

**Before the
Federal Communications Commission
445 12th St., S.W.
Washington D.C. 20554**

In the Matter of) **WC Docket No. 07-52**
Broadband Industry Practices)

ELECTRONIC FILING

**REPLY COMMENTS OF THE SONGWRITERS GUILD OF AMERICA
RULES GOVERNING NETWORK MANAGEMENT PRACTICES BY
BROADBAND NETWORK OPERATORS**

The Songwriters Guild of America (SGA) respectfully submits these reply comments in this proceeding to emphasize the importance of allowing responsible Internet Service Providers to monitor and manage the content that flows on their networks, in order to eradicate the occurrence of copyright piracy, which threatens the very existence of the songwriting profession.

About SGA

SGA represents over five thousand of America's best known and most well respected music creators and their heirs. Established in 1931, SGA is the oldest and largest organization in the United States run exclusively by and for songwriters. SGA is an unincorporated voluntary association headquartered in Nashville, with offices in New York and Los Angeles. It provides royalty collection and audit services for its members, as well as music licensing.

Historically, SGA has been extremely active in representing the rights and interests of music creators throughout the country, and frequently appears before Congress, the Copyright Office, Federal Agencies, and in the courts and administrative proceedings in the course of its efforts to protect and advocate on behalf of the American songwriter community.

The Problem With Internet Piracy of Music

As a forward-looking organization committed to preserving not only the great cannon of American music, but also the ability of songwriters and composers to continue earning a living at their craft in a digital world, SGA is convinced that digital commerce -- and particularly the digital consumption of music-- is the key to a successful future for

America's songwriters. SGA therefore applauds innovations on the internet that support and encourage the *legitimate* consumption of music by the public.

The unfortunate reality of the current situation in the digital world, however, is that online piracy of digital music is rampant. Such piracy has deeply and materially adversely affected the songwriter community. SGA has spoken out frequently and in great detail on the grave harm to the songwriter community that is being caused by the theft of music in cyberspace. We attach the Statement of SGA President Rick Carnes, Chairman of the Music United organization, upon the seminal 2005 anti-piracy decision by the U.S. Supreme Court in *Metro-Goldwyn-Mayer Studios Inc. v. Grokster Ltd.* One of the most startling facts evidencing the devastation caused by the loss of songwriter revenue to piracy is SGA's observation that over half of the staff songwriter positions that existed at music publishing houses across the country as recently as five to ten years ago have disappeared. Some companies appear to have eliminated the practice of hiring staff songwriters altogether. Piracy, in other words, is destroying the American community of songwriters through the elimination of songwriting as a viable livelihood; an important piece of American culture and global commerce is being decimated.

The Positive Anti-Piracy Role of ISPs and the FCC

Moreover, piracy is also one of the main contributors to the current network congestion problem. Thus, if the Commission decides to regulate broadband network management practices (as we hope it will), it should do so in a manner that: (1) permits, protects and encourages legitimate online commerce such as licensed music services to thrive, and (2) deters online theft such as music piracy (including piracy of video content with embedded music), which will have the additional benefit of reducing network congestion in the long term. Even if there is no solution to online piracy yet, as such, any network management rules should, at a minimum, leave room for ISPs and content owners to develop technologies and take action to deter online piracy regardless of its effect on network congestion.

The FCC should not only allow but also encourage ISPs to help identify and discriminate against all pirated, illegitimate content, just as ISPs currently identify and attempt to prevent spyware, malware, and other harmful traffic from adversely impacting their customers.

In keeping with the spirit of the Commission's policy statement, actions taken by the ISPs to deter piracy should be applied evenly over all types of pirated content (whether movies, music, etc.), to the extent technologically feasible. This is particularly important where the choice to deter certain types of piracy but not others raises competitive concerns.

In short, there must be respect for the rule of property rights and law over the internet, especially in regard to the Constitutional imperative to protect and encourage the advancement of science and the arts. This respect can be facilitated through FCC rules

that permit ISPs to manage their networks in furtherance of legitimate commerce. This result is clearly in the public interest, because it will preserve legitimate commercial practices, protect the songwriting profession and similar artistic endeavors, and discourage the current outright theft of intellectual property on the Internet.

We thank the Commission for its consideration of the deep concerns of the American songwriter community in regard to these issues, and will gladly provide any further information that the Commission may require. SGA is committed to taking each and every action necessary to help preserve U.S. cultural institutions like the great American songbook, and to protecting the future ability of songwriters and composers to earn a living doing what they love. We look forward to working closely with the Commission in the pursuit of those goals, which are crucial not just to our members, but to all Americans.

Respectfully submitted,

The Songwriters Guild of America

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musicunited.org

June 27, 2005

Music Coalition Reacts to MGM V. Grokster Supreme Court Ruling

Statements of Music United Coalition Leaders

"Every facet of the music community -- songwriters, musicians, recording artists, music publishers, record labels large and small, retail stores and many others -- are affected by what the Court decided today. Music fans must understand that they can and do play a direct role in the investment and creation of music. By utilizing the wide array of legal online music, they help ensure the health, diversity and dynamism of the music that's created. Moreover, they show respect and support for the people who give their lives and passion to creating music," said **Rick Carnes**, Chairman of the Music United Coalition Communications committee and President of the Songwriters Guild.