In the Matter of:

Developing the Digital Marketplace for Copyrighted Works

March 28, 2019
Third Public Meeting

Condensed Transcript with Word Index

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WINWELCOME REMARKS

MS. ALLEN: So good morning. If we could just start getting started and sitting down in our seats, I'll give a few housekeeping notes and then introduce Shira, and then we'll begin.

So just while you're getting seated, I'll give an overview of the day. We'll have coffee and tables set up in the room next door, so if you want to have sidebar conversations -- or, actually, there's coffee here as well.

The restrooms are out to the right, and we just ask that everyone here register by signing in up front. If you haven't already, please do so. We did sort of take an informal poll of people who might be interested in a happy hour nearby, so that's on the registration list. We'd like to have a headcount by noon, if we could, for the restaurant.

And with that, I think I'd just like to say welcome, and it's my honor to introduce Shira Perlmutter, who will provide opening remarks. Shira is the Chief Policy Officer and Director for International Affairs at the United States Patent and Trademark Office. In her role as Policy Advisor to the Undersecretary of Commerce for Intellectual Property, she oversees the USPTO’s domestic and international IP policy activities, legislative engagement, international education and training programs, global advocacy, and economic analysis. Thank you.

MS. PERLMUTTER: Thanks, Susan. It's wonderful to see so many old friends. This is beginning to be an ongoing conversation at this point, and also welcome to those of you who are new to the discussion, both those here in person and those joining online or via webcast.

So to bring everyone up to speed, this meeting is hosted by the Department of Commerce's Internet Policy Task Force. And the Task Force was formed in 2010 -- it's amazing that that's already nine years ago -- by the then Secretary of Commerce to review the policy and operational issues that impacted the private sector's ability to spur economic growth and job creation through the internet. And it looks at a lot of different issues. One of them is intellectual property and with a particular focus on copyright.

So as part of the Task Force’s work, the USPTO and NTIA, the National Telecommunications and Information Administration, have looked at the topic of how the Government -- whether and how the
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And at the time, the ones we identified are raised by digital technology. And it is still available on the USPTO website. The green paper devoted an entire chapter to ensuring an efficient online marketplace. And in the paper, we looked at then-current licensing examples and talked about some impediments that had been identified to licensing for online distribution.

And at the time, the ones we identified included the complexity of licensing in the online environment, particularly in the music space; the challenges with mapping old contracts to new uses; and issues about licensing across borders. Now, of course, there’s been considerable progress since that meeting, but licensing challenges do still exist in today’s digital world. And we’ve organized this meeting building on its predecessors in 2016 and 2018 to facilitate a cross-industry dialogue on ways to promote an even more robust and collaborative digital online marketplace, including to provide updates on various technologies and to highlight the new initiatives that many of you are working on.

So we’ll start today’s meeting with an overview of how different content industries are evolving in the digital economy and then we’ll talk about developments in the identification of content, registries, and rights management, and current issues surrounding licensing and monetization.

So we’re very much looking forward to a productive exchange of ideas and again are delighted to see all of you with us. Thank you.

(Applause.)
So much online material is not cleared, and no clear recourse for visual artists is available. Of course, the DMCA takedown notice is a service we provide for our member artists. Unfortunately, of course, it provides no loss -- no compensation for that loss of revenue, no compensation in general. It usually results in just the image being taken down. And as some of you probably already know, it usually means that this image will pop up again elsewhere.

Another highlight from the CISAC report include these provoking numbers that show the growth in licensed visual material. It provides an important framing precedent. It’s with some positive news. Our first topic is the Goldman/Breitbart case, which some of you may know about. It involves a photograph posted on Twitter. Yet it appears that the image resides on the third party, usually another website, in this case, located and transmitted from a server controlled by a party, usually another website, in this case, that embedded or framing content from another website. As it was simply hotlinking, it does not immunize content users from copyright infringement claims. The location of the infringed work does not determine whether a defendant has publicly displayed that work in violation of the copyright owner’s exclusive rights. Forrest decisions rested in part on a blockbuster tech industry lawsuit, the 2007 case, Perfect 10 vs. Amazon, where a court ruled that Google Search could show full-size copyright images as long as it was simply hotlinking from other sites. This established something called the server test, which protects sites that display copyrighted content stored on someone else’s server, and this provided precedent in the US for the past 12 years. But Forrest saw a clear and distinct distinction between the search engine where users voluntarily search and click for an image and a news site where the user takes no action to see it: “Google’s search engine provided a surface where the user navigated from webpage to webpage with Google’s assistance,” she wrote. “This is manifestly not the same as opening up a favorite blog or a website to find a full color image awaiting the user, whether he or she has asked for it, looked for it, clicked on it, or not.”

The Court relied on language of the Copyright Act, including Section 101’s definition of display, which includes showing a copy of a work by “any device or process” and transmitting or communicating a display by means of “device or process.” The Court explained that the Copyright Act does not require a user to possess or to store at their own physical location a copy of the work to display it within the meaning of the statute. So there’s certainly a lot of interested parties in this case wondering how this will pan out. Obviously, people in the visual arts are quite satisfied with the courts’ current interpretation of the Copyright Act, but this could eventually wind up on appeal and perhaps even end up in the Supreme Court.
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1. Court.
2. Unfortunately, in Europe, the case with
3. framing is quite different. There’s been several
4. cases, notably BestWater, that have ruled on the side
5. of framers, calling a framed work only an infringement
6. if it is a new communication to the public. And the
7. difficult part with that language, of course, is every
8. communication to the public is technically the same,
9. both in the manner in which it's posted and the public
10. being the same public because it's everything on the
11. website.
12. And while there was a partial correction in
13. the Cordoba case revising the public test, there's
14. still a difficult situation in Europe, and this leads
15. to real damage, both economically and otherwise. So
16. commercial damage is an obvious one. Let's say you
17. license an image of a photograph for 200 euro, and
18. then if that's used on a website, you as the creator
19. get that 200 euro. When we do -- when we're talking
20. about framed works where the work is framed from your
21. page to other sites, it's not only an issue with the
22. individual framing, but it turns into sort of a
23. snowball effect, where the use gets used multiple,
24. multiple times.
25. So here in this case, this image was used on

391 different websites, and if we equate that with the
real value of that image, it's a real loss of revenue.
I'm trying to say a little too much in this slide,
acknowledged, but approximately 35 percent of search
images online are not licensed, which results into a
loss of about 76 million euro.

I wanted to use this slide to show not only,
again, the commercial values but a real control loss,
which is a damage as well, too. The anecdote here is
this photo of a boy eating a cheeseburger, which could
be licensed obviously by the photographer for, say,
159 euro is what I hear from my colleagues. The loss
of revenue for that image being framed in other places
is one thing, but also because the users are not
liable for the content they provide if the work is
framed on another site, it could be used on, let’s
say, a pharmaceutical website or on an online
newsletter and talking about a healthy diet and
obviously maybe hamburgers are not supposed to be part
of a healthy diet, but the end-user would not be
responsible for the content because it's framed from
somewhere else.

So another ramifications also is preventing
access. So many of our foreign sister societies that
we're all part of CISAC with will not license to

institutions such as the -- the is the German Digital
Library -- because they will not put in restrictions
or technical measures to avoid framing. The image
resolution on this site happens to be of high enough
quality where these could be reframed and reused in
ways that would deprive our member artists of
additional revenue.

The fact that they can't do this means that
we can't license these works for this initial use.
One of the other issues we face in the US and
elsewhere is fair use. Historically, fair use, for
us, used to be a very easy thing to manage. And, in
fact, we still at Artist Rights Society grant gratis
permission for a variety of different scholarly,
aademic, museum uses that are requiring visual
material, but, of course, making it available to the
public now is a whole different thing when it’s
online. And a lot of museums and other institutions
take an aggressive fair-use position, which means our
images are being displayed on websites that could be
relinked, reframed, reused in other ways, and our
members are losing out on that revenue.

Perhaps some of this would hurt less if we
had some collective rights here in the US, but
unfortunately we do not. These are just some of the

collective rights that exist in Europe that we do not
have in the US. Especially painful is private copying
because that does answer a lot of questions about the
digital sphere because a lot of our foreign societies
are able to collect tariffs for private copying, which
does result in compensation for use of digital
material.

But all of this could change, of course.
I'm sure this is going to be a big topic. The EU
Copyright Directive, a huge win for creators, which
was voted on Tuesday, and obviously this could mean
great changes for our European colleagues and
hopefully for us as well, too. The European
Parliament voted to make platforms such as YouTube and
Facebook responsible for copyright infringements
committed by their users.

This opens the door for our foreign
colleagues to issue collective licensing for these
user-generated content providers and potentially
provide that much-needed revenue for their use in the
digital sphere. They have two years to implement
this, and we'll see what that brings both them and us.
And we look forward to that. And that is my
presentation. You can find us on all these platforms.
(Appause.)
MS. ALLEN: Thank you so much.

MS. HICKS: Yeah.

MS. ALLEN: As mentioned at the beginning, we'll save the questions for the end. But, next, it's my pleasure to introduce Vickie Nauman of CrossBorderWorks. Would you prefer to come to the podium or sit?

MS. NAUMAN: I can sit here.

MS. ALLEN: Okay. Vickie founded the boutique consulting and advisory firm CrossBorderWorks. She has an extensive background in digital music licensing, metadata and rights, systems, product management, marketing, and international business, giving her a unique perspective on the global media landscape.

MS. NAUMAN: Thank you so much, and I apologize to everyone for being late. I used new technology of Lyft to get here this morning, and perhaps I should've used old technology of the Metro. I might have been a little more efficient.

So, you know, I came to this event last year, and I was really impressed because oftentimes I think the music industry, we're in our own little bubble and we don't get to cross-pollinate with other media types, and there are so many similar struggles.

And I consider music to be one of these canaries in the digital coal mine. So we're at a different place in the digital -- you know, in the definition of a digital marketplace.

So what I put together was really much more of a 30,000-foot view of what has really happened, how did we get to where we are now. And so I'm going to go over that with you and really look forward to hearing more of the perspectives throughout the day.

All right, so I look at the whole marketplace as layers. And at the very center of this is the connection between artists and fans. You know, as long as artists are making music that fans love, I feel like there's a really healthy future in music. Many people in the industry in the early 2000s didn't agree with this, you know, and there was a point at which a lot of the music labels were actually feeling like recorded music, there was no future for it. I've never believed that. And I think because we've made access so easy, even through piracy, it has spurred consumption of music to be something that's far beyond anything in the previous eras. So at the center of this are artists and fans.

The next is industry licensors. So we have labels, publishers, performing rights organizations. There has to be -- in order to develop a digital marketplace, there has to be a willingness to license, and there has to be a willingness and a capability of granting licenses and being able to execute on those licenses.

The next ring out is digital service providers and licensees. There has to be an appetite for developers and tech companies and startups to use music and build creative applications. Beyond that, you know, actually, you know, looking at these first three, a lot of people who looked at the early days of the digital music marketplace, they forgot about this ring, which is hardware, software, and networks.

In the early days, we didn't -- you know, there were some amazing ideas that were presented in the early 2000s, but we didn't have the hardware, we didn't have the software, we didn't have APIs, we didn't have networks to be able to bring those music experiences to life. We have those now. And this is a really important -- this is a really important part of moving beyond just a web-based world.

The next ring out is investment and, you know, financiers, venture capitalists being willing to put money into the music sector. And, then, lastly, it's legislative and trying to get the laws to be able to be current with the environment. And I love the quote that you just listed because this is exactly the case where we have laws that were created around, you know, piano rolls, and we are finally getting around to modernizing it, but all of these pieces really have to be in place in order to have a thriving digital marketplace.

And so when we look at where we are now, you know, music is doing pretty well from the surface. We have money flowing. There are people that are subscribing. There's revenue that's getting passed from the user through a DSP into the rights holders and to the artists and creators. But how did we get here?

So if we look back to the era, from 2000 to 2006, this is really where the original Napster disrupted everything. And I've been involved in this from the beginning. In fact, I worked at one of the first digital music services called MusicNet, and at that time, I remember trying the original Napster and seeing songs download onto my laptop, and I had a hardware/software content, you know, networks. I had a 14.4 modem. It took over three minutes for a song to download onto my laptop, but I saw millions of
people in there, and I thought this is amazing. All
we have to do is legalize this. All we have to do is
legalize it and everyone’s going to make so much more
money, it’s going to be great.
And then I went to work at one of the first
to realize, okay, this is going to take a
while. But in this era, a lot of what -- a lot of the
battles, and I see lots of familiar faces in the crowd
who were around in that day, lots of the battles were
really, you know, what is the model, will people pay
for music, how do we compete for free? We had every
metaphor imaginable, you know, bottled water, tap
water. And it really came down to, you know, just all
these different battle fronts.
But there were several things that were real
catalysts in the early days. One was iTunes. And
iTunes, good or bad, developed the download model and
they dominated that marketplace, but it established
norms in the marketplace. And some of these norms
needed to be done by a big company like Apple to set
the pace for it. But what we also started realizing
was, you know, that just the pace at which everyone
was changing laptops, and cell phones, that it made
porting your songs from one device to another just
became more and more inconvenient.
And so, you know, we saw the evolution of
different business models that were also driven by the
networks, by hardware/software, you know, by the
little devices that could store MP3s. And we,
eventually in this era, started seeing that there was
a renewed confidence that people would pay for music
that they loved, even if they had already bought it in
CDs and vinyl and other formats before, that music
increases and continues to retain value to the
consumer, and we really just as an industry needed to
come together to create different models that were
legal alternatives to piracy.
The DMCA was a really important part of this
early era, especially in radio-style streaming. I
think if we hadn’t had the DMCA it would have been
almost impossible for anyone to really get a legal
model out into the marketplace because it provided
some guardrails. From 2007 to 2013, I really define
this as a different era because this is -- the iPhone
is out, so we have smartphones. We also have bigger
networks. Streaming started to become something that
was more of a convenience. There was a -- you know,
there were a lot of early services like Rhapsody and
Napster that had limited appeal and Pandora.
And once streaming and iPhone and
smartphones started to proliferate, that really
changed the landscape, and it changed the paradigm of
how people consume music. And it became more about
access. Now, we can argue business models all day,
but I think what we really had to do in order to get
these services across the line was start to create
norms of how to license and who to pay what
percentage. They’re certainly not perfect, but what
we’ve seen is a massive growth in the people in the
subscribing base, as well as the legal usage base into
these DSPs that are offering access-based models.
And that leads to where we are now, which is
really the streaming era. And this opened up a whole
can of worms around publishing and around data and
metadata, and it wasn't really until the end of this
era -- the middle era of around 2013-2014 that rights
holders and many traditional stakeholders in the
industry actually believed that streaming was here to
stay.

And the reason that it took so long for
everyone to buy into this model is because, you know,
many of the people who are here are in the church of
streaming and access, but in the earlier eras, I mean,
there was every business model imaginable. We had
downloads, tethered downloads, limited downloads,
And, now, we're -- you know, we've kind of
to television. Obviously
so how can we
get to the point where we had a model where we could
on those that were stealing and pirating music and
propositions for music fans that they were willing to
And, now, we're -- you know, we've kind of
established -- we have four or five big companies that
really the emerging markets, you know, how to get
You can see the growth. I’ll point out that since
2013, when the green paper was published, we've
already seen an 80 percent increase in the number of
lawful services, a whole variety of them, more every
day, as you all are undoubtedly aware. We now have
Apple in the marketplace as well. I imagine there
will be others. Lots of experimentation going on.
On the demand side, that’s also a very
positive story, so this is the number, 11.5 billion
movies -- full-length film accessed by consumers in a
year. That was 2018. All right, so one year. That
many views and transactions over these lawful, online
services. That’s 150 percent increase since 2013.
And you get to television. Obviously
there's more. You know, a movie is a little longer,
and there are fewer of them made in a year. We've
got television episodes all week. So we've got in the TV
space -- and these numbers are astounding, but this is
why we're so optimistic -- 170.6 billion television
episodes accessed lawfully online in 2018. That's 175
percent increase since 2013.
On the production side, what does all that
mean? Well, we've got distribution and we've got
demand, and so you get more product. This is the
number of scripted original programs, not reality TV.

Actually produced, scripted programming, up to 495. Again, the growth is astounding. We’re starting to see maybe it’s peaking. This data comes from FX, and every year John Landgraf predicts we’ve hit the top, and every year, we got a few more, and, again, with more players, right? I mean, we have Apple announcing a whole slate of -- I think I saw 22 titles already announced. The great thing is that with this technology, consumers are finding ways to access content when and how they want, and they are filling up their day with great content that we’re producing.

And then, of course, online. This is just online original content, scripted programs for online only. Again, huge growth. This is great for obviously all of our companies. And some people think that we’re somehow in competition with these online platforms. What they forget is that we both do production and distribution, so many of these online exclusives are actually being produced by our members and others as well. So this is a great story for everybody. On the scripted originals, I came up here to give you the stat. The 495 overall is a 40 percent increase since 2013. And here’s the whopper, 160 scripted original programs online is a 560 percent increase since 2013.

So what does this say for me? Copyright works, right? The genius of recognizing intellectual property is it creates a market. And good things happen when you have a market, right? We have creators, distributors, and audiences, able to enter into an almost infinite number of relationships to get content created, distributed, and to an audience. And they experiment, and that’s why we’ve been able to take, you know, from the more traditional distribution mechanisms to what we’re seeing today, and also to the experimentation and all sorts of new players. So already online we’re seeing, right, on-demand models, subscription models, and ad-supported models, right? Pluto TV, recently acquired by Viacom, an ad-based service. There are a number of even ad-based services online that are arising. So this is all great news, right? We are very positive.

We’re not really looking for a lot of help in the creation of the marketplace. Of course, there is always a downside, right? And just as lawful online distribution is occurring, it’s also happening illegally, right, and that’s the downside. Again, we are still positive in the marketplace where we need the help, where we need the collaboration is in protecting and preserving the lawful online marketplace, not the unlawful marketplace. And just like all lawful services starting to move towards streaming, so, too, is unlawful service.

So, right, the stats -- this is 2017. There were 542 million movies and TV shows still pirated over peer-to-peer, but that’s now actually less in terms of the number of visits where consumers are going for pirated content and where distributors of pirated -- unlawful distribution is going. It’s also to streaming. So right now, streaming piracy is 37 percent of the visits to unlawful sites for content compared to 36 percent for downloads and 27 percent for peer-to-peer.

You may have been hearing a lot about Kodi boxes and online devices. That’s a big problem for us. The last stat is that 6 percent of North America -- US and Canada -- had these devices in their homes configured to access essentially pirate websites, making it much more seamless. Instead of the old peer-to-peer download model, now it’s streaming models connected to your TV, a lot easier to consume. And that 6 percent comes out to about 6.5 million homes.

One estimate I’ve seen, which may be low, is that the annual ill-gotten gains of this type of system is $840 million a year. And that’s not just a problem for us, it’s a problem for consumers on two fronts. One, it does start to affect our ability to produce all that content because we’re competing against unlawful and free. And when you spend $100 million typically or more per movie, a million dollars per episode, it’s harder to provide as much diversity and as much content and as much quality when you can’t make up that money in essentially the secondary market.

Many people don’t realize, but only 4 out of 10 movies actually make a profit in the theaters. Others either break even or lose money. And so the secondary market is very important to us, and when we’re competing against illegal and free, that’s getting hard to invest money into the content. But the other reason why consumers should be concerned is malware. One-third of these pirate sites are actually putting malware on consumers’ computers. So those are the two real concerns.

So what are we looking for? And I mentioned it sort of at the top, it’s voluntary initiatives and collaboration. What we’ve done, actually, to quite success is work with other internet intermediaries. We’re all in lawful businesses, and quite successful.
businesses. And what any lawful business should want to do is promote the lawful, and there’s no need to facilitate the unlawful.

So payment process, this is a great story.

What was happening is that a lot of -- you know, any pirate operation wants to get paid, and they were using Visa, Mastercard, and PayPal. And so we reached out to Visa, Mastercard, and PayPal and said, look, you know, you’re probably not aware of it, but a lot of these transactions are for unlawful distribution of content. Will you work with us? We will give you indicators of how to spot essentially illicit activity using your financial network. And we did that, and they are working with us. They are now trying to prevent their networks from facilitating piracy. A good story for us. You know, never done, but a good collaboration in the marketplace.

Another one is advertising. If it wasn’t subscription revenue, it’s advertising. Many major brands are showing up on pirate sites, unbeknownst to them because of the complexities of getting ads in front of users on the internet ecosystem. We reached out to advertising networks and said, you know, you really don’t want your quality brands on some unsavory sites. And it wasn’t just piracy. A lot of these sites had a lot of other unsavory characteristics about them, not only just sort of identity theft, but were advertising for products you probably don’t want your product next to.

And so the advertisers are being fearful about where they place their content. Again, another positive story. We need more of that. We need intermediaries to work with us in promoting the lawful, and where we’re not really seeing that is stuff like hosting services, reverse proxies, and domain name providers, who all have terms of services that you shouldn’t be using our service for unlawful activity but don’t seem to be working as well with us as the payment processors and the advertisers to make sure that their very valuable and very successful services are not also facilitating illegal activity.

So that’s really where we start.

And if you think about it, the DMCA really was an attempt to create a voluntary initiative scheme, right? The idea was that there was a shield as Senator Wyden points out, liability protection in exchange for working collaboratively for intermediaries and online platforms, to work collaboratively to take down content. And it’s just, unfortunately, not working on some examples. Right, we have these voluntary initiatives, and in some cases we need more of them and others. So that’s really our hope is that we can facilitate that positive legal marketplace by not so much facilitating the unlawful stuff that we unfortunately have to compete with.

