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Subject: Reply Comments of SESAC, Inc./ In the Matter of IPