

Statement of

Maria Schneider

GRAMMY-Winning Composer/Conductor/Producer
Member of the Board of Governors,
New York Chapter of The Recording Academy

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Committee on the Judiciary
Subcommittee on Courts, Intellectual Property and the Internet

Hearing on
“Section 512 of Title 17”

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Chairman Goodlatte, Chairman Coble, Ranking Members Conyers and Nadler, and Members of the Subcommittee. My name is Maria Schneider. I'm a composer, bandleader, and conductor based in New York, a three-time GRAMMY-winner in the jazz and classical genres, and a board member of the Recording Academy's New York Chapter. The Recording Academy is the trade association representing individual music creators. I'm very honored to speak with you this morning about my personal experiences with the notice and takedown provisions of the Digital Millennium Copyright Act, or the DMCA.

I come here as an independent musician in the prime of my career, grateful for a steadily growing fan base and critical acclaim. But my livelihood is being threatened by illegal distribution of my work that I cannot rein in.

The DMCA creates an upside down world in which people can illegally upload my music in a matter of seconds. But I, on the other hand, must spend countless hours trying to take it down, mostly unsuccessfully.

It's a world where the burden is not on those *breaking* the law, but on those trying to *enforce* their rights.

It's a world with no consequences for big data businesses that profit handsomely from unauthorized content, but with real-world financial harm for me and my fellow creators.

Like most artists, I love technology. I became a pioneer in online distribution when my release *Concert In the Garden* became the first Internet-only album to win a GRAMMY, and it also heralded the age of fan funding.

But I'm now struggling against endless Internet sites offering my music illegally. After I released my most recent album, *Winter Morning Walks*, I soon found it on numerous file sharing websites. Please understand, I'm an independent artist, and I put \$200,000 of my own savings on the line and years of work for this release, so you can imagine my devastation.

Taking my music down from these sites is a frustrating and depressing process. The DMCA makes it my responsibility to police the entire Internet on a daily basis. As fast as I take my music down, it reappears again on the same site—an endless whac-a-mole game.

The system is in desperate need of a fix, and I would like to propose three common-sense solutions:

First: Creators of content should be able to prevent unauthorized uploading *before* infringement occurs. We know it's technically possible for companies to block unauthorized works, as YouTube already does this through its Content ID program. But *every* artist should be entitled to this service, to register their music once and for all, with no strings attached. Just like the successful "do not call" list, creators of content should

be able to say, “do not upload.” If filtering technology can be used to *monetize* content, it can also be used to *protect* it.

Second: The takedown procedure should be more balanced. I am certain that most of my fans who upload my music have no intention of harming me – and probably no knowledge that they are doing so. But to upload my music on most sites, one simply has to click a box saying they acknowledge the rules. On the other end of the transaction, I, the harmed party, must jump through a series of hoops, preparing a notice for each site, certifying documents under penalty of perjury, and spending hours learning the sites’ unique rules for serving the notice. Owners should have a more streamlined and consistent process to take content down.

But balance means Internet services have a responsibility too. They should better educate consumers who upload content, more clearly informing them that it is a violation of law to upload content they do not own. If consumers had to go through a more robust process to upload others’ content, the system would be more balanced and fair.

Third: Take-down should mean “stay-down.” Once a service has been notified of an infringing work, there is simply no excuse for the same work to show up again on the same site.

Mr. Chairman, my fellow creators and I have an important job – we create art that becomes the fabric of life for our own citizens and for people the world over. American music has become the world’s music. Our founders had the foresight to give us the exclusive rights to our works in order to “promote the progress of science and useful arts.” Authors were given the right to copy and distribute their own work in order to incentivize creation.

But I must tell you that the current environment does not fulfill that constitutional mandate. The *majority* of my time is now spent on activities that allow me some chance of protecting my work online. Only a fraction of my time is now available for the creation of music. So instead of the Copyright Act providing an *incentive* to create, it provides a *disincentive*. The simple changes I have outlined would make great strides in fixing this broken system.

Mr. Chairman, our founders showed great wisdom in seeking to protect creators. I have hope and confidence that you and your colleagues will also show great wisdom in ensuring this protection will continue in the digital age.

Thank you.