Thank you.

(Applause.)

MS. ALLEN: Thank you, Neil.

Our next presenter, Edward Hasbrouck, has been cochair of the Book Division of the National Writers Union since 2009, leading the union's advocacy on copyright, digitization, and digital media issues.

He also currently serves as the representative authors of text works on the Board of Directors of the International Federation of Reproduction Rights Organization and as an observer to the Authors’ Rights Expert Group of the International Federation of Journalists.

MR. HASBROUCK: Since this is, I think, the first time that a writer has been invited to speak to one of these events, I'd like to give an overview of the ways that writers monetize our words. There are many marketplaces for writing in digital formats, and there is no typical writer. Most working writers aren't making a living from our writing. And the most commercially successful writers are the least representative of the long tail.

Most writers can't afford to leave even small amounts of potential income on the table. Like other workers with multiple jobs, most writers have multiple income streams, often from very different business models, and different writers prioritize different ways of monetizing our work. But there are, in general, four dimensions according to which one can categorize the ways writers turn words into dollars: according to business models, sources of revenue, publication formats, and whether we’re exploiting new or old works.

Business models include employment as a staff writer and freelancing. They also include not only at the bottom of the list self-publishing but in between employment and freelancing the kind of independent contracting in which people may be getting an hourly or monthly fee and sitting next to staff writers doing the same work.

As contractors, their work is not considered work for hire, but they have none of the rights of employees such as to minimum wages or collective bargaining. Unlike most workers who unambiguously benefit from employee status, this creates an unfair
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<td>Revenue sources include wages, as I just mentioned, both wages and wage-like contracting fees, as well as sales and de facto sales through all-rights contracts. They also include licensing, but while there are writers who make much of their money from licensing, there are other successful writers for whom licensing is insignificant. You cannot equate monetization solely with licensing. Advertising is, of course, the primary source of revenue for many digital formats and is structured very differently from licensing. And subscriptions and membership are more significant than is often recognized. Patreon isn’t the first or the only platform for members-only web content. And while there are relatively few successful paid subscription websites, there’s a large industry of paid subscription email newsletters, which brings us to the dimension of publication formats. Written work can be distributed as web content, of course, but it can also be distributed through an app -- recipes in a cooking app, sightseeing information in a travel app. Digital downloads include not only e-books but also downloads of short-form works that will be hard to monetize in printed formats. And while most people think of email as a one-to-one communications medium, it’s also a publication medium, used to distribute a wide range of marketing communications and paid subscription publications. Finally, the multimedia formats in which text can be included have expanded from movies and videos to include electronic games and virtual reality experiences. And in a final dimension, a writer has two types of assets from which she can generate revenue -- her labor power to create new works and her ability to monetize her rights to work she has previously created. Just as much of the net worth of a corporation may be its intellectual property assets, a writer’s personal backlist may be a substantial part of her net worth. Rights to many backlist works have been difficult or impossible to exploit in print formats, but the internet has unlocked a treasure chest of value in digital rights to works that were previously either unpublished or published only in print. And disputes over ownership of that rights windfall have been central to the conflicts over writers’ rights for the last 25 years. These dimensions of monetization are independent of each other. A professional blogger, for example, may be a staff writer whose job is writing the company blog, or they may be an independent contractor paid a monthly fee or a freelancer paid a percentage of the ad revenue for each article she contributes to the blog, or she might be a self-publisher of her own blog. And these dimensions are equally applicable to all genres of writing. A blog can be monetized in the same ways regardless of whether it contains poetry or flash fiction or news articles. We think of the paradigmatic writer as a novelist or a journalist, but in the digital environment, a successful writer may be getting paid to write marketing copy or product descriptions for an e-commerce website. And a writer may choose to distribute and monetize a particular work in as many ways as possible, but she may also make a deliberate choice to offer a work in only the one format she thinks will optimize her revenue. The fact that a work is not available in a particular format or channel is as likely to indicate market choice as market failure. When we consider all four dimensions of monetization, there are 200 different ways for a writer to earn money from writing distributed in digital formats. Each writer might have a different mix of income from different combinations of these modes. But what is each of these marketplaces? A marketplace is composed of entities and contracts between them. Each of these marketplaces has a different typical set of entities and a different set of typical contracts between writers, readers, intermediaries, and sources of income who may not be the readers. Only if we are aware of this diversity of marketplaces can we assess how they are changing or the implications of new policies, technologies, or business plans. Most such assessments to date have focused only on some subset of this universe of marketplaces. I challenge the Government and industry statisticians in this audience to collect, compile, and publish more comprehensive data on the full variety of marketplaces for digital text. Similarly, many procedures devised for print format, such as those for registration of copyrights, have been made workable for only a subset of digital formats. Decades after the worldwide web became the primary medium for the distribution of text, the...</td>
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Proponents of so-called controlled digital lending, for example, claim that scanning books and distributing the full text online won’t interfere with the e-book market. Even if this were true, which it isn’t, it ignores the many other markets for works that have been included in printed books. Exceptions, limitations, and compulsory or quasi-compulsory licenses are often justified on the basis of nonavailability of a work in one market may simply reflect the writer’s market choice to monetize it in a different way.

The debate over orphan works may be the most obvious example of where this leads. Proposals for orphan works legislation has been based on the claim that if the rights holder can’t be found and a potential licensee can’t transact a new license, the work necessarily is not being exploited. But it should be obvious that many modes of monetization, such as advertising, require neither identification of the rights holder nor any transaction between reader and writer.

Many writers earn their living through advertising on anonymously self-published websites that are by definition orphan works regardless of how actively and successfully they are being monetized. It's more or less trivially easy for anyone familiar with how writers actually earn our living to come up with multiple other examples of works that are being monetized in ways that don't require finding the rights holders. The fact that we’ve had more than a decade of discourse about orphan works without yet beginning to think about the ways that orphan works are being profitably monetized today reflects how completely the realities of writers’ livelihoods have been ignored in policy studies.

It should be obvious or no surprise that as creators, writers are also business and technology innovators. Looking ahead, many of the trends we are leaving involve shifts in the balance between these modes of monetization. That includes some relatively obvious trends and some that may be less obvious, although no less significant for both business processes and policies.

The high potential return on the investment of time for digital exploitation of writers’ personal backlists, for example, confounds many assumptions about which rights are primary and which are secondary. It also highlights the need for reform of Section 203 of the Copyright Act to ensure that writers are able to remix and obtain a fair share from revenues from reuse of our own previously published work.

In the world of print, markets have been segmented geographically, but on the internet, a single website can reach readers worldwide without the need for local distributors. Instead, the ways in which a work is distributed and monetized can vary over time as markets change. Enforcement of time-limited licenses poses challenges which have not yet been addressed for caching and archiving of digital text.

I’ve only scratched the surface here, but I hope this taxonomy of the many marketplaces for text and digital formats and these examples of why and how it matters will help inform your thinking and your work today and in the future. Thank you.

(Applause.)

MS. ALLEN: Thank you very much, Edward. And just before turning to our last speaker, just one note is that this is very much a stakeholder-driven conference, so I invite anyone in the audience or online to come forward with ideas for us. And Edward is one prime example of this where he viewed our conference and says, hey, there’s something missing here, I want to present on the advertising aspect of this as well. And that is why he is here today, as well as the overall picture.

As he mentioned at the beginning we have not had a writer representing text here before. So, again, it’s an invitation to anyone to please, you know -- we welcome feedback. This is intended to be a stakeholder-driven event.

And finally, last but definitely not least, Danielle Coffey is a Senior Vice President of Strategic Initiatives and Counsel for the News Media Alliance, which represents 2,000 news media outlets.
So there's a drastic mismatch. Our content is valued, but we're not seeing the value of it. And that's because of three things that I'll go over. This first one is digital advertising. In the digital advertising ecosystem, we're not alone. We get a very small piece of the pie. The majority of the digital advertising dollars go to Google and Facebook. In fact, they take 85 cents on the dollar from -- and we're left with the remaining 15. The growth is at 90 percent for the same two companies.

However, like I said, we're not in it alone. We realize we're in good company, but what we do struggle with is the fact that it doesn't reward quality. So the cookie will follow the user. So the user will go to look at, say, skin cream, and then they'll -- face cream, what have you. They'll go to a website. Let's say it's the LA Times, and then they'll next go to a cheaper website, let's just say TMZ, which is also in LA. And the advertiser will be able to pay a cheaper cost for the same person now that they can target the person and not the content.

So to what has been discussed previously, when an advertiser wants to be found with premium content, in the programmatic world, that's no longer an option, and therefore quality just isn't rewarded.

and that has not been replaced by digital advertising or digital subs -- digital subscriptions.

So what's changed over the last 10 years?

We used to have a very personal, intimate relationship with our readers. We were the only product that would actually be walked up to your door and handed to your -- you know, handed to you. The closest thing to that now is I think Amazon, but we used to have a very intimate relationship with our reader, but now when you go to the internet to digest our content, you're met by two large companies, Google and Facebook.

Google is the search engine, so it's more like if I was going to tell you, you know, A4 has a great article on the Mueller report or whatever the news is of the day. You would now go to Google and you would search in Mueller report and you would find that same article.

Social, so Facebook acts more like a front page. So it tells you what the hot news of the day is. And in that respect, we enjoy the traffic, which is that's primarily our referral traffic. It's 67 percent from those two companies. However, the problem is that the revenue that we receive is only -- from that same referral traffic is only 16 percent.

So there's a drastic mismatch. Our content internationally. We have a positive story for that. And I do represent the News Media Alliance, that same article.

MS. COFFEY: Thank you, Susan, and thank you for having me. You're always a pleasure to work with. You and David and Michael have been very eager to learn about the issues that we work on, so thank you from problem is that the revenue that we receive is only -- 23 is that's primarily our referral traffic. It's 67 million to 136 million over the last 10 years, but that's where I part ways with my friend, Neil, because the good stops there because unfortunately our struggles are on the monetary side. And over the same 10 years, the trajectory is in the other direction, and that's because, as you can see, we've, you know, lost half of our revenue because we primarily would get it from print advertising, which is in an accelerated decline through the roof.

So the trajectory is from 46 million to 136 million over the last 10 years, but that's where I part ways with my friend, Neil, because the good stops there because unfortunately our struggles are on the monetary side. And over the same 10 years, the trajectory is in the other direction, and that's because, as you can see, we've, you know, lost half of our revenue because we primarily would get it from print advertising, which is in an accelerated decline through the roof.

Therefore, like I said, we're not in it alone. We realize we're in good company, but what we do struggle with is the fact that it doesn't reward quality. So the cookie will follow the user. So the user will go to look at, say, skin cream, and then they'll -- face cream, what have you. They'll go to a website. Let's say it's the LA Times, and then they'll next go to a cheaper website, let's just say TMZ, which is also in LA. And the advertiser will be able to pay a cheaper cost for the same person now that they can target the person and not the content.

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Google is the search engine, so it's more like if I was going to tell you, you know, A4 has a great article on the Mueller report or whatever the news is of the day. You would now go to Google and you would search in Mueller report and you would find that same article.

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So there's a drastic mismatch. Our content...
And the last thing is Google News. It’s
And, then, the third is more relevant to
however, again, a stream of unfavorable decisions for
in conflict fundamentally with the model of data
And the circumstances we’re currently in, no, no, you
So a positive development for copyright in
So a recent case undermined the hot
cervers were put into that story to uncover it. It
And, then, the third is more relevant to
of protecting your
So we feel like it’s a strong protection of news
However, a recent case undermined the hot
penalized for it -- and we had a struggle with first-
And the last thing is Google News. It’s
So it’s a false choice really. So even if
were being penalized
deprioritized in search results if we had a pay
That is bad for our business, so we may just be
in the hot news doctrine you might be familiar with,
was -- it began in 2016. This has been a very long
However, this INS decision, it was 1918, that resulted
in the hot news doctrine you might be familiar with,
would still allow for breaking news to be protected
for an exclusive period of time. It was created
because of the wiring back to the West Coast and then
you don’t get the paper and you don’t get the reward,
so it was allowing you to have protection for a period
of time.
However, a recent case undermined the hot
copyright doctrine because it said that the copyright
actually preempts that, and so that makes it more --
even facts such as, you know, Dow Jones releases their
numbers or sports facts or what have you. And that
makes it difficult across the board for us to protect
our content, even for an exclusive, even for a short
window of time. And so when we invest a ton in
stories, so for example, the Theranos story was --
there were millions put into that story to uncover it. It
only actually -- The Wall Street Journal uncovered
it. It actually only sat at the top of the feed for
about -- on an average of six minutes, original
stories, before they’re picked up by others who just,
you know, you’ll responsibly cite, that’s what we do
in our industry, however, not everybody’s responsible,
and those will just be lifted up, and because of the
incentive to click, therein lies the problem.
And the last thing is Google News. It’s
where we live, is where a lot of our content lives;
however, again, a stream of unfavorable decisions for
our industry have resulted in a questionable
protection of our content, including through Google
News, although the Fox TVEyes recent decision was
actually promising.
And then the second part of it -- so the
first part is really the case law. The second part is
really even if we had the right, we still -- if we
want to be found -- the dominance of the platforms,
there’s no -- where are you going to go? If you
want to be found on Google search, if you want to be
read, then you have to essentially waive any copyright
you may or may not have. And that’s in their terms of
service.
So it’s a false choice really. So even if
you did have the right, could you assert it? Under
the circumstances we’re currently in, no, no, you
couldn’t.
So a positive development for copyright in
our space was just decided on Tuesday. We’re very
pleased with now Article 15. It was Article 11, it
was -- it began in 2016. This has been a very long
fight for the Europeans. And we represent Axel
Springer. They were at the helm of it. They really
took the lead on this, and they pushed for a
recognition. They actually don’t have a copyright
protection for publishers in Europe. So across
Europe, they just didn’t have it.
So the copyright directive included a
publisher’s right. The resulting language is that it
protects single words and very short extracts. That
was language that was put in to restrict what
aggregators, including Google News, are required to
now negotiate with news publishers for the use of that
content. Very short extracts was a term that was in
negotiation with counsel, commission, and the
Parliament, and their trilogue negotiations was
inserted.
And it may have limited the protection;
however, there was a recital that was also included
that said this language, “very short extracts,” is not
to undermine the intent of the intended protection
here.
So we feel like it’s a strong protection of news
content. It’s not a link tax. First of all,
it’s not a link tax because it doesn’t protect links. You
can share links freely. Consumers can share
information freely. That’s explicitly exempted from
protection.
It’s also not a tax because it’s negotiable;
it’s not required to be paid. So if taxes are now not
required, please tell the IRS, and I would like to not
pay my taxes. So link tax is just -- it’s a misnomer,
and it doesn’t describe what was the result here. And
We expect introduction of that soon by the Chairman of the Antitrust -- House Antitrust Chairman, David Cicilline with a Republican lead. We're very excited for what this could do for our industry. And because of what happened with the book publishers when they tried to negotiate with Apple to get a better deal because they were being undercut by Amazon, they got sanctioned by the DOJ, and that had a chilling effect on our industry's ability to come together to be able to have a fighting chance to be able to talk to the tech platforms about what we would see as a better partnership and what we would need to have better business arrangements so that we can sustain quality journalism.

Thank you all for your time today, and we very much appreciate your presentations. Thank you.

MS. ALLEN: So thank you, Danielle, and I realize it is now 12 minutes after 10:00 and we have no more presentations, but we can cut into the coffee if anyone has one or two quick questions. No? Going once, going twice. Okay.

Thank you all for your time today, and we very much appreciate your presentations. Thank you.

And then in 2007, we stepped into the MP3 download market with our MP3 download store that’s still live today. And it wasn’t until later that we launched our streaming offerings, and we now offer Prime Music and Music Unlimited, Music Unlimited being the larger full catalog subscription service. And both Prime Music and Amazon Music are available to Echo and Alexa customers.

So the Amazon Music catalog, we’re the primary point that receives all of the information from record labels and distributors about music. So we -- through the DDEX supply chain feed, we get all of the information about the products that comes in the door, the audio files themselves. And then we have this big job on the catalog side to get all of that content ready for our customer experience. So it starts with our mobile apps, IOS and Android, our desktop app, our web player. But then we also have this offering of playlists and stations in our service, so we have to work with that content so that our music curators can find it in our catalog and make it into the playlist that customers hear.

And then lastly but by no means least importantly is Alexa. So we have a large challenge to get all of this music content ready for the Alexa.
experience that I'm going to show you in a little bit. And we've been working on -- for a number of years on that.

So I want you to meet Alexa. Hopefully, some of you are familiar with her and the Echo family of devices. And when we started out thinking about how we wanted to make music work for our customers on Alexa, we really wanted it to be like you were having a conversation with your friend that's, you know, your best friend that's knowledgeable about music. And we started out with some very simple use cases. So, here, this -- Alexa, play Paul Simon songs from 1986.


(Song begins, “You Call Me Al.”)

MR. RUTLEDGE: Okay, so we got that one right. But when we first started, there was a little bit of a problem. So this is our internal catalog view of the metadata that we received from the distributor for Paul Simon’s Graceland album. And I’ve blacked -- I’ve redacted some of the details so that we don't place blame on this specific provider, but suffice to say this is not like one entity. This is prevalent across the catalog.

And there's lots of reasons throughout the development of digital music for why, in fact, in this case, the original release date of Graceland is marked as 2012. But obviously with that information, the experience that I just showed you on Alexa wouldn't have worked. So we spent years researching and correcting data, finding out where he had errors so that we could make sure that when a customer asks for the music on Alexa that they actually get the right response.

And so now I’m going to show you something that we've been working on that’s, you know, the next step a little bit further. So the first part of it’s pretty straightforward.

Alexa, play Havana.

ALEXA: Havana by Camila Cabello, featuring Young Thug, starting now on Amazon Music.

(Song begins, “Havana.”)

MR. RUTLEDGE: So we got that one right. Alexa, who produced this song?

ALEXA: Havana by Camilla Cabello was produced by Frank Dukes and Matt Beckley.

(Song continues.)

MR. RUTLEDGE: So this is a little bit harder than just correcting the date for Paul Simon’s Graceland for us, but we think that this is -- and we’ve seen customers asking for these types of features to understand more about the music that they’re listening to on Alexa. And, you know, I think we’ll hear a lot later on today about this specific challenge, but suffice to say there’s lots of interesting ways in which we see our customers wanting to interact with this voice technology that requires us on the catalog side to partner with people in the industry and figure out how the right metadata can come into our service and then let us get it out to customers such that they have that experience that I just demoed for you.

So that's all I wanted to talk about, so thank you very much, and I hope you enjoy the day. (Applause.)

MS. ALLEN: So wonderful. And I just -- you know, we’re branching now from a discussion of the different industries really now into the technologies, so these presentations are first voice recognition, and now we’ll have Blockchain, followed by fingerprinting, watermarking, and search.

So I invite Ken Umezaki to provide an update on Dot Blockchain Media. Ken is the CEO and Cofounder of Dot Blockchain Media, a company that has introduced a new music file technology architecture to modernize copyright management and media supply chains fit for the digital media age. Ken acts as an experienced independent investor and business advisor for music startups and artists through his company Digital Daruma, with a specific focus on artist-facing music and media services company. Welcome.

MR. UMEZAKI: I also need a few minutes or a few seconds to set up.

So we've been at this for three years or so. We’re primarily sort of an attempt to modernize rights management data and leveraging sort of current technology to do that. And we realized as we started on the journey that this actually could apply to many different media categories. We’re starting with music, obviously, so I’ll hopefully have a moment to show you a few of the things we’ve been up to the last couple of years, but that was the reason for the change in the name is we realize that it’s probably applicable or should be applicable to other media verticals.

Oh, here we go. Well, my apologies again. I'm Ken Umezaki. I’m the CEO of Dot BlockChain Media. I have two demonstrations, which are essentially sort of what we’re surfacing as use cases, if you will, for our underlying data architecture and our data...
The work’s bundle contains identifiers and ownership metadata of the underlying musical work. When a work has been matched to a master end release bundle, you get a full view of who owns both the masters and publishing copyrights to that song.

As a member of the public, you are able to see certain public-facing information, but you will be locked out of seeing anything that would be considered proprietary. Once logged in as your user role, if you’ve been granted access to edit that data, view that data, or if you’re the owner, you’ll be able to see this private information such as ownership splits on this work.

Depending on your role, you will be assigned as the owner of one or more of these bundles. For example, let’s say you’re the artist who wants to update the name of your song. Since you’re the owner of the master metadata, you can simply open the editing interface, find the song title, and change it to whatever you want. And don’t worry, your old song name is still there if you change your mind. Since your metadata is synced to the blockchain, metadata is never deleted, only amended.

Now, let’s say you want to change the release date of your album. Since your record label

owns the release, you need their permission to edit the release metadata. First, you’ll request access to the release bundle. Once you’ve been granted access by your label, you can submit an amendment request to any metadata in the bundle.

Keep in mind, this change will have to be accepted by the label since they own the bundle. They can approve your change, reject it with comments, or reject it with suggestion of their own.

We are also using an API call to our partner, Exactuals, to match ISRC and ISWC to all known public matches. This will bring back an ISRC and UPC suggestion, both found in RAI but maybe not found in our catalog, and also matches that are found within our catalog. For example, you can see the blue tick there. This ISRC and UPC has been found within the catalog.

If you’d like to associate the ISWRC and the ISRC that you’re working with, you simply keep the blue ticks populated. Then when you’re ready, you press “apply changes” and the system will automatically inject the ISWC or works information into the master and release recordings that you have selected.

This concludes our overview of our working...
VIDEO: It would be nice to think every song in our digital world correctly credited songwriters and performers. But until now, this simply hasn't been the case. Meet STOLAR. He's a professional songwriter and performer that writes for himself and others, but so far, technology in the music industry has not been able to ensure his songwriting and performance rights are actually permanently attached to his songs when they start traveling through the digital world. Simply put, that means he can't be sure he's getting paid correctly for the art he creates and shares.

In October 2017, we registered STOLAR's track, “Forget and Feel,” onto the blockchain, watermarked it and delivered it to online stores everywhere. This is a demonstration of how we did it. We start by bundling up information about who owns the song and who should be paid with the audio file itself. We then record or stamp this information into a permanent storage compartment called a block. Information cannot be erased using this method, so each change to the data gets stored in a new block and linked together in a chain, creating -- you guessed it -- a permissioned blockchain of the history of a song's data that can never be halved.

Once the data is stamped onto the chain, a unique Dot BC URL is generated, and we watermark that URL into the audio file before delivery to online platforms. Why watermark, did you ask? Well, if STOLAR’s song is later used behind user-generated content online without a credit, a link to his writing credits are still present in the song itself, simply by listening to the song’s watermark with a special app.

Here's a live example of how that watermark identification process works. So I’ll start by playing the song and using a watermark-recognition app to listen. And if I click on the image associated with the song that comes up, we’re led to the URL that we embedded, which contains the Dot Blockchain registration address. And the public-facing data here that we can see includes information that has been historically difficult for online platforms to collect, such as publisher, performing rights organization, or a writer IPI.

Finally at the bottom, if there are changes to the actual song, you’ll see these in a version history of each new time-stamped blockchain registration. So the result is that these files will no longer be orphaned from their owners when they progress across the net. So now artists, songwriters, and other rights owners and users can forever have the most current and accurate data attached to their songs anywhere they appear online.

(Video concluded.)
MR. UMEZAKI: So, again, key takeaways from this one, comprehensive metadata that's immutably linked to the actual underlying file that we’re trafficking in, which is the audio file; embedding identification and other assets, as well as indexing against other, if you will, important contributors, commercial parties, et cetera; managing changes and actually distributing those changes quickly and efficiently because it's linked to the audio file itself, so wherever it travels; and, then, dynamic data, if you will, which we think has applicability to many of the DSBs that we're working with currently. So those are some of the key takeaways. You know, our intent is to actually get the audio file or the media file more generally to be smarter, if you will, within the file itself so that we can actually transact at the speed of digital on the monetization side. Thank you very much.

(Applause.)

MS. ALLEN: Thank you very much, Ken. So, next, I invite Rusty Turek, Founder and CEO of Pex to present his attribution engine. Following his presentation, we'll have probably seven minutes for coffee, and behind and then continue. MR. TUREK: Hi. My name is Rusty Turek.

I'm here to present our newest product, which we call attribution engine. It's in the light of Article 13 and it's kind of trying to address that.

So what is an attribution engine? Essentially, it's a complex database of rights with custom search capabilities. Custom search capabilities is what makes this a little bit more special than maybe other systems. And so the search is done by audiovisual content itself. So essentially it's identification based on unknown files that tracks back the rights information.

So there are two steps to the systems. The first one is asset registration. It's kind of three parts of this. And so there is a database to which someone can register their assets. The database is open to everyone. We built systems in place that allow us to deal with fraud or attempt to register incorrect information.

And so any audiovisual content can be introduced. We don't do images or stills, but everything from half-second up, that means animated GIFs, songs of any kind, podcasts or any kind of content. There is no length restriction.

The best part, I think, is that everyone can register it for free. No maintenance cost, no nothing. The abuse prevention that I spoke a little bit, all rights owners that are trying to register content with us have to have their identity verified prior. Working with us, the same goes to the opposite side.

And so if a new registration is done and there is a collision found, the exposed very comprehensive system to communicate between the prior rights holder that registered similar content, the new rights holder has four ways how to resolve this. They can withdraw their registration; they can challenge it; they can also accept it and create a derivative; or they can amend parts of their contents, for instance, if there is a snippet that they're holding out, our system will exclude that part. We'll attribute to the original rights holder and then carry on over it.

And so there is -- and the second part of the system is search. And so this is using our own proprietary algorithms, most of you probably never heard of Pex. We are a five-years-old company. We built the largest search engine for audiovisual content on the internet or in the world. We have now over 17 billion videos and songs indexed. We work with the major rights holders across the globe. We surface around 50 million new videos and songs uploaded to major social platforms a day.

And so we are using the same algorithms for each product, each, you know, a little different shape, but we are able to deal with major changes to the original content being cropped, compressed color changes, horizontally swap images, frames, change the angles and a lot of other things, sped up and slowed down. One of the most important parts of our algorithm is it allows us to identify content as short as a half-second, so that means we can take a meme and backtrack it back to the original source, like a movie or something similar. The same goes to music.

And, also, our system allows us to identify cover versions, mixes, and remixes and other -- or other derivatives. What is maybe the most important about this system is all lookups are guaranteed to return within five seconds, which means if -- even if we have hundreds of millions of assets registered, all lookups will finish within five minutes. So you can think of this in the form of Shazam or something similar. It just surfaces rights information in the context of the rights holder.

Rights holders also have -- have a right or chance to expose their licensing information, which can be different for selected platforms and globally,
so they can internally build -- let's call it a compulsory license with us. And so whoever new -- whatever new platform enters our system, they can get this default license. And then if they decide that they want -- they want to negotiate the terms, they can go and the platform -- the rights holder can amend that. But the best part about the system is all platforms and DSPs are using this, again for free. And so maybe you are thinking about a business model of ours. We have two ways how to -- how we make money on this. One we take a small percentage of transaction costs. That means if the content is monetized by the platform, we take a small percentage from the platform. And, then, additionally, another thing is data because we collect all the data from all of the lookups and additionally we are getting anonymized usage data from the platforms. We're able to build complex charts, bundles, and everything around it. So that's all.  

(MS. ALLEN: Thank you. And just one quick tip. Rusty did present last year, just on Pex. So if you go to digital marketplace second public meeting, there is a video with a demo of just the Pex search engine.  

It's time for a coffee break and just networking. So, please, if you want to get up, the restrooms are on the right in the back, and we will resume, say, in 10 minutes, at 11:00. Thank you.  

(Brief recess.)
Mr. Jessop: Good morning, everybody. I'm Paul Jessop from County Analytics, and for my sins, which are manifold, I work extensively on media identifiers. So I do some work for the RIAA on ISRC, the International Standard Recording Code, for the DOI Foundation on DOI, which incidently underlies a lot of the growth in movie and TV that we were seeing for MPA earlier.

And for fun, I work with Michael on ISNI on the international standard link identifier, and for the Music Business Association, where I'm an amateur musicologist. And I hope you all saw the announcement of the induction into the National Recording Registry, and I evangelized there for the Cassall’s Cello Suites and the Benjamin Britten War Requiem. If you don’t know those recordings, I commend them to you.

Thanks to RIAA. They work me hard, but they do allow me to go around the world evangelizing this stuff, even when I say things they don't necessarily like. So anything I say today is to be attributed to me, and I'll take the blame.

So what are we trying to do here? We're talking about attribution, and I believe my friend, Peter Jenner, will talk later about some of the reasons we want to do attribution. So let's just deal with it as a function we need to achieve. And knowing who is or what is something is fine and dandy. And if we can trust in that knowledge, that's even better.

But really, in 2019, we need to delegate that trust to machines, and machines don't deal well with text strings, just trying to match against a code, you need a number. 9

When Axl Rose covered Bob Dylan and Guns and Roses recorded “Knockin’ on Heaven’s Door,” various people produced what were apparently not incorrect renderings of that, and I'm told there are 125 different versions with different capitalizations, different truncations, and different apostrophizations in there, but hopefully just one code that identifies that so it can be pinned down accurately.

Smarter people than me have laid down a conceptual framework for this. Mark Bide and Godfrey Rust I’d call out. I think Mark Bide spoke to an earlier instance of this meeting. And it was now nearly 20 years ago they produced the INDECS report, which still underlies much of our thinking on this. And they articulated a series of requirements for identification systems that talked about granularity.

How fine-grained do you need to identify, when can you decide it's not worth going any further. We can regard these two things as being the same.

Governance, who actually looks after systems, who makes -- takes decisions, who runs appeals. Sustainability. Are these things actually viable financially to be managed into the future? We used a very interesting standard called the International Standard Text Code, which ran out of money and it’s no longer being operated. We’re trying to reboot that. It needs to be sustainable to be useful to the industry. It needs to be persistent.

You need to be able to be sure that tomorrow the code will be the same as it was today if it's the same thing and somebody hasn’t arbitrarily changed it. And these things need to be actionable. You need to look at them up. You need to be able to access through API's computer systems that will tell you what it is you’re dealing with.

So how do these things get standardized?

That was -- and why do we do that? That's what I was asked to talk about. Well, standards generate trust and they generate smaller barriers to entry, and they generally encourage people to make things that work. And where do they get standardized? Well, they get standardized internationally through organizations like ISO and IEC, which sound very grand, but they’re just really private clubs in Geneva of national standard bodies.

Then there are consortia like the World Wide Web Consortium -- W3C -- industries themselves run standards. So the recording industry runs GRID, which we saw on a slide earlier. And then there are sectors within those industries that run their own identification systems like IPI for people in the creative sector -- songwriters and artists and so on.

So I suppose a personal view on how these standards work best is that the broader the basis the better. Standards which have a foundation across a number of different aspects of one sector tend to fulfill the needs of the whole sector, and that makes them more viable. National solutions are part of the problem, they’re not part of the solution. Copyright may be a national system of legislation, but these marketplaces are global, and the systems need to spread across those borders.

Beware the enclosure of the commons. We’re starting to see people using international standards to place restrictions on what people can do with that data. I think that will end badly. And open data...
So today, we have about -- in excess of 10 million identities with ISNI, about 9.5 million of those, I think, are probably individual entities, and then about 8-, 900,000, if I have my numbers right, and my numbers are up-to-date, I hope, or identifiers of organizations.

In terms of governance, the international agency that I am chair of, very much on a part-time basis, is the formal governance authority which every standard of this kind must have according to ISO. And we are responsible for the rules of the road, so to speak, and maintaining an efficient and effective standard for ISNI.

It may be of interest, particularly to this audience, to see that, you know, collective management organizations particularly were very prominent in the early stages of ISNI and were founding members. So you see names you'll be familiar with there -- CISAC and the Conference of European National Libraries, and IFRRO, which obviously Copyright Clearance Center is a member of.

And so you have a top-level governance agency, and then underneath it, the real work, so to speak, is done by a network of nonexclusive registration agencies. And these, again, betraying the background and where ISNI was first adopted, these include a lot of national libraries, Bibliotheque nationale de France, the British Library, and many others around the world.

And, then, increasingly we see growing interest from and adoption of ISNI amongst collective management organizations. Delighted that SoundExchange recently came aboard as a registration agency. They are one of our newest, and they, I think, reflect this new direction, if you like, this new direction of travel for ISNI, which is particularly strong in the music sphere.

And as I said a moment ago, I think the adoption back in January 2018 by YouTube represented a significant breakthrough there. And the underpinning, the underlying technology provided by one of the founding members -- OCLC -- based particularly in this case in the Netherlands.

The business model is straightforward, I think it's fair to say. It’s supported by membership and registration agency assignment fees. There are setup and transactional charges for ISNI assignment. As Paul was saying in his introductory remarks, the goal here is to get the widest possible market for
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So we took that data. We created an at least find the photographers who took the photos at the time.

You can use this interface to search for photographers. You can filter on a number of facets, including nationality, gender, the process that the photographers used. So if you're interested in cyanotypes and not other types, you can filter on those, roles, locations, and other kinds of results.

Here, I filtered or I searched for Berenice Abbott, and I can go to her page, and the page tells us a lot about Berenice Abbott. It tells us the locations she's associated with; it tells us where her photographs are located within which collections across the world; and it also gives you a list of sources that we used to create the data that we're using.

This sounds a lot like link data, and that's because it is. We link out to a number of name authority files like VIAF, YouLand, Wikidata, and in some cases, though, we are the only source of information about that photographer, at least that only source online. And so our data yet is not published in the semantic web, RDF triples, but we'll get there soon. It's on the roadmap because we think it's important to be able to share those identities in a national or international sphere.

That's project one. I've got two and a half minutes to get through project two, the Copyright Office records.

So NYPL is really interested in the records that are embedded in the Copyright Office not that far away from here, and those records are a record of American creativity. It's one of the best records we have of American creativity, but they're locked away in a set of paper records that are difficult to search and require a really high level of expertise to use.

Many in this room know how to use it, but most folks outside of this bubble don't quite understand how they work. These records document a significant part of the literary, music, artistic, and scientific production of the United States from 1870 to 1977.

One of the forms that these records take is the card catalog, and the Copyright Office just made all of the cards available online through the virtual card catalog -- yea! Finally, I don't have to come to DC every time we want to look up a card catalog. But the other way that we search records and the way the kinds of records that we're focused on right now are those that are in the catalog of copyright entries or the other set of finding aids to the actual Copyright
So what I would like to do, we’re working towards, is creating a searchable interface for the CCEs. We want to have a search interface that looks something like this. This is my mockup I did about five minutes ago as we were starting to talk about this, and, for example, if you search for the Flying Express Dixon, you should be able to search -- get a search result that looks something like this.

This is all of the information within the Copyright Office about this work, and because you are all power users, you might want to actually go see the underlying records that relate to that work. So maybe you want to see the registration record, the renewal record. Maybe you want to look at the card catalog record. Heck, maybe you want to look at the recorded documents, the assignment that happens to that work later in time.

We want to build a database that does all of these things and exposes all of those records, but having a simple database of free text fields is insufficient. It’s not going to get us where we need to go. I need to turn these things blue. So I need the name, the author, Franklin W. Dixon. I need to convert that into a unique identifier or associate it with an identifier to make these records actually more usable than they are today.

Even better, what I would love to be able to do is stick a thumbnail of the object if it’s a two-dimensional work or if it’s some work that I can put a visual representation on, I would love to be able to associate that record from the Copyright Office with the actual object. And I think I’ll be able to do that because the Copyright Office -- the deposits that go to the Copyright Office, some of them end up in the Library of Congress, which I think I might be able to associate.

Aah, but I have a long and big mountain to climb. There are 450,000 pages of CCEs. We’ve done 40,000, so I am almost at 10 percent. I’ve got a long way to go on this, and we need to build out the front end of the database, but our goal is to convert these records to make them more usable and to start to feed them into these other identifiers and other entities, other ecosystems so that we can start to be able to track some of the information we have about older works.

So access to this data will help us identify rights holders and works. It makes -- we want to make our data available and open for use and reuse without restriction to help add to and contribute to the web of identifiers that exist. We want to use this data to make it easier to identify works, to identify rights holders and authors so that we can, A, give them proper credit, but, B, seek licenses from them should we need a license. Thank you.

(Applause.)
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| 1    | Mr. Colitre: Thanks a lot, Greg. So from a constitutional perspective, we seek to encourage the further development of creative works and original expression by securing for limited times to authors monopoly rights over their intellectual property. And from a creator-centric perspective, this becomes a key feature, how do I identify the creators and authors that we’re trying to incentivize to the system so that we can create a web of relationships around their works in relation to or agreements about those works that allow them to enjoy the monopoly that society has given them. So I think your last hypothetical there was which exceptions apply, such that the New York Public Library can do the things that it needs to do to preserve those works, for example. So I wanted to start by asking, you know, Michael, ISNI has arrived as an international standard that exists across domains, but there have been other domain-specific identifiers throughout time. Some of them still persist to this day. To what extent do they interoperate? Does ISNI supersede them all? Where do we go from here with unique identifiers for persons and entities? Mr. Healy: It’s a very tough question to answer and a simple one to ask, I think. Certainly, ISNI itself, the ISNI community, those of us involved in it, see ISNI as a sort of bridge identifier and connecting to other forms of persistent identifiers in the value chain. So, you know, we have this situation where we’ve had a standard number for books since the late 1960s, first standardized in ’72, and that very forward-thinking piece of standardization has enabled, I would say, decades later of things -- of initiatives that have facilitated a dynamic value chain for books. So ONYX, the standardized communication protocol for bibliographic information in the value chain, really could not operate without the ISBN. And this is something Paul was referring to earlier when you refer to the INDECS model. So many of these things sit on foundations that are earlier than them, and certainly ISNI works to the extent that it works in the value chains I’m describing because it is – it works interoperably with the ISBN and the ISSN and the DOI, et cetera. These have to be seen not as standalone identifiers but individual identifiers that work within a network of related identities, it seems to me. So we still are in a far-from-optimal situation. There are multiple forms of individual identities -- ISNI, ORCID, and many others. And this is not a case where one is going to dominate, I don’t think. I think we are not going to see one displace all the others. That’s not going to happen. That’s just not the way the world works. So the interoperation of these unique identifiers is the critical piece in all of this, it seems to me. Mr. Colitre: So you referred to the role of ISNI in relation to other identifiers of works, but they also interoperate with other forms of identifiers for persons and entities, for example, PIC, correct? Is there yet a lookup table between the PIC catalog and ISNI, or will there be in the future? Mr. Healy: There isn’t right now. Will there be? I hope so, but that -- I think you’ve put your finger on the key thing, is there so many of these and these crosswalks need to be created -- Mr. Colitre: Because they have different functions, right? Mr. Healy: They do indeed. Mr. Colitre: ISNI perhaps becomes a web that connects different silos of information, but the PIC database contains all kinds of information about the photographer that ISNI has no intention of ever collating, right? Mr. Healy: Right. I think there’s going to be an interesting conversation over lunch about this. Clearly, the work that the New York Public Library has done has established these identities. It’s solid, it’s robust, it’s believable, it’s trustworthy, which is exactly the basis you want to import that data into ISNI. Now, some of those characters will already be there because they’ve been cataloged in libraries or they’ve been picked up in other systems, and they won’t have a new one assigned. They’ll be mapped to their old one, and by doing that, that system as a whole gets bigger and better and more useful and everyone wins, if you can find the money to do it. Mr. Cram: Yeah, and from our standpoint, the more we can connect identifiers to other
identifiers, the better it is. The more we can build
out that web of connections and those crosswalks, the
better we all are.

MR. COLITRE: So let's move to the
assignment of these. In the context of PIC, the
libraries are seeking identification on behalf of
authors who may even be deceased, but if you are a
living creator and you wish to be identified, how can
you acquire, for example, an ISNI identifier or an
IPI? What are the steps you have to go through?
What's the timeline to achieve it, and what costs are
involved? Anyone?

MR. CRAM: So I can tell you how you enter
PIC. So PIC, you can't just apply to join PIC. It's
not open in that way. If you have an identifier
that's in Wikidata or your collection appears in a
public institution, then you will be added to PIC, but
otherwise, the database gets too large for us to
manage and it becomes less useful for our patrons.
And that's where we get into fit for purpose versus
interoperability, right?

We're building this thing to identify rights
-- identify photographers within the collections of
libraries. It's an identifier. It still tells you
something about that object but exploding that thing
to include every single person who has taken a photo
in the last week would explode just the database.

MR. COLITRE: Well, while we're talking
about that method, is there a method for
prioritization when the institution is assigning these
identifiers as opposed to when the person is coming
forward and seeking identification? I mean, you have
untold millions of records to go through, how do you
organize the work?

MR. CRAM: So we prioritize -- I think we're
prioritizing mostly the items that are in the
collection that are mostly used, or the items -- the
photographers that we can identify. So if I have a
name, I can put that into PIC. If I can develop more
information about it, great. I've got a fuller and
more complete PIC record. But a lot of it is based
off the catalog data, so if it's in the catalog, it'll
get into PIC.

MR. JESSOP: I mean, I think ISNI is moving
from a history which was in data mining to a future
which is in registration. And that's happening, like,
today. So most of the records in there to date have
been pulled out of other systems. I think that today
there is only one agency to whom you can go and say
I'd like an ISNI, please, and they'll relieve you of
registration and management of these databases over
time?

MR. JESSOP: I don't think we're dependent
upon them. I think we're very glad that they've taken
an early role. They've kickstarted things, and
they've used their resources wisely in that way. The
British Library -- you'll detect I'm not from around
here -- so I have a close connection with them. They
got a slug of money from the National Lottery to do
work related to music identities and music
preservation, and that was a good thing.

As we move on, the numbers get very small.
The wholesale price for assigning these things is
tiny, and if it's done at scale, then it sort of
disappears into the noise.

MR. COLITRE: Well, let me test that idea
for a second. The cost is tiny on an individual
basis, but there's some work that goes into these
registrations. You mentioned the use of cataloged
notable works for purposes of disambiguation among
authors, right?

A big hit is known to be associated with
someone, that's an anchor piece of data that we can
use to disambiguate that person with someone else, but
it takes some professional with a reputation to
MR. HEALY: And your question about the day before my late father-in-law’s funeral, we found his ISNI record was slightly corrupted and it had become merged with somebody else, and the folks at the British Library sorted that out quickly, and they’re part of what they call the quality team. It’s not scalable. It’s individuals. It’s skilled librarian catalogers working on this stuff, but that needs to be only the extreme cases that get that as a last resort.

MR. HEALY: And your question about sustainability, it seems to me to be one of the key ones because in his opening remarks Paul referred to the international standard text code, the fact that it is dormant, moribund, and may, in fact, expire entirely because it’s been difficult, impossible to find a community or an individual organization that can really identify a true value for it.

When we created it, back in the early 2000s, we assumed that there would be, you know, downstream value to link manifestations of a book back to a textual work number. But for that to sustain itself, there has to be a business model to underpin it, and there hasn’t been one. ISBN that I referred to earlier relied, at least in the UK, for 30 years on the generosity of a particular individual in the UK supply chain. He funded it from his own pocket largely, and from ‘69 to ‘99 ISBNs were free to everyone.

That was not sustainable, but it found its place, it found its sustainability because of its position in a much longer value chain where the individual cost of an ISBN was more than met downstream by the tremendous value in an automated book supply chain, and that made it sustainable forever thereafter. That’s the challenge I think we face with all of these identifiers.

MR. COLITRE: That’s a great opportunity to ask a question of Greg. You know, my own organization, Music Reports, maintains a large database of music rights and related business information, and we are able to sustain the cost of that massive database with seven terrabytes of churn a week because we have a business administering music licenses on behalf of a wide range of clients. And so it makes sense, it makes commercial sense for us to do that.

But, Greg, you have the problem of dealing with books that are technically in copyright but out of print, which suggests that their commercial value is, you know, not necessarily sufficient to sustain a commercial market for it. So how do you deal with that?

MR. CRAM: Yeah, so the president and CEO of the New York Public Library came to us about a year or two ago, maybe three now, and said I have a vision for the world. The vision is to make every book ever published available to anyone anywhere at any time digitally for free to them. Now go forth and do it.

So we’ve tried to break this up into more manageable chunks. The public domain in the US is easy. If I know it was published before 1924, public domain, great. Now it’s just a cost of digitization, I know how to deal with that.

Books that are published today that are commercially released as e-books and available to us as a library to purchase licenses, great, easy, I can deal with that. That’s just money. The problem is the stuff in the middle. What do I do about books that are in copyright but out of print, no longer -- haven’t found a commercial market to exploit right now. How do we deal with those?

So we’ve been prioritizing books that our patrons are asking for. We’re using basically circulation counts to figure out which books are at the top of the priority list and then go out and try to find the rights holders of those works. We’re working with the Authors Guild to help us do some of that work, but the problem that we keep running up against is the same problem that Ken mentioned.
Mr. Cram: We would love for them to be able to edit their own profiles. Tie agreements, to tie works to their own repertoire, and asking — if you ask authors, do you have a copy of your contract, many of them have put it in a file that is no longer accessible.

It’s a quaint way of saying they’ve lost it, but that is a problem, and we need to figure out a way to better resolve the conflicts between the publishers and the authors but also give the authors or the rights holders, in either case, the ability to stand up and say, that is ours and we would like to associate whatever the unique identifier is that you’ve now generated for the EPUB to our files so that we can now have a contract that’s relevant to that work and identifies that work.

Mr. Colitre: And, of course, that problem is exponentially multiplied in collaborative work forms like music, for example, where now you’ve got four composers and three performers arguing over their various contracts with various publishers and labels, all to, you know, get a single product to market, right?

Mr. Cram: Yeah, and we haven’t even talked about inserts, right? The magic world of inserts, where I’ve got third-party works in a book and I’ve got 50, 60 of them. Now I’ve got 60 rights holders who have rights in the physical manifestation of the book, and now how to associate those in — it just screams for a relational data that says this person is a rights holder in this object that appears in this book.

Mr. Colitre: Now, when it comes to this question of authors being given access to affect these records, then there’s a set of questions that come out of that. How do you maintain the integrity of the records? Do you now have an obligation in light of the GDPR to give them that access, including the right to remove records? And what does that do for the rest of us in society who have to keep track of these works that we are bound by law to respect from a perspective of intellectual property?

Mr. Cram: I’m going to punt on GDPR to our friend, Paul.

Mr. Colitre: Don’t worry. He’s British. He’s not affected.

(Laughter.)

Mr. Jessop: Yeah, hang on. So can I just check on that?

(Laughter.)

Mr. Jessop: That was today’s Brexit joke. I think this is a difficult problem but it’s a solvable one. If it’s not solvable, we don’t have a future in libraries because that’s what librarians do,

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they catalog stuff, and that has been regarded as
unexceptionable since we burned down the instance in
Alexandria. And, you know, we’re saying -- sorry, the
other Alexandria. God, I’ll have Homeland Security on
me if I start talking like that.

Yes, we have to be respectful, but on the
whole, this kind of factual attribution doesn’t fall
as foul of GDPR as people might at first suspect.
That’s the legal analysis that we’ve had done in all
of the organizations that I work with. You can do
these things, you just have to do it right. It’s not
an absolute bar.

MR. COLITRE: And if you could elaborate
a little more, what are some of the things that a
library can do to ensure compliance that square
with --

MR. JESSOP: I think that’s for the
librarian.

MR. CRAM: Okay, so, yeah, GDPR is going to
present some issues for us, but there are a lot of
factual things that probably are certainly amendable,
right? Someone under GDPR has the right to amend
their record, and I think that’s something that we
would be willing to talk about, right, have a
conversation about whether that amendment is truthful
or not.

But libraries have been doing this for a
long time. We've been responding to requests to
change records, to modify records. The publication
date of 2012 from Alexa raises some problems, right,
and we should fix that record, and so we did, right?
So I think that GDPR presents problems, but they
aren’t unique problems. They’re problems that we've
dealt with over time, and it’s just a new flavor of
the same thing.

MR. JESSOP: I agree with that. And we
needed every stage to be recording attribution of data
assertion, and that's not something we've historically
been very good at, and that's something that our
friend from Dot Blockchain was talking about this
morning in a sense, the ability to make a change, to
preserve the old version so you can roll back if
necessary.

And that has to be coupled with the ability
to judge the trustworthiness of the data based on its
 attribution. If I say X wrote Y, you may think well,
what does Paul know. But if somebody who is the
author or the publisher says it, it’s got a much
stronger chance of being correct and should be taken
more seriously.

MR. COLITRE: And yet again with compound
works or collaborative works, one finds that there’s
often opportunity for disagreement among sources who
would appear to be authoritative but who must,
nevertheless, resolve their claims.

MR. JESSOP: Who has a strong commercial
interest in reducing the number of people they have to
share nicely with. And this is actually driving one
of the timing issues in music at the moment, the music
work doesn’t get identified until all the songwriters
have agreed amongst themselves who they all are, which
in practice means agreed to shares, because if the
shares don’t add up to 100, somebody can pop out of
the woodwork. That can mean that particularly in the
case of urban music you don’t get an identifier for up
to 18 months after the song was written, and it may by
that time have come, gone, been forgotten about, and
people still don’t have a number for it to manage its
rights.

MR. COLITRE: And, of course, by that time
also the 15 writers have been joined by 5 others who
have claims adding up to 150 percent of the ownership.
MR. JESSOP: Absolutely. And then it all
goes into some holding account and no money gets
distributed until heads get banged together.

MR. COLITRE: Are there any questions from
the floor? Mr. Griffin?

MR. GRIFFIN: Yeah, the word I haven’t heard
is “Government.” And now we just had a law passed --
MS. ALLEN: Do we need a mic?
MR. GRIFFIN: [Off microphone] which
requires our government to build a user database
(inaudible) interest in government doing the work. I
hear you say many times the words “we must,” et
cetera, and then I lamentedly hear that some standards
just disappeared for lack of interest.

And so I ask you, what are the limits of
government, both pro and con, in this area that you
see because I respect all four of you so very much
about this, but is government going to do it, or are
we just going to continue to leave it to industry?
Where’s that headed?

MR. COLITRE: Oh, yeah, so the question is
government, to what extent does the government take
responsibility or is going to be able to help in this
matter --

MR. GRIFFIN: And which government.
MR. COLITRE: -- and which government and
hasn’t there been a law recently passed in the United
States that involves government in the association of
MR. COLITRE: Other examples where government has become involved in photographic cataloging or name identifiers, of course, you know, a question that arises anytime you start talking about a registry of individuals, a registry of creators, a registry of the kind of people that in prior historical moments have been rounded up and shot, one has to ask the question, what government, how do you put safeguards around that, isn't that what the GDPR is sort of aimed at?

MR. JESSOP: Yeah, that’s also true. That’s a different question about a French songwriter recording in Germany and the licensing of that work in those territories, people will look to the US database to find out what the US says is the attribution there.

MR. COLITRE: Any other questions?

MR. CRAM: So I'll take a shot at the older record. So government already built that database. It’s called the Catalog of Copyright Entries or the card catalog, except that there’s just no unique identifier associated with it. So what we would want is going forward a unique identifier associated with everyone who registers a copyrighted work. That is -- that avoids some of, I think, the problems that Bill just raised, but it’s still a list of people that the government is building. It’s just a list of people who have affirmatively stood up and said please identify me, note who I am, and include me in your registration record.

MR. COLITRE: And I would just point out here that the US Government is almost unique in the world in having taken on that approach. The Berne Convention did away with formalities in most countries of the world and therefore, you know, with the intent of protecting authors against publishers is my understanding of the rationale for that rule in the first place, we are now in a situation where individual authors are left with no means to easily identify themselves to the world about the ownership of their works.

MR. JESSOP: Any other questions?
to look in there, take a decision as to what they
think is right, and if it's wrong, there's a big
button they can press saying please fix it. And as I
just said, that happens within hours rather than
months. Well, if it doesn't, I'd like to know the
example because then somebody at the British Library
needs to get fired, and that's not going to happen, so
let's find out what the problem there is.
But the delay before money starts changing
hands on most of those records has given people an
opportunity to fix up the historical records if there
are errors that have crept in because of the kind of
typographical problem that Greg was showing us
earlier.

MR. COLITRE: I'm afraid we're out of time,
but thank you. This has been a wonderful discussion.
Look forward to talking to you afterwards.
(Appause.)

Ms. ALLEN: Thank you all. So we are
breaking now for lunch. We will return at 11:45 a.m.
For those who are -- at 12:45.
So for those of us who are presenters, there
is a lunch available next door in the room, and then
the rest, there are opportunities in the cafeteria or
across the street. If you have any questions about

AFTERNOON SESSION
US COPYRIGHT OFFICE MODERNIZATION
MS. ALLEN: We will begin in about one
minute. We will be listening to Robert Kasunic speak
about Copyright Office modernization. We are just
waiting for a few people to come in from lunch.
(Pause.)
MS. ALLEN: So hello and welcome back from
lunch. Our next presenter, Rob Kasunic, will provide
us with an overview of the United States Copyright
Office modernization efforts. Rob is Associate
Register of Copyrights and Director of Registration
Policy at the United States Copyright Office.
In his position, Rob heads the Office of
Registration Policy and Practice, which administers
the US Copyrights Registration System, and advises at
the Register of Copyrights on questions of
registration policy and related regulations and
interpretations of the copyright law. He is a
recognized copyright expert and is one of four legal
advisors to the Register.
We are delighted to have him today.
Welcome, Rob.
(Appause.)
MR. KASUNIC: Thank you, Susan. Thank you

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So where we are now is -- and have been all to put on your seatbelts because I’m going to be flying through a number of slides to give you some more -- an overview of the things that are going on with respect to registration modernization.

Before I get to that, I should say that we are working on the Enterprise Copyright System. So registration modernization is only a part of what we’ll be working on and have been working on. Modernization started with the recordation system, which was a purely paper-based system, and so that is -- work on that has been ongoing. We also are working on digitizing records. So the virtual card catalog is the first step in that direction, but work will be continuing with that, ultimately for the goal of putting all of the Copyright Office’s information together in a much more fluid manner for the public.

But we have begun some of the early work with the registration system and have not started any development yet. So I think some people were concerned that they were worried this was going along too far without having had input. There’s going to be lots of opportunities for input into this process and we’ve just really started that.

So I’m going to go through a number of slides showing you what some of these design concept features that we’re thinking about adding and some of the other steps that we’ve been taking.

So one thing would be to -- right now, we send emails to people when there are questions about applications. For instance, in general, we receive well over 500,000 applications a year and about 30 to 31 percent of those applications require correspondence. Having an easier way to communicate with the public is one feature -- with applicants is something that we’re striving to do. Having ways that you can set up how you want to be contacted with those notifications so that you can go into your account and look at what the problems may be with that or what the progress.

If you can track your pizzas, we want people to be able to know where in the process their application is at any given point in time. So being able to get text messages that there is a new notification in the system or robocalls, whatever those features would be, we want to include that.

Also, a long-standing problem was that we’ve heard about is that various law firms or companies would like to have parent accounts and have subaccounts within that. So that’s another feature we want to build into that system.

Having a much friendlier tone and helpful guidance throughout the application is a major concern that we are trying to address, having ways that you can communicate using sort of features -- various features that you might be able to use in your Amazon account or some other account. Anytime that you’ve listed a person’s name and address, have that added into your account so that you can just use that the next time without having to retype all of that information in. Having ways to more easily provide deposits for works and whether that’s a drag-and-drop feature or looking at other forms of providing background code changes. And so what we worked on, at least in terms of replacement of this interface, is trying to move to a much more modern, web-friendly approach that we can leverage web norms, have a friendlier tone, provide a lot more help within the application itself. Because I think one thing we found over the years is no matter how much material that we publish for the public in terms of circulars or the compendium, that the one place where we have a chance of really reaching and helping applicants is in the application itself.

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<td>deposits, such as FTP, are also things that we’re working with.</td>
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<td>Currently, our upload feature is very limited and time-consuming. Having more flexibility in those upload features is something that we know applicants want, and from some of the usability testing, these are features that people really did like the ease of uploading files. And, also, having less to fill out, so the metadata in those files or the filenames could, in the first instance, propagate or populate the title fields so you wouldn’t have to write that in. You would have the ability to change that if that was not the title you wanted to include in your application. But many of the -- just adding many features, help text at different levels along the way because we have found that for -- we basically could break down applicants into two very broad categories, and those would be experienced users with the system and novice users with the system. We want to be able to serve both of those more efficiently. And having various levels of help right in the application that you can go deeper and deeper into, if you need that, maybe having various tools for things like work made for hire or publication questions to at least provide some guidance into how to answer those questions. And, also, as much as possible using language that are not terms of art, but are more understandable to the general public. We’re also looking at -- this would be an example of some of the additional help text that we would include. Also, we’re exploring other ways of being able to target correspondence with the applicant. So in the old days, it was write a letter to the applicant and put it in the mail. Now, we send emails predominantly. But in some cases, to be able to point to exactly where the problem is and then ask a question about that and have the applicant be able to answer right within the application, within their account itself, could speed this process up and make it less confusing for applicants. Having the ability to review and share the final product is another feature that we know users want. For instance, lawyers would like to be able to send the draft application to their clients to have them review it before it is signed and just to be able to see how the certificate is going to look before you actually submit it. So those are high-level features that we’ve been working on. We then followed up in the work with</td>
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<td>Deloitte Digital to -- they also engaged in usability testing for us. So this was a total of 36 sessions that were conducted and they took a considerable amount of time. It was probably about an hour or two for each of them, where scenarios were provided to the user and then they were videoed and talked their way through the application. So they just spoke aloud and we could hear their thought process. And I can’t show any of that. I don’t think the people who were thinking aloud would like that. We do have -- I have a picture here. And that’s our now permanent Register of Copyrights, Karen Temple, in the right corner, who did some usability testing as well. We really learned a great deal from this. One thing that we learned is that Deloitte Digital was a little bit overly optimistic about what they could accomplish and how they could help users. There were a lot of things that we found that people loved about the new design, but there were also many things that didn’t work as well as was expected. So what we are going to be doing and which -- that contract ended and we’re now moving to a stage where we’re going to be looking at the internal user interface of the system. But we are going to be</td>
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<td>continuing to modify the work that had been done on the user interface by Deloitte and further refine that, do further usability testing until we get to a point where we’re comfortable with the success of that. We currently have 31 different applications for registration, including ones that there should be specific applications for. So there is still a great deal of work and that was -- Deloitte really only tried to handle about four of those specific types of applications. Some of them went very well and, again, some of them did not. So there is continuing work that will be done on that. Also, in addition to the work that is being done on the interface, we also published a notice of inquiry about policy questions related to registration and to the public record, and the main topics were the application process and application information, public record and deposit requirements. And I won’t go through -- so we received 54 written comments. We are still reviewing those comments. These are just a sample of some of the questions that there is much more detail about in the Federal Register notice. But I wanted to highlight, particularly for today’s session, a couple of the questions that we did</td>
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<td>ask is, what additional data should the office collect</td>
<td>would be valuable to the public in the public record.</td>
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<td>in applications for registration, and talking about</td>
<td>But to the extent that people do not do that, there</td>
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<td>identifiers and other information that would be useful</td>
<td>are still other ways that we can connect our</td>
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<td>for the digital marketplace to include. We currently</td>
<td>information with or people can, again, build upon what</td>
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<td>do allow identifiers to be added on an optional basis</td>
<td>we do collect and provide additional information.</td>
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<td>within the current system. It’s not used very often.</td>
<td>So I think we also, as I said, have not</td>
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<td>But this is something that we definitely want to</td>
<td>started development yet. We’re working with the</td>
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<td>incorporate into the new system. And really in terms</td>
<td>Library of Congress and the Office of the Chief</td>
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<td>of even thinking about the public record, that we will</td>
<td>Information Officer to determine the approach to begin</td>
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<td>be recreating, it’s only going to be as valuable as</td>
<td>development, and that should be beginning by the end</td>
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<td>the information that we get into the system.</td>
<td>of this fiscal year. But we still have a lot of work</td>
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<td>But I think when you combine that with the</td>
<td>to do on the internal side of the system and revising</td>
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<td>other question, with respect to APIs -- and that’s</td>
<td>the external side. So this is going to be a process</td>
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<td>something that absolutely is essential to this new</td>
<td>that is going to be looking for a lot of public input</td>
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<td>system. We want to have APIs that are both to be able</td>
<td>throughout the entire process and through usability</td>
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<td>to input information into the system so that</td>
<td>testing and other suggestions. So we do welcome that</td>
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<td>businesses or other entities can create an interface</td>
<td>information that we receive.</td>
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<td>that meets the technical requirements of the APIs and</td>
<td>So we would like to have as robust as</td>
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<td>of the system to input application information to the</td>
<td>possible the information that we are collecting that</td>
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<td>office. But we also want to have APIs so that our</td>
<td>as the user interface?</td>
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<td>public record can be extracted and augmented by</td>
<td>MR. KASUNIC: Yes, and thanks for that question. There is work being done. So as part of</td>
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<td>anybody who wants to add additional information to the</td>
<td>this modernization effort, the Register had created a</td>
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<td>information that we receive.</td>
<td>new office within the Copyright Office, the Copyright</td>
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<td>So we would like to have as robust as</td>
<td>Modernization Office. And within that CMO, there is a</td>
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<td>possible the information that we are collecting that</td>
<td>team, a data team. And they are just wonderful and</td>
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<td>very smart people who have already created a data plan</td>
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<td>that has been turned over to the Library of Congress.</td>
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<td>registration system, it’s always been flexibility is</td>
<td>as the number one feature. And this time, we’re not</td>
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<td>the number one feature. And this time, we’re not</td>
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<td>be something that’s going to be continual in an agile</td>
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<td>manner.</td>
<td>AUDIENCE MEMBER: I know you studied and</td>
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<td>AUDIENCE MEMBER: I know you studied and</td>
<td>provided a great deal of information about the cost of</td>
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<td>provided a great deal of information about the cost of</td>
<td>registration, what does the cost, and I presume you</td>
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<td>registration, what does the cost, and I presume you</td>
<td>take all the costs and divide them up and how many</td>
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<td>registrations you have and so forth and that is</td>
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<td>useful. But I’m wondering if there has been any study</td>
<td>done of the cost of nonregistration. What does it</td>
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<td>done of the cost of nonregistration. What does it</td>
<td>cost us in commerce for missing records, for things</td>
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<td>cost us in commerce for missing records, for things</td>
<td>that we don’t have? Has there ever been a study done</td>
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<td>that we don’t have? Has there ever been a study done</td>
<td>of the weight of this system and the cost of missing</td>
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<td>of the weight of this system and the cost of missing</td>
<td>information?</td>
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<td>information?</td>
<td>MR. KASUNIC: Not that I am aware of.</td>
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<td>MR. KASUNIC: Not that I am aware of.</td>
<td>But--</td>
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<td>AUDIENCE MEMBER: I think it would be useful</td>
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<td>AUDIENCE MEMBER: I think it would be useful</td>
<td>to balance them because some have suggested that the</td>
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<td>to balance them because some have suggested that the</td>
<td>cost of nonregistration is so great that registration</td>
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<td>should be free or effectively free because the cost of</td>
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<td>nonregistration is so great that that’s the one evil</td>
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<td>nonregistration is so great that that’s the one evil</td>
<td>we must avoid. So I just offer that thought, that we</td>
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<td>we must avoid. So I just offer that thought, that we</td>
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might do a study of what it costs us when we miss
things.

MR. KASUNIC: I think that’s a great idea.

Yes?

AUDIENCE MEMBER: I am wondering about the
mandatory information and what you mean by that.

MR. KASUNIC: Just in terms of the
application itself or whether we could require, as a
technical requirement, that if a particular field
isn’t filled in that you will not be able to go
forward. So having a technical requirement that, for
instance, you have to have the author’s name or you
have to have that.

So when it comes to things like unique
identifiers, should that be something that we actually
require? Certainly, I think we have the regulatory
authority to do that, but at least from what we heard,
what I have seen in the comments to the notice of
inquiry is that everyone believes that we should
collect that information as an optional matter, but I
did not see anybody in favor of making that mandatory
information.

AUDIENCE MEMBER: Okay. I would agree with
that.

MR. KASUNIC: I think Susan is telling me --

MS. ALLEN: Yes --

AUDIENCE MEMBER: I’ll make it short.

There’s been a lot of work over many years on the
representation of information, like a literary work
when it’s represented in digital form. And you talked
about a unique identifier, but oftentimes, they talk
about the identifier for the underlying material
rather than when it’s represented in a program, for
example.

But in any event, the unique persistent
identifier for the actual unit of information that is
being deposited, the deposit copy if you were, I would
think that that would be an interesting thing to
consider in addition to other unique identifiers.

It’s the identification of the representation. Say,
for example, people have worked on digital objects or
digital entities more generally. And that,
eventually, if you have the deposit coming in, that
would be associated with the metadata. Perhaps.

MR. KASUNIC: Yes. And that’s exactly the
kind of information that we hope to receive from this.
And I am sure that -- those proposals were not made in
the notice of inquiry -- that we will be opening up
for additional suggestions for that. But I think that
would be useful to have.

MS. ALLEN: We are continuing the
conversation now with a series of presentations about
registries and rights management. We’re delighted to
have, first, Stuart Myles, who has contributed to past
meetings as well. Stuart is from the Associated Press
and will give an update on the IPTC for us. Thank
you.

MR. MYLES: Hi, everybody. My name is
Stuart Myles, as you just heard, and I am Director of
Information Management at the Associated Press. So I
deal with all of the metadata for all of the content
that we create and aggregate and distribute around the
world. And I am also the Chairman of the IPTC. And,
right now, I’m going to give you an update on some of
the work that IPTC has been doing in the space of
rights.

So first, IPTC, just to explain a little bit
about that. IPTC is a news technology standards
organization, the International Press and Telecomm
Committee. And it’s a membership organization
comprised of over 50 different news and news-related
and media organizations around the world.

So I work for the Associated Press as one of
the founder members of the organization, but we have
And

Now, as you can see, often it looks like Abode is not the only way that you can get metadata into your photos, actually embedded in the images, but it definitely helps to have a big brand name associated with that. So you can capture information about what is depicted in the photo, rights information, licensing information, technical information about the equipment used to take the photo and so on.

What I want to talk about today is the fact that we’re perhaps the best known for, which is our photo metadata standard and particularly the rights related to that. So IPTC has created ways to capture metadata associated with photos. It is actually probably our most successful standard, not least in part because Adobe is one of the members of IPTC and has built in a support for the IPTC representation of metadata.

So we partnered with W3C, the Worldwide Web Consortium, to build on their ODRL standard, open digital rights language, and created RightsML, which is a news and media specific version of the rights standard, to be able to make it easier to present

So we wanted to discuss this with some of the leading organizations from -- globally that represent large organizations, such as the BBC and French Press Association and so on, but ranging down to quite small organizations as well. And what we do is we create news technology standards to help news companies exchange business-to-business news primarily, so photo, video, text, audio, and so on.

The second thing that I want to briefly mention is that IPTC is also working on, not just photos, but across all the different media types, a better way to represent rights and licensing and permissions and restrictions information in a machine-readable format.

So we partnered with W3C, the Worldwide Web Consortium, to build on their ODRL standard, open digital rights language, and created RightsML, which is a news and media specific version of the rights

Also interesting is the fact that we can automatically extract that from images, but it definitely helps to have a big brand like Adobe is one of the members of IPTC and probably our most successful standard, not least in part because Adobe is one of the members of IPTC and has built in a support for the IPTC representation of metadata.

So we wanted to discuss this with some of the leading organizations from -- globally that represent large organizations, such as the BBC and French Press Association and so on, but ranging down to quite small organizations as well. And what we do is we create news technology standards to help news companies exchange business-to-business news primarily, so photo, video, text, audio, and so on.

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MS. ALLEN: Peter, do you want to come up or do you want to stay there? Either is fine.
His overriding interest is in securing artists’ rights and fair payment, and he will talk about Music 2025.

MR. JENNER: What am I meant to do with this? These do things. Oh, look. Does that do another one? What do I do? Someone tell me what to do. Oh, there it is. Oh, okay. No, that’s the wrong way. Ah, there it is. I’ve got it, I’ve got it.

Fantastic okay.

I’m beyond all that. I am in an age of -- as you see, I have a walking stick and I am wearing whatever this is. It’s a sign of my ancient-ness and I’m dedicated to being more and more old age and, therefore, more and more out of touch with everything which is going on.

So I will now sort of blunder into something. First of all, let me just say, just so you know exactly where I’m coming from, I found a lot of the presentations all about rights and copyrights, I don’t think I heard a mention of the performers or the writers or anyone who actually -- hardly any mention of -- I’m sure there were mentions -- of the people who actually make the music and their importance. For me, they are the people who really matter. And all this stuff about copyright, I know it enables them to get some of the money, but, unfortunately, it’s usually only some of the money. But, anyway, you don’t want to hear any more from the raving lefty.

I am going to try and see if I can make this work because someone put this together. And you’ll excuse my incompetence, I hope. Oh, that’s the wrong way. You see, that’s a bad start.

Copyright. The first reference we have of copyright goes back to 560 A.D., where there was a -- in Ireland, there was a bit of a punch-up between Saint Finian and Saint Columba and it ended up with a battle, resulting in the battle of the book. It was all over who would own the illuminated copy of the Bible, which had come all the way from the Middle East somewhere and it was the real McCoy. And so what happened was that Saint Finian brought it over and Saint Columba wanted to take it over and there was a battle of the book. And in the end, they decided the best thing was to remember that it was a sacred book and that really we shouldn’t go around killing people about God’s word. So it ended up in a sort of more peaceful solution.

If I can find the next bits where I’m meant to be going here. Anyway, that was Saint Finian and Saint Columba. They had a big old punch-up, but it was the first sort of dispute because the one who had the book didn’t want to give it to Columba because Columba took the book away and he set up a sweatshop of monks who were copying his own unique illuminated manuscript to the Bible. And then in the end, a Druid came along to -- after they had had a battle and the king had to sort this out. And they came to a conclusion that it wasn’t seemly that they should be arguing over the holy book, and so it all got buried and Columba went on churning out his pirate copy of Finian’s book.

So there you go. Early days. Early Christians. Away they went. Battle of the book. Well, that book went all over Europe. It was very important in the development of Christianity in Europe. And we’re still trying to recover from it. So anyway, I apologize to anyone I offended with that comment, but my father was a vicar so you see I have sort of ambivalent views.

The next thing I want to go on to is payment and attribution. I think that it’s fair to say that most record companies, I know them much better than I know the publishing companies, but I think most record companies’ data is based on payment data. They are mainly interested in who do I have to pay, so I can get it right so they don’t come and sue me. I think the much more interesting thing is the attribution data, who is involved in this recording. And there is no way that people kept the recording. The payment was all done in contracts and there’s lots of bits of paper and lawyers and all the rest of it. Attribution requires people to note down who was actually at the studio, who played what, keep it in a formal orderly way while taking lots of drugs and lots of drink.

So the attribution data has always been a little bit ropey and it will always be a little bit ropey because also people know that the more they can get attributed, the more money they will get. So you have double things going on there. So I will now try to move on to what do I get to next. Voice-activated services. Now, voice-activated services, I think, again, bring us into an even more problematic area. Because how is it going to deal with strange accents, people speaking in foreign languages or speaking a language with a heavy accent? Is it going to make mistakes? Almost certainly. People with voice impediments almost certainly have a problem. Voice-activated services, I think is likely to be very jolly-good and groovy, but I don’t think they’re going to be entirely accurate. Also, it depends on the instructions you
So search and discovery, I think in the
radio or whatever, is exploring. The potential, I
think, of something like Spotify is that it’s got God
God. What am I going to do? Okay.
what they’re talking about, and we’re trying to work
out a structure for the data and thank God, I mean,
here he is. He’s trying to hide because he wants
nothing to do with me up at the end there, someone who
knows what he’s talking about, which it’s the accent,
nothing to do with me. And I don’t blame him.
what I’m talking about? No, I
do. And search and discovery is going to rely on good
data. And I think that we can be pretty confident
that the data won’t be very good in terms of, you
know, is it precise or is it just approximate, you
know. How am I going to say, oh, I really like that,
can you be more like that. That search and
discovery is going to be very corrupted I am sure and
very influenced by all sorts of things.
Have I finished? Have you got rid of me
now?
(Laughter.)
MR. JENNER: Am I still going on? Yeah,
yeah, okay, okay. So anyway, we go on and I have a
plan here which I find very interesting. Big data is
something we all have to go on about. Big data is
something that is very important. Everything is about
huge data. The more data, the better, the more
analytics, the better. That is great. Fine, I’ll buy
that.
But there are the seven Vs of big data,
which I think data is clearly what’s going to be
driving the business and big data -- the bigger the
data, the better as far as I can gather, speaking as
an old man. And so that we have the seven Vs, which
is about the speed at which the data is received, the
different types of data -- so it’s variety, it’s
veracity -- is a true data or is it just some rubbish
data. It’s visualization so that we can see it and
work with it. The data, the variability of the data,
the data whose meaning is constantly changing, you
know. Quite what do we mean? What’s a jazz record?
What’s a dance record? What does that mean? The size
of the data, the volume, and then the value. So these
are very important issues, all of this to do with big
data.

God, they should never let me loose on this.
Numeric standards. Here I think, again, that we have
to rely on numeric standards as far as we can because
we can’t rely on language. So we have to rely on
numericizing the artist, the performance, the songs,
they all need to be numbered in an international world
-- which even in a Brexit Britain, we’re still going
to be in an international world -- we need numbers
because language is a big problem.

So we have got to have numeric structures
for the performers, for the songs, for the publishers,
for the record companies, for all those things. And
developing a structure which can work internationally
with many languages is going to be a real challenge
Thank you very much. Good evening and good night.

(Applause.)

MS. ALLEN: Thank you, Peter.

Up next is Niclas Molinder, the CEO of Session, formerly Audley, a global hub for authoritative preregistration music metadata sourced from creators. In the interest of time, I’m just going to turn it over. Welcome.

MR. MOLINDER: Thank you. And thank you, Peter, for the warmup because they saved me until after your speech because now we’re going to talk about the creators.

MR. JENNER: Oh good.

MR. MOLINDER: Yeah. So, yeah, my name is Niclas Molinder. I’m from Sweden. I’ve worked as a songwriter producer for more than 20 years. I found a couple of up-and-coming songwriters and started a publishing company to be able to help them. And for the first time, I was on the other side of the table negotiating with creators, and they were out working, writing songs in the world, and it was my responsibility as a publisher to register all their songs. But they never gave me data. So that’s when I realized how dark and deep the whole of metadata is, especially from the creator side.

I started a company because of my own need of something that solved this problem. I had a great honor to get both Mr. Bjorn Ulvaeus from ABBA and Max Martin as partners because Max Martin had the same problem with all his writers. So we started a company that was called Audley, and this is five years ago.

No one understand the name so we decided to change names. So now, we rebranded the company to Session, which is much more easier for the creators to understand what we do.

On South by Southwest a couple of weeks ago, we announced a project called Creator Credits, which is the next step for the company. We have a platform that is out on the market, and we have taken the first steps to solve this problem. But, now, with the name change and this project we will actually -- with the project, we have some of the most important companies and organizations in the industry joining our project to feed the industry with high-quality data from the creators, because we hear a lot of good things going on in the industry all from blockchain to new databases and stuff, but we need to make sure that we feed it with the right information.

So let’s just get it from a creator perspective. For them, as it is for the consumer, it’s a song, it’s something that comes out of the speakers. And that is the biggest focus in the recording studio is what comes out of the speakers.

But what they don’t know, the creators, is that it is so much information that is linked to the sound that they hear. And our problem here is that they don’t care. They don’t care until they get the royalty statements because then they scream and shout and complain that they don’t get the money that they are supposed to have. But they don’t really understand that it’s all based on the data that is born when they create the music.

So see it this way. A creator in the studio, how can they keep control of all the different legal roles they have? They will not. They have not historically never been aware of what they’re doing from an administration point of view. And they will not in the future. So we must use technology to make it easier for them to not have to think about it, to not bother about it. Maybe once when they set up some kind of an account, hopefully on our platform, then they need to know what they’re doing. But from that moment on, it should be done automatically.

So in this case, a creator -- let’s say that this is a songwriter and a guitar player. If that person writes a song, sings a melody or writes a lyric, they have one identifier and one legal role.

But the second after they play the same song on the guitar, but will record it with a microphone, then they have a completely different identifier and a completely different legal role. And how can they keep track of all this? No, they can’t. So we must help them.

And now the do-it-yourself era has started. So more and more artists and producers also act as the record label, they own their own recording, they own their own publishing, they are self-managed. So in other words, one single person can have all these different roles at the same time. And it’s impossible to keep track of that for that person.

And add to that, an average registration for new compositions today has five songwriters to it. The problem is then that we have silos with five different people that are represented sometimes by a manager or publisher or self-controlled, it doesn’t matter. But the most important thing when we do a registration, both for credits and then especially for payment, that everyone has the same opinion about everything.
So our platform -- and in this proof of concept that we’re now doing, the Creator Credits, we’re using our Platform session to collect this information, upstream in the studio when the music is created. We are the only platform available right now on the market that has success both to the IPI and IPN identifiers, and we’re now also adding ISNI onto this. So we will be a platform where all the identifiers are gathered under one umbrella, and that together with the legal name. The legal name we needed, but the most important things are the identifiers because we cannot use names in text strings anymore. I mean, every keyboard in this room you cannot even write my name because I have a funny Swedish letter that you don’t even have on your keyboard. So how can you write my name? It’s impossible.

So all the identifiers, together with the title of the composition and the recording, hopefully are split between the songwriters. That is -- we need it sooner or later, but we need to start with finding out who they are. That together with roles and recording locations and then the identifiers for the composition and the recording of these is -- okay, I know. I’m going to hurry up.

So that’s what we do. So the proof of concept is get authoritative data in time when it happens because creators forget. We need to get this data when they do it in the studio, add identifiers and then link them to each other. This will end up in the next version of our application, which we’re going to be a white label version. So all companies and organizations that want to use our platform can brand it as their own app. That is going to be especially good for the CMOs because the majority of the CMOs don’t even have an app. So everything will be branded as their own, but just powered by Session. And in that case, it doesn’t matter what legal role their client has. We make sure that the data is pushed to the right organization that needs it for registration. So just for you to understand -- yeah, and this -- now we’re talking app and web. But from day one, I said there is one front end where we need to be. We need to be in the recording studio and in the softwares that the creators are using on a daily basis. So what we announced on South a couple of weeks ago was a huge step forward for us. Avid, the company that developed Pro Tools, which is one of the most used softwares -- so from now on, Session will be [music playing over speaker]. This is how it works.

Maybe you recognize this song. This is unique material. This is an ABBA song and this is how the creators work in the studio.

Each track contains a performance of something, of someone. This is Bjorn Ulvaeus from ABBA that played the guitar. So here we need to identify that it’s him playing. That is now possible to do directly in the program.

It’s nice to just listen. So each track will then -- you will be able to add on each track who is playing what and that information is captured in the studio. So in the end, we get in Pro Tools all the identifiers, recording locations, who they were,

and we’re using an amazing technology with their phones so when a creator walks into a studio, Pro Tools would automatically recognize that they are in the same room as the computer that’s recording the music and the studio engineer will easily just click if that person is doing something. And we will, of course, make it very simple and easy to understand UY and UX. So the creators don’t now even have to take the phone out of their pocket. They are recognized as soon as they walk into the studio.

But we, of course, are aware that music is written and produced not all the time when everyone is in the same room. So of course, they can use the app and recognize each other by connecting through the app. When everything is done, we print, we let the creators or the authoritative source or the authoritative person verify the data so we know that everyone has approved.

And when the data is approved and we have everything we need, we are going to use the DDEX standards to just push this out from our system with a format called RIN and the record labels and the PROs and all the CMOs will get the information. And in the end, the DSP and the consumer that’s listening to the music will not only get full credits about who did
what, where and when -- and, believe me, I am a nerd, so I have -- in the system, we can also add which microphone it was and which recording console and which guitar. So it will be a completely new experience for the customers that listen to music with full credits. But, most importantly, we now all know who did what, where and when, so when we have money we can push the money to them. So that’s what we do. Thank you so much. (Applause.)

PANEL DISCUSSION: REGISTRIES AND RIGHTS MANAGEMENT

MS. ALLEN: Thank you so much to our panelists. I think we’re going to turn the discussion over to be moderated by Paul Sweeting, who I just wanted to take a minute to introduce. Paul Sweeting is a veteran business journalist and industry analyst specializing in the intersecting worlds of media, technology and public policy. He’s the founder and principal of Concurrent Media Strategies and also is heavily involved with RightsTech Project, cocreator, which is an annual conference in New York City that involves many of these same issues. So thank you very much.

MR. SWEETING: Thank you. We’re also starting an annual conference in Frankfurt, Germany if anyone is interested.

Well, that was quite a series of presentations. But, Mark, you were a little bit left out of the party. You didn’t give a presentation. So I wanted to give you the first opportunity to speak here and, you know, if you wanted to talk about DDEX’s involvement in the creative project that Niclas Molinder was just talking about.

MR. ISHERWOOD: Hi, everyone. My name is Mark Isherwood. I am part of the Secretariat that runs DDEX, Digital Data Exchange. DDEX is a standards organization primarily in the music industry. It’s a membership organization. We have multinational companies, startups, and everything in between.

Indeed, about 30 percent of our members are companies that have revenue of less than $2 million. So it’s not just the big boys; it’s a significant part of the marketplace involved.

The standards we focus on are the communication of metadata between all the different players within the music industry. So for example, record companies need to send metadata information to the DSPs so that when we, as consumers, go on to their services, we can see exactly what it is that we’re about to play.

There are a number of other standards.

There are about six families of standards altogether, and they are all dealing with different types of business transactions throughout the entire supply chain.

I think the one I would just bring to your attention is this recording information notification standard which was a bit of a departure for DDEX because it’s actually not, strictly speaking, a communications standard. It’s more a standard way of collecting metadata in the studio, as Niclas has said, and allowing that metadata to travel around with the actual binary files in its journey through creation.

Again, as Niclas said, things don’t get created, or at least not in their final version, in one studio or even necessarily in a studio at all. And the ability of RIN and what Niclas and his colleagues are going to be doing enables metadata to travel with the files. Gradually as it goes through each individual activity, you just add more and more metadata.

So it is more like a bucket which gets filled up and then once the content has got to the point where it is ready or nearly ready to be released, then it can go forward into the record company supply chain, also into the musical work society and the performance society supply chain so that all that data is already available almost before anything has actually hit the streets. That shows my age. Because things don’t hit the streets anymore, do they?

And this project, if they can prove it is a proof of concept, is potentially a game changer because, for the first time, we will have all or nearly all of the contributors to each sound recording...
that gets released listed and, more importantly,
linked to their unique identifiers that the industry
uses to actually make sure of the two things that
Peter was emphasizing, which is making sure they get
paid and attributed.

And so DDEX is very much in support of the
project that Niclas is doing. Our only kind of
proviso, if there was one, was make sure that it’s an
open and not proprietary solution. The nanosecond it
becomes a proprietary solution, people won’t use it
because people need to trust, and the only way in this
particular space where it’s sort of pretty competitive
is by using standards rather than proprietary
solutions.

So Peter and Niclas are very much in the
same place in terms of what they’re trying to achieve,
and DDEX very much supports that. I can’t really talk
to anything Stuart said because it’s not my area of
expertise.

MR. SWEETING: So thank you.

Niclas, so Mark indicated that this is at
the proof of concept stage right now. Can you give us
a little bit of a sense of what you hope the timetable
will look like?

MR. MOLINDER: Yeah. I mean, to say it’s a

proof of concept, the platform is already built. So
we have the platform from our side. It’s there. So
the proof of concept is to get all the other players
in the industry to really adopt our platform. And we
need to get the workflow, how the information is going
to flow from the studio into Pro Tools, in this case,
but there are other DAWs waiting also to join the
project. So there will be more than just Pro Tools,
of course. And then how it flows through a record
label, a publisher, a PRO, and then to the ESP. And
we will present the proof of concept in November in
Stockholm when the big DDEX meeting is in November.
So that is the time frame for the proof of concept.
And, hopefully, we will see the first releases in
production early next year.

MR. SWEETING: Stuart, so IPTC has already
traveled at least some way down this same path in that
you have developed the means to capture metadata at
the source, at the point of creation, and have, at
least to some extent, managed to get that capture into
the software and even, I gather, the hardware, DSLRs.
Can you tell us a little bit about how -- well, first
of all, how long has that been the case and what are
the sort of lessons learned from trying to implement
something like that?

MR. MYLES: So I think IPTC is really the
photo metadata where it’s the case that it’s software
and hardware that’s doing capturing of the metadata.
And we try to, the agencies such as AP, try to
encourage journalists and photographers to enter
metadata at the point of creation of the items,
although often that isn’t the case. It’s often later
that metadata has to be added.

In terms of how long, it’s been a long, long
process. So the photo metadata standard of IPTC is
over 10 years old. And it was a lot of negotiations
and meetings with the camera manufacturers to get them
to agree to adopt the IPTC photo metadata standards
embedded into their digital cameras and negotiations
with different software vendors and so on.

As more camera manufacturers and software
manufacturers adopted the standard, it becomes easier
to get other people to adopt it, too. But it’s also
the case that just because it’s possible to enter
metadata accurately, does not mean that metadata gets
entered accurately. So it’s not unusual to see -- so
AP aggregates photos from lots of different producers
both in our own content and in other people’s content.
It’s not unusual to see people who have typed things
into fields because they had to, but it didn’t make

any sense what they typed in. Equally, it’s not
unusual to see people looking for a place to type in
metadata and they pick a field that is not the right
one.

So one of my favorite examples of that
within AP is people are required to -- we require a
journalist to identify who are the people who are in
the photo. There was a number of misunderstandings
and somebody created a tool that -- within AP that
encouraged the journalists or the photographers to
type into the headline field the name of the person
depicted because on the grounds that they forget,
like, well, it’s a person, they have a head, so we’ll
put them into the headline. Unfortunately, that’s
left us with a legacy -- rather than the person
featured field. So that’s left us with a legacy of
bad metadata that we have to clean up.

So it’s great to have the metadata, it’s
great to have the manufacturer support it, but it’s
the people who have to deal with it and have to work
with it. It’s also the case that there’s twin demands
of we need more and more and more metadata, but that
becomes overwhelming. So I appreciate the idea of
being able to tag the mics that we use, and that’s not
necessarily a bad idea, but if you have hundreds or
MR. ISHERWOOD: I think that story could be said or told in any media industry. And, actually, that is one of the hardest things. I think the important thing about what the Creator Credits is doing is it's more automated, at least about the people. But it also points to the fact that there is still a need for creator education about why these things are important. What is an ISWC? What is an ISRC? Why do I need one?

I was at a conference in January where there were a bunch of songwriters, and they were talking about the importance in data. They knew what an ISRC was. And somebody said, well, do you know what an ISWC was? None of them knew. And, yet, every work they've created should have an ISWC. So if they don't even know what it is, they're not going to think it's important in terms of trying to capture that data at the creation point. So there is definitely an education need right across the board, not just in music, but in every other media type as well.

MR. SWEETING: Yeah, I was thinking, Stuart, as you were talking from my days as a working journalist, you hated having to collect the information on who was depicted in the photo. And I was going to ask, but I think Mark just sort of answered it, you know, what is the human factor here? And to what extent can you take that ambiguity out of the system? Do you even want to take it out of the system?

MR. MYLES: I think a couple things. One is, yes, the human factor, the people still matter a lot. I think that one thing that’s helpful is if people feel that there’s a point in adding all of this metadata. So for us, in the news industry, I think Adobe adopting the standards and, more recently, Google adopting certain ways of extracting metadata, it makes it clearer what the point is I think.

But in terms of whether you want to take people out of the equation, my view is that automation can help, but my experience as a technologist is that automation is never 100 percent accurate and so -- automation is definitely good for consistency and scale, but you still want people to be overseeing the work to make sure that it’s relevant and accurate and so on. I think there’s a balance to be struck.

MR. MOLINDER: So I’m going to pick up on the education part, but I want to refer to Stuart, to the fields and the names of the field. Of course, I mean, our plan is to -- how we structure our platform is that all fields are not available for everyone. So if we’re talking microphones, then it is only the studio engineer that has that opportunity to fill that in. But as you had your header thing, I had a crazy thing -- I got contacted through our support. It was a songwriter from London that called me or wrote on the support and was so upset that our system didn’t work because it said that that person was a songwriter in CA. I’m in London, not in California. But CA stands for composer and author, so that’s lack of knowledge. So we need to educate.

And based on that, Max Martin, Bjorn Ulvaeus and I, we picked up on that and we’ve been talking so much about it. So one and a half years ago, we started a foundation called Music Rights Awareness Foundation and we started a project in Africa, in Rwanda, Malawi and Tanzania, where we educate music creators. But the African product is just one start. We want to do this globally. So I am kindly reaching out to everyone. If you’re interested to be part of this, we have a great idea how music rights education should be done. We should, of course, use technology. It should be app-
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value of the work and how much it generated, it’s just
a guess as to how much money ends up in the hands of
the creator, as Pete points out. So there really is a
two-way data flow, but we haven’t discussed data back
up the chain.

MR. ISHERWOOD: I mean, just speaking with
purely my DDEX hat on, one of our standards is what we
call the Digital Sales Report, which enables DSPs to
report all of the uses to various types of copyright
owners. And I was in New York for three days this
week doing just that, going through working with
rights owners and licensees about how we structure
this report and what data is needed.

I know just, you know, to reassure you,
these files are huge. So, you know, that is happening
certainly in terms of where that standard is being
used. That’s just, say, purely with my DDEX hat on.

AUDIENCE MEMBER: [Off microphone] By the
way, you needn’t reassure people that it’s huge. When
it arrives on paper, it seems to have taken an entire
tree, but it’s not that anyone can make sense of it or
figure out how that justifies the meager check.

MR. MOLINDER: You’re right. What I wanted
to say about that, I mean, we said we need to educate
creators to do something and learn. But exactly as
that if you work somewhere and you have no idea how
much salary you’re going to get. This is a guess
every time. So pipeline preview of your income, that
is a huge need in the music industry.

MR. SWEETING: Bill?

AUDIENCE MEMBER: You talked about the
application and the way it allows creators to insert
information about their creations. In fact, the
application already has some awareness of its own in
terms of being geolocation aware to the studio, for
example. Is there any mechanism for the Session app
for third parties to contribute data to the record of
the song? For example --

MR. MOLINDER: It’s nothing that we’re
working on right now, but it’s very interesting
because the subject has been on the table. So we have
discussed how much data can we add to this. But,
again, what I was told now is actually just for
composition and the recording, who did what, where and
when. That is the first step that the proof of
concept is going to solve. Then these ideas -- I love
that -- you know, to get more and more information.

So, yeah, it’s definitely an option.

MR. SWEETING: This is the easiest
moderating gig I’ve ever had because there are so many
questions.

Paul?

AUDIENCE MEMBER: Just to add to that, if
these things use standard identifiers, then the data
on the microphone doesn’t need to live in that app, it
can live somewhere else and be cross-referenced
because they have the same identifier in them, and
that’s true of the Copyright Office’s database, it’s
ture of SoundExchange, it’s true of libraries. If
you’ve got a common underlying firm foundation, the
data aggregates and adds value to all the others as
well.

MR. MOLINDER: And that is important to say
that the Session database, we don’t hold the

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identifiers. We’re just mirroring what’s going on at the original source. But if something changes through the APIs, we update.

It was interesting to see the Copyright Office, how you are now planning to do your modernization. One thing that hit me when you did the presentation was that what I think that we need to get away from is human retyping. The information gets retyped over and over and over and over again. So I think what the Copyright Office should do is see how you can, through APIs or CWRs or any format, get the information without people retyping, because that is a huge risk for error.

MR. SWEETING: Yeah, in front?

AUDIENCE MEMBER: So I think that one thing that’s been left out, and I see this industry going kind of in a direction where there will be a conflict, oddly enough, having to do with privacy. We’re talking about getting all of this data, more data, putting it out. The ability to process that data is so great today that I think you’re going to have privacy problems or unintended consequences. We could just look at it in that way. And by not being aware that that will be a risk, I think that awareness should start now. I guess is my...

MR. MOLINDER: Of course, we are aware of that. But since we’re not a database, we’re a data hub, we don’t own data. We just collect the data and push it forward to the organization or company that needs the data for the clean registrations.

AUDIENCE MEMBER: Right. Well, monetizing the data is such a large part of the revenue stream of all --

MR. MOLINDER: Yeah.

AUDIENCE MEMBER: But I think the idea that we can solve this by data alone is very problematic.

MR. MOLINDER: I know. But I don’t -- I should not see it from that angle because then I would just close everything down and just go home. I try to stay positive. We have a big need of solving the data collection in the studio and I know how it is to be there. So I’m going to work for that, and then we need to solve the legal issues with privacy issues and so on. But I believe that this is the only way of doing it.

MR. ISHERWOOD: I’m sorry. So the other thing is that it’s not about monetizing the data, it’s about using the data to make sure that money flows for the creation. And I know from talking to my members, they’ve all spent -- and I’m talking about copyright societies, record companies, all these kinds of guys have spent a fortune around GDPR and how they use the data they get. So I think it is already in people’s consciousness.

MR. SWEETING: You brought up a point that I have been wanting to get to. Do we have any other questions on this before I change the subject?

AUDIENCE MEMBER: Just a quick question. You just said you’re a data hub, not a database. How are you not a database because you’re collecting the data and then you may distribute it downstream, but there must be some repository there. Thanks.

MR. MOLINDER: I mean, of course, we choose to say “data hub” because we’re a hub that distributes the data to the receiver that needs it. But, of course, the data comes to our platform first. And we’re deeply into discussions how we’re legally going to -- if we’re going to delete data when it’s gone from our platform. But we also see the requests, especially from the CMOs, to keep the data on our hub as a reference point if something goes wrong later on. You can always go back and see it. So see it more as a reference point, not a database. So that’s how we see it.

AUDIENCE MEMBER: Thank you.

MR. SWEETING: Okay. So Mark just touched on something and Peter touched on this earlier in his presentation. We’ve been talking about capturing metadata on the participants in the creation and making sure works can be properly attributed to them or their work and other works can be attributed to them. And earlier there was a panel on specifically the question of attribution.

The thing I would like to get to in deference to the name of this panel is, you know, how do you connect data on who did it with data on who owns it? Because those are not obviously the same thing and there is an air gap it seems that we still haven’t really addressed as to how collecting this data can be used in the process of paying the appropriate people since who did it is not necessarily the same as who owns it or who’s entitled to some piece of it.
MR. ISHERWOOD: Well, a simple answer to that question is there are already processes and systems in place that actually make that connection. But what I would say is that there’s been very, very difficult up until now because very often you only have, you know, one piece of cloud in the jigsaw and maybe one corner and you’ve got to somehow fill in all the other pieces of the jigsaw in order to determine who owns the rights. I think what these sorts of projects do actually is at least give you 90 percent of the pieces of the jigsaw and you’ve got a much, much better chance of getting the right data right thereafter.

MR. JENNER: One thing that I’ve been recently seeing is that there’s a new copyright act in South Africa which includes an obligation to pay the creators, and I think that’s really important. Because on the whole, the obligation is to pay the owner or the owner gets paid by the user and the relationship between the company and the individual performers is often down to contract, whereas the top thing is down to legislation usually. There is a legislative backup on it.

I think that that’s really a very important issue going forward we should be thinking about is whether there shouldn’t be a similar obligation on the record companies or the publishers to fairly pay the performers and the writers in the same way that the users of the material are obliged to pay the owners of the material.

MR. SWEETING: That should be a fun fight.

MR. JENNER: Yeah. Oh, I don’t think I’ll be very popular with that one, but I think that’s one which I shall be hitting my head against the wall for some time.

MR. SWEETING: Stuart, did you want to add something?

MR. MYLES: Yeah, just as, I guess, the nonmusic representative on the panel, I think it is a very complicated question because even who is the right owner for a given work varies depending on what jurisdiction you’re in and so on. So probably it has to do with distribution agreements, but it also varies over time. And, yes, I think the trend is, in some places, is to ensure that the original -- what we call the original creator, because there can be multiple creators, the original creator, there’s a trend towards trying to make sure they get some kind of compensation no matter who the various rights owners are.

MR. SWEETING: So speaking of legislation, there was -- it’s not legislation, but there was -- obviously, earlier this week, the European Union or the European Parliament passed the long gestating copyright directive. And it introduces a number of new mandates regarding licensing and filtering or monitoring at any rate. That, to me, apart from the merits of the case, is a monumental data issue. Do we have the data infrastructure in place to actually implement those requirements?

I mean, Stuart, Article 11, which I understand is now Article 15, essentially seems to envision that platforms, online platforms, would have some sort of licensing agreement in place with every publisher imaginable. Or there needs to be some automated system for those rights clearances. Are we anywhere near that?

MR. MYLES: No.

(Laughter.)

MR. MYLES: I mean, I think it will be really interesting to see how that legislation in the EU works out. There is worry that it means that only the biggest platforms can, in fact, comply and only the biggest publishers for news and media can comply, which I’m sure is not the intent of that legislation, to squeeze out smaller players -- small and medium-sized players. But even with the large organizations, it’s not clear to me that you can instantaneously determine that a given piece of content belongs to a particular rights holder or a particular creator.

There are techniques that are available in terms of fingerprinting and so on. Clearly, platforms like YouTube have implemented a certain amount of automated detection of copyright holders. So it’s not totally impossible, but the implication seemed very significant. On the other hand, though, I think it’s encouraging because it requires people to and companies and organizations to work towards being able to support those things.

MR. SWEETING: Yeah.

MR. ISHERWOOD: Having said that, one would hope, given how hard the rights owning community pushed for Article 13, at least some thought has gone into how we actually administer it if they are successful. Maybe I’m being a little naive, but one would hope so.

MR. SWEETING: I wanted to follow up on something Rob said earlier in his presentation regarding the new registration system. I was struck that nobody thought, apparently in the public comments...
MR. ISHERWOOD: There are elements of that going on within DDEX because of the way we structure the messages. There will be certain things that the organization agrees, certain items that the organization agrees has to be mandatory in any given business transaction and, in some cases, that will include identifiers.

It may not be the international -- the global ones that we’ve all been talking about, but it will make -- for example, in the Digital Sales Report I was talking about earlier, the DSP release identifier is mandatory in the message. Because it’s the only thing, as things stand, that the musical work rights owner certainly can hold onto in order to be able to do their matching and charge the relevant fees. So there are little tentative steps towards that. I know your question goes broader than that, but just from my little world, that is where we are.

AUDIENCE MEMBER: Paul, it’s worth nothing that MMA requires that to the degree they’re available.

MR. SWEETING: That’s the other piece of recent legislation that is important. MMA. We were discussing this briefly over lunch, Jim. We’re not even -- it’s not even 100 percent clear to me, at least, how exactly this database is supposed to be compiled, whether or not it has to be an entirely new sui generis effort or whether it can build on work that has already been done. Any thoughts on the best approach to actually compiling -- and pardon me, Stuart, this is basically a music question. What is the best approach from an industry perspective to matching ISRC and ISWC? And if Bill wants to weigh in on this, please go ahead as well.

MR. ISHERWOOD: Well, in terms of the MLC, my understanding is that there are no proposals that I am aware of about building this from the ground up because that, frankly, would be madness. And there is a process going on at the moment where current vendors are offering their services to provide and meet the requirements that are set out in the law.

The ISRC/ISWC link thing is actually a bigger conversation because that’s needed globally. That’s not just needed in the US. And whilst that may be a requirement within the legislation -- and I have not learned it off by heart by any sense of the imagination -- but it must not be forgotten that that is a global requirement and there are projects going on that are looking at that. Some of them are quite advanced.

My concern always is with these sorts of things that those companies who are actually involved in those projects are actually doing it as a land grab, and I think something like an ISWC/ISRC link system, let’s just call it that, should be a utility that is supported by the industry in some way or another and not kept behind closed doors because that -- it comes back to the proprietary solution, the point I was making earlier on.

MR. SWEETING: Time. Oh, I’m getting the look. One more quick question.

AUDIENCE MEMBER: I would just point out that there is, although not in the US, there’s a treaty and law requirement for an identifier in the Berne Convention, one, in the moral right of attribution. So if you have a system that doesn’t pass on attribution, it’s clearly a Berne violation.

And, second, in Article 10 of the Berne Convention, which requires that news summaries contain both the publisher and author, now obviously the clearest violation is Google News, which doesn’t do that because it doesn’t have to because the US has never implemented that, but if you’re working internationally, especially with news, you should be looking at fulfilling the Berne requirements for attribution identifiers.

MR. MOLINDER: Yeah, just about the ISRC/ISWC link, back to that, from Session, we have offered CISAC that is operating the ISWC assignment system to -- because everything is about time. ISWCs are assigned way too late in the process. So we are offering them to start assigning ISWCs already in Session when we -- in the creation process. Early, early. And Session is already an ISRC agent for those that are doing it themselves. We also provide them with ISRCs when they bounce the tracks in Pro Tools directly.

So my view here is that if we just can get the assignment of ISWC earlier, we can match the ISRC/ISWC before it even leaves the studio.

MR. SWEETING: I think the ax is falling on...
us, folks. Thank you very much.

    (Applause.)

MS. ALLEN: Thank you all for your time and your contributions.

PANEL DISCUSSION: LICENSING/MONETIZATION

MS. ALLEN: So we’re going to turn to the next panel on monetization and licensing. I will need just a minute to set up a demo from Jaxsta with Dick Huey.

In the meantime, I will go ahead through a little bit of an introduction of two of the panelists. Vickie Nauman, our moderator, who already spoke earlier today. She is from CrossBorderWorks.

(Vickie Nauman, our moderator, who already spoke earlier today. She is from CrossBorderWorks. (Pause.)

MS. ALLEN: And Ken Umezaki also presented this morning. Hello, welcome.

(Vickie Nauman, our moderator, who already spoke earlier today. She is from CrossBorderWorks. (Pause.)

MS. ALLEN: Okay, I think we’re ready. Vickie, over to you.

MS. NAUMAN: Excellent. Thank you, everyone, for staying awake through all of these very detailed panel discussions, and now we’re going to have yet one more. This is on licensing and monetization.

I would like to just set the stage of saying that we all know in any kind of licensing between the licensor and licensee there is always tension because one side wants the most money and the other side wants the best deal. So there is a natural tension that occurs.

In the world of technology and in the world of our modern world, everything is about frictionless experiences. So today what we’re going to do is we’re going to have Dick do a brief demo. But we’re going to talk a bit about where the creator fits into this, what the changes in the value chain are in respective industries and how the thinking has evolved and then how technology is impacting the licensing and monetization process.

So why don’t we start out and do some quick introductions. Start with Ken and then Dick. Dick is representing a company that’s got a new user experience and a new use of data coming out. So why don’t we start with you and then, Dick, you can give an introduction and do a quick demo.

MR. HUEY: Sure.

MS. NAUMAN: Okay.

MR. UMEZAKI: Hi, I’m Ken Umezaki. Some of you saw me earlier. I’m the CEO of Dot Blockchain Media. We are a rights management solution that leverages the blockchain, currently focused on the music industry.

MS. DAVIS: Hi, I’m Cheryl Davis. I’m the General Counsel of the Authors Guild.

MR. HUEY: Hi, I’m Dick Huey. I’m the Head of Partnerships for Jaxsta, and I’m going to show you a demo.

MS. NAUMAN: Yeah, great.

MR. HUEY: So forgive me for leaning over while I’m doing this. What I want to present today, I’m going to do this quickly. Because some of you have seen this before. Our official Music Credits beta preview, it’s a product that’s not launched yet, will be launching in the first half of this year. It has the support of three major labels at the moment. The data deal is concluded. The idea is to present the first ever official music credits platform.

So the idea behind this is in contrast to the other solutions that are out in the marketplace, which many of which are user-sourced, to actually take data feeds from the music community, both from sound recording owners and publishers, from PROs, to duplicate them and assemble them into one database and then present that as a sort of IMDb for music.

So here’s what it looks like. We allow the search of music, according to a number of criteria or by organization, so that could be a label, by performer, or by participant, music industry participants, so producer, engineer,
Go back to catalog. If I pick an album, let’s pick Blackstar. This is how we are surfaced the information. So you’ll see that not only do we have a track listing and an ability to play, and by the way, two things I should mention, any of the links, audio links within the product or affiliate links, we’re not actually licensing music for this and we’re also not displaying any splits information. So we’re not a payment solution. This is showing off the actual information related to the project. And then we have all the provenance of the music.

So where Sessions, for instance, would be very early in the process of the creation of music, we’re a little further on in the process. So we’re after the labels have already received and the publishers have already received data and that are pushing that out. We would be one of the entities they would push it out to.

So there is all the information. And I can go further as well and drill down directly to the track level and see lyrics as well as the specific provenance of this particular track. And that’s it. I wanted to keep this quick. So now, you’ve seen Jaxsta and look for it in the first half of this year.

Thanks.

The median incomes of all published authors who answered our survey, who were surveyed for all writing related activities, was $6,080. That’s annually. Down 3 percent from four years ago. This is down from a $10,000 median income in 2009, which is already not that great. More book authors, even those who consider themselves full-time writers, and that number is shrinking, are forced to hold down multiple jobs to earn enough money to survive. This includes authors who have written books for decades and have been fortunate enough to be able to survive on their writing in the past.

Even though this is the case according to our income survey, some authors are still thriving in this current marketplace, and a good number of those are self-published. According to our income survey, self-published authors were the only group to experience a significant increase in income. However, self-published authors, as a whole, still earn 58 percent less than traditionally published authors in 2015. So it’s not a fix for all the many changes in the current marketplace.

Two of our key goals as a Guild are to create community and fight for a living wage. Obviously, the writing community and writers’ incomes
Vickie, your statement about the importance of the digital marketplace these days. Any author can essentially enter the digital marketplace these days. And when publishers decide to stop exploiting the traditionally published work, which may be around two or three years down the road depending upon the popularity of the work, authors can sometimes -- I say “sometimes” because being a lawyer, I have to have disclaimers in here -- depending upon the contract, etcetera, can sometimes recover rights and reissue their books digitally, for example, through the Authors Guild Books-In-Print Program.

Vickie, your statement about the importance of the connection between the artist and the audience in the music industry is becoming ever more important in the publishing industry, especially where self-published works are concerned. Because of the prevalence and desire of authors to release their own works digitally, reversion of rights to the author has become even more critical these days and clarification of Section 203 -- we’ve asked for clarification of Section 203 to allow authors to get early termination of their publisher licenses. That is one of our 2019 legislative priorities, to pull back from the concerns of the single author in the digital marketplace and working with the NYPL to collect a collective platform.

Bill Colitre mentioned earlier that individual authors right now are left without a means to identify themselves in their works, and that’s exactly the gap we are trying to fill here. We’re reaching out to others to assist us in this effort. Where rights are owned by publishers or where there’s uncertainty, the Guild is reaching out to publishers to try to collaborate with them to clarify those issues on behalf of our members. Ultimately, we would like to have a platform where authors cannot only identify their work and license it to libraries, we would like for them to benefit from an e-commerce platform in that way. We need partners to help us develop that platform, including people who write the software to create a usable identification licensing platform. We are writers; we are not coders.

MS. NAUMAN: That’s amazing.
STOLAR, for example, ends up in a publishing deal, half of his rights are essentially assigned to the publisher in the way a typical songwriter deal would work, for some period of time after which it reverts. So that type of contractual arrangement can actually be essentially broadcast immediately as opposed to STOLAR or his management team having to go through CISAC over here and BMI over there and notify Spotify somehow, which you know, as we know -- some of us know is rather complicated. I think there is stuff like that around efficiency of association of the media, the data, that I think is -- could be very empowering to the individual artist community. MS. NAUMAN: And with both of your statements, I think it’s really fascinating because in the world where revenues are flowing, and they are flowing in micro payments and it’s a machine-readable world, you have metadata and you have a small payment, and when you have a change of ownership or change of control, over that work, that is also where, very commonly, things end up in suspension or they end up in some sort of conflict resolution, which is one of the ways that money kind of spills out of the value chain. Dick, I can’t imagine an artist, writer, producer, mixer who wouldn’t absolutely be thrilled that Jaxsta has organized all of the contributors. MR. HUEY: I haven’t found one yet. MS. NAUMAN: Exactly. So talk a little bit about that. You have to license from the entities, the labels, publishers and PROs that have the data, but this has to be something that all those rights holders are also considering the importance of taking what essentially used to be liner notes and making them into a searchable, browsable database. MR. HUEY: That’s true. And it won’t be any surprise to anybody in this room that the transition from physical media to digital media, which started in the late ‘90s, but really took off with the advent of the iTunes Store, just really left the liner notes in the dust. There were a number of products that sort of sprang up to fix that, Discogs, Wikipedia and MusicBrainz. Again, many of you in the room know the individuals that were involved with those very worthwhile initiatives. But most of the emphasis around metadata was around transactional metadata. So the music industry had to get that piece right first, and that’s what everybody focused on. And the challenge for the music industry has been, okay, now that transactional metadata is certainly of crucial importance to really any record label or publisher, and that has been, if not completely addressed, at least it certainly is at the forefront of everybody’s mind with such a large percentage of revenue coming from digital sources. Now, the challenge is, how do you incentivize those same entities to go back, you know, before iTunes for instance, and fill in all the rest of the data. So many of you have probably worked at labels or publishers. You would know, as I do -- I worked at the Beggars Group for about six years, running their new media -- things like artist images, bios, et cetera -- they’re not all in the DDEX database. They’re not all in an easily transmittable form to get that information out into the world. And even if they were, there is no particular incentive for labels or publishers to do it, I mean, other than it would be a great thing to have all this information in one place. So what Jaxsta has done -- and I’m going to get around to the back of your question in about one second here -- what Jaxsta has done is incentivize that by when we feed this data out via an API to, for instance, a digital music service, the monetization of that is shared back with the data creator. So to the extent it was a label or an artist individually who created the information, part of the money that we generate from that sale goes back to the creator. That’s something brand new. That hasn’t happened before. And, you know, it’s egalitarian in the sense that it applies to everybody. So that incentivizes this problem of how you get somebody to monetize assets that aren’t really transactional in nature. And that’s one of the reasons -- now, finally getting to your question -- that’s one of the reasons why producers and artists and entities that are sort of at the start of the value chain are really excited about a product like Jaxsta because not only does it provide attribution in an area that today has been pretty weak, certainly in official attribution, but, also, it creates a revenue stream on top of it. So the answer is yes, and I have yet to meet a producer, in particular, who has not seen this product and wanted to become an ambassador for it. MS. NAUMAN: Well, that’s a great segue into the value chain because if we think of the creator at one end and the consumer at the other end, there’s a lot of people in the middle, a lot of entities in the middle. Clearly, distribution for all media types has
been disrupted because of our connected world. But talk a little bit about your views on licensing and monetization and how that value chain for each of your respective industries has really changed.

And, Ken, maybe you could talk a little bit about this with regard to blockchain because in the world where we have kind of built industries around these physical objects, a book or a CD, and that everything was geared toward, that the entire value chain was set up around how to create a transaction at a brick and mortar, you’re operating really a few rings out of that. How have your conversations evolved with stakeholders in the value chain?

MR. UMEZAKI: Sure. So we not only work with independent artists, but our primary sort of client base is actually the larger content owners and users, so the licensors, licensees that I think many of you in the room are very familiar with.

Again, in the video I showed this morning, for one of the major publishers and one of the major label groups, it was actually looking at two problems and trying to reevaluate at a very high level. The first one is recognition that cleaning our own data, just our own data, is insufficient in this democratized or disrupted consumption world.

MS. NAUMAN: Meaning universal cleansing of their own data isn’t enough because it goes into the wild.

MR. UMEZAKI: When it goes into the wild -- and as most of us know creative IP in a music sense is actually multiparty almost inherently because there’s a composer and a performer at a minimum and we just talked about how there are four or five actual composers for a pop song these days, et cetera. I think because it’s inherently multiparty in nature, there’s a very, very good chance that the other side of your information belongs to or is the responsibility of someone else.

So a major label here may have all ten big publishers involved with their recorded work, so recognition of that. So therefore, the idea of somehow figuring out a safe place without ruining the control of ownership versus data, a safe place to actually collaborate on that -- I think that’s one of the things that the people that we’re working with look at.

The other side, which is the licensee side, has a sort of spillover benefit to this. The best example, which I was speaking to someone about earlier today, is actually on takedowns and reposts. So if you’re a DSP today like a Spotify, if a piece of music changes hands, meaning it goes from one label to another, the old label needs to take that down -- that’s the traditional practice anyways -- and then the new label needs to put it back up. Same metadata except for, if you will, the P line, for lack of a better summary.

Now, there’s lots of mechanisms within many of these organizations to actually deal with that in a pretty efficient way. But we have been speaking to some of the DSPs about their willingness to try out a more comprehensive data set that’s essentially innately dynamic or innately updating to actually sort of shorten that time.

So I think there are sort of both operational benefits, for lack of a better term, that people are looking at in sort of this type of solution, as well as this general understanding that I think by collaborating on data we can do a better job of getting the right data and, therefore, the right attribution and the right payments and all that kind of stuff.

MS. NAUMAN: Yeah, it’s --

MR. UMEZAKI: That might have been apple-pie from my seat with the people that we’re working with.

MS. NAUMAN: And it’s fascinating listening to you talk about it because of the takedowns that it almost does harken back to the old days of, you know, there’s records on a shelf and there’s a physical good that has to be removed and replaced with a different physical good, even though the sound recording is exactly the same, all the metadata is exactly the same except for that one field. It seems like technologically we should be able to address that in a different field.

Cheryl, with your work, I would imagine there’s probably a lot of running interference and helping authors understand how the value chain has changed, who’s their advocate, who are their retailers, where are they going to extract value out of that. Talk a little bit about bridging that gap between the old world where there still are books sold and this new world of digital books and self-publishing.

MS. DAVIS: Well, one thing that we’ve found a little reassuring, in terms of old-school people like me who still like books, is that people still like books. Millennials are out there buying hard copy books. So to some extent, the 20th century, 19th
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of it, if you will, where some of the same information is flowing down to a company like Jaxsta and being de-duplicated without the rights information because we’re not collecting rights information. Information is added to it.

We’re assembling other information, like artist images and bios, that are not currently part of the transactional space at the top, and then sort of adding that all in, if you will, sort of at the end of the pipeline, which then winds up or could wind up in a digital music service interface, it could wind up as part of the process by which playlist choices are determined, it could wind up in voice-activated services. So it winds up in the output, but it’s actually separated from.

Another interesting part -- and I hope I’m not stepping on the question that you’re going to ask in a minute here -- but I have an interesting perspective on this whole process of licensing because I wear a couple different hats. For those who know me, you know that I have a couple different engagements. One of the ones that I have besides Jaxsta is being the front line sort of digital licensing person for Merge Records. So I get to sit on both sides of the table to some degree.

MS. NAUMAN: So you’re negotiating with yourself for Jaxsta.

(Laughter.)

MR. HUEY: Exactly correct.

MS. NAUMAN: I see no conflict there.

MR. HUEY: You know how that went. Yes, yes, great. If only it worked that way for the whole music industry, it would be great. But what’s interesting about it is seeing the -- and I was thinking about some of what we talked about before the panel about sort of the friction that’s happening inside the music industry as far as licensing is concerned, and I really do see this from both sides. Because on one side, I feel like I’m part of the friction.

You know, we have a small record label -- influential small record label that gets a lot of deals thrown at it, and there is always a tension between getting those deals done and trying to focus on the deals that you think are going to generate some realistic income. And then on the other side, there are startups, like Jaxsta, who are trying to access, for instance, the entire metadata output of an industry, the music industry back, and in order to do so are trying to do it the most efficient way possible.

I can tell you right now the most efficient way possible is not going individually to each record label and each publisher. I mean, you don’t have to think about that too hard. So there is still a lot of tension in the marketplace and there are entities like, on the independent end of things, Merlin that are changing the equation, but have not changed it totally.

So you know, it’s easy to look at an entity like Merlin as an entity that can sort of fix everybody’s problems. Oh, great, there’s a central place that everybody can go to license from. Perfect. You don’t have to do individual deals with 800 different record labels. But it is more challenging than that. It’s not -- first of all, Merlin is a relatively small organization. And it’s not a compulsory -- you know, you’re not talking about a compulsory license. You’re talking about needing to have a push from the licensor base that sits behind Merlin.

So that interjects attention to the marketplace because entities come to Merlin expecting to be able to just sort of say, here’s my project, can you please present this to all your members. And it’s actually the other way around. You need to present it first to the members and get them to push Merlin to do this. So there’s a lot of tension still in this space that is problematic still.

MS. NAUMAN: And on the licensing and monetization, for all three of you, you know, the business models of yesteryear of, you know, selling a physical good at a retail price, there’s wholesale, retail, the money passes back, there were some standards and some basic norms around how much a consumer would pay for a book or for a CD. But in all of the worlds that you’re operating in right now, you’re kind of having to make up how what your revenue model is, what you are pitching to oftentimes a stakeholder that is many, many times larger than you are.

What is the receptivity to creating monetization models out in the marketplace? And, Cheryl, I’m thinking a little bit about, you know, the individual, the self-released author and Amazon. And, you know, is there always just price pressure on the consumer side to offer the free or the lowest price possible, but yet the creator always wants the most they can because it’s their baby? How do you balance that?
MS. DAVIS: Well, there is a balancing process necessary and there are different pricing structures depending upon if you’re a self-published and you’re going through KDP or you’re going through Kindle Unlimited or how you are doing it. There are different sort of price points that you can agree upon in which you get different royalty rates. But there is also the need to bear in mind that Amazon, while it’s the 800-pound gorilla -- 800 million-pound gorilla in the room -- is not the only way out there.

For example, we’ll have people if they’re interested in self-publishing, I’ll ask them, what is it that you want to get out of this? If you want to see your book on bookshelves, then you’re not going to go through Amazon because a lot of booksellers aren’t going to have hard copies of Amazon books available. You might want to go through someplace like IngramSpark, which is going to give you a different royalty rate. If you want medals and public notice, you may not want to necessarily go through the e-publishing Amazon model. You may want to, again, go through a hard copy publishing service.

So it’s a question going back and looking at not just monetarily, but, psychologically, what is it the author wants to achieve here.

MS. NAUMAN: Right. And, Ken -- that’s fascinating because it’s -- I think everyone in the music industry, especially on the publishing side where we have regulation, we haven’t necessarily been able to enable people, except like in a sync licensing world, to really have a free market.

Ken, can you talk just a little bit about, you know, in a blockchain environment what does that look like for monetization?

MR. UMEZAKI: Sure. So maybe not about the chain, per se, but I do think the sort of historical sort of what I call bulk licensing arrangements that a lot of the players actually participate in are here to stay. I actually think of the music as many people do. You’ve got this kind of everyone wants to listen to what everyone else is listening to version and then you’ve the long tail, right?

I actually think what is interesting about what’s happening is the long tail is where you have almost like a double whammy of an issue. You’ve got very low payouts. Just pick on YouTube if you want, or anyone else per stream or per spin as I call it sometimes. At the same time, the growth and content, whether it’s UGC or formal content, continues to grow at roughly 15 to 20 percent a year. So you’ve got this double whammy of how do I actually get monetized on that part of the curve. I think that’s actually the most interesting part.

And a lot of the work that seems to be being done is kind of addressing that part and that’s micro licensing, that’s sync licensing. You’ve got companies like Song Trader that are trading distribution for sync rights. There’s a lot of experimentation going on that’s trying to address how to better monetize that part of the curve. For them, for that part, I do think technology can be super helpful. It’s about making the asset itself smarter about ownership information and, ultimately, allowing those people who own it, but it could be a publisher, of course, it could be an individual, to actually get out there and take advantage of this cast-a-wide-net thing that you can now do with the music.

So that’s kind of the approach that I believe. That’s where a lot of the interesting tech stuff is probably most useful not up here in the 1 percent of the world, because that’s not going to change. I think it’s down here in UGC and in the sort of longer part of the tail, if that’s helpful.

MS. NAUMAN: And Jim is --

JIM: [Off microphone] Just a quick question.

MS. NAUMAN: Yeah.

JIM: [Off microphone] Could you draw a distinction between licensing and monetizing content and licensing and monetizing the data related to the content? Is there pressure on you to pay for the data you get and to license the data you get or is there an acknowledgment they are facts that are available to anybody, like a phonebook in the United States?

MS. ALLEN: Can you repeat the question at a microphone for the people in the back? Sorry,

MR. HUEY: Right. So it’s a question about sort of the difference between music assets and music data and, you know, how that’s sort of viewed from the perspective of -- actually, Jim, would you restate just one more time exactly where you’re headed with that?

MS. ALLEN: Wait, wait, wait.

JIM: [Off microphone]. From my point of view, these are facts that you don’t have to license because there may be those that you -- from my PV, these are facts that you don’t have to license.

MR. HUEY: Right, fair enough.

JIM: Like a phonebook. But there may be those who shake you down and say, no, you should pay...
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for this data. It’s ours, we own it.

MR. HUEY: Great question and exactly right.

So really there are two kinds of data that exist in the marketplace. There is what we refer to as capital D, Data, which are, in fact, facts, the name of a producer, the name of the band members. Those are incontrovertible facts. They’re listed on the liner notes typically and they are just information. You can’t own that information. You can disseminate it, but you can’t own it.

Then there’s copyrighted information. So copyrighted information is a little bit different animal. Typically, this might be images, it might be bios. They’re generated. They’re created by somebody as work product and that, in fact, does have an owner, typically one owner in a territory. And these two things sort of exist side-by-side.

So there are absolutely entities who feel that the data side of the equation, so the information side of the equation that you can’t own, because it’s assembled in a particular collection of metadata, that they own that. And, you know, for instance, I don’t know, salsa music, let’s say that you had assembled the world’s biggest collection of salsa metadata. Let’s say you had assembled the world’s biggest

collection of salsa metadata. You might take the position that that database that you’ve assembled is something that you own and we’ve heard this theory sort of put out there. And, in fact, you do own the technology underneath it, but the information that’s in it is a very grey area.

MS. NAUMAN: So if you wanted to go and find all of your own salsa information, you could do that. But if you want it conveniently packaged in one data set with consistent and standard fields, there is value to be extracted.

MR. HUEY: Yeah, and there’s an element of wanting to treat that collection of data as though it was copyrighted content, which it isn’t. But that exists in the marketplace, so there is a tension there.

AUDIENCE MEMBER: Paul just said in the US.

MS. NAUMAN: Right.

MR. HUEY: Thank you.

AUDIENCE MEMBER: [Off microphone].

( INAUDIBLE).

MR. HUEY: Microphone, do you have a microphone?

AUDIENCE MEMBER: [Off microphone]. It gets complicated when you’re working across national boundaries because there’s a database right in Europe, which might well apply to that collection of salsa data. I’m not quite sure what the smallest size of database that it would apply to. So does the metadata from an album, the collection of 12 tracks, constitute a database, right, to which (inaudible) database that was sui generis (inaudible)? I’m not sure how small you need to be for it to be atomic data rather than a database.

MS. NAUMAN: Do we have another question here?

AUDIENCE MEMBER: I should wait for the answer to Paul if there was a question.

MS. NAUMAN: No, go ahead.

AUDIENCE MEMBER: Or was that an observation?

MR. HUEY: Observation.

AUDIENCE MEMBER: One thing I’ve noticed and it’s something – I’ve been a copyright lawyer for years now, but I’ve also worked with the internet community as general counsel to folks that really brought you the internet, and going back in the ‘90s, we were moving beyond simply IP addresses for information units in digital form. They were called digital objects.

One of our early adopters -- and they are quite important today -- was the publishing when they went from the print on paper, the physical to the digital object. Now, you can have information in all kinds of forms, whether it is a collection, metadata, the actual information itself, if it is represented in digital form as a digital object, generically a digital entity, it’s possible in the entity you can have metadata going along with it that actually has the permissions information.

So a lot of the software today and the software systems you can actually have automated programming so you wouldn’t even have to go back to a human. So the object itself, if you ingested it, it would know what to do, but there would also be a way to reach out if you didn’t have sufficient permissions to do what you wanted to do.

It’s a very dynamic area. And I just point this out that it might be something you want to look at because it has a global outreach. There is actually a foundation in Geneva called the DONA Foundation, which is managing this interoperability globally for the system right now. So if anybody’s interested, I could provide further information.

MS. NAUMAN: Ken, do you have any comments
### Third Public Meeting

**Developing the Digital Marketplace for Copyrighted Works**

#### 3/28/2019

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<td>2</td>
<td>MR. UMEZAKI: Sure.</td>
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<td>MS. ALLEN: Could I ask you to give us your</td>
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<td>AUDIENCE MEMBER: Oh, I’m sorry. I’m</td>
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<td>Patrice Lyons, and I’m general counsel to the</td>
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<td>principal, Bob Kahn, and his former vice president,</td>
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<td>Vint Cerf, did the original TCP/IP. We’ve been</td>
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<td>pioneering the digital object architecture, and I’m</td>
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<td>especially interested because one of our early groups,</td>
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<td>because I’m a copyright lawyer perhaps, has been in</td>
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<td>the copyright industry. So I just wanted to introduce</td>
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<td>that. I thought it might be helpful, because when you</td>
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<td>talk about data and data sets, they kind of float</td>
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<td>around. But if you have a concept that could be</td>
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<td>persistently identified, it could be more helpful.</td>
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<td>18</td>
<td>MS. NAUMAN: That’s great.</td>
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<td>MR. UMEZAKI: I think in terms of an</td>
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<td>instance of that that sort of is embedded in our</td>
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<td>approach is actually private versus permission data.</td>
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<td>If you think about it, where we’re focused on, which</td>
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<td>is more on the ownership data side of things, it’s</td>
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<td>extremely important that I think two things are real.</td>
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<td>One is that it has to be from an authoritative source</td>
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<td>because it’s a lot of data at the end of the day and</td>
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<td>actually try to evaluate how good or bad it is.</td>
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<td>Now that’s kind of like the wouldn’t that be</td>
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<td>great if we could have everybody do that. The</td>
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<td>So our approach is that’s the public layer</td>
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<td>of the data, which is so that you can identify all of</td>
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<td>the relevant parties. And then some of the more</td>
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<td>important data around monetization, perhaps even</td>
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<td>licensing, like percentage ownership, you saw that in</td>
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<td>the video today, would actually be behind this kind of</td>
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<td>gate, if you will, that would require the owner to</td>
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<td>So it’s a kind of complicated way to explain</td>
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<td>it maybe, but there is that inherent, if you will,</td>
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<td>tension between sharing and, if you will, controlling,</td>
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<td>right, and that balancing act I think the industry</td>
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<td>ultimately needs to adopt something that works for</td>
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<td>AUDIENCE MEMBER: Ken, if you would just</td>
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<td>permit me just briefly to follow up on what you’re</td>
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<td>industry. If you have a bundle derivative and you</td>
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<td>have a million different separately identifiable</td>
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<td>So it’s possible to have an independent</td>
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<td>part, which introduces the element of the derivative</td>
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<td>work. And so you have to just look at it in various</td>
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<td>aspects. But I won’t go any further.</td>
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<td>MS. NAUMAN: I think there were -- I don’t</td>
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<td>know if we have time, but there were a couple more</td>
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<td>MS. ALLEN: One more. Bill had advice on</td>
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<td>something earlier.</td>
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<td>MS. NAUMAN: Bill had his hand up.</td>
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<td>MS. ALLEN: So let’s just finish with him.</td>
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<td>MR. UMEZAKI: Bill, I’m so glad you’re</td>
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56 (Pages 221 to 224)
MR. HUEY: There's money in IMDb.
MR. ROSENBLATT: Okay, fair enough.
MR. HUEY: And, I mean, to go right to the heart of your question, so we have a free product, which is IMDb. We have a pro product which is IMDb Pro, not exactly, but on the music side. You know, we have access to the same data sales pipeline that Gracenote or TiVo does, I think with different focus.
Those entities seem to be highly focused right now on interpretive data. So on mood data, for instance, where we're more focused on the actual information itself.
MR. ROSENBLATT: But mood data, for example, is something that's going to feed into sync licensing, for example, transactions, right?
MR. HUEY: Okay.
MR. ROSENBLATT: Isn't that the primary motivation for it?
MR. HUEY: Playlists do.
MR. ROSENBLATT: Okay, okay.
MR. HUEY: Yeah. So there are revenue streams inside this and I think there are -- I mean, we haven't really even talked about voice-activated yet or not much, but that's potentially a huge revenue stream. I mean, it's highly likely -- and Peter Jenner brought this up -- that we're all headed in that direction sort of inexorably, this idea that there's going to be something around you at all times word of some kind or another and then tries to answer a question. So to answer that question it has to have the information or it can't answer the question.
MS. NAUMAN: So it's an enabling technology.
MR. HUEY: It's an enabling technology, that's right.
MR. ROSENBLATT: Right. But having an answer to that that's just sort of freely available versus having an answer that is verifiably correct and attributable, my question is who cares?
MR. HUEY: The services care for one.
MR. ROSENBLATT: Google doesn't care.
MR. HUEY: We could probably have an offline conversation about this, but I think, respectfully, I would take a different side on that argument.
MS. ALLEN: And with respect to offline conversations, I think it is time for our coffee break. So I do thank everyone here and our panelists and Vickie for moderating.
(Applause.)
MS. ALLEN: I have a couple of housekeeping notes. We are running a little behind, but we planned for that. So we are going to start the breakout sessions at 3:35.
A couple of notes on that. There are Chatham House rules, which means there is no identification publicly of who is saying what. What we will have is a facilitator for each breakout session will come up, as we've done in the past meetings, and give a readout generally with no identifying names of who said anything, but just general key points of whatever was said just to share with the plenary. This will be offline for those who are online, so you have a break.
One question that came in from the video audience was whether slides would be available afterwards, and the answer is we have a transcript that will be available afterwards and the video of this will be available afterwards, too. To the extent someone is interested in a particular slide deck, you can contact us and we can see whether or not the individual slide owner is interested in sharing.
And so with that -- I'm at Susan.Allen@uspto.gov. And with that, we can break for a quick coffee break, but I have one statement from John Morris regarding the breakout sessions.

