and we have a rights language in  
9 place that's been adopted by many stakeholders. We  
10 have participants from 165 countries, and we are  
11 building out a registry that's designed to connect  
12 multiple registries together so that you can have all  
13 the silos talking to each other about who owns what  
14 visual work.

15           MR. TUREK: Hey. I was giving a presentation  
16 earlier, so I will keep this as short as possible. My  
17 name is Rasty Turek. I am founder of Pex. As I  
18 showed earlier, we build a search engine for video and  
19 audio across the Web, and we currently work with most  
20 of the music and movie industry on helping them deal  
21 with the rights management and understanding the  
22 content and where it goes, what happens, and all of  
23 that.

24           MS. NAUMAN: So we are going to really -- we  
25 are going to dive into really three topics today. One



1 is the creators and how that landscape is changing,  
2 licensees and licensors, as well as the whole value  
3 chain. So the first one I want to bring up to  
4 everyone is creators. In a -- you know, in the  
5 predigital age, there were big publishing houses and  
6 music labels and music publishers and film studios,  
7 and they tended to have a stable of creators and  
8 artists, and they represented all of those artists and  
9 licenses. Some of that still exists now, but we also  
10 have an environment where an individual can release  
11 something on their own, and they are now, you know, in  
12 the digital marketplace.

13 So we have really two existing systems that are  
14 running side by side, and I wanted to hear from each  
15 of you a little bit about where you see your  
16 particular sector, where the trends are in this area,  
17 and how that's affected your systems, because it  
18 obviously makes a big difference if you're paying  
19 small transactions to one company that represents  
20 hundreds of thousands of creators versus you have to  
21 pay each of those individual creators those small  
22 fractions.

23 So, anyone can jump in on that.

24 MR. COLITRE: I'll take a stab at it. Yeah,  
25 so, you know, the demand curve for sound recordings

1 looks like this, right? It's a very, very steep  
2 curve. It's not an 80/20 rule. It's like a 98/2  
3 rule. There are 2 percent of the sound recordings in  
4 existence that drive 98 percent of the royalties, and  
5 vice versa, and I imagine that's probably true across  
6 most fields of copyright endeavor. It's just a factor  
7 of the way humans consume media. There are hits, and  
8 then there's everything else.

9 MS. NAUMAN: So the long tail has not played  
10 out the way that we thought it would.

11 MR. COLITRE: Right, that's correct. I mean,  
12 the long tail theory I think has been debunked. There  
13 are various businesses that can be built on, you know,  
14 what we refer to as the hope tax, right? If you  
15 charge every one of those long tail participants some  
16 small fee to have an opportunity, there are many  
17 people who will pay for the opportunity to maybe make  
18 it into the head of the snake, and so you can make a  
19 business out of that, but the idea that the royalty  
20 margin from all of those songs is going to make a  
21 business is just not true.

22 Eighty percent of all of the sound recordings  
23 on the average DSP get zero plays. I mean, there's  
24 just nothing at all. And, again, it's a very, very  
25 concentrated thing. But at the same time, it's a

1 multidimensional problem. It's not the same as saying  
2 the major publishers or the major record labels  
3 control everything in the head of the snake. They  
4 don't. Some of the owners of the content that is the  
5 biggest hits are self-published artists. Anderson  
6 Paak is a rising star right now. He -- all of his  
7 publishing is self-owned and controlled.

8           It's also true that the major producers, the  
9 major publishers and major record labels, throw many  
10 tracks out there that end up in the long tail. They  
11 just don't get any demand. So it's not a simple  
12 question of which is which, but you have to have tools  
13 to make it possible to source information from both  
14 sets. You know, for the larger rights owners, it's  
15 relatively easy to export, you know, structured data  
16 files of their rights ownership information to the  
17 extent that there is a standard for doing so in their  
18 sector. In the music publishing business, it's the  
19 CWR standard, which is many, many years old at this  
20 point, but it is a functioning system for publishers  
21 to disseminate information about what they own.

22           But for a self-published artist, there is just  
23 no possibility that they even understand what that is,  
24 much less have the technology to build and format that  
25 file and export it on a regular basis. So you have to

1 build tools for both of these constituencies. You  
2 have to build tools that adapt, and if this publisher  
3 wants to use CWR and this one wants to use some sort  
4 of -- like the DDEX Music Works notification standard,  
5 which has just been released, you have to accommodate  
6 all of those choices, as well as create some source  
7 of -- for the long tail, so a portal, for example, for  
8 them to go online and register their information, and  
9 then, of course, you have to harmonize all that  
10 information and vet it for accuracy, because if you  
11 take the opinions of all of these people and add up  
12 what their market share is, it's 150 percent, so...

13 MS. KLEIMANN: I will just say on behalf of  
14 what I understand about the book business, there is a  
15 long tail. I think there's a difference, a big  
16 difference between -- well, there -- first, let's just  
17 say I -- let's pretend I don't represent books. I  
18 represent text, right? It's consumed in an entirely  
19 different way. The marketplace is very different.  
20 There's a lot of specialization. If you want to look  
21 at research and science, you want to look at  
22 education, you want to look at popular reading, that's  
23 very different, I think, than the way most people  
24 listen to music or think of listening to music.

25 And, of course, there are huge hits and there

1 are authors who command a majority share of the  
2 marketplace, but for a specialist publisher, the fact  
3 that we're now no longer dependent on physical book  
4 stores to stock our books, which was always a  
5 challenge for certain kinds of content -- technical  
6 content, engineering content, no general bookstore was  
7 likely to carry that, but now you can order it online,  
8 and for some publishers, that made a big difference.

9 I worked at John Wiley & Sons for 14 years, and  
10 I think the shrinkage of brick and mortar stores and  
11 the growth of online actually meant they sold a wider  
12 range of books than they had ever sold before. It  
13 made a difference.

14 So, in publishing and in books and in writing  
15 in general, I mean, everyone in here, many of us  
16 probably would raise our hands and say we have written  
17 enough on the internet ourselves to be able to publish  
18 a book if we felt like it. You could just collect all  
19 those Facebook posts and blog posts and that could be  
20 a book, and it wouldn't be that hard for you to  
21 publish it either. Lots of platforms, easy to do, and  
22 there are some -- a lot of self-published authors who  
23 have been very successful, who are earning a living  
24 based on their works.

25 That is a challenge then to publishers, and we

1 have all had -- and in the scientific world, we have  
2 all had the challenge, what is a publisher for, then?  
3 What do publishers do? And there's been a lot of  
4 arguments around the world about what do publishers do  
5 and why do publishers get to charge for things and  
6 shouldn't everything be free, et cetera, et cetera, et  
7 cetera? So the creator has become -- everybody's a  
8 creator of text works that are then inherently  
9 copyrightable, and then if there's interest,  
10 licenseable. How do those get into the marketplace,  
11 in the wider marketplace, is an interesting question.

12           There is also what people create now -- I think  
13 people always wrote fan fiction. They probably wrote  
14 it in their secret diary when they were in seventh  
15 grade -- not eighth grade, but seventh grade -- and,  
16 you know, now we can all read that fan fiction, and it  
17 has a huge marketplace and a huge following, and there  
18 are ways to monetize that far beyond printing a book  
19 and selling it in a bookstore. So I think the change  
20 in who the creator is and what's created has been  
21 affected by the digital marketplace.

22           MS. NAUMAN: And what about -- what about the  
23 visual -- the design and print and images? Talk a  
24 little bit about that.

25           MR. SEDLIK: Sure. So photographers and

1 illustrators are having a very difficult time of  
2 things right now in trying to find a meaningful way to  
3 connect to the marketplace. There are regularly  
4 startups that pop up and offer visual creators a  
5 higher percentage of sales or a higher royalty on the  
6 sales, and these -- and the creators all rush to it,  
7 and then, you know, they fail to make their goals, and  
8 then the -- the VCs pull the money and off it goes,  
9 and then the next thing pops up.

10 A lot of these are connected to new registries  
11 that are popping up all over the place as well. It's  
12 very interesting to watch, but, you know, I also teach  
13 licensing at the Arts Center, College of Design, in  
14 Pasadena, to illustrators and photographers, and very  
15 few of my students -- I hate to say it, but very few  
16 of them will actually go out and become visual artists  
17 because of the difficulty in supporting themselves,  
18 you know, in this day, in this marketplace, given the  
19 tools available to them.

20 What's happened is, you know, of course, you  
21 have the photo stock agencies who started out with  
22 percentages like 70 percent, 60 percent, or 50 percent  
23 to the artist on every sale -- a prevalent percentage  
24 was 50 percent -- and now artists are seeing something  
25 like 10 to 20 percent of those sales. And at the same

1 time, the -- the stock agencies who have to answer to  
2 their investors in some cases or have to remain  
3 profitable or consistently increase margins see the  
4 only way of doing that to decrease the percentage that  
5 they're paying out to the content owners, to the  
6 creators, and it's really placing the creators in a  
7 very difficult spot.

8           At the same time, every one of their clients is  
9 demanding, you know, work-for-hire terms, or if it's a  
10 stock photo, an existing photo they're buying, they  
11 ask for unlimited rights, you know, perpetually, or  
12 they ask for an assignment of copyright. And the  
13 creators know that, you know, they don't have a lot of  
14 leverage in those situations because there's another  
15 artist behind them who needs to pay the rent and  
16 behind them who will take half of that and behind them  
17 who will take half of that, and at the very end of the  
18 line, somebody will actually pay to be able to have  
19 their image seen in this advertisement or what have  
20 you.

21           So it's incredibly challenging, and I feel that  
22 a lot of the work, especially that the Copyright Hub  
23 and PLUS are doing, to enable the public to identify  
24 who owns what visual work and to be able to access the  
25 visual assets and license them without necessarily



1 relying on distributors is very powerful stuff.

2 In the meantime, we're losing the next  
3 generation of visual artists. They are not going to  
4 be failures. These are great -- great people, great  
5 young people who are very, very talented, and they  
6 will become art directors, they will become photo  
7 editors, they will become -- they will go into other  
8 aspects of the profession, but they're -- you know,  
9 they can't exist on Instagram likes. They can't exist  
10 on having social media platforms or let's say social  
11 media advertisers pay for their plane ticket to go  
12 somewhere to take pictures and then transferring all  
13 the rights to whoever paid for that. It just -- it's  
14 not panning out. It's a lot of fun for the -- for  
15 somebody who's 20 years old to, you know, have their  
16 ticket paid to go to Greece, but then they come back  
17 and they have absolutely no money, right? And they  
18 don't own any of the pictures that they just took.

19 So I think that there is really no model  
20 outside of licensing the copyright and their images to  
21 multiple parties to support themselves over time, and  
22 I'm hopeful that once we solve the puzzle of allowing  
23 people to easily determine who owns what, that these  
24 artists of the future and artists who are, you know,  
25 currently professionals will have a pathway to

1 sustainability that they don't actually have right  
2 now.

3           If you talk to individual artists -- and I do  
4 all over the world, I sit down with groups of artists  
5 and talk to them -- 95 percent of more of the usages  
6 of their works are unauthorized. These are all  
7 infringements, or they could be allowed under policy  
8 or under law, for example, the fair use exemption, et  
9 cetera, but at least 95 percent of the usages are not  
10 authorized, and many photographers are now turning to  
11 enforcement platforms that you can pay to crawl the  
12 Web, identify infringements, assign a lawyer in that  
13 jurisdiction to send a cease and desist and to  
14 possibly file a complaint, and then extract a few  
15 thousand dollars or what have you, and then some  
16 percentage goes back to the artist, and really, visual  
17 artists today see two income streams.

18           They see the clients who pay in advance and the  
19 clients who pay after using it, and this is the  
20 unfortunate state of things, but for many  
21 photographers, the payments that are -- the stream  
22 coming from the unauthorized users is very  
23 significant, and these are people who would otherwise  
24 not be litigants, but they are forced into that.

25           MS. NAUMAN: Well, that's a perfect segue into

1 what you do, and you represent a lot of enterprise  
2 companies. Do you also deal with the little guys?

3 MR. TUREK: No, we unfortunately don't. So if  
4 we sum up what kind of sounded as an echo in here, you  
5 can see that the distribution was democratized to the  
6 point where anyone can be now a creator. If you can  
7 publish your tweets -- please don't -- that makes you  
8 now a creator, which, you know, in the history or not  
9 that long ago, you actually had to beg someone to  
10 publish these things for you. So this is kind of  
11 solved.

12 And I think where the role of the majors is  
13 moving towards is to be the enforcements. It's almost  
14 impossible -- I know there is a great hope for a  
15 blockchain-like technology, and maybe it will happen,  
16 more probable than not, but who knows; however, it's  
17 very challenging to get pennies and aggregate them  
18 across lots of different -- lots of different, let's  
19 say, publishers and distribute that to the creators.

20 So I do believe the majors will eventually move  
21 towards more rights enforcements organizations where  
22 they will be collecting money on behalf of the  
23 creators, and the creators will be dealing on their  
24 own distribution, and the majors will be publishing  
25 movies, music, whatever that is, they will be more

1 supporting marketing a little bit and then mostly the  
2 other side.

3           And, you know, the transition period is always  
4 hard, especially for the small guys. It's very hard  
5 to stand up, being a -- just to give you an example,  
6 YouTube now holds roughly 4 billion videos. Of those,  
7 the vast majority -- and when I say vast majority, 91  
8 percent -- doesn't have over a thousand views;  
9 however, the ones that do have over a thousand views  
10 represents 52 percent of all traffic towards YouTube.  
11 So to stand out in that crowd is almost impossible,  
12 and it's going to be harder and harder to be  
13 discovered. But if you break through it eventually,  
14 then there is going to be somebody to help you out,  
15 and I think that's going to be the role of the new  
16 organizations that will come of these ashes, and it's  
17 going to be very hard for a lot of existing and new  
18 creators because it's something that they have never  
19 seen before, and I think it will eventually settle to  
20 a kind of a nice place, but, you know, the transition  
21 period is not going to be nice.

22           MS. NAUMAN: So if we have -- if they think of  
23 the creator as the -- as the baseline, that there's an  
24 asset there, there's something that's been created,  
25 then sitting on top of that is the licensee and

1 licensor. There is always a natural tension there,  
2 you know, one party wants the highest price, the other  
3 wants the best -- the best deal that they can find  
4 sustainable.

5 A number of industries have really tried to  
6 look at more flat, transparent, and open environments  
7 for licensing between the parties, but the big  
8 stakeholders tend to really thrive on the friction  
9 that occurs.

10 I'd like to hear from all of you your thoughts  
11 about that relationship. Is that changing between the  
12 licensee and the licensor, or is it -- is it a pipe  
13 dream to think that we could just, you know, open  
14 things up and make it easy for everyone to license and  
15 pay a fair price?

16 MR. TUREK: I will take this one first. I  
17 think there is a natural tension just because one  
18 doesn't want to pay, the other one wants to make the  
19 most. The problem currently with the digital system  
20 is that it's -- for us as humans, it's hard to imagine  
21 the impact of a platform on the humans, in general.

