



INSTITUTE FOR INTELLECTUAL PROPERTY & SOCIAL JUSTICE

“ADVANCING IDEAS ENCOURAGING ENTERPRISE PROTECTING PEOPLE”

March 21, 2019

United States Copyright Office
101 Independence Ave SE
Washington, DC 20540

RE: Selection of a Music Licensing Collective as the “digital licensee coordinator” pursuant to the Music Modernization Act (“MMA”)

Dear Sirs/Madams:

The Institute of Intellectual Property and Social Justice (“IIP SJ”) is submitting this comment letter regarding diversity and inclusion to the U.S. Copyright Office (“COLC”) to address significant social justice concerns in connection with the selection of a Music Licensing Collective pursuant to the Music Modernization Act (“MMA”) by the Register of Copyrights. From its inception, IIP SJ has regularly contributed to the public discourse on IP social policy and legal developments, through testimony and submissions to governmental bodies and judicial proceedings, presentations at practitioner and academic IP conferences, and participation in online fora. Indeed, earlier this year IIP SJ submitted to Congress both formal comments and also a letter on behalf of intellectual property law and other scholars to support passage of the Compensating Legacy Artists for their Songs, Service, and Important Contributions to Society (CLASSICS) Act and the Music Modernization Act (MMA), and otherwise undertook a public campaign in support of these legislative bills. We submit that COLC’s request that a “proposed

MLC address how it interprets and satisfies [the] endorsement criteria, including an explanation of how the proposed MLC has calculated and documented the endorsement and substantial support of the requisite number of copyright owners”¹ must include how the proposed MLC will represent the diversity in the American music industry and copyright ownership.

The two groups aiming to be the Mechanical Licensing Collective are SongConnect.org <https://www.songconnect.org/> and the American Music Licensing Collective (“AMLC”) <https://www.songrights.net>. Both groups are supported and formed by big and established names in the music industry.

The SongConnect.org is endorsed and formed by the National Music Publishers’ Association, Nashville Songwriters Association International, Songwriters of North America and the Performing Rights Organizations and other major music organizations. According to their mission statement, the SongConnect.org “will focus on transparency and believes that the Mechanical Licensing Collective will be representative of the people they serve.”² SongConnect.org lists many organizations that have endorsed them; however, none of these organizations have any meaning representation of people of color. <https://www.songconnect.org/endorse>

The AMLC on the other hand, is extensively made up of singers, songwriters, attorneys, technologists and entrepreneurs who are established in the music industry with their own record labels, publishing companies, and digital collection agencies; but, are not part of the larger established organizations and other major music publishers.³

¹ Requests for Information: Designation of Mechanical Licensing Collective and Digital Licensee Coordinator
Posted: 12/21/2018 ID: COLC-2018-0011-0001

² <https://www.songconnect.org/about>

³ <https://www.songrights.net>

In choosing the Mechanical Licensing Collective, it will be important for the COLC to take into consideration both (i) the knowledge, experience and technological capability that these groups will bring to the new digital world of copyright and (ii) the *diversity* of the voting leadership of both AMLC and MLC in connection with the required “Indicia Of Endorsement And Support.” The COLC has noted that the MLC must be “endorsed by, and enjoy substantial support from, musical work copyright owners that together represent the greatest percentage of the licensor market for uses of such works in covered activities, as measured over the preceding 3 full calendar years.”⁴

However, a review of the leadership of both SongConnect.org and AMLC on their websites show a clear and glaring lack of diversity and representation of African-American, Latino-American, and Asian-American songwriters and music publisher representatives. Therefore, these organization are not “representative of the people they serve.” Further, this means that they lack meaningful representation for the creators of Hip-Hop, R&B, Latin, Reggae, Jazz, and Gospel/Christian music genres. We submit that both AMLC and SongConnect.org be required to include in their voting leadership, i.e., on their boards and committees, meaningful and significant representatives from the African-American, Latino-American and Asian-American songwriting and music publishing communities, selected by such communities, and encompassing representation from the Hip-Hop, R&B, Latin, Reggae, Jazz and Gospel/Christian music genres. Hip-Hop music is now the dominate genre of music in digital streaming. *See* <https://www.billboard.com/articles/events/year-in-music-2018/8488848/hip-hop-dominates-year-end-streaming-charts>. Latino music is also clearly dominating in the U. S. charts. *See* <https://www.grammy.com/grammys/news/urban-latin-music-dominated-2018-according-streaming-services> and <https://www.nbcnews.com/news/latino/2018->

⁴ 17 U.S.C. 115(d)(3)(A).

[was-blowout-year-latin-music-n951006](#). As noted above by the COLC, the MLC must be “endorsed by, and enjoy substantial support from, musical work copyright owners that together represent the greatest percentage of the licensor market. . . .”⁵ We submit that this requires the diverse cultural representation that we suggest. The COLC has noted as well that “[s]imilarly, because the statute seeks support from ‘musical work copyright owners,’ the relevant support should come from the parties who have a relevant ownership interest in the copyright to musical works (or shares of such works), in contrast to parties who do not possess any ownership interest in the musical work, but rather the ability to administer the works.”

