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April 14, 2015

VIA E-MAIL

Re: Support for .MUSIC community-based applicants with copyright protection provisions, enhanced safeguards for music-themed gTLDs and .MUSIC CPE

Dear ICANN Board of Directors and Economist Intelligence Unit (“EIU”):

I am writing on behalf of the National Music Publishers Association¹ (“NMPA”), the Harry Fox Agency² (“HFA”), the International Confederation of Music Publishers³ (“ICMP”) and the Nashville Songwriters Association International⁴ (“NSAI”).

We support the positions expressed in the global music community coalition letter⁵ sent by Victoria Sheckler to ICANN on March 5th, 2015 and the independent global music community coalition letter⁶ sent by Rich Bengloff on March 7th, 2015 to support the “community” applications for .MUSIC and that “we expect...the community application process...to have meaning and for the community preference criteria (CPE)...to be interpreted thoughtfully, diligently, and in a responsible manner in light of the public interest and with consumer safety in mind ” and for ICANN “to expeditiously implement appropriate changes to address [concerns].”

On a philosophical level, natural law confers music rights on the basis of rationality and fairness. Composers and lyricists invest time - often a lifetime - energy, creative passion and sometimes money into creating music, and therefore deserve financial reward and recognized and enforceable property rights. Without music and the attendant property rights of the songwriter, society at large would be the poorer, with artistic creativity restricted and cultural diversity diminished. Music rights and safeguards of course mean nothing in practice without institutional commitment and support. Copyright varies somewhat according to jurisdiction, but its assumptions are the same: without proper legal infrastructure and safeguards providing the legal underpinning, music, and by extension, culture and the world economy, would be damaged irreparably.⁷

We support the .MUSIC community applications because respecting and protecting music rights serves both the global music community and the public interest.

¹ <https://www.nmpa.org>

² https://www.harryfox.com/find_out/aboutus.html

³ <http://www.icmp-ciem.org/>

⁴ <http://www.nashvillesongwriters.com/>

⁵ <https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf>

⁶ <https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf>

⁷ <http://www.icmp-ciem.org/node/10>

We would also like to withdraw our organizations from the portion a letter sent to ICANN last year⁸ pertaining to DotMusic's community-based application.⁹ We now believe that all community applications, including DotMusic's application, contain copyright protection provisions and Enhanced Safeguards to protect intellectual property. These protections include (i) policies to stop domain hopping, takedown policies in the case of piracy, authorization provisions, permanent blocks, privacy/proxy provision, true name/address mandates and trusted sender complaint policies amongst others, (ii) governance structures that enable fair representation of all music constituents, (iii) restricting "Eligibility" to members of the global Music Community, (iv) inclusion of provisions that enable a fair, responsible and non-discriminatory allocation of domains to eliminate cybersquatting of famous music brands and to ensure all music-related rights holders can claim their domains, (v) restricting "Content and Use" of .MUSIC domains to only music-related legal content and limiting usage on .MUSIC domains to only music-related legitimate activities, and (vi) incorporating both proactive and reactive "Enforcement" measures.

We agree that .MUSIC must serve the global music community and the global public interest by incorporating music-focused Enhanced Safeguards to serve the community under a .MUSIC community-based string governed by the global Music Community. As members of the ICANN community, we expect any prevailing .MUSIC community application must be able to serve the legitimate interests of the global music community and global public interest, and ensure appropriate Enhanced Safeguards and measures to counter copyright infringement and address abuse.

We also reiterate that we hope that provisions in all ICANN contracts concerning abuse relating to music-themed top-level domains will be followed with full compliance. All contractual standards must be interpreted appropriately, diligently and responsibly. As expressed in other letters by the music community, we expect this to occur to serve the global public interest and to protect consumers. The new gTLD Program thus far has not fully met its standards to ensure a safe, secure and trusted Internet ecosystem and needs to fulfill such reasonable expectations.