22 So it's very hard for the licensee to estimate  
23 what is going to be the kind of right amount to pay,  
24 not to go bankrupt eventually by paying too much, and  
25 finding those balances is incredibly hard, and it's

1       incredibly hard only or mostly because all the  
2       existing institutions are based on kind of an idea  
3       that I will negotiate something for next couple of  
4       years.

5               However, in next couple of years, the whole  
6       environment changes so much that whatever they  
7       negotiated was so good or terrible that it didn't  
8       align with what was the final result of it. So some  
9       made a bang, and they didn't -- it didn't show up to  
10      be what it's supposed to, or the opposite, they lost a  
11      lot of money on that license, and I think these will  
12      eventually have to go towards more auctions, similarly  
13      to how electricity is treated in most countries these  
14      days, where you have kind of 15-minute auctions based  
15      on the previous usage for last 15 minutes or something  
16      similar, because the periods for two, three, four,  
17      five, 20 years in some cases, it's just not  
18      sustainable.

19             MS. NAUMAN: What are your thoughts about the  
20      book and publishing industry?

21             MS. KLEIMANN: Yeah. You know, there is this  
22      inherent friction, we all know, and there's a whole  
23      set of intangible factors that go into the valuation  
24      of any particular project. So the joke goes, you  
25      know, the less -- if you think you're going to sell a

1 novel, it's better to not have written very much,  
2 because when your good agent goes out to pitch it, she  
3 can allow each editor to believe that it's going to be  
4 exactly what they want and what they would, in fact,  
5 want to pay the most for.

6 The fewer the pages, every time we got  
7 something in to a couple of the trade houses I worked  
8 in, we knew the more we were going to have to pay, and  
9 it's this magic factor that -- you know, that people  
10 think comes from an agent or comes from a particular  
11 editor choosing something.

12 That's a very specialized piece of the top  
13 level of mostly fiction publishing, I think, out of  
14 the big companies, and it's about the acquisition of  
15 the volume rights and what rights then do you get  
16 within your company to be able to amortize that  
17 investment?

18 So if I pay a million dollars for a novel that  
19 I am going to sell today, the number of copies a top  
20 novel sells is very different than the number of  
21 copies it would have sold even 10 or 20 years ago. So  
22 I have to have other ways to monetize this content, so  
23 I want to acquire as many rights as I can, so I want  
24 all foreign rights, let's say, in my publishing  
25 company, so I can resell this fantastic book -- before

1 another word is written, please -- to the top French  
2 publisher, the top Italian publisher, the top Chinese  
3 publisher, and start to bring money back in on behalf  
4 of the author, but, of course, on behalf of covering  
5 my investment.

6           There's still at another level a lot of  
7 standardization on pricing. You know, most journal  
8 articles -- scholarly journal articles could be  
9 acquired for a set price on almost every publisher's  
10 website. Most permission transactions for a set usage  
11 have a kind of formula, within a range. Every  
12 publisher sets its own pricing obviously, but those  
13 kinds of things, those bits are beginning to be very  
14 commoditized and can be developed with -- for  
15 automatic licensing.

16           MS. NAUMAN: Well, I wanted to also ask, you  
17 know, the music industry has had many public battles  
18 with some of the biggest tech companies, and there's  
19 the obvious -- there's a small company in Seattle that  
20 has had --

21           MS. KLEIMANN: Or with headquarters number two,  
22 who knows where?

23           MS. NAUMAN: Right, right. What -- how is the  
24 impact of negotiating and creating a sustainable  
25 environment for everyone on the creator's side to the



1 publishing house when there's such a dominant player  
2 that demands -- that demands a certain construct for  
3 their business?

4 MS. KLEIMANN: Right. The transaction used to  
5 be more the author, the publisher, the reader who pays  
6 for a book at the bookstore. There's now a -- there  
7 was always that intermediary, the bookstore, and now  
8 there's this thing that's a huge platform that has  
9 taken, I think, a huge piece of the value in that --  
10 in that set of transactions.

11 Yeah, it's had a gigantic effect on pricing,  
12 on -- everybody knows all the stories, you know, what  
13 do e-books cost? They cost what they cost because of  
14 a certain set of pricing done at the time to help  
15 their reader or to help individual hardware sells, et  
16 cetera, et cetera, et cetera, and we really shouldn't  
17 talk about that. It's had a very big effect.

18 It's -- I will go back, though, to this long  
19 tail concept, which is there's now a way to get almost  
20 any book you want, which wasn't true before they  
21 existed. Before the online sale existed, you would  
22 look far and wide to try and find titles in specialist  
23 topics, and it would be difficult.

24 And libraries obviously helped a lot with  
25 historical material, but now there's -- you know, it's

1 very easy to find copies and be able to acquire those  
2 copies of books or content even if it hasn't been  
3 published as a book, and I think that's still, in an  
4 intellectual art heritage kind of way, more of an  
5 advantage than a disadvantage.

6 MR. SEDLIK: In the visual art space, in  
7 photography and illustration, you know, if you kind of  
8 separate licensing into commissioned work, which is a  
9 work that doesn't exist, that a publisher or other  
10 client needs to find a content creator to create, and  
11 then you have the stock industry, and so taking the  
12 commissioned work first, there are -- the rights  
13 managed model still prevails with that, where the  
14 client asks for specific rights, and those might be  
15 broad or narrow, and the scope of the rights granted  
16 are typically based on the amount of usage.

17 But what we're seeing is with the stock  
18 agencies under pressure to increase their margins,  
19 they and others, primarily a bunch of startups, have  
20 come up with a crowd-sourcing model for commissioned  
21 work where a company might come in and say we need  
22 pictures of, you know, couples at sidewalk cafes  
23 holding cell phones, and then, you know, 100  
24 photographers go out, get models, create the work, and  
25 submit it in the hopes that their image will be

1 selected, in the hope that they might get some  
2 percentage of the fee that's collected, and they may  
3 or may not even get any of their expenses back, and  
4 that's -- that's -- there's been several companies  
5 along the way that have done this, and now stock photo  
6 agencies are getting into it as well, and that's  
7 creating a lot of pressure on the photographers who  
8 are trying to sustain -- well, I suppose photographers  
9 and illustrators who are trying to sustain their  
10 businesses.

11           Then on the stock photo side, of course, you've  
12 had this tremendous consolidation, you know, with  
13 stock agencies purchasing each other, and now there's  
14 just one big one and then a bunch of smaller  
15 players -- well, two big ones and a bunch of smaller  
16 players, and they are under a lot of pressure, for  
17 example, from the book publishers, too, are having a  
18 tremendous problem with -- you know, they go out to  
19 sourced images to use, let's say, in a textbook on  
20 reptiles, and they might get submissions from many  
21 different content providers, from -- even from  
22 different countries who phrase their licenses in  
23 different ways.

24           And they might acquire, you know, a thousand  
25 or -- either hundreds or thousands of images for a

1 textbook, and then they -- now they've got a multitude  
2 of licenses all in PDFs, you know, and how do they get  
3 that information into their DAM systems and how do  
4 they adhere to the license terms over time when it  
5 comes to new editions, et cetera?

6 So the solution is, you know, contracts that  
7 say that they can pretty much do anything and  
8 everything with ancillary publications, et cetera, and  
9 then they have the different stock agencies competing  
10 against each other on price as well. So, you know,  
11 the individual photographers aren't the only ones who  
12 are under that kind of pressure, but this is all just,  
13 you know, commerce at work, and we'll have to see  
14 where that goes.

15 But, you know, again, I go back to if you make  
16 it easier for people to be able to adhere to the  
17 license terms, that solves a big problem in terms of  
18 perceived liability and real liability that are faced  
19 by the licensees.

20 MS. NAUMAN: Well, and, Bill, there's a lot of  
21 discussion on the publishing side of fair market and  
22 willing buyer/willing seller versus statutory. Talk a  
23 little bit about your perspective on that argument and  
24 what you see in the compulsory and statutory licensing  
25 versus the free market.

1           MR. COLITRE: Yeah, it's a tough question to  
2 deal with in one response. We could do this for a  
3 day, right? But there certainly is a theme across the  
4 different copyright vectors that each copyright is a  
5 tiny little monopoly in a specific work for a term of  
6 years, and when you collect numerous copyrights, then  
7 there's an economic tendency towards concentration.

8           In the music business, the sound recording  
9 market is at least 80 percent concentrated in three  
10 companies, and on the music publishing side, it's  
11 about 50 percent concentrated in three companies, and,  
12 you know, 60 percent concentrated in ten companies.  
13 And then beyond the sort of collective management in  
14 the sense of publisher, there's the collective  
15 management in the sense of rights administrator.

16           So by the same token, there's a tendency  
17 toward, you know, the perception that there's market  
18 efficiency in having one organization deal with  
19 everything. The problem is, inevitably, when you push  
20 the pendulum far enough in the direction of  
21 concentration, the party in charge of that set of  
22 rights loses its incentive to be responsive to either  
23 side of the transaction.

24           The last 100 years of the music business have  
25 been characterized by basically one form of collective

1 rights management. In terms of performance rights and  
2 mechanical rights, this is -- you know, for example,  
3 for that 100 years, you would have a clearinghouse in  
4 the center. Its job would be to extract whatever fees  
5 it could from the licensee community and then pay  
6 through to the rights owner community, and the -- and  
7 there's a disconnect between those two functions.

8 The basis on which the licenses are made and  
9 the money is extracted has nothing to do with the  
10 basis on which the money is distributed on the other  
11 side, which is according to a different set of  
12 affiliation rules between the members and the  
13 organization. And so in that model, notwithstanding  
14 the best intentions of everybody involved, the  
15 incentives are to, you know, to extract as much as  
16 possible from the licensee community and pay as little  
17 through to the rights owner community as possible.

18 And it's an unfortunate situation, but that  
19 seems to be the pattern that comes to pass over and  
20 over again, which is why the Europeans ten years ago  
21 decided, you know, we need to end this practice of  
22 monopoly by territory and create competition in the  
23 market for collective management of rights.

24 The United States, on the other hand, has had  
25 competition for collective management of rights, and

1 that leads to its own inefficiencies in market  
2 allocation, sometimes worse than others, but at the  
3 current moment, the entire music business is focused  
4 on the Music Modernization Act, which would  
5 reconcentrate the United States mechanical licensing  
6 market for on-demand streaming into a single  
7 mechanical licensing collective of the type that is,  
8 you know, seen in Europe.

9           And meanwhile, the Europeans are looking at  
10 this and saying, what are you doing? That's  
11 backwards. So, you know, there's this pattern that  
12 goes back and forth, and what matters is with modern  
13 networked computers, we can follow transactions now on  
14 an end-to-end basis, with much more throughput than  
15 would have been possible in any prior period. So the  
16 clearinghouse model that was absolutely necessary in  
17 history for making a market function has now been  
18 challenged by, you know, for example, Uber or any  
19 number of other models that you can think of, eBay,  
20 where millions of buyers and millions of sellers  
21 transact on a very auditable and end-to-end basis all  
22 the time.

23           In that environment where we have those kinds  
24 of tools available to everybody, there is now an  
25 alternative choice for the clearinghouse model, and

1 the question is, where's the right balance between  
2 efficiency through concentration and the avoidance of  
3 monopoly or monopsony economics?

4 MS. NAUMAN: Well, that's a great segue into  
5 the value chain, which is the creator on one side, the  
6 consumer on the other side, everybody in between. In  
7 music, you know, we -- for 15 years, people have been  
8 talking about the inevitable demise of labels. Labels  
9 aren't going anywhere, and they serve a purpose, but  
10 the smartest ones are recognizing that their role in  
11 the value chain has to change, and the way that they  
12 operated in a previous environment is different.

13 I'd love to hear each of you talk a little bit  
14 about what you're seeing in that value chain in  
15 between the creator and the consumer and how all of  
16 this is changing at the same time and where you think  
17 it might play out.

18 MR. TUREK: I touched on it a little bit  
19 before, but I think that anyone between -- outside of  
20 the distributors is going to step out a little bit  
21 from the chain and have a little bit passive role of  
22 maintaining and managing the collection of money,  
23 distribution of money, and essentially maintaining the  
24 rights themselves.

25 And I think the connection between creator and



1 the consumer is going to be more direct, at least on  
2 the direct distribution, and it's also seen -- outside  
3 of digital world, you can see that even with brands,  
4 where lots of rents are now going directly to  
5 consumers and then lots of the large conglomerates are  
6 moving towards having a direct relationship with the  
7 consumer instead of going through the massive malls,  
8 and I think it's overall the consequence of connected  
9 world.

10 And I think as we are going to be progressing  
11 more and more through this, it's going to be -- we  
12 will see more of it; however, it is always going to be  
13 necessary to have a body or bodies of collection  
14 agencies with other -- let's call them features --  
15 that will help out to not only maintain and manage the  
16 money but also help to distribute the rights to the  
17 right parties and do all of that.

18 It sounds like a very easy task, but eventually  
19 it's not going to be, because you have 7 billion  
20 people on the planet and growing, and all of them are  
21 slowly getting connected to the Web or just to each  
22 other.

23 So if you will have eventually 7 billion  
24 creators and 7 billion consumers, there will have to  
25 be some kind of a clearinghouse in between. I think

1 it's actually a good world for everyone, because  
2 everyone will be able to express themselves, and  
3 eventually everybody will be hopefully paid rightly  
4 for what was essentially right amount on the market.

5 I think with -- as you pointed out, labels are  
6 not going anywhere. I think most of the large  
7 organizations within all the digital media realize  
8 their position, and I think they are slowly -- some  
9 slowly, some more fast -- are moving towards wherever  
10 they are adding the most value and where they can  
11 extract the most money for themselves and for the  
12 customers, creators.

13 MR. SEDLIK: Well, in the visual art space, the  
14 distributors, the stock agencies, really serve an  
15 invaluable role in that they curate the content so  
16 that when people need to find images, they're able to  
17 find them efficiently without wading through, you  
18 know, millions of images. You know, if you go to  
19 Google and search by "kitten," you know, you are going  
20 to see a lot of images, and some of them are, you  
21 know, pretty kitties, and other ones are not, and they  
22 might not be the one that you're looking for. You  
23 know, the stock agencies apply key words and  
24 algorithms that get you, as quickly as possible, to  
25 the content that you're looking for so that you can

1 license it.

2 I suppose I shouldn't have used the word  
3 "invaluable." There is a certain value to it, right?  
4 But as a user looking for content, going to many, many  
5 different platforms or photographers' websites looking  
6 for that perfect cat picture just is -- would seem to  
7 be overwhelming, so that there is a purpose to the  
8 distribution platform there.

9 One thing that we don't have in the visual arts  
10 is any sort of statutory licensing. So we don't have  
11 collective licensing. We don't have extended  
12 collective licensing. The -- there's a -- there's  
13 revenue that comes in from overseas, from secondary  
14 reproductions of, you know, let's say, not  
15 author-specific, not work-specific royalties based  
16 on -- coming off of tariffs on the sale of toner  
17 cartridges, et cetera, and that money comes into the  
18 United States, and most of it historically has gone to  
19 the CCC, and then the CCC takes a portion of that and  
20 gives it to the publishers and depends on the  
21 publishers to then distribute the portion that is --  
22 that should be going to the visual artist to the  
23 visual artist, but the publishers do not distribute  
24 that money. No money ever gets down, to my knowledge,  
25 to the visual artist out of that.