Significantly, the growing populations of people of color are illustrative of why diverse and inclusive representation is warranted. Based upon US Census data African-Americans are now 13.4 % of the U. S. population, Latino-Americans are 18.1%, and Asian-American are 5.8% for a total of 37.3%.⁶ These numbers are growing with each passing year and will continue to affect the music that “represent[s] the greatest percentage of the licensor market.”

While the SongConnect.org appears to have four Asian-Americans in leadership, they appear to have no African-American or Latino-American representation. AMLC has one out of nine current board members who appears to be Latino; but, apparently no African-American or Latino-American representation. It’s time to begin to remedy the disadvantages of lack of access and lack of meaningful representation facing people of color in marginalized communities in the music industry.

Finally, IIP SJ like the COLC “requests that the proposed MLCs address how [they] interpret and satisfy the criteria that they must be ‘endorsed by and enjoy substantial support from digital music providers and significant non-blanket licensees that together represent the

⁵ *Id.*

⁶ *See* <https://www.census.gov/quickfacts/fact/table/US/PST045218#PST045218>

greatest percentage of the licensee market for uses of musical works in covered activities, as measured over the preceding 3 calendar years.”⁷ The COLC is also requiring “an explanation of how the proposed digital licensee coordinator (DLC) has verified, calculated, and documented such endorsement and substantial support, including how the licensee market was calculated.”⁸

The MMA will revolutionize the digital music industry and voices of color will be left out without voting representation in the leadership of the selected Music Licensing Collective.

Sincerely,

Lateef Mtima, Director, IIP SJ

Lita Rosario, Esq, Entertainment Lawyer & Artist Advocate, IIP SJ
Kimberley Tignor, Take Creative Control, IIP SJ
Rev. Lennox Yearwood Jr, President and CEO, Hip Hop Caucus
Crystal Waters, Artist/Songwriter (Great Grand Niece Ethel Waters)
Mark Andrews p/k/a “SisQo” of Dru Hill, Artist/Songwriter
Tamir Ruffin p/k/a “Nokio” of Dru Hill, Producer/Artist/Songwriter
Kevin, Peck Dragon Music Group
Liza Rios, Estate of Christopher Rios p/k/a “Big Pun”
Herb Feemster of Peaches & Herb
Chris Feemster, Fame Productions
Tashera Simmons Co-Owner DMX Catalog
Rosalind Ray, Esq., Entertainment Lawyer & Artist Advocate
Nathan Leftenant, CAMEO
Tomi Jenkins, CAMEO
Jeryl Bright, CAMEO
Arnette Leftenant, CAMEO
Gregory Johnson, CAMEO
John Wilson, Sly Slick & Wicked
Charles Still, Sly Slick & Wicked
Terry Stubbs Sly Sick & Wicked
Peter “Pete Rock” Phillips Producer for NAS, Kanye West, JAY-Z
Damon Grease Blackmon Producer for DMX, NAS & Eve
Stuart Jordan p/k/a “Shorty B” Producer of Too Short
Cory McKay p/k/a “Cormega”
Kim Jordan, Artist/Producer former Music Director Gil Scott Heron,
A. Haqq Islam, Art of War Music Publishing
Vetta Jimale Ridge Fulks, Art of War Music Publishing
Harvey Mason, Jazz Artist/ Producer and Musician

⁷ 17 U.S.C. 115(d)(5)(A)(ii).

⁸ Requests for Information: Designation of Mechanical Licensing Collective and Digital Licensee Coordinator
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Hollis Wong Wear – Artist and Songwriter
Scott Ross, Owner Full Circle Records
Gongu Roach, Silver Fox Music, Music Publisher
G.L.O.B.E. of Africa Bambaataa & SoulSonic Force
Mr Biggs of Africa Bambaataa & SoulSonic Force
Rah Digga, Artist/Songwriter
Rahim Muhammad p/k/a Rah-Vital
Imam Firmin p/k/a “E- Flash”
Judith A. Korey, Prof of Music, Curator: Felix E. Grant Jazz Archives, Univ. of the District of
Columbia
Allyn Johnson, Dir. of Jazz Studies, Univ. of the District of Columbia
Asha Hadiyak, Music Student UDC
Kaivon Duckett, Music Student UDC
Kyrie Givens, Artist Manager/Music Student UDC
Elijah Jamal Balbed, Musician, Student UDC
Felix Pilar Donate-Perez, Talent Buyer, Student UDC
Kiara Hughes, Music Student UDC
Julian Ransome, Music Student UDC
Briana Walker, Opera Singer, Music Student UDC
Kevin Thompson, Gospel Artist, Music Student UDC
Wayne Lewis, Atlantic Starr
Jonathan Lewis, Atlantic Starr
David, Lewis, Atlantic Starr
Sabaa Tovar, Christian Artist
Steven E. Bullock, Esquire - Entertainment Lawyer & Artist Advocate
Eban Kelly, Producer Songwriter