MR. MORRIS: I'm up here to discourage you from coming to my breakout session. No, no, I am leading the breakout session on the role of US Government and I understand that a lot of you have expressed interest in that and I'm thrilled, come on ahead. But I do want to make clear that if the only reason you're going to that is to make sure that we're not planning something and going to surprise you, we're not planning anything and going to surprise you.
So, I mean, we really are interested. We have, over the last couple of years, you know, kind of gotten the message that holding these meetings has been a very productive thing to bring people together. We've really enjoyed this one so far and we'll probably continue to do it in the future. But so, I mean, feel free to come and let's discuss what the Government can do to help, but there are a lot of other breakout sessions, too, that also are interesting topics. So just want to kind of encourage folks to come if you would like to talk about that, but also feel free to go elsewhere.
MS. ALLEN: Just logistically, we'll have the facilitators at two tables in here and two next door with table numbers so you know where to go.
Those table numbers correspond to the topics on the agenda, so thank you.

(Coffee break.)

AFTERNOON PLENARY DISCUSSION

MS. QUIGLEY: If we could take our seats.

All right. Good afternoon, everyone. My name is Linda Quigley. I’m a copyright attorney with the USPTO Office of Policy and International Affairs.

Technically, I worked with Susan Allen on putting this program together, but I should note that Susan really bore the weight of putting this together and I think she did a good job and I would just like to give her a thank you.

(Applause.)

MS. QUIGLEY: And she’s not even here.

We’ll tell her about it later.

All right. So we’re going to move right into having our facilitators present what occurred in the breakout sessions. I am going to remind Chatham House rules, so please don’t identify any speakers of what occurred, just give us the general tenor of what went on. We’re going to go slightly out of order than the tables were labeled. We’re going to start with metadata embedding, deleting, locating, and optimizing. Stuart Myles?

MR. MYLES: Thank you. So a pretty broad topic, and we had quite broad discussions. Just to quickly summarize, we ended up focusing on two sort of -- two areas, both of which represented tensions about metadata. So the first one I want to talk about is the tension between needing to collect comprehensive metadata about people and so on involved in creative work and the tension between that detailed metadata so that you can license and properly archive and so on the work and the privacy implications of collecting that kind of metadata.

So how do you, on the one hand, allow people to be anonymous, but on the other hand, respect the rights of creators without them necessarily being identified? We talked about a lot of different things to do with that, but we came up with a slight laundry list of possible ways forward for that, including crypto for the bitcoin fans out there. We talked a fair amount about what roles legislation and regulation might play in terms of requiring people to register, but perhaps being able to -- as part of that registration being able to say that they wanted to remain anonymous.

We also talked about what would be the incentives then to be able to create that kind of metadata in a way that protects people’s privacy. We felt that a couple of things. One is market pressure. So if there is large organizations that are requiring that kind of information, but enabling you to retain your privacy, that would help. And then we talked a little bit about it also would make it easier if we had more interoperable standards that would support exchange of information, but in a way that doesn’t require you to de-anonymize if you don’t want to.

The second set of tensions that we talked about was, on the one hand, the sort of snowballing demand for metadata and more and more kinds of metadata, not just identification of people, but also information to help you discover works or to capture technical information and so on. On the one hand, there is this snowballing demand for metadata, but on the other hand, one of the people on my group described it as metadata is just not fun. So for creative people, it’s not their dream to be typing information into web forms and so on.

How do you resolve that demand for lots and lots of metadata, increasing types of metadata, increasing precision of metadata, and then the fact that it’s not really what people want to do? So a couple of things that we came up with there. One is to do with increased automation to make it so that it’s easier for people with less work to add increased amounts and increased precision of metadata, so...
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MR. ROSENBLATT: Okay, thank you.

So we covered a lot of stuff and I guess what we focused on is potential areas where blockchain technology can help in developing the digital marketplace for copyrighted works. It's an early -- we're in the early days. There are people like Ken Umezaki and his company that are working on solutions.

There are others who have ideas about how the technology can apply and there are certainly various startups, various initiatives going on. So I think the most useful way that I could summarize our discussion would be to talk about what the potential areas for applications are and what the benefits would be.

Some of this you have heard from presentations earlier today that, unfortunately, I wasn't able to be here for. So at the risk of being repetitive, here we go. In the music industry, there is a big problem with rights and royalty transaction data. This problem has come to the fore particularly with respect to mechanical licensing for compositions because you've got this track-by-track or recording-by-recording licensing requirement that worked fine. If you just wanted to do a cover of a Stones song or whatever, you'd go get a license for it. But

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when you're trying to ingest 30,000 tracks per day and you're a streaming DSP and you're trying to clear all the rights for those 30,000 tracks a day and you're doing 99.99 percent the same job as all the other streaming DSPs, but you have to do it on your own, that's a little bit silly and redundant and leaves all kinds of room for errors.

So the idea of blockchain technology there is instead of each DSP having to do all of this huge job by itself or having to hire some company to do it on its behalf, there can be a common notion of what all this data is and who needs to get paid when what rights are exercised to remove the burden and the risk from individual actors in this value chain.

This is just something that would benefit everybody and there is a notion that if you set up the access rights to data on the blockchain properly, which is a tricky issue, and you come up with another tricky issue, ways to resolve disputes, discrepancies of data given that blockchain is an environment where you can't erase things, you can only add to things, how do you do that when someone decides that the splits on a composition need to be changed or some composer comes out of the woodwork or a catalog gets bought and sold or what have you? There are ways of...
MR. ROSENBLATT: All right, there we go. Mr. Griffin, it was good, too.

MR. ROSENBLATT: It was published about two days ago.

MR. GRIFFIN: It was published about two days ago.

MR. ROSENBLATT: It was good, too.

MR. GRIFFIN: It was good, too.

MR. ROSENBLATT: Thank you. It was one page. It’s easy to read.

Anyway, now that we have broken Chatham House rules --

(Laughter.)

MR. ROSENBLATT: -- I didn’t say now that Jim has broken Chatham House rules; I said now that we have broken Chatham House rules.

MR. GRIFFIN: I’m going to break more Chatham House rules here.

MR. ROSENBLATT: All right, there we go. Jim is ready to go. So there are essentially three areas that the book publishing industry, at least that one of us is aware of, has looked at for blockchain application, and the area with the most entrepreneurial activity is in e-book distribution on the blockchain. So the way this works is a publisher or an author wants to sell copies of his or her e-book. So when you buy one, you aren’t buying it under a license agreement as you would on Amazon or Nook or Apple or Kobo. You are essentially getting more of a simulacrum of ownership of that e-book. You get the right to resell, to lend, to give away, too alienate, among other things. And the author has an indelible record of authorship that cannot be changed. If I were to sell my copy of the book to Paul, then Paul would own it, and I would no longer be able to access it. And there’s a mechanism to make sure that all that happens correctly and that would be a DRM-related mechanism. And the reason why this is of interest in the e-book community is because e-books, by and large, at least in this country still use DRM. So people expect that to be the case, unlike in other countries such as the Netherlands and Germany and various other places where they’ve moved away from DRM and so this would not work.

So there are a few startups that are doing this kind of thing and we’ll see where they go. It’s early. They’re just starting out. We’ll see what happens.

The two other applications are -- there is a vague notion that blockchain technology can be useful for rights and royalties in the same way that it has been discussed and acted on in music, but the book industry is -- essentially there are a number of reasons why the book industry is not as advanced as the music industry is in its thinking and consideration of these ideas. But the fact remains that the book industry is only just starting to look at this. So no one has really done anything yet.

And then the third application in this area is to take advantage of the lowered cost of POD or print on demand technology and --

MS. QUIGLEY: Bill, we have two more to go, so --

MR. ROSENBLATT: Okay, so I’ll finish very quickly. So to basically use a form of anti-counterfeiting technology to do piracy track and trace on a blockchain instead of through a centralized database owned by a single counterfeiting detection vendor, that’s an interesting area in book publishing. And I will stop there.

MS. QUIGLEY: Thank you very much.

Now, Jim Griffin with voice recognition technology.

MR. GRIFFIN: Yeah, we had a good discussion, a focused discussion, there weren’t that many of us. I blame John Morris for inciting the audience to engage in government insulation, and he drew quite a crowd over there that I was envious of. But we had a very high-quality group and I’ll tell you that right up-front.

We noted the growth of voice interactive devices and their new role in society. We discussed how there were 10,000 people working at Amazon on voice interactivity alone, 100 million Amazon devices sold. We have 100 million devices on the market with voice interactivity.
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So are there issues where, you know, a very interesting conversation that a number of the participants in the conversation, you know, were fresh off the MMA tussles and conversations over the last few years, and they were kind of reporting that in that process the Congress and the Government, in general, you know, what they often did was to force the stakeholders to go back and try to work harder to work it out, to work out their differences, to really come up with a unified set of requests or needs that perhaps Congress could help.

And that kind of led in part to a conversation about what could the Government, short of legislation up on the Hill, you know, can we help in helping stakeholders get through some difficult issues? So is there an opportunity for the Government to host a meeting, not as general as this, but a more specific meeting that helps to shine a spotlight on a particularly difficult issue that private stakeholders are not yet -- I mean, there's a lot of interest in getting over a hurdle, but they haven't yet really gotten over that hurdle.

So are there issues where, you know, a government-convened meeting could help to shine spotlights or to help break logjams? I am not here to announce we have something in mind and we’re going to host one of those meetings; I’m actually here to encourage all of you to think about that possibility as you go forward. And to the extent that, you know, you actually think that there may be, you know, see if other people agree and certainly come back and talk to us in the future.

You know, there were some then specific discussions about, well, how to make some of the cross-stakeholder conversations more effective, more efficient. One of the proposals simply was to make sure that the full range of stakeholders are involved in conversations early on, not only just the rights holders and technology platforms, but also users and advocates for users, public interest organizations, and just make sure that -- you know, I think in the MMA, there was a lot of agreement, but then some of the holdups were -- you know, could have perhaps been avoided or some of the delays could have been avoided by getting people involved in the conversation a little bit earlier.

There were some assertions -- and I’m not going to pick any names -- of, you know, there are still some power imbalances. Three music labels really kind of think they control everything, but, of course, there are lots of artists who are not affiliated with those music labels and, you know, we need to kind of make sure -- you guys need to make sure that solutions can also work for folks who are not with the most powerful of the companies.

You know, a brief conversation of Article 13 or what used to be Article 13 in Europe, and I’m kind of putting aside the question of whether, you know, that’s a good thing or a bad thing or whether it went too far. There is one observation that -- you know, that it’s interesting that it really kind of forced to really collaborate in both directions and, you know, is there a need for that in some circumstances?

Again, that’s really a question for you guys to think about.

And then the final last couple of points, a discussion of interoperability. You know, that’s obviously a very desirable goal, to have as an ecosystem and certainly there are some circumstances where the Government can be useful in seeking interoperability. I can kind of think of a few possibilities. But, again, it’s really kind of an encouragement to all of you. You know, if there are real interoperability problems that you see not getting resolved, come talk to us. Maybe there is something that we could do.

And then my last point to read out is actually not a readout of the conversation that we had just 20 minutes ago, but a readout of the exact same conversation we had a year ago. Because it was a point that wasn’t the focus of our conversation here today, but it really was underlying a lot of the points that were made. It was a big topic a year ago and that’s the international kind of angle that, obviously, folks in the room -- and many of you are not from the United States, not focused only on the United States.
United States, but to the extent that there is value
or a need in trying to get interoperability around the
world, or you know, just kind of the ability of things
to sync up, governments are, in fact, pretty well
placed to try to discuss the issues with other
governments.

So again, that’s really more a request for
you to think about if, as you continue to work through
these issues, if there are things that a government or
the United States Government come in and trying to
promote solutions that work in other countries as
well, you know, that’s certainly something I think
that we would be very interested in hearing from you
about. So that’s really kind of the quick readout
that I have from our group.

MS. QUIGLEY: Thank you very much.
Now, I would like to put it to the floor for
any questions for our facilitators. Questions about
what you’ve heard on the readout or if you have
comments on anything they said. Anybody?
(No response.)

MR. GRIFFIN: Well, I’ll say it’s
critical that we look at that. My own feeling about
blockchain was absolutely changed when I heard that
the head of marketing at Walmart walked in one day and
popped an apple down on a table and said, I bought
this at a gas station and I want you to develop a
program where I can find out where any piece of food I
put on this table came from. And I thought here’s a
guy who gets that Walmart’s future depends upon being
able to source quality goods from all over and that
he’s willing to put their stuff into the database in
order to get everybody else to put their stuff into a
database that would bring his company great advantage.

And I say this because this particular issue
I feel like I’ve lived through. I arrived at Geffen
Records in 1991 and they were outraged that we put in
an internet connection. Outraged. And, in fact, the
parent company was furious. We do not connect our
corporate network to other networks. That is not
acceptable. You’ve got to go.

And I’ll just fast forward through that.
Today, it’s the same thing. A CFO says, our corporate
data is not going to other companies, we’re not
sharing that data. Now, the internet one obviously
collapsed. People saw the advantages of interchanging
email between companies and industries and sharing
communications and having a facility for using TCP/IP
and others to route data between companies.

So while I don’t think that the blockchain
is going to make a huge difference short-term, because
I think those feelings are strong that our data is our
data and we do not share it with other companies, but
that Walmart guy coming out and saying, the future of
our company is sourcing quality goods at good prices
and willing to interchange data with others like that,
that tells me it’s coming down the road, that others
will see the advantages of interchanging their data.

MR. MYLES: I guess what I would say is that
when it comes to things like the blockchain and other
technologies, it’s actually misleading to think that
there are different industries. What I mean
specifically is that the idea that there’s a music
industry versus Hollywood versus news versus radio and
so on, or versus cultural heritage institutions. In

was at was we discussed how blockchain was being used
in different industries and how it was at a different
point in those industries in terms of its adoption.
Did that come up at any of the other tables and is it
helpful to our discussion to find out what is
happening in other industries?

MR. GRIFFIN: Well, I’ll say it’s

...
dependent industries, the early adopters were in the publishing industry for the DOI. They developed their system. There’s now the EIDR, which is very, very helpful I understand.

So, yes, there are different ways of doing it, but I guess it’s mostly an awareness of what the basic technology is that I think you’re advocating here, which is good.

MR. ROSENBLATT: So as someone who actually was involved in the creation of the DOI system with CNRI, that’s an interesting observation. You know, the DOI was the -- it’s a bit of an exception in the sense that the book and journal publishing industries under the aegis of the AAP, which initiated that activity, operated under the self-delusion that they thought of it first. They didn’t. Your folks did, among others. They didn’t. But it was a useful fiction.

AUDIENCE MEMBER: Can I interrupt a second?

MR. ROSENBLATT: Yeah.

AUDIENCE MEMBER: I come from the Copyright Office and I had left and I knew several people in the copyright industry, the publishing industry, who were very concerned about losing their business when things were going digital. They came to meetings at CNRI, now that you mention it. First, it was in the context of what we called NoBots, the mobile programs, since I’m mentioning --

MR. ROSENBLATT: Yes. I know that Bob Kahn paper.

AUDIENCE MEMBER: So basically the digital --

MS. QUIGLEY: We need to make sure we --

AUDIENCE MEMBER: -- the block at that time, it was not that they were the first and that somehow we were the first. No, we were helping them understand the technology that had been developed and they were early adopters. I think I would prefer that way.

MS. QUIGLEY: Thank you.

MR. ROSENBLATT: Well, the point about -- the question about learning from other industries, which is what we’re getting back to here, is the book and journal industry does a horrible job of this and was only able to do it in the DOI context because it convinced itself that it thought of the idea first. Whenever I raise these issues with book publishing people and talk about how the music industry is a couple years ahead with regard to the rights and royalties aspect of it, they go, oh, you know, who cares about them, they’re different, they’re not us.

We all need -- that is just meant to be an illustrative and not exclusive description. We all need to do a better job of importing ideas from other industries in order to advance this field.

MS. QUIGLEY: And I think we had one other comment here. One more.

AUDIENCE MEMBER: I guess this is more of a suggestion than a question, but with respect to the role of blockchain within the context of this discussion around the market for copyrighted works, I think if we’re going to focus on that or you are going to focus on that in the future, we really need to get the video game folks in the room, because they are actually, in many ways, the most advanced in at least their thinking about actual consumer-facing blockchain applications because last year somewhere between $50 and $60 billion worldwide were spent on in-game purchases of virtual goods, which is a huge market obviously, but it’s also a constrained market because that virtual good is tied to that game. And once you stop playing that game, your virtual good is worthless.

But there are a lot of people in the industry right now who are working on separating the item, the ownership of the item from the game in which it was acquired using blockchain. That opens up the possibility that virtual goods could become portable across different games or you could develop a secondary market around those items. You know, you don’t need it anymore for this game, you bought it for this game, you don’t play it anymore, you could trade, sell it on a secondary exchange in a secondary market.

And I think that that model is an important model to think about with respect to the other industries as well. Here I disagree a little bit with Bill with respect to e-books. I think there are a lot of behaviors within the book industry that have been mediated by things like the first sale doctrine.

MS. QUIGLEY: And I’m sorry, we’re going to have to cut you off and have you finish that argument at the happy hour. I feel very bad. It’s a good day to be a copyright geek. I enjoyed it, too.

MR. ROSENBLATT: I’ll talk your ear off on that, Paul.

MR. GRIFFIN: When’s the last time somebody told you you should be drinking to have this discussion?

(Laughter.)

MS. QUIGLEY: We’re going to let John Morris...
do our closing remarks. Thank you so much.
(Applause.)

Thank you to all the attendees who came who weren’t speakers and moderators. I certainly hope that you got as much out of it as I did.
And then I want to thank the staff who really kind of made this happen. First, with the Global Intellectual Property Academy, the folks who really kind of did a lot of the logistical work to get this meeting together and pulled together. I want to thank Kortney Hammonds, Jamie Day, John Ward and Teresa Verigan. So thanks very much for all of your help.

MR. MORRIS: And I really do want to call out Shira’s staff in the Office of Policy and International Affairs here at PTO, Linda Quigley, Brian Yeh and Neil Graham. But, Susan, you avoided Linda’s earlier calling you out. So I’m going to specifically call you out to say Susan Allen really was the moving force behind this. And I have been on many conversations with her over the last many, many months as to kind of how would this work and when should we do it and all of that stuff. So I just want to particularly call out and say thanks to Susan, but also all of our other colleagues at PTO.

(Closing Remarks)

MR. MORRIS: And that’s it. So thanks very, very much. We will end here. So thanks very much.

(At 5:07 p.m., the meeting was adjourned.)
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