1           And so for that reason, that nonprofit that I  
2 mentioned earlier, the American Society for Collective  
3 Rights Licensing was founded about a year ago and is  
4 beginning to receive foreign reprographic rights  
5 moneys for distribution directly to visual works  
6 rights holders in the United States so that they can  
7 actually begin to receive a share of that -- of what I  
8 would call, I guess, secondary licensing revenues.  
9 They still can't perform collective licensing or  
10 extended collective licensing legally, but at least  
11 they're going to begin to get a piece of the pie that  
12 they have been owed for many years through that  
13 organization.

14           MS. KLEIMANN: I just think that's a really  
15 interesting example. I hadn't thought about  
16 photography not having a collective society, and, of  
17 course, when I was at Wiley, we did collect regularly  
18 from CCC because we participated in that or from the  
19 UK collective licensing agencies or others, and we  
20 passed it on to our authors as per the contracts we  
21 had with them. So it's interesting to think that  
22 there's beginnings of old models in certain kinds of  
23 industries or segments, silos of the copyright world,  
24 where, you know, Bill's example was in many cases we  
25 don't need that anymore because it would be more

1 appropriate to go direct, to --

2 MR. COLITRE: Well, I don't want to be  
3 misunderstood. I think all these models are super  
4 valuable, and at different times and different places,  
5 they are appropriate or not appropriate based on what  
6 the demands in the marketplace are, but we should  
7 definitely keep all these tools available to us.

8 MS. KLEIMANN: Right. Yes, I would agree with  
9 you on that, too. I mean, what we're not thinking  
10 about we need to hark back to, maybe -- I don't know  
11 where we are on time, but first you have to know  
12 the -- who said, "People make deals on stuff"? And  
13 you have to know those pieces, and that's where the  
14 transparency is. It doesn't have to be on the actual  
15 deal terms.

16 It's like who owns it -- because no one wrote a  
17 book, to my knowledge -- you know, the opposite of  
18 publish is "privish," like you didn't write that book  
19 so nobody could read it. You didn't write that book  
20 so it could be hidden. You want it to be published.  
21 You want it to be out there in as many places as  
22 possible. So different models for different kinds of  
23 transactions.

24 The ones that can be commoditized and done as  
25 microtransactions, now we have an ability to do that.

1 The ones where you can really identify the buyer, the  
2 user, against the content, maybe those should be more  
3 direct and less thrown into that black box of the  
4 algorithm that then divides it all up among the  
5 publishers after it's collected.

6           You know, "We think most of the usage went to  
7 these seven publishers, so let's divide it by seven  
8 and send it to these seven publishers and see what  
9 they do with it." It's that kind of stuff that -- you  
10 know, there are better ways to do some pieces of this  
11 than the way it's been historically, but unless we  
12 know easily who has those rights -- and publishers and  
13 agents fail on that all the time. You would have a  
14 hard time figuring out were the Bulgarian rights to  
15 Girl on a Train available? Yeah, that's what you're  
16 over there reading all those documents and trying to  
17 figure out.

18           MR. COLITRE: And that's certainly true, and,  
19 you know, the "people do deals about stuff" is similar  
20 to the architecture of the -- of this meeting's format  
21 last year, "data creates registries, creates markets."  
22 I think these are all useful models that cut across  
23 all of these different copyright vectors that we're  
24 talking about, and the one that I don't think gets  
25 enough attention and which you alluded to just now is

1 the temporal problem.

2           Notwithstanding that we're all working on  
3 standards, working on the protocols for the exchange  
4 of those standards and for the efficient licensing of  
5 this stuff, if this work doesn't get to market, it's  
6 valueless. And God bless the performers of the world.  
7 The aggregators, which we call them in the music  
8 business the distributors of sound recordings, are not  
9 just the record labels anymore. There are these  
10 enormous organizations that source the long tail of  
11 sound recordings directly from sound recording makers  
12 in every territory of the world and funnel them into  
13 the Spotifies and Apple Musics of the world so that  
14 they can be heard by the masses, which is a fantastic  
15 flowering of culture, and we should all be extremely  
16 happy about it.

17           What we want to do, though, is alleviate the  
18 anxiety of those creators that they will not be  
19 recognized and paid when their work does make it to  
20 market and get traction. We need to ensure that the  
21 information about the usage of those works is made  
22 available even if it's unmatched in a system that  
23 allows them to come forward and say, "Wait, wait,  
24 wait, that's mine," back up their rights with  
25 documentation, and then receive payment for that

1 usage.

2 This is a particularly important problem in the  
3 music business because you have the compound problem  
4 of multiple songwriters with multiple publishing  
5 administrators attached to a single sound recording,  
6 where the metadata row relative to the sound recording  
7 and the metadata row relative to the musical  
8 composition bears zero similarity at all, save the  
9 title field, and titles are not distinct. There's  
10 millions of songs called "Love," for example.

11 So in that environment, you need to take  
12 special care to create claiming systems like, for  
13 example, the one I alluded to in my comment earlier  
14 that Music Reports has made available for the last 18  
15 months of every sound recording we have ever seen on  
16 any platform that is not matched to its related  
17 composition information.

18 All the publishers on our platform have access  
19 to that system free of charge, to go through and look  
20 at it and see what's there for them. It's very  
21 efficient and sortable, and we've got over a million  
22 claims made against that system at this point. So  
23 it's beginning to get traction with the publishers and  
24 really works to alleviate that anxiety for payment.

25 MS. NAUMAN: That's great.



1 Do we have any questions in the audience?

2 MR. GRIFFIN: I don't know, this one just seems  
3 so obvious to me, and so I'm just going to take this  
4 chance to rant for a quick second.

5 MS. NAUMAN: Jim ranting?

6 MR. GRIFFIN: Yeah. No, absolutely.

7 MS. NAUMAN: Hard to believe.

8 MR. GRIFFIN: Look, it's so clear that the  
9 value transfers here come from aggregation, from  
10 collective licensing, like Jeff has finally turned to,  
11 you know, the notion that he needs a collective rights  
12 licensing body. You know, I think it's just so clear,  
13 and I say that -- I used to represent journalists.  
14 Before I started, I did my first contract, I called my  
15 dad who was a union leader in Chicago and said, "Well,  
16 you know, what do I do? I've got to represent my  
17 colleagues." He said, "Look, son, everything happens  
18 on a continuum. You either bargain or you beg, and  
19 the amount of power you've got determines whether  
20 you're bargaining or whether you're begging."

21 Now, it seems to me that granularity is always  
22 the enemy of the creator, that if you could buy one  
23 Edgar Allen Poe poem instead of the whole book, you  
24 have got a shortcut to what you want. Enormous  
25 amounts of value in the music industry disappeared

1 when we unbundled the album. Songwriters, I think,  
2 perceived that it was streaming, but it was, in fact,  
3 the unbundling of the album. We were paying a great  
4 deal for the 12 songs that we didn't want to get the  
5 one we did.

6 So, Bill, I mean, with great respect, when you  
7 guys brought the per-play license to what was  
8 otherwise a collective, you stole value from our  
9 industry. You work for those who want granularity.  
10 Now, not anymore, and you're changing, and I get that,  
11 but I'm just saying that those who would pick us off  
12 one by one lead us just into the Jeff Sedlik scenario  
13 of eventually there's someone behind me who's willing  
14 to pay to take my place.

15 MR. COLITRE: So I think you are referring to  
16 the per-program license that's the historical  
17 television --

18 MR. GRIFFIN: No, the Buffalo license.

19 MR. COLITRE: The Buffalo Broadcasting license.

20 MR. GRIFFIN: A long time ago.

21 MR. COLITRE: Right.

22 MR. GRIFFIN: Where he says, "Look, I'm not  
23 paying ASCAP or BMI for songs I don't use."

24 MR. COLITRE: Yeah. So let's --

25 MR. GRIFFIN: "I am only going to pay for the

1 ones I do," but that granularity cost us.

2 MR. COLITRE: Well, I think you would get a  
3 different answer from the composers of the news themes  
4 who have done extremely well through that program --

5 MR. GRIFFIN: Sure.

6 MR. COLITRE: -- where they were not being paid  
7 by the collective management organizations because the  
8 distribution rules applicable to the TV news themes  
9 that they were writing did not afford them the true  
10 economic value of the work in that context.

11 MR. GRIFFIN: Agreed. News themes were --

12 MR. COLITRE: So the television stations have  
13 ended up paying less for those licenses, you're right,  
14 that there has been some amount of value taken out of  
15 the ecosystem, but those composers and their  
16 publishers were paid more faster, more transparently  
17 and more accurately.

18 MR. GRIFFIN: It's always a fact that you make  
19 more money if you individually opt out of the  
20 collective. The boss will always pay you to quit the  
21 union, to be rid of the union. I mean, you know it's  
22 true. So I'm just saying it just seems so clear that  
23 the answer is to aggregate for power, that when they  
24 do that -- SoundExchange, for example -- they go to  
25 bat for sound recording owners and performers in a

1 50/50 scenario, and they fight in ways that no  
2 individual performer ever could. They're a collective  
3 licensing organization that has transferred wealth,  
4 billions of dollars, that never would have gone to  
5 performers. I mean, literally wouldn't have gone to  
6 them absent their stepping up to the plate and  
7 representing them as a collective, and Jeff's  
8 contemplating the same thing.

9 MR. COLITRE: Well, I have to disagree with  
10 that, absolutely. Music Reports created a sister  
11 organization called Royalty Logic at the very  
12 beginning of the DMCA, and affiliated performers and  
13 labels, to represent their rights in the same way that  
14 SoundExchange did, but through a series of CRB and  
15 legal hearings, the eventual determination of the --  
16 what is now the Copyright Royalty Board was that a  
17 single collective monopoly organization would be a  
18 more efficient means of administering that money.

19 Nevertheless, that is not the congressional  
20 intent of the statute, which you can still read now  
21 contains a whole set of plural identifiers for the  
22 organizations that were supposed to collect and manage  
23 that money. Now, you can't tell me now that we would  
24 not have done just as well in a competitive  
25 environment as would have happened with the current

1 monopoly environment because there was no testing of  
2 that.

3 MR. GRIFFIN: Different issue.

4 MR. COLITRE: We were not given the opportunity  
5 to compete and see whether we could produce more value  
6 for rights owners.

7 MR. GRIFFIN: Different issue. You're just  
8 arguing we should have been allowed to form a  
9 competitive union, and I agree, fine, if the stat --

10 MR. COLITRE: As would the board of CISAC, as  
11 would the board of GMR.

12 MR. GRIFFIN: Yeah. If the statute allows it,  
13 fine. I mean, the court was administering a statute.  
14 But my point, bottom line -- and you're proving it --  
15 is that when we act collectively and we aggregate our  
16 power, we can, in fact, transfer wealth to creators.  
17 And when we fragment, when we become granular, when we  
18 are picked off one by one, that's just what we get.  
19 That's my only comment.

20 MR. COLITRE: And --

21 UNIDENTIFIED FEMALE: (Inaudible).

22 (Laughter.)

23 MR. GRIFFIN: Look, antitrust, but, I mean,  
24 unions have an exemption from antitrust, and, in fact,  
25 SoundExchange is an antitrust eater, because by

1 statute they have no antitrust problem. My point is  
2 that that's what we need, is exemptions from antitrust  
3 such that we can act together in our own best  
4 interests collectively and transfer wealth from those  
5 who themselves aggregate power through industry  
6 associations.

7 And, in fact, Warren Buffett and Rupert Murdoch  
8 recently jointly petitioned the Department of Justice  
9 for the right to collectively bargain with Google.  
10 Now, if there's two guys who don't need an antitrust  
11 exemption to go bargain with Google, it's Rupert  
12 Murdoch and Warren Buffett. When they conclude they  
13 don't have enough power to deal with Google, I guess  
14 I'm feeling like the average artist ought to be right  
15 there with them, forming their own collective  
16 bargaining association. That's my comment.

17 MR. COLITRE: And I would always advocate that  
18 at some point there has to be balance in the system.  
19 There is no doubt that collective action is powerful,  
20 it absolutely is, but the Copyright Act is based on  
21 the Constitution of the United States which sets out a  
22 determination to create balance. The purpose of a  
23 copyright in the United States is to promote the  
24 advancement of science and the useful arts to  
25 incentivise the creation of material, and at some

1 point that balance can be shifted too far in one  
2 direction or the other.

3 I would remind you that in a collective  
4 management organization like ASCAP and BMI, the market  
5 power arrogated by those organizations over time led  
6 to the imposition of consent decrees that have existed  
7 for decades, not because they're just stuck in the mud  
8 but because they continue to have incredibly valuable  
9 functions, the majority of which are there to protect  
10 the creators who are members of those organizations,  
11 not the licensees of those organizations who generally  
12 get pilloried for being in fights with those  
13 collective management organizations.

14 So I'm just saying I absolutely agree with your  
15 premise, but there is too much of a good thing at some  
16 point.

17 MS. ALLEN: So, thank you all for your  
18 comments. I do want to say that this conversation can  
19 continue at our breakout session on the future of  
20 collective rights management, which Bill is  
21 facilitating, and/or the licensing rights and  
22 permissions, what works and what doesn't when the  
23 content resists being a commodity, which is going to  
24 be facilitated by Kris. So with that, we say thank  
25 you very much, all of you, for a very helpful

1 discussion.

2 The next panel -- oh, if you...

3 (Applause.)

4 MS. ALLEN: We are running a little behind, but  
5 I think that's fine. The next panel we will give a  
6 full hour to. In particular, this was something that  
7 we heard from some feedback in our last meeting,  
8 really to put an emphasis on the international nature  
9 of a lot of these issues, so we invited people from  
10 Geneva, from Europe, from the UK, and Canada to share  
11 with us their experiences. I hope you welcome them to  
12 discuss their initiatives as well today.

13 So with that, Paul Sweeting, Peter Jenner, Anna  
14 Lionetti, please come up.

15 - - - - -

16 AFTERNOON PANEL SESSION 2:

17 GLOBAL PERSPECTIVES

18 - - - - -

19 MR. SWEETING: Okay, so last formal panel of  
20 the day, and you just have to last a little while  
21 longer and then there's a coffee break, and then you  
22 all get to talk amongst yourselves and you can stop  
23 listening to us droning on from the stage up here.

24 My name is Paul Sweeting. I am the cofounder  
25 of something called the Rights Tech Project, and if



1 you are not familiar with Rights Tech -- a number of  
2 you I know in this room have been involved in our  
3 conferences and events -- but we are a newish  
4 organization that provides a forum for discussions  
5 very much like we've had here today. So if you  
6 enjoyed this, I invite you to go to Rightstech.com and  
7 check us out.

8 So that was invigorating toward the end there.  
9 I am going to try to avoid losing value through  
10 granularity here. We're going to be talking about  
11 collective initiatives involving multiple stakeholders  
12 here, and I'm not going to do long introductions of  
13 our panelists because each of them is going to tell  
14 you a little bit about the projects that they are  
15 working on and their origins.