Best,



Danielle M. Aguirre
General Counsel
National Music Publishers' Association

On Behalf Of:

Ger Hatton, Secretary General, International Confederation of Music Publishers (ICMP)
Bart Herbison, Executive Director, Nashville Songwriters Association International (NSAI)
Christos Badavas, Deputy General Counsel, Harry Fox Agency (HFA)

⁸ <https://www.icann.org/en/system/files/correspondence/carnes-to-icann-24sep14-en.pdf>

⁹ <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392>

Cc: Dr. Steve Crocker, Chairman of the ICANN Board
Fadi Chehadé, ICANN President and CEO
Akram Attallah, ICANN President of Generic Domains Division
Christine Willett, ICANN Vice-President of gTLD Operations
Cherine Chalaby, ICANN Chair of the New gTLD Committee
Thomas Schneider, ICANN Chair of Government Advisory Committee
Cyrus Namazi, ICANN Vice-President of DNS Engagement; and
John Jeffrey, ICANN Secretary and General Counsel

Appendix

The National Music Publishers' Association

The NMPA, formed in 1917, is the largest U.S. music publishing trade association that represents the rights of music publishers everywhere and works to protect their intellectual property. Its mission is to protect, promote, and advance the interests of music's creators. The NMPA is the voice of both small and large music publishers, the leading advocate for publishers and their songwriter partners in the nation's capital and in every area where publishers do business. The goal of NMPA is to protect its members' property rights on the legislative, litigation, and regulatory fronts. In this vein, the NMPA continues to represent its members in negotiations to shape the future of the music industry by fostering a business environment that furthers both creative and financial success. The NMPA has remained an active and vocal proponent for the interests of music publishers in the U.S. and throughout the world.

The NMPA has worked to interpret copyright law, educate the public about licensing, and safeguard the interests of its members. To insure a fair and orderly market for everyone involved in music publishing, NMPA is dedicated to the protection of music copyright across all media and across all national boundaries. In addition to its role as music publishing industry advocate, NMPA distributes information to its members through sponsorship of publisher Forums in New York, Los Angeles, and Nashville, as well as publication of "News & Views."

Since the first musical notes were sounded and recorded, the music publishing industry has grown and changed. As we look ahead, we anticipate that the convenience of digital delivery of phonorecords may soon make digital transmission services the music distribution method of choice for many consumers. Yet NMPA's challenge remains the same: to provide for a legal environment -- domestically and globally -- that will enable effective and efficient licensing of musical works on terms appropriate to the nature of the use. Global delivery and global protection--that is NMPA's goal.

The Harry Fox Agency

In 1927 the NMPA established the Harry Fox Agency to act as an information source, clearinghouse and monitoring service for licensing musical copyrights. Since its founding, HFA has provided efficient and convenient services for publishers, licensees, and a broad spectrum of music users. HFA represents over 48,000 affiliated publishers and is often one of the first places licensees go when they need a license.

The HFA is the leading provider of rights management, licensing, and royalty services for the U.S. music industry with authority to license, collect, and distribute royalties on behalf of musical copyright owners. In addition, the HFA provides affiliated publishers with the opportunity to participate in other types of licensing arrangements including lyrics, guitar tablatures, background music services and more.

The International Confederation of Music Publishers

ICMP is the world trade association representing the interests of the music publishing community internationally. The constituent members of ICMP are music publishers' associations from Europe, Middle East, North and South America, Africa and Asia-Pacific. Included are the leading independent multinational and international companies, and regional and national music publishers, mainly SMEs, throughout the world. As the voice and point of reference of music publishers, and the community of composers and songwriters they represent, ICMP's mission is to increase copyright protection internationally, encourage a better environment for business and act as an industry forum for consolidating global positions.

ICMP is a permanently accredited International Observer to the World Intellectual Property Organization (WIPO) in Geneva and works with WIPO through the Standing Committee on Copyright and Related Rights (SCCR) with respect to music related copyright and intellectual property rights.

The Nashville Songwriters Association International

The Nashville Songwriters Association International (NSAI) is the world's largest international not-for-profit songwriters' trade association. The NSAI was established in 1967 and is dedicated to protecting the rights of and serving aspiring and professional songwriters in all genres of music. The NSAI consists of a body of creative minds, including songwriters from all genres of music, professional and amateur, who are committed to protecting the rights and future of the profession of songwriting and to educate, elevate and celebrate the songwriter and to act as a unifying force within the music community and the community at large.