16 So first up is Anna Lionetti --

17 MS. LIONETTI: Lionetti.

18 MR. SWEETING: I want to make sure I pronounce  
19 it correctly, Lionetti.

20 MS. LIONETTI: Correct.

21 MR. SWEETING: Anna Lionetti from -- well, she  
22 is here to talk about a project that was mentioned in  
23 one of the earlier presentations, the ARDITO Project,  
24 and she's also with mEDRA, which is the Italian  
25 publishing -- sort of publishing industry association.

1 So take it away, Anna.

2 MS. LIONETTI: Thank you, Paul. Thank you  
3 again to the USPTO for the invitation. My name is  
4 Anna Lionetti, and I work for a company called mEDRA,  
5 which is a DOI registration agency, and the IT branch  
6 of the Italian Publishers Association, and is also the  
7 coordinator of this project, ARDITO, which was  
8 mentioned before by Mark Isherwood and which I'm going  
9 to present briefly.

10 ARDITO is a project cofounded by the European  
11 Union, a research and innovation project under the  
12 Horizon 2020 Framework Program, built up by different  
13 organizations as you can see on the slides, in the  
14 European Union and across different sectors of the  
15 creative cultural industries.

16 We cover the book publishing sector with mEDRA  
17 and with the Italian Publishers Association. We cover  
18 the image sector with the Album organization from  
19 Spain. We cover the -- again, the book publishing  
20 with the iContact service provider from The  
21 Netherlands. We cover the audiovisual sector with The  
22 Research Center from France, b-com, and we have the --  
23 Europe Analytica has served as a communication leader  
24 of the project, and the Copyright Hub, again, to  
25 facilitate the implementation of the technical

1 framework, which I am going to present.

2           What is ARDITO about? ARDITO is a project  
3 aimed at building simple tools and services to  
4 facilitate the communication of rights information to  
5 the end user. So we aim at empowering some  
6 identification technologies for them to carry rights  
7 and licensing data to the end user.

8           I'll switch the slides because it's easier to  
9 start from here. ARDITO, it stands for that super  
10 long acronym, which is Access to Rights Data via  
11 Identification Technology Optimization, which is  
12 pretty much what I just said. Actually, ARDITO has  
13 also -- is also meaningful word in Italian, which is  
14 brave, and it's kind of a joke between us because we  
15 believe you must be brave to try to do something -- to  
16 do this job in this sector, but anyway.

17           As I mentioned, our aim is to fill the gap of  
18 rights information for the end user. So when they  
19 come to use a book, an image, an audiovisual product,  
20 the user should be able to know what they can or  
21 cannot do with that content, if they are able to reuse  
22 it or not, and we are doing this using, let's say, a  
23 common framework in the sense that we have different  
24 organizations, different technology providers, but we  
25 share a common ecosystem with the Copyright Hub at the

1 center.

2 Here, in this scenario, the Copyright Hub is  
3 acting like a central index redistributing the  
4 information that come from queries from the internet,  
5 from the end user, for distributing to the different  
6 sources of rights information that each one of us --  
7 ARDITO tools, let's say -- manages.

8 The principle behind all of this is quite  
9 simple. As I said, the idea is that any content  
10 provider, publisher, rights holder, or whatever,  
11 should be able to easily communicate rights and  
12 licensing data, and on the other end of the supply  
13 chain, in the same way, the end consumer should be  
14 able to access to such data.

15 The principle behind this is that if content  
16 can be clearly and possibly persistently identified,  
17 then we are able to connect such data to the content  
18 asset. So that's what we're trying to do. We are  
19 announcing some identification technologies in order  
20 to make the identifiers the links between the content  
21 asset and the rights data.

22 So which identification technologies are we  
23 talking about? We are empowering the DOI technology  
24 for books and e-books, to -- for the DOI to carry  
25 rights information, for the DOI of the content to

1 evolve additionally to rights and licensing  
2 information.

3 Its data will be also embedded in watermark for  
4 e-books and in watermark for audiovisual products, and  
5 rights and licensing information will be connected to  
6 image content through the digital pattern matching  
7 system. So the image content recognition will be  
8 connected to the rights data for an image.

9 This is pretty much the work flow at high  
10 level. As I said, we have the Copyright Hub in the  
11 center, they're distributing the rights data, but the  
12 idea is that any source of rights data -- may be the  
13 publisher, the rights holders, as I said --  
14 communicates rights information for their content to  
15 one of those blue boxes -- I would call them the  
16 ARDITO points -- each one providing one of the  
17 services I've mentioned.

18 This data is shared with the Copyright Album  
19 which is able to track back to the rights holder and  
20 to the rights data upon user's query in the Web. What  
21 does it mean? As Mark showed before, a final user  
22 can -- human users, for instance -- can just  
23 right-clicking on an image or a perspective also on an  
24 ISBN found in a Web book shop and immediately find in  
25 the rights data for that content.

1           What happens behind the scenes is that a simple  
2 query is redirected from the Copyright Hub to one of  
3 the sources of the rights data, one of these tools  
4 connected, and that's the -- pretty much the technical  
5 working.

6           While clearly what we are trying to do is to  
7 provide some benefits to the content industry, we  
8 say -- which is tedious, as you can imagine,  
9 particularly because we are connected to different  
10 sectors of the cultural industries -- but the main  
11 issue is to provide visibility and discoverability to  
12 rights information.

13           So the main objective is to make rights data  
14 easily accessible, and this should, in its turn,  
15 provide more opportunities to monetize their use of  
16 the content. So the more rights data is available,  
17 the more transactions possibly can be performed, the  
18 more sources can be collected, and so on and so forth.

19           Some other key points that maybe can be  
20 stressed afterwards during the discussions, but just  
21 to give an overview, put together the different souls  
22 of this project, which is, as I said a project  
23 cofounded by the European Union, "cofounded" meaning  
24 that we have public funding from the European  
25 Commission, but this is actually a private-public

1 partnership in the way that the companies  
2 participating in this project are private companies,  
3 investing part of their money into this project as a  
4 whole.

5 As a European project, as you can imagine, we  
6 have procedures and deliverables and implementation,  
7 so it's a process involving also, from an  
8 administrative point of view, lots of resources  
9 because, of course, it's a public-funded project, but  
10 everything needs to be documented.

11 One of the key points, again, is that  
12 clearly -- it's obvious, but it's always good to  
13 highlight this -- public funding means that the EU  
14 Government supports research and innovation, so this  
15 is crucial for the development of new tools for the  
16 e-content sector.

17 And, again, most important, this project is  
18 targeted to the SMEs, which represent more or less the  
19 80 percent of the creative industries in the content  
20 sector, so it's key to provide them with simple tools  
21 to develop their secondary market for that content.

22 I think I've gone on too long, so I will stop  
23 here.

24 MR. SWEETING: Oh, no, no, no, that's fine.  
25 Hold on, let me just ask a couple of questions

1 before -- you can feel free to sit down if you want.

2 MS. LIONETTI: Yes.

3 MR. SWEETING: So could you give us a little  
4 more background on the actual impetus for the ARDITO  
5 Project? You know, where did it come from and why?

6 MS. LIONETTI: Well, as I said, the principle  
7 is to provide more visibility possible to rights  
8 information. I mean --

9 MR. SWEETING: And that was whose priority?  
10 That was an EU priority? That was an industry  
11 priority? Who --

12 MS. LIONETTI: Well, both, meaning that  
13 industry priority, of course, because as we all know  
14 here and as we all discussed today in the previous  
15 panels, it's crucial for content providers,  
16 publishers, image rights holders, or whoever to gain  
17 as much as possible from their content, from -- not  
18 only from the primary use, from the purchase, but also  
19 from the reuse of parts of that content.

20 So this can happen only if the end user who  
21 want -- even legally want to reuse the content are  
22 able to find out how they are enabled or not to do  
23 that. So this is the basic principle, the basic need  
24 from the market. That's the demand.

25 MR. SWEETING: Do you have a question?



1           MR. ROSENBLATT: Yeah. So actually I wanted to  
2 turn a question that Mark Isherwood asked this morning  
3 on its head. I noticed you have iContact involved,  
4 and they have an e-book watermarking technology which  
5 actually was featured at my conference two weeks ago.  
6 Who else is providing the -- because they only do  
7 e-books. Who else is providing the content  
8 identification technology?

9           And then relevant to what Mark was asking this  
10 morning, how are you reconciling the fact that these  
11 are proprietary technologies and this is supposed to  
12 be, like, a public benefit sort of initiative?

13           MS. LIONETTI: Well, yes, watermarking systems  
14 are proprietary. Well, in a way, it depends -- I'm  
15 thinking about an example which I am going to make  
16 now. It depends on the perspective. For instance, as  
17 I mentioned, we are also exploiting the DOI  
18 technology, which is a standard --

19           MR. ROSENBLATT: Right. That's not proprietary.

20           MS. LIONETTI: Yes, but it's a standard tool  
21 again, and it can be applied to any content type and  
22 to any -- as you know very well, and also to 20 type  
23 of -- let's say 20 piece of the value chain, we used  
24 to identify -- for those who are not familiar with the  
25 DOI, the DOI is basically used to identify content,

1 pretty much like the ISBN, but in this case, in  
2 ARDITO, we are using the DOI also to identify rights  
3 that are records and then connect the identification  
4 of the rights that are records with the identification  
5 of the books or e-books.

6 So this means that we are providing tools that  
7 can serve the whole market in a way that, okay, I  
8 contact Cantilever, his proprietary system, his own  
9 product, but in its implementation of the iContact,  
10 for example, which was the -- that's what I was going  
11 to mention. We added the possibility to embed the DOI  
12 into the watermarking system.

13 So this gives more opportunities to exploit  
14 tools that are actually available to anybody. Anybody  
15 can apply for assigning DOIs to their content, for  
16 instance. There are several DOI registration agencies  
17 around the world.

18 MR. ROSENBLATT: Right.

19 MS. LIONETTI: So we are using tools that are  
20 well established on the market and that --

21 MR. ROSENBLATT: But my question is, you know,  
22 what if someone wanted to use Custos' e-book watermark  
23 or Digimarc's instead of iContact, for example?

24 MS. LIONETTI: Well, we can support Custos to  
25 connect to this ecosystem and be part of the rights

1 data network, let's say. To make its function -- like  
2 I showed before, I mean, the thing in ARDITO is to be  
3 connected with the Copyright Hub in the center. So  
4 the thing is that one can use the Custos product,  
5 which is fine. To be part of this work flow, the  
6 thing is to connect to this ecosystem. So we can have  
7 iContact, we can have Custos, we can have --

8 MR. ROSENBLATT: Okay. So, you're not -- in other  
9 words, you're not privileging iContact over --

10 MS. LIONETTI: No, no, no, no, that's not --

11 MR. ROSENBLATT: Okay.

12 MS. LIONETTI: No, no, no, that's -- because  
13 the project partnership was born like that, but in  
14 principle and in perspective, we aim to extend the  
15 sources that can be connected.

16 MR. ROSENBLATT: Okay, got it.

17 MS. LIONETTI: I'm sorry. I didn't understand  
18 that. It was obvious in my mind.

19 MR. ROSENBLATT: Sorry. I don't want to take any  
20 more time. Thank you. That answers the question.

21 MS. LIONETTI: Okay.

22 MR. SWEETING: To my immediate right is Ian  
23 Dahlman from Canada, and Ian wins the award, I think,  
24 for the longest title in the program today. He is the  
25 Manager of Legislation and Parliamentary Affairs,

1 Creative Marketplace and Innovation Branch, at the  
2 Department of Canadian Heritage, Government of Canada  
3 (Digital Licensing Camps).

4 So, Ian, what is it you do to earn such a  
5 heavily weighted title?

6 MR. DAHLMAN: Hi, everyone. My name is Ian  
7 from Canada. So we're actually in the Creative  
8 Marketplace and Innovation Branch, newly formed from  
9 the former Copyright Branch, so that explains part of  
10 the title.

11 MR. SWEETING: It's very hard to find on the  
12 Canadian Heritage website.

13 MR. DAHLMAN: Yes, we're that new, so -- and  
14 the Licensing Camp portion is what we're getting to.  
15 So, first of all, thank you for having me. It's  
16 wonderful to be invited, and it's wonderful to put  
17 faces to all the projects I've been reading online  
18 about for the last two years. So it's really exciting  
19 and invigorating.

20 So I was asked here to speak about the Digital  
21 Licensing Design Camps, which were an initiative that  
22 the Canadian Government undertook in the spring of  
23 last year, in 2017, and it's -- the initiative is  
24 somewhat akin to the kind of conference you're  
25 participating in right now. So if you have meta

1 questions about the choices that went into what you're  
2 doing right now, you're in luck. I am going to dive  
3 into that for a little bit, but to really understand  
4 where they came from, we have to go back a year for  
5 us, into 2016, when I first started with the Copyright  
6 Branch.

7 In Canada, we were in an interesting situation  
8 in that moment because what we're undergoing right now  
9 is -- required by legislation -- a parliamentary  
10 review of the Copyright Act, which means a committee  
11 from Parliament has been tasked just recently to  
12 review our entire legislation and the reforms we  
13 undertook in 2012.

14 What that means is there's a mandate for this  
15 committee to fully explore legislation, legislative  
16 solutions, regulatory solutions, and in 2016, that  
17 meant our stakeholders were gearing up very, very  
18 strongly to build critiques and proposals for this  
19 committee which has been struck, which meant that kind  
20 of more heavy-handed solutions -- not that they were  
21 considering them -- but they weren't on the table for  
22 us. We were in kind of a holding pattern until the  
23 committee took hold.

24 But in the meantime we were hearing all sorts  
25 of issues that exact -- they graft almost exactly onto

1 the program of the conference today, issues around  
2 data, metadata, garbage-in/garbage-out, opacity of  
3 rights royalty statements, rights fragmentation with  
4 layers of works and rights and geographical  
5 fragmentation, and fragmentation within that,  
6 impoverished registration systems, all the things that  
7 we've talked about today.

8 In the meantime, we were also on the cusp or it  
9 was -- I mean, this has been going on forever, but of  
10 a kind of strong proselytization around the  
11 revolutionary potential for certain kinds of  
12 technologies in these fields, blockchain, deep  
13 learning, AI, API design, et cetera, and we were  
14 seeing our stakeholders invest in these projects in a  
15 very siloed manner.

16 This was in the wake of the failure of the GRD,  
17 so, you know, a big top-down approach had failed, and  
18 we were seeing these kind of smaller, geographically  
19 situated approaches emerge, and many stakeholders  
20 invested heavily both in the data but also in the  
21 infrastructure that would help you manage rights and  
22 track royalties to the point where they were becoming  
23 commodities in and of themselves.

24 So, you know, the government wanted to  
25 emphasize the importance of these issues but wanted to

1 take a softer approach and to try and not interfere  
2 with what looked like to be a shifting in dynamic  
3 marketplace and also let those things comes for  
4 itself, but to produce a situation where more  
5 collaboration and codesign was occurring, where the  
6 water rising meant that all boats were rising with it.

7 And so we kind of had a working hypothesis, I  
8 suppose we could call it, which is that a timely  
9 government engagement with an emphasis on  
10 technological opportunities would induce broader  
11 collaboration while supporting ongoing stakeholder  
12 initiatives as they were and potentially generate more  
13 innovation in the process.

14 So to accomplish that goal, we actually took  
15 more of a design thinking approach. So we partnered  
16 with two design thinking labs, one in Toronto, one in  
17 Montreal, MaRS Innovation Labs and Projecté in  
18 Montreal, to target the anglophone and Francophone  
19 marketplaces. We focused on the music industry for  
20 several reasons, which is where we were seeing the  
21 most action in terms of developments in rights tech  
22 and also some of the bigger critiques around ease of  
23 licensing and, of course, the biggest shifts in  
24 consumption as well.

25 Generally, we -- I don't know if you -- if the

1 audience is very familiar with design thinking, but  
2 there tends to be much more emphasis on codesign and  
3 much more emphasis on kind of user experience, and by  
4 "user experience," I don't mean end user of copyright.  
5 I mean user of the copyright systems. That umbrella  
6 includes, of course, artists, intermediaries, anyone  
7 who kind of engages with the system in any meaningful  
8 way.

9           And so we had two workshops, one in Montreal,  
10 one in Toronto. We invited 40 participants who  
11 represented music collectives, industry players, tech  
12 startups, copyright experts, artists, music users, et  
13 cetera, and we kind of brought them into this kind of  
14 three-stage process. So rather than sitting through a  
15 conference like we're doing today -- which is  
16 wonderful, don't get me wrong -- we were trying a  
17 different approach, which was to -- first, we had a --  
18 it was kind of three phases, like I said, that it  
19 broke down into.

20           The first was a kind of setting the stage  
21 process and envisioning the future, so we had what  
22 they called an unconference, which is all the  
23 initiatives that we saw in Canada were -- had little  
24 kind of stations around the room, and anyone could  
25 circulate -- the participants could circulate freely



1 between them and hear what was going on over the  
2 course of an hour or so.

3           Once that was done, a series of groups were  
4 established with a mixture of perspectives, and they  
5 were asked to kind of envision the future. So if  
6 these issues were addressed properly, what would the  
7 future look like?

8           And the tool was a -- the name of the newspaper  
9 escapes me, but remember in "Back to the Future" how  
10 there was a newspaper that shows the future, the  
11 headlines of the future? Well, you were asked to  
12 build that newspaper front page. Granted, a newspaper  
13 front page, a little anachronistic for an innovation  
14 session, but it still seemed to work pretty well.

15           Once that was done, we had a kind of end goal,  
16 right, an end game. So the next phase was a kind of  
17 broad ideation phase. Participants were asked to  
18 generate as many ideas as they could in no matter  
19 what, no idea was too small or too dumb, and then they  
20 were all kind of grafted onto a chart of, you know,  
21 had the goal identified in the first stage of the  
22 session alongside or against -- pardon me -- the  
23 different end -- or users of copyright and their  
24 priorities. So who would this solution be addressing?  
25 Whose problems are we targeting? By doing that, the

1 group could see whether clusters seemed to form of  
2 their ideas, and they could pick one of those ideas to  
3 prototype.

4 And then the final stage of the day was to take  
5 that idea, to build a business model around it, and  
6 then develop a pitch, which they gave to judges at the  
7 end of the day. So the important thing here is  
8 praxis, right? How does this thing work in practice,  
9 putting these ideas through these kind of rigors?

10 In the end, the event generated over 500 ideas,  
11 and those were produced into 16 prototypes. They  
12 ranged all across the kind of the things we've touched  
13 on today, from solving the data problem to digital  
14 exchange platforms to price-setting, all sorts of  
15 interesting ideas. MaRS and Projecté are responsible  
16 for reports to us, which is forthcoming and will be  
17 released imminently online, where you can see all the  
18 ideas.

19 The important thing about the process, I think,  
20 was that we asked stakeholders -- Chatham House rules  
21 were in effect, and no one was attributed -- none of  
22 the comments or ideas were attributed to any  
23 particular person, so we were asking stakeholders to  
24 come in and interact not in a way that refracts  
25 through their usual interests and can be adversarial

1 at times, but in a collaborative, codesign setting  
2 where it was more of an internal challenge function to  
3 creating the best possible idea or best possible  
4 version of the prototype they had.

5 None of these prototypes are perfect. They are  
6 all just kind of interesting ideas. Some of them  
7 didn't even get to where they wanted to get and  
8 admitted failure in their pitch presentation. That  
9 was fine. The point is that these will all be  
10 published -- put online for anyone to take up and use  
11 if they want ~~to~~ to pursue in the future. In the  
12 meantime, we have built a different kind of  
13 conversation amongst people who weren't necessarily  
14 speaking to each other previously.

15 I would just add before I finish that the kind  
16 of conclusions that are coming out of the report look  
17 a lot like the kind of insights that we're seeing --  
18 I've seen in this conference generally.  
19 Interoperability was a huge point. Educating and  
20 empowering artists and users was another. And most  
21 important, I think, was improving the user experience,  
22 the point that it's not -- it isn't worthwhile to  
23 simply digitize things. The redesign has to occur  
24 with the change, and it has to simplify the process,  
25 make it more user friendly for those who engage there.

1 If you start from that, that point, you'll find some  
2 interesting end games.

3 So that was the project in a nutshell. Thank  
4 you.

5 MR. SWEETING: First of all, I want to thank  
6 you for using the term "rights tech." It's a phrase  
7 I've been trying to get into the lexicon for two years  
8 now.

9 So the role of the Canadian Government, there  
10 wasn't a mandate there. It was -- you -- it was  
11 really essentially leveraging their convening role to  
12 bring people together. That was the -- that was the  
13 essential role that the government played, correct?

14 MR. DAHLMAN: Yeah, absolutely. The point was  
15 to -- this was seen as more of a part of our ongoing  
16 stakeholder engagement. So there was no particular  
17 mandate we were serving besides a constant engagement  
18 with stakeholders, hearing their perspectives, and  
19 then trying to help the marketplace along to develop  
20 new ideas in the process.

21 MR. SWEETING: Thank you.

22 To my immediate left, a man who can rant as  
23 well as Jim Griffin --

24 MR. JENNER: He taught me all I know.

25 MR. SWEETING: -- Peter Jenner, who's had a

1 long and distinguished career as a manager, a talent  
2 manager. He was the first manager -- I guess the  
3 first manager of Pink Floyd. He has managed The  
4 Clash. He's --

5 MR. JENNER: It's been downhill ever since.

6 MR. SWEETING: It's been downhill ever since.  
7 He is now working with the UK IPO, the Intellectual  
8 Property Office, on a program called or an initiative  
9 called Music 2025. How did that come about, Peter,  
10 and what is it?

11 MR. JENNER: Well, God knows what it is.

12 Basically, I persuaded the IPO that having seen what  
13 happens with copyright and the form of -- not just  
14 copyright, but generally the speed at which it takes  
15 for anything to go from idea to legislation to  
16 activation to being in place, was interminable and  
17 that, therefore, if you wanted to fix today's  
18 problems, you would find that by the time you'd fixed  
19 them, they were out of date.

20 So that I thought that if we looked ahead to  
21 2025, we might have a chance that, when we get to  
22 whatever solutions we get to, they might be not quite  
23 so out of date. I'm sure they still will be out of  
24 date. So that was basically where it came from.

25 And it was about music, and it was tripped off

1 in my brain by seeing the EU, in about 2015, talking  
2 about what they wanted to do with the reform of  
3 copyright, and I thought, "Oh, my God." Anyway, talk  
4 about hopeless.

5 So I started talking with them about it, and  
6 what we've decided that we needed to do probably is to  
7 think first of all about the structure of data and the  
8 collection of data. I'm making a huge effort to get  
9 the data together and to -- as it were, perhaps moving  
10 towards a position of national -- of registries,  
11 whereby at the end of the day -- this is me, not the  
12 government speaking -- but at the end of day, if  
13 you're not registered, there is no obligation to pay  
14 you, and if you are registered, there is an obligation  
15 to pay you, the performer, because it seemed to me  
16 that looking at what was happening in the streaming  
17 world, the vast bulk of the money was going to the  
18 major companies and really a relatively small quantity  
19 was going to the performers, and those that was going  
20 to performers were going to the big performers.

21 So it was thinking about how can we make it so  
22 that it's a better, more equitable sort of  
23 relationship between the performers and the  
24 corporations. That's partly a reflection of my own  
25 prejudices, which are similar to Jim's in this

1       respect.

2                So, anyway, a lot of it was down to streaming,  
3       and then I thought more about the problems of  
4       streaming, about how little money gets to the  
5       performers in streaming, particularly the session  
6       musicians who get nothing in the UK.  Session  
7       musicians get nothing from streaming.  The performers,  
8       the major featured performers, get their old-fashioned  
9       rights, you know, royalty rights, which they used to  
10      get on hard carriers.  So it's always seemed to me  
11      that it's very -- it's all very out of date as to how  
12      things get treated.

13              It then led me to think about what is  
14      streaming.  It's not a performance, and it's not a  
15      sale.  It's a sort of a rental right, I reckon, is the  
16      nearest you can get to it.  It's a sort of rental  
17      right.  It's like a public library.  Provided you keep  
18      on paying your \$10 a month, you have a right to go  
19      into the public library and take the music that you  
20      want, and then if you don't pay your \$10, they take it  
21      back from you.  So you don't own it.

22              You have access to it, so it's a rental right,  
23      and that, it seemed to me, was an interesting  
24      proposition, because within the music business, as far  
25      as I know, we have -- certainly in the UK, there is no

1 day-to-day dealing with rental rights. I think there  
2 are in Japan and possibly in Korea, but certainly it's  
3 not in our world. So that was an important thing.

4 It seemed to me the important thing was not the  
5 rights, but it was getting paid. It was the  
6 remuneration was the key issue. And in some senses,  
7 also, in that context, too, I'm also very interested  
8 about limits and control on assignment, the assignment  
9 by performers and writers, early in their careers  
10 often, where they write off all their rights forever  
11 to the company and at a fixed rate, and that, too, was  
12 an issue which is knocking around in my head.

13 But it's also about another issue, which is  
14 very dear to my heart, is the issue of public domain,  
15 the issue of the commons, the issue of where do we get  
16 the songs from, where do we get the music from? And,  
17 in fact, most people will get -- the music that they  
18 create comes from all the music that they've ever  
19 listened to or heard by accident or by design. You  
20 don't, as it were, invent music. You channel music.  
21 You channel culture. You channel your traditions.

22 And so the -- it seems to me it's very  
23 important that we start recognizing the importance of  
24 the public domain and the importance of the commons.  
25 So, for instance, when there's money left over,



1 unattributable, as there always is in collection  
2 societies, it usually gets blocked out or market  
3 share, which basically goes to the big boys because  
4 the little boys are too small to get counted. So I'm  
5 suggesting that that money should go to the public  
6 domain to build up our collective endeavors within the  
7 music industry, to help with music training, to  
8 subsidize perhaps venues for young artists, for  
9 rehearsal rooms, so on and so forth.

10 I'm suggesting that we start thinking about the  
11 creative rather than thinking about corporations. We  
12 start thinking about our lives and our -- what makes  
13 life meaningful rather than what makes most money.  
14 And I've had good experiences with many record  
15 companies, but I've also seen some pretty bad ones,  
16 and I think it's interesting that there's a lot of  
17 action now in terms of label services.

18 In other words, we're beginning to put the  
19 rights back to the artists, back to the creators, so  
20 that there's more ability for them to control what  
21 actually happens to their material. And that, to me,  
22 is also a very important part of what I'm trying to  
23 think about.

24 And also, the other one, of course, is UGC, you  
25 know, user-generated content, how are we going to deal

1 with that? I don't have the answer. I suspect there  
2 are answers and that answers will be found. I also  
3 want to think about the -- the issue of UGC is very  
4 important for me and so on, right, blah-blah-blah. I  
5 think also it's important that we realize that we have  
6 to find ways of resolving multimedia content, that  
7 increasingly, as we go through the years, it's going  
8 to be multimedia.

9           It's not going to be music, not going to be  
10 pictures, not going to be voiceovers; it's going to be  
11 all of them. On those little devices that everybody  
12 has except me, you have a space for pictures. They're  
13 going to put pictures on there even if you think  
14 you're listening to music. So who gets paid for the  
15 pictures on the stream which you've received from  
16 Spotify? There will be pictures.

17           It goes back also to the dancing baby. Did the  
18 woman who took that video, did she get anything? No,  
19 she just got hauled into court. The person who got  
20 paid was -- or was probably going to get paid -- was  
21 Prince, who was on the radio. He wasn't even there.  
22 He was on the radio when she filmed the kid dancing to  
23 the radio.

24           So, anyway, let's not go into that, that's a  
25 whole other area of legal nightmare, but, you know, I

1 think it's important that we start thinking about how  
2 multimedia is going to become more important, because  
3 people are going to be filming things and recording  
4 things on their mobile phones, and they are going to  
5 be loaded up and be put on -- and be uploaded.

6 So we have got to think, how can we make that  
7 system work in reality? And my suggestion is, at the  
8 end of the day, it's going to be down to registries.

9 MR. SWEETING: All right. Let me introduce --

10 MR. JENNER: Stop me, yes. Yes, I think you're  
11 very wise.

12 MR. SWEETING: So this sounds like -- is  
13 this -- is Music 2025 essentially an open-ended  
14 thought experiment or is there some endpoint --

15 MR. JENNER: I think it's an open-ended thought  
16 experiment, but it's going to start by working on  
17 registries.

18 MR. SWEETING: Tell us about that.

19 MR. JENNER: We can start by trying to build  
20 registries of performers and songs and everything and  
21 trying to work out how we can make that most usable,  
22 most accessible. Do I have the answer? No, I don't.  
23 That's -- I'm waiting for the money to start coming in  
24 for me to think about it. No, I think we will -- we  
25 will obviously --

1           MR. SWEETING: Well, as a consultant myself, I  
2 am sympathetic to that problem.

3           MR. JENNER: Yes. Yes, there are registries,  
4 and we will want to sort of work with the existing  
5 registries and get them better. I mean, the ISNI  
6 thing that was referred to earlier, has already been  
7 talked about, marrying the ISRC, the ISWC, so that  
8 people can access content from all around the world,  
9 all around the world. You know, I think these are the  
10 sort of things -- what should be the structure of  
11 registries? What is the architecture of registries?

12           I don't have the answer yet, but I think it's  
13 very important that we have a structure of registries  
14 which can, as it were, be used by all countries,  
15 ideally, have a similar basic structure, so that  
16 then -- and these registries have to be numeric so  
17 that they can commune with each other. So they have  
18 to be more like bank account numbers or phone numbers  
19 than they are the traditional registries, which is  
20 name of artist, name of song, you know, which is a  
21 semantic registry. We have to have numeric  
22 registries. I've got that far, but then where do I go  
23 from there? That's going to be interesting.

24           MR. SWEETING: That's for the rest of the  
25 afternoon to discuss.

1 MR. JENNER: Yes. Well, the rest of the year.

2 MR. SWEETING: The rest of the year or the rest  
3 of time.

4 Paolo Lanteri, we have been discussing efforts,  
5 initiatives, projects to address sort of practical  
6 issues around identifying content, identifying rights  
7 owners, making depositories of information talk to  
8 each other, and so forth. There's also policy pieces  
9 to some of these questions.

10 Can you talk a little bit about how WIPO is  
11 thinking about the policy layer of some of these  
12 questions?

13 MR. LANTERI: Yes, of course. Of course.  
14 Thanks a lot, and among the issues that this panel is  
15 to cover this afternoon is I think the identification  
16 and perhaps an agreement of what is a suitable and  
17 realistic role for governments and is the fundamental  
18 question for the World Intellectual Property  
19 Organization. This is so because our -- ultimately,  
20 our mandate is to work with governments and for  
21 governments towards achieving their objectives, and  
22 these areas, of course, would be to facilitate a well  
23 functioning digital marketplace.

24 For the record and for information for  
25 everyone, WIPO has 191 member states, the vast

1 majority of which are developing countries, so if I'm  
2 telling a different story or I'm depicting a scenario  
3 which is quietly deferring from what we have been  
4 hearing today, it's just the factual reflection and  
5 reality of what's happening in the rest of the world.

6           So in this sense, we really would like to thank  
7 the Department of Commerce for putting up all the  
8 efforts to get the expertise, sharing information, and  
9 also considering possible ways of future cooperation,  
10 and we -- I think we can all agree that these  
11 meetings, together with the previous meetings that  
12 have been organized, already represent a first clear  
13 example of what a government can actually do to  
14 facilitate possible solutions in this area.

15           So if you ask yourself why WIPO is here, the  
16 real answer is we are here to listen and learn, but at  
17 the same time, we could also share some thoughts on,  
18 what are areas where governments are already playing a  
19 role and are willing to play an even more meaningful  
20 one? And three areas can be, in my view, identified  
21 like this. It can be enormity of regulatory  
22 framework, registration systems, and collective  
23 management.

24           The identification of these three areas is  
25 based on purely factual observation of the

1 international landscape, and it's backed up by  
2 concrete requests that we are receiving, proposals and  
3 even policy papers that are currently under discussion  
4 in WIPO committees in Geneva. For many good reasons,  
5 I won't enter into the details of those proposals,  
6 including because, I guess, over 90 percent of the  
7 people in the room wouldn't care less; however, if you  
8 have questions, I'll be very happy to provide you all  
9 the details and guide you through the jungle of  
10 documents that we are dealing with at WIPO.

11 So the first one I wanted to focus on is the  
12 legal and policy framework. This is probably the  
13 first essential step, and we are not talking only  
14 about granting the substantive rights and having  
15 provisions about enforcement; we are talking about as  
16 simple as granting protection for rights management  
17 information and technological protection measures.

18 Without entering into the debate on whether all  
19 identifier systems would apply for rights management  
20 information protection, I think the recognition that  
21 the -- over 20 years ago, the international community  
22 granted protection to those technical features is  
23 already a clear indication of the importance that  
24 technology has in management of rights.

25 And the data here which is relevant is that to

1 date we have 96 members of the interim treaties,  
2 leaving around 50 percent of the countries of the  
3 world outside of these standards of protection,  
4 including technological protection measures and rights  
5 management information. Therefore, room for promotion  
6 of the treaties, updating of legislation, which is  
7 very important.

8 Secondly, registration system. Voluntary  
9 registration systems are very popular around the  
10 globe. Over 50 -- well over 50 percent of the  
11 countries of the world on paper have a registration  
12 system like in the U.S. Out of over 100 registration  
13 systems, very few have any digital features or search.  
14 It's purely working on an analog environment, and more  
15 and more countries are expressing interest in  
16 upgrading these services they are offering to the  
17 public. Therefore, WIPO there can definitely play a  
18 role.

19 Finally, I want to focus on collective  
20 management, which was raised and discussed largely  
21 during the day, and here we have clearly a variety of  
22 intensity of engagement from government. We have  
23 governments that are pretty hands-off to governments  
24 that are actually running the collective management  
25 operation from A to Z. This is the case of many



1 countries in Africa.

2 Therefore, there is a clear role to be played  
3 by government, at least from -- I mean, regulating or  
4 promoting a more efficient collective management, and  
5 here WIPO has two recent projects. One is called WIPO  
6 Connect. It's -- we are providing the software for  
7 running collective management operation to developing  
8 countries. We have almost 40 countries that are  
9 running with our system, which is completely  
10 interoperable with the CIS-NET or CISAC and other major  
11 federation systems. So we are doing that, and we have  
12 a long waiting list of countries that are looking at  
13 receiving this technical assistance.

14 MR. SWEETING: Now, Paolo, let me just  
15 interrupt. Is that just for music or collective  
16 management of other types of content, like images?

17 MR. LANTERI: So, the WIPO Connect is designed  
18 to work on all sectors, including related rights. So  
19 far, the implementation of the WIPO Connection is  
20 focused on music copyrights and working with -- mostly  
21 with the CISAC members, but in the future, it's  
22 already designed to work across -- in all industries  
23 and rights to be managed.

24 Secondly, we are issuing next week a policy  
25 paper that is called Toolkit on Good Practices for

1 Collective Management. This is going to be released  
2 and distributed to all member states and all observers  
3 to WIPO committees, so all major federations and  
4 industries will have over two months to send comments,  
5 and there will be a physical meeting in Geneva at the  
6 end of month.

7           It's a policy paper, it doesn't have any  
8 binding purposes, but it is a very interesting  
9 collection of best practices and rules that are  
10 reflecting legislation around the globe, like the  
11 directive that has been mentioned, like professional  
12 rules of CISAC and IFPI and so on, and it's a  
13 compendium that covers many aspects, from relation  
14 with the member among CMOs, issue of transparency,  
15 access to information, governance, and so on. And  
16 this will be on your desk very soon.

17           I want to end with two remarks. One is the  
18 following, that we discuss here about the marketplace,  
19 which is the final objective. Often, I have to  
20 highlight that governments are approaching these areas  
21 and this project with a diverse -- a number of  
22 different policy goals. We often read and hear about  
23 the importance of transparency, transparency toward  
24 both the different rights owners in the chain but also  
25 towards users. We are hearing often about the

1 fairness towards creators and performers, the  
2 importance that was mentioned about facilitating  
3 access to knowledge, facilitating access to content  
4 that can be freely reusable either because it is in  
5 the public domain or because it's licensed through an  
6 open license scheme. And, finally, we often hear  
7 about the importance of developing consumer friendly  
8 services. So policymakers are looking at the digital  
9 marketplace from different angles, and I think the  
10 objective is common.

11 WIPO at the moment doesn't have any flagship  
12 technical project to present in a conference like here  
13 today, but it's, rather, focused on creating a level  
14 playing field among different regions of the world  
15 that sooner or later will need to be involved in this  
16 kind of discussion, because any solution that would be  
17 potentially effective would need to be global and  
18 shared as broadly as possible.

19 So, with that, I think I can end my  
20 interaction. Thanks.

21 MR. SWEETING: Thank you. That brings up an  
22 interesting topic, which is some of the initiatives  
23 that we've heard about have been under the -- I don't  
24 want to say jurisdiction, but under the oversight of a  
25 particular national government in the case of Canada.

1 The EU, of course, is a transnational body.

2 Are there different kinds of problems that are  
3 best tackled at the national level versus the  
4 international level? You know, what are the -- what's  
5 the most efficient way to address some of the issues  
6 that we've been talking about here?

7 MS. LIONETTI: Well, I can talk for the ARDITO  
8 case, of course, and for at least the partners of this  
9 project. I don't think that there is any friction for  
10 us in dealing with these topics internationally,  
11 meaning that at very basic level, we all run daily  
12 businesses internationally, each one of the companies  
13 who are part of this project, and most importantly,  
14 it's good to cooperate internationally, that that's  
15 the high value, to cooperate internationally, to use  
16 and to provide a common framework to potential new  
17 users of the system.

18 And actually, it's also quite easy technically  
19 speaking, because we are using tools -- some of the  
20 tools I mentioned before, then other technical tools  
21 and frameworks that we're implementing from the  
22 metadata side to the more complex implementative side.  
23 We are trying to speak multiple languages. So I see a  
24 high value in this, not just because it's EU-funded  
25 project, so -- I hate to say this, but even if it

1 wasn't, even if it was just a partnership among  
2 different companies, so...

3 MR. SWEETING: Ian?

4 MR. DAHLMAN: So what I would suggest is that I  
5 don't think any of the issues that we were trying to  
6 tackle were necessarily best suited for Canada or best  
7 solved on a national level, but what works well is  
8 Canada can operate as kind of a microcosm or workshop  
9 for these solutions, where you try things out in a  
10 smaller market and where they can -- the goal is  
11 ultimately to scale up, of course. And so I think  
12 that's the value for national governments that  
13 approach these things, is to be these kind of  
14 laboratories.

15 The other thing I would point out is at least  
16 in the Canadian context, it was our collective  
17 management system -- our collectives who were showing,  
18 at least in the music industry, a lot of initiative in  
19 terms of investing in new technologies and acquiring  
20 new data rights or new systems as well and developing  
21 those. So getting those players working out together  
22 at a national level might actually translate into  
23 international interactions and initiative in the  
24 future, but it's -- you know, like anyone knows in  
25 prototyping, the best approach is just try the small

1 scale first and then scale up.

2 MR. SWEETING: Peter, you're working with the  
3 UK IPO, but you made reference to the need to find  
4 global solutions.

5 MR. JENNER: Well, I mean, it's an inter --  
6 music does travel across borders and across countries,  
7 and I think the -- if we want to be able to trade  
8 content between countries, whether it's within Europe  
9 or throughout the world, we've got to find ways of  
10 finding it, and that's why I think the architecture of  
11 registries is so crucial and the numeric systems,  
12 because you don't want language getting in the way.  
13 You don't want to have language and character sets  
14 making your databases very difficult.

15 If you have a numeric database, it can then be  
16 translated into a -- into local languages, but the --  
17 you have to have an underlying numeric structure  
18 worldwide if we want to have a worldwide distribution  
19 of music, and that to me is one of the most  
20 interesting issues about -- that, you know, I think  
21 the EU is liable to end up being very positive about  
22 that, because that's something they have to cope with,  
23 but if we then want to also get paid with China, we  
24 better work out how we can cope with Mandarin  
25 characters.

1           MR. SWEETING:  What are the institutions that  
2           are going to allow us to do that?  Are they  
3           governmental institutions?  transgovernmental  
4           institutions?  industry institutions?  You know,  
5           what --

6           MR. JENNER:  Oh, I think it has to be all of  
7           them.  I mean, in a sense, you have to start --  
8           perhaps you start nationally, and you have to try and  
9           get buy-in from your local nations, and then you go  
10          out further.  And at some point, you know, we will end  
11          up at WIPO, and WIPO says, "Well done, guys," or else  
12          we go to WIPO and they say, "Oh, my God, you can't go  
13          there; you have to rewrite it."

14          But I think it is a combination of both.  You  
15          have got to start somewhere.  You are not going to be  
16          able to make an agreement worldwide tomorrow.  You  
17          know, you start somewhere, and then you take it out  
18          and say, "Does this work with you?"  That's my idea,  
19          is you take your registry ideas and you go to other  
20          countries, "Does this work for you?  Does this work  
21          for you?"  That way, you find something which can work  
22          internationally.

23          MR. SWEETING:  Does WIPO have a lead role to  
24          play in that?

25          MR. LANTERI:  A lead role?  I think we can

1 definitely be a forum where these issues are  
2 discussed. In terms of solution, I vote for  
3 international solution, and if it's not the same  
4 technical solution, it will still at least need to be  
5 interoperable with each other, because when you're  
6 talking about licensing content to global services, I  
7 just -- I see the clear trend is towards global.

8 In terms of what WIPO could do, I think the  
9 answer would rely on what governments ask us to do.  
10 That's the real answer, but definitely we could be a  
11 forum for discussion, as we have been in the past, and  
12 we will try to continue being in organizing meetings  
13 and gatherings of governments.

14 MR. SWEETING: I don't know where we are on  
15 time, but I'm getting the -- I'm getting the  
16 five-minute sign. So let me open it up to anyone on  
17 the floor who has a question or questions.

18 Yes?

19 MS. ZAREH: Thank you. Hi. Well, first, I  
20 just wanted to thank Peter for mentioning the commons.  
21 It's nice to hear today, especially at the end of a  
22 day talking mostly about the transactional metadata  
23 that's going to go along with monetization. My  
24 question is really about -- so I come at this from the  
25 Hollywood side, television and film, which is a



1 relationship-driven business, right? And so I'm  
2 curious, as we're moving toward a more numeric, let's  
3 say, model to increase efficiency and speed, how much  
4 are you willing to build into the systems the idea  
5 that some people just don't want to do a deal no  
6 matter how much money is on the table, that there are  
7 some relationships that come into play in the  
8 spiritual sort of communication of this art form that  
9 we're creating, especially if it's a collective, that  
10 doesn't have a number attached to it? It doesn't mean  
11 that that's the case for everybody, but that it should  
12 be at least built into the system as an option.

13 Oh, yeah, sorry. My name is Batia Zareh, so  
14 I'm an intellectual property lawyer and a  
15 writer/producer.

16 MR. JENNER: My feeling is that you can have it  
17 written down, but you have to convey it as a number.  
18 You know, it's -- at the end of the day, it has to  
19 become a number, because that's international. It's  
20 like your bank account. You have a name, you have the  
21 bank, but all the deals that are going on, it's all a  
22 series of numbers. Your credit card, a series of  
23 numbers. It's got names on it as well, but all the  
24 transaction is dealing with the numbers. That's the  
25 identifiers.

1 MR. SWEETING: Anyone else?

2 John?

3 MR. MITCHELL: So my name is John Mitchell. To  
4 bookend the previous comment, I'm curious what the  
5 role of government entities would be in ensuring that  
6 the solution is, in fact, global. It's so often to  
7 get in a room with the really big players and hash out  
8 the problems they're dealing with day to day and  
9 what's costing them money, and if we do this we will  
10 save a nickel, but in the ideal world, you know, the  
11 comment was mentioned of the number of countries that  
12 are members of WIPO.

13 At the various stages of implementing the ideal  
14 world from a, say, U.S. Department of Commerce  
15 viewpoint, how do we make sure that whatever structure  
16 we build is going to be usable for that barefoot child  
17 in the developing country who's creating their first  
18 works of authorship and wants to make them available  
19 to the global market? They don't have a producer,  
20 publisher, or -- but, you know, they have got  
21 rudimentary equipment, access to the internet.

22 Can -- whether it's WIPO or individual  
23 governments -- ensure that as they facilitate or bless  
24 the various market solutions, we don't inadvertently  
25 cut out a huge segment of creative talent that simply

1 doesn't have access to those big ticket access points?

2 MR. JENNER: Well, I mean, my feeling is that  
3 you start with the local language and you convey that  
4 into numbers, I mean, in the same way that my account  
5 at the bank is I have an account under my name with a  
6 branch of the bank and so on, but that account is  
7 actually then transferred and translated to a series  
8 of numbers, and that's in a sense how I think it could  
9 work.

10 How it's done, I'm not a technologist, but I'm  
11 sure it can be done. If the banks can do it, it can  
12 be done. I have faith.

13 MR. LANTERI: From a process viewpoint, what's  
14 happening at the international level is that actually  
15 you include those players in the debate and in shaping  
16 the solution. So by including them from date zero,  
17 they will make -- they will, themselves, make sure  
18 they are in -- they are -- I mean, the solution would  
19 be suitable for them.

20 In practical terms, I agree. If we go, for  
21 instance, in the collective management arena, we find  
22 an important number of countries where you actually  
23 don't even have collective management, or if you have  
24 it, it doesn't work. So there is an important effort  
25 to be made in bridging the gaps.

1           Nevertheless, I think we can envisage some sort  
2 of solution that can be used by most of the players,  
3 and there are definitely people looking at these  
4 issues carefully. They are making -- they are quite  
5 live about solving the problem you were just asking.  
6 And so the answer is very complicated, but there are  
7 processes to work on developing the capacity and the  
8 infrastructure of developing countries. That's what  
9 WIPO is trying to do.

10           MR. SWEETING: Okay, I'm getting the axe. I'm  
11 getting the hook here. So that was a very interesting  
12 discussion. Thank you to the panel.

13           (Applause.)

14           MS. ALLEN: Yes. Thank you, all.

15           So as I mentioned, we're shifting the agenda a  
16 little bit, and just to give you a heads up, we are  
17 going to cut -- we are about ten minutes behind, so we  
18 are going to cut some time from Steve Ruwe's  
19 presentation (audio break) closing remarks, which they  
20 have graciously agreed to do.

21           So what we will do now is have a 15-minute  
22 coffee break, and then we have breakout sessions. So  
23 the way this will work is on your program, we have  
24 identified the facilitators. This is Chatham House  
25 rules, which means whoever's speaking, you should feel

1 free to speak from your own personal viewpoints. The  
 2 idea is that this will not be shared further, that any  
 3 comments will not be individually attributed to you.  
 4 At the end, each of the facilitators will be asked up  
 5 here, and Steve will sort of facilitate a quick  
 6 readout of the key points.

7 So in terms of time of each of the discussions,  
 8 probably leave about 30 minutes for the discussion and  
 9 then maybe five minutes at the end to just kind of  
 10 collectively sum up your thoughts of what the key  
 11 points are, and I'll go through, you know, about the  
 12 15-minute mark to see how you guys are doing. If you  
 13 want to mix it up and go to a different topic, that's  
 14 fine, too.

15 But just for now, we will go ahead and put  
 16 three topic numbers, one, two, and three in here, and  
 17 then two in the other room, and then if you can just  
 18 be at whatever topic you want to be at at 3:30, that  
 19 would be great. For those of you webcasting, we will  
 20 reconvene I think at 4:15. So, thank you.

21 (A brief recess was taken, followed by off the  
 22 record breakout sessions.)

23 - - - - -

24 AFTERNOON PLENARY DISCUSSION:

25 SHORT REPORTS ON BREAKOUT SESSIONS

1                                   -   -   -   -   -

2                   MR. RUWE: I think we are going to go back into  
3 plenary, if I could be joined at the stage.

4                   So it's time to begin the plenary session. I'm  
5 going to start introducing the facilitators. I'll  
6 give you a minute to quiet down.

7                   So we have asked our facilitators of the  
8 breakout sessions to provide a quick summary, three,  
9 no more than five minutes, preferably closer to that,  
10 to bring us up to speed on the discussion that took  
11 place. Again, these are under Chatham House rules, so  
12 please remember that as you do your readouts. Then we  
13 will -- as we go through the table topics, we will  
14 open the floor to questions and go from there.

15                   So I first hopefully can hear from Jim Griffin,  
16 if you could tell us about the topic one discussion on  
17 artificial intelligence, machine learning, and other  
18 emerging technologies.

19                   MR. GRIFFIN: Okay. Look, this was a can of  
20 worms. We tried to knock this out of the box pretty  
21 quickly. I mean, I thought, well, let's just agree  
22 that anything produced through AI or by a machine is  
23 not entitled to a copyright, and then let's move on  
24 and figure out how they can help copyrighted works.

25                   Well, that didn't work. It started to work,

1 but then we quickly dispensed with that notion. You  
2 know, there was such intense discussion, and I think,  
3 without revealing the name of the person, we made a  
4 giant step forward when it was offered to us that AI  
5 is whatever you can't do on a computer, and that was  
6 very interesting. That was, I think, extremely  
7 helpful.

8 But where the group went quickly was that the  
9 law not only needs to change, but it's going to  
10 change, that whatever the law is now regarding  
11 copyrighted works -- and, look, we get it, that's the  
12 Constitution talking about what authority you have to  
13 create copyrights. We recognize there's over 190  
14 other countries' constitutions and then international  
15 conventions that require us to respect copyrights from  
16 other countries, and so we quickly tossed out this  
17 idea that the U.S. Constitution would necessarily be  
18 controlling and that at any rate it would be a race.

19 It would be a race for lawyers to influence  
20 this issue, while at the same time AI tried to eat the  
21 legal industry and replace the lawyers and the judges  
22 entirely, and in that case, all bets are off, and  
23 we're convinced that it's really difficult to get a  
24 finger on top of the part about artificial  
25 intelligence and machine learning.

1           Look, the title of the panel that we had, we  
2           had to toss out the third thing, which was emerging  
3           technologies. It was just too broad to take into  
4           account every emerging technology and its effect on  
5           copyrighted works.

6           We did discuss, relatively at length, the idea  
7           of how AI affects CMO work, collective management  
8           organizations. Does it help them gather data? Does  
9           it help them make decisions? Does it give them more  
10          input about what's coming?

11          But, again, outside of that, it was very, very  
12          difficult to say with any certainty that artificial  
13          intelligence or the output of artificial intelligence  
14          or the outcome from machine learning would or would  
15          not be copyrightable, because this is, of course,  
16          something that is in flux.

17          You can change constitutions, you can shop  
18          constitutions, you can write new statutes, and there  
19          was an observation made, you couldn't copyright a  
20          sound recording before 1972, and after 1972, you  
21          could. It's largely a function of rent-seeking in the  
22          halls of Congress and statutory decision-making.

23          So I'd say that's it.

24          MR. RUWE: Thank you.

25          I'd like to turn now to Stuart Myles, and if



1 you could give us an update on the metadata  
2 discussion.

3 MR. MYLES: Sure. Thank you very much.

4 So, yes, our topic was metadata embedding,  
5 deleting, locating, optimizing. So we had a great  
6 panel, talked about a lot of different things from  
7 many different areas, publishing and music and video  
8 and so on.

9 We very quickly got to the point where we said,  
10 actually, metadata doesn't matter. We shouldn't have  
11 metadata going along with our video or our music and  
12 song, which was slightly surprising to me, but we  
13 realized what we meant was that, in fact, the key  
14 piece of metadata is the identifier, because from the  
15 identifier of a piece of content or another work, you  
16 can figure out what is the metadata that should be  
17 accompanying that piece of content.

18 We had a little bit of a discussion about how  
19 difficult it is to identify things, but -- in the  
20 sense of, like, is it the work, is it the particular  
21 rendition, is it the -- is it the particular  
22 experience, and it seems like there needs to be more  
23 and more kinds of identifiers. We also talked a bit  
24 about how packages of rights themselves are things  
25 that should be identified so that you can reuse them

1 and share them more easily.

2 So given that ID is the most important piece of  
3 metadata, the ideal model, therefore, is that you have  
4 an ID for a piece of content that you can then use an  
5 API to look up additional information, whether it's  
6 rights or descriptive metadata, through a registry, so  
7 that you can know how to license it, what -- how to  
8 find it through search, and so on.

9 So we talked a bit about, what are the  
10 barriers? What's stopping us from being in that  
11 position where everything has an ID and there's a  
12 registry that you can look it up in? And problems  
13 include a lack of trust in identifiers and, in  
14 particular, in ways to reliably look up an ID in a  
15 registry.

16 Some of the reason for that includes that some  
17 big players see their -- the data as being proprietary  
18 to them; they don't really want to share it. There's  
19 also the -- some people said that incumbents benefit  
20 from chaos and inefficiency, and so there's a mismatch  
21 of incentives there.

22 On the other hand, though, we talked a bit  
23 about how the mood in various industries is changing  
24 because basically there's too much friction, too much  
25 pain in the current situation. And so there are

1 beginning to be changes where registries are being  
2 created and identifiers are being applied in a  
3 consistent way.

4 We felt that standards are necessary, whether  
5 it's to identify things or to convey the rights  
6 metadata or to convey the descriptive metadata, and  
7 that it looked like a viable way for these things to  
8 develop is for bigger players to adopt them, whether  
9 it's a company that dominates a particular publishing  
10 industry, for example, or it's a distributor; often  
11 retailers such as Apple iTunes or we talked earlier  
12 today about YouTube adopting the ISNI format. And so  
13 we felt that that's good as long as they're adopting  
14 standards, which it seems like most of them want to  
15 do.

16 So, really, the -- sort of one take-away was  
17 that the pitch for why you should do this sort of  
18 thing is typically going to be efficiency, although in  
19 the long term we felt that there's potential -- if you  
20 adopt these standards and you do it in the right way  
21 with the registries and so on, that there's potential  
22 for growth in each of these industries.

23 Thanks.

24 MR. RUWE: Thank you.

25 So two topics were collapsed into one in the

1 other room, and that was licensing rights and  
2 permissions and the future of collective rights  
3 management, and Bill Colitre was gracious enough to  
4 take the role of facilitator for both of those  
5 subjects and give the readout for that. So, Bill,  
6 could you let us know?

7 MR. COLITRE: So in combining the question of  
8 collective management and licensing, the themes that  
9 sort of arose were whether collective management can  
10 be operated on a basis that allows for freedom of  
11 economic pricing or nonexclusivity of other natures.

12 We talked about algorithms for pricing so that  
13 content in collective management organizations need  
14 not be commodified or treated on a one-size-fits-all  
15 basis. For example, would it be possible that a music  
16 registry could charge more for one song than another  
17 or in a registry of audiovisual -- of visual works, to  
18 allow some things to be granted for free where the  
19 author wants that to happen or does the collective  
20 sort of take control of that work by virtue of its  
21 affiliation?

22 We talked about -- very rapidly, we fell into a  
23 discussion of the Music Modernization Act, which kind  
24 of highlights a number of these issues, discussing  
25 whether the proposed Act allows for the proposed

1 collective to perform functions outside of strictly  
2 Section 115, on-demand streaming for digital services.  
3 We talked about whether there's any possibility for a  
4 licensee or licensors, content owners, to opt out of  
5 the music licensing collective for specific pieces of  
6 work or specific projects.

7           We talked about the general challenge of --  
8 that has presented the need for the Music  
9 Modernization Act or the perceived need for the Music  
10 Modernization Act, the significant fear of liability  
11 experienced by DSPs because the metadata environment  
12 and the registry environment prevents a complete  
13 indemnification for the use of all available music  
14 content, and the imposition of a single-notice license  
15 system by the Music Modernization Act to try and solve  
16 that problem.

17           Somebody observed that it wasn't clear what  
18 problems the MMA was trying to solve. There are so  
19 many problems bound up in the Act that the blend of  
20 solutions is not entirely clear. The comparison was  
21 made to noninteractive streaming and the collective  
22 compulsory license framework that exists around that  
23 and whether or not that system was a useful  
24 comparative here.

25           Let's see, did I forget anything here? Our

1       fabulous notetaker took four pages of notes, but I'm  
2       sure you don't want me to just read them all. I think  
3       that's really the gist of it.

4               MR. RUWE: So all the other facilitators I  
5       believe have spoken previously, so I will introduce  
6       John Morris, who's the Associate Administrator and  
7       Director of Internet Policy at NTIA, to fill us in on  
8       the role of -- a discussion on the role of U.S. and  
9       other governments in facilitating online licensing.

10              MR. MORRIS: Thank you. Great. Thanks, Steve,  
11       and thanks to everyone who's come tonight or today.

12              Let me start off, you know, my colleague who  
13       took notes at our table, right afterwards, he did have  
14       a helpful suggestion which I think we should probably  
15       just adopt, which is to right now lock all the doors  
16       and say, "You guys aren't leaving until you figure  
17       this all out." So, you know, we will be doing that at  
18       the end of the day.

19              You know, I -- we had a great conversation at  
20       table two. You know, as is not uncommon, you know,  
21       there really are more questions that we discussed than  
22       clear answers. You know, I think one clear answer --  
23       the only clear answer was that there continues to be  
24       strong support for this kind of conversation, for this  
25       kind of meeting, you know, where there really is I

1 think a perception of value in pulling people from,  
2 you know, a disparate group of industries and  
3 perspectives on issues together to hear what folks are  
4 doing. So I think that's certainly something that PTO  
5 and NTIA will take to heart and look at possibly doing  
6 this again. So, I mean, that was the most clear  
7 answer.

8           You know, the -- kind of one of the biggest  
9 questions that was asked was, well, is there a problem  
10 for government to solve? And I think that is, of  
11 course, always the most important question that  
12 government should ask before it thinks about doing  
13 anything, and, you know, my own personal reaction to  
14 that question was that, you know, looking a year and a  
15 quarter ago when we last convened, you know, I  
16 actually thought, gosh, we really aren't seeming to  
17 make a lot of progress.

18           But I've been very impressed today in hearing  
19 what I feel is a lot of progress, a lot of, you know,  
20 new ideas and new ventures, new coordination across --  
21 you know, across countries, across industries, and  
22 things like that. So, I mean, I'm personally, you  
23 know, very encouraged that we are continuing to  
24 make -- "we" being you guys -- are continuing to make  
25 progress, because that's really what the Department of

1 Commerce is trying to, you know, achieve, is to  
2 encourage you guys to, you know, to make progress.

3 So, you know, certainly we had -- you know, I  
4 think some good -- some good conversations about, you  
5 know, is there a problem to be solved. You know,  
6 we -- let me just kind of run through some of the  
7 questions and some of the ideas that came out that I  
8 think are worth, you know, discussing more broadly.

9 You know, there was a suggestion that, you  
10 know, that if government, you know, takes action, such  
11 as facilitating more conversations, that it should  
12 kind of focus on, you know, business to business, B2B,  
13 where, you know, we're really not trying to solve the  
14 problem of the parent uploading a video to share with  
15 other family members and, you know, is there some, you  
16 know, copyrighted content in there and kind of how do  
17 we address or react to that problem, but, I mean, you  
18 know, the situation where, you know, on the same  
19 platform that the parent's video might be on, there  
20 may well be small creators who are, in fact,  
21 consciously trying to monetize their works. And on up  
22 to, obviously, very large creators that are very much  
23 in the business of monetizing their work. So a  
24 suggestion that any government attention should focus  
25 on B2B.



1           You know, there was a question as to, you know,  
2           should we, you know, look for kind of pan-industry  
3           solutions. Should we really kind of try to boil the  
4           ocean and solve something for every industry? And,  
5           you know, I think at least at our table there were  
6           some pretty strong arguments not to try to do that,  
7           you know, because to some extent some industries have,  
8           for at least certain slices of their industry, you  
9           know, some fairly well functioning systems and kind of  
10          systems of rights and rights management, but obviously  
11          other creative sectors do not have as robust  
12          functioning, and so perhaps we should focus on that.

13           And, you know, there are -- there's also the  
14          valid point that, you know, where a government has  
15          already made a choice to kind of endorse a system for  
16          a collective society, you know, or whatever, maybe  
17          government should focus to make sure those systems are  
18          working well, and that's kind of a good question.

19           So, you know, a couple of other points and then  
20          I'll wrap up. You know, certainly there was  
21          discussion kind of that the government should take  
22          action to encourage licensing, that we should try, you  
23          know, to ensure that our policies do, you know, kind  
24          of encourage the concept of licensing, and that seems  
25          very well taken.

1           You know, one particular idea that just got  
2 tossed out -- I'll toss it out to the group for folks  
3 to think about -- is, you know, possibly governments  
4 could, in the context of a copyright registration  
5 system, you know, have an easy link for a copyright  
6 owner to go get a unique identifier.

7           In other words, if they don't bring, you know,  
8 an identifier with them, to go get one, not to have  
9 the government registration system issue the  
10 identifier, but the government registration  
11 facilitate, you know, interaction with the appropriate  
12 private entity, private-run system that could be  
13 issuing unique identifiers for a particular type of  
14 work. That seems like to me an interesting idea to  
15 think about.

16           And then, I mean, I think one just final idea  
17 that I'll mention is, you know, I think there is a  
18 very valid suggestion that, you know, one thing that  
19 governments claim that we do well is to -- is to talk  
20 to other governments, and so, you know, to the extent  
21 that there are things that we can do to promote  
22 international interoperability between systems, I  
23 mean, that could be helped by government, government  
24 conversations or by government helping industries in  
25 different countries to be talking to each other. So

1 that seems like an area that the government should  
2 keep in mind.

3 So that's kind of a quick overview of the  
4 conversation.

5 MR. RUWE: Thank you, all, so much for  
6 facilitating the conversations and reading them out to  
7 us. Having heard about the breakout sessions, I'm  
8 going to open the floor to questions, or if someone  
9 has anything to add, and that includes the audience in  
10 the room as well as if you're attending remotely  
11 online, I believe there's avenues to -- in the chat  
12 function, you can submit a question.

13 But barring receiving one of those, if anyone  
14 in the room had a question, now would be the time.

15 (No response.)

16 MR. RUWE: All right. Well, I have one  
17 relating to the role of government as well as the role  
18 of platforms on implementation of identifiers, and  
19 there was -- Stuart, you mentioned that the role of  
20 YouTube adopting EIDR -- ISNI?

21 MR. MYLES: ISNI.

22 MR. RUWE: -- ISNI, adopting ISNI, at -- when  
23 we were discussing that before, there was some -- it  
24 seems like the breakout session had decided it was a  
25 good thing. Before, there was some concern in

1 previous discussion about that. Maybe it was just  
2 disappointment that that's what it takes to get  
3 implementation. If it was something else, I don't  
4 know if that's something you could speak to, but would  
5 the same level of -- if it's just disappointment, I  
6 guess that's just too bad, but if it's -- if there's  
7 another concern, how that might play into the sorts of  
8 ideas that John discussed about the government  
9 enabling the acquisition of identifiers, if that's  
10 something --

11 MR. MYLES: That's a really good question. So  
12 the -- I may have oversimplified somewhat the  
13 discussion at the table in order to convey it in a  
14 quick way, but a lot of what we were talking about was  
15 people felt that standards were important and they  
16 needed to be adopted, but there's no shortage of  
17 standards, but what there tends to be a shortage of is  
18 somebody -- of a big enough player adopting them.

19 So it doesn't have to be Google or a similar  
20 large organization -- commercial organization or  
21 platform doing that, but I think my view is that the  
22 discussion at the table was there needs to be both  
23 standards and a sufficient level of frustration that  
24 somebody says, "Okay, we are going to go with this  
25 standard," and that they need to be -- have sufficient

1 market power.

2 But I think it could well be that  
3 governments -- it doesn't have to be a commercial  
4 organization. There could be other organizations that  
5 encourage the adoption of standards, and, in fact,  
6 there was definitely discussion that we -- that it  
7 doesn't seem like a good idea to have people or  
8 organizations outside of an industry imposing  
9 standards in that way.

10 So it's ideally standards that are developed by  
11 or at least widely favored by a particular industry,  
12 that that's the ideal situation. So, yeah, no, I  
13 think governments can play a positive role in that  
14 way.

15 MR. RUWE: Okay, we do have a question, if  
16 you --

17 MR. ROSENBLATT: (Off mic.)

18 MR. RUWE: Yes, please.

19 MR. ROSENBLATT: Okay, I can repeat it, I  
20 think.

21 The idea that governments could facilitate the  
22 assignment of identifiers other than copyright  
23 registration numbers that you get when registering a  
24 copyright is really intriguing, and ten years -- hmm,  
25 11 years ago, I was over on Capitol Hill making a

1 naive suggestion that the Copyright Office ought to  
2 take a fingerprint of a copyrighted work on  
3 registration and deposit it in a database. People  
4 looked at me like I had three heads, but this gets  
5 back to a point that I made this morning when I said  
6 that identifiers can be tricky because the semantics  
7 are a little fuzzy-wuzzy.

8 But the fact that government people are talking  
9 about the possibility of doing this is very  
10 encouraging, and I think this is a discussion that  
11 ought to continue and be considered. It's a really  
12 intriguing idea.

13 MR. MORRIS: Let me jump -- let me jump in and  
14 just make clear that I thought it was a really  
15 intriguing idea, but -- I am not the government saying  
16 that we're working on that, but --

17 MR. ROSENBLATT: Fair enough.

18 MR. MORRIS: -- it is to me, I think, an  
19 interesting idea. Again, not necessarily an idea that  
20 the Department of Commerce could do by itself, but it  
21 is certainly something that's worth talking about and,  
22 I mean, as I say, I think I'm delivering the closing  
23 remarks in a few moments, and I'm going to encourage  
24 you guys to keep talking to us, and, you know, if you  
25 want to talk about this idea a little bit more -- and

1 obviously you'll -- you know, if it gains some steam,  
2 talking to the Copyright Office here for the United  
3 States, it's certainly something that I find  
4 intriguing.

5 MR. GRIFFIN: I brought that up before with the  
6 Copyright Office, and I think there -- well, I know  
7 the response I got was that it's not our mission to  
8 disambiguate works from one another, and I accept  
9 that, but I would say that as happened in some  
10 discussions about the leadup to this conference, it  
11 made me appreciate more that not everything involved  
12 with online commerce is copyright.

13 And so I see a role for the Commerce Department  
14 potentially in helping the industry disambiguate one  
15 work from another, much the way that, say, the UPC  
16 code helps Commerce and other similar projects help  
17 Commerce. It needn't be focused specifically on  
18 copyright to be useful to the market for copyrighted  
19 works.

20 So, just personally, I'll say I like that the  
21 Commerce Department has come into the area of  
22 copyrighted works, and I see great possibilities for  
23 cooperation, and sometimes I hear people wondering,  
24 well, whose territory is what? Frankly, just as a  
25 citizen, I thought you all worked together anyway.

1 You know, it just seemed to me you did. So I would  
2 encourage that, I would say more of that, and who  
3 cares whose jurisdiction it is? There's a public  
4 policy issue here, and it may be that you're far  
5 better qualified to assist with identifiers here at  
6 the Commerce Department than they are at the Copyright  
7 Office, because I think you've got a lot more  
8 experience with them.

9 You know -- and I'll say this in conclusion and  
10 be done with it -- but I see lots of parallels for  
11 what we should be doing with the DNS system. You  
12 know, if the internet is a problem for copyrighted  
13 works, we could learn something from the internet in  
14 the way that we allocate identifiers very, very  
15 quickly. I mean, look, any system that with 99.9  
16 percent reliability or above and delivers you an  
17 answer in single-digit or double-digit milliseconds is  
18 something to study very, very carefully and consider  
19 doing. And I think the best part of the DNS system is  
20 that it's got a wholesale center and a retail edge,  
21 so...

22 MR. ISHERWOOD: I just wanted to add a  
23 little bit more to the context of the Google ISNI  
24 situation. What Google are doing by becoming a  
25 registration agency of ISNI is allocating ISNIs to



1 artists and creators in the music industry. It will  
2 be other things as well, but I'm looking at it purely  
3 from the position of the music industry.

4 And the reason that they've done it is because  
5 the music industry hasn't adopted ISNI, and the lesson  
6 there is if the industry really ought to be  
7 responsible for developing systems, developing  
8 standards doesn't do it, then somebody else will step  
9 in and do it for you, and they may not do it in a way  
10 you like it. I think that's the lesson for rights  
11 owners.

12 Now, I'm not saying Google or YouTube are going  
13 to do what they're doing badly. I actually think  
14 they'll probably do it really, really well, and it  
15 will actually help the industry, but there is always  
16 this danger, if an outsider provides the solution,  
17 they may well provide this in a way that you don't  
18 like, and as rights owners -- from the rights owner  
19 perspective, that can always -- that could be a bad  
20 thing.

21 MR. RUWE: Did we get any remote questions?

22 (No response.)

23 MR. RUWE: Okay, that's fine. We're running  
24 out of time anyway. I am going to turn the discussion  
25 over to John Morris. Thank you, John, and thank you

1 the rest of the facilitators.

2 (Applause.)

3 - - - - -

4 CLOSING REMARKS

5 - - - - -

6 MR. MORRIS: Great. Well, thank you, Steve,  
7 and I'll try to get us out of here early. I don't  
8 have all that much to add, but I -- you know, as Karin  
9 said in her opening remarks, you know, today's public  
10 meeting really builds on years of collaboration  
11 between my agency, NTIA, and the folks at PTO on  
12 copyright issues and intellectual property issues in  
13 the digital economy.

14 I know we have done green papers and white  
15 papers and consultations and multi-stakeholder  
16 processes, and now two of these meetings, and just  
17 speaking personally, I just am thrilled with the  
18 quality of the collaboration between our two agencies.

19 You know, fostering the development of, you  
20 know, effective, efficient, fair online marketplaces  
21 for copyright or perhaps even for, you know, other  
22 works is certainly an endeavor that the Department of  
23 Commerce, you know, strongly supports, but we also are  
24 very sensitive to our role. You know, we -- you know,  
25 especially focused on the internet, which is what my

1 job is, you know, we are not rushing to have the  
2 government provide the answer, not rushing to have --  
3 you know, to step in and try to solve problems where  
4 there aren't problems, and even where there are  
5 problems, we have a pretty strong preference for  
6 letting the stakeholders figure out the right  
7 solutions to the problems. So certainly we will, you  
8 know, continue to do that in this space.

9           You know, the folks in this room and the folks  
10 who have been participating and joining remotely, you  
11 know, will be the same people who solve the problems  
12 or the -- for the issues that we're -- that we've been  
13 discussing, and so, you know, we certainly look to you  
14 for leadership and we look to you for guidance back to  
15 us as to how can we help and what can we do.

16           You know, it may be the time to -- maybe simply  
17 just having these meetings every so often, you know,  
18 and maybe there's times where there's a roadblock  
19 that, you know, a number of private-sector folks have  
20 kind of hit a roadblock and us having a meeting on  
21 that issue can help encourage the private-sector  
22 stakeholders to solve the problem. So, I mean, you  
23 know, we really are, you know, always open and  
24 interested in kind of learning how we can help, other  
25 than staying out of the way, which I realize is mostly

1       what you want us to do.

2               And so, you know, I really just want to turn to  
3       thank-yous. Thank you, most importantly, to all of  
4       you who have participated, you know, because  
5       without folks to really sit around the tables and ask  
6       hard questions and brainstorm in the breakout sessions  
7       and things like that, there's really no point to doing  
8       this. You know, we do look forward to following up.  
9       You know, our general plan is to try to put out a  
10      document, a report that kind of, you know, summarizes  
11      this, and not necessarily on any level of the detail.

12              I mean, we have, I believe, put out transcripts  
13      of the past things and -- not the breakout sessions,  
14      but of the more public sessions -- and I think we will  
15      likely be doing that, but we also will try to  
16      summarize it a little bit.

17              I really want to say, you know, a special  
18      thanks to all those speakers and moderators and  
19      facilitators of those sessions. Particular thanks to  
20      Bill Rosenblatt for his opening remarks, and then also  
21      I do want to thank Paul Sweeting, who was very helpful  
22      in just kind of brainstorming about how this session  
23      could be -- this session and, in fact, the last  
24      session a year ago could be structured in terms of to  
25      best promote a constructive conversation.

1           And then, finally, I want to specifically call  
2       out the folks at NTIA and PTO, and I'll start with  
3       NTIA because it's a much shorter list, but Susan  
4       Chalmers in NTIA's International Office, and she was  
5       here in the morning, but she had I think a related  
6       meeting that she had to get off to this afternoon, so  
7       she's not here; and Luis Zambrano in my office, you  
8       know, were very constructive in helping to plan this.

9           But a great deal of the work really was done at  
10      PTO, and, you know, Shira Perlmutter had very much  
11      hoped to be here, and I, in fact, spoke with her at  
12      mid-day. She is up actively negotiating on NAFTA  
13      issues, and, unfortunately, we don't really control  
14      the timing of those negotiations, and so, you know, we  
15      were left with a choice of, well, do we call this off  
16      or do we just go forward with without Shira?

17           And so I know that Shira really, you know,  
18      wanted to be here. She's, you know, very interested  
19      in hearing kind of the results and was pleased and  
20      very excited about what I've been hearing here, so  
21      obviously thanks to Shira.

22           In that office, Karin Ferriter and David  
23      Carson, you know, were obviously providing significant  
24      leadership. Susan Allen and Steven Ruwe have really  
25      done an enormous amount of work on this, and really I

1 think they get a huge amount of credit. Leslee  
2 Friedman, Hollis Robinson, and Kia Belk -- I'm not  
3 sure if Hollis -- yeah, I don't see Hollis here, but,  
4 you know, we really -- I would just like to say a real  
5 special thanks to all the PTO folks, and I would ask  
6 you guys to join me in applause for all of them as  
7 well.

8 (Applause.)

9 MR. MORRIS: So as I said, we now are locking  
10 the doors, and, you know, we will bring dinner in if  
11 you would like, but -- so, no, thank you very, very  
12 much for coming. Thanks.

13 (Whereupon, at 4:56 p.m., the conference was  
14 adjourned.)

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CERTIFICATE OF TRANSCRIPTIONIST

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SUSANNE BERGLING, RMR-CRR-CLR

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<b>a.m</b> 1:17	<b>accessing</b> 116:18	232:10 233:22	183:8	176:16 204:25
<b>a/k/a</b> 14:6	<b>accident</b> 200:19	247:8,13	<b>administrator</b> 134:4	205:15 221:24
<b>ability</b> 3:16 64:22	<b>accommodate</b> 51:22	<b>activate</b> 125:5	157:15 230:6	245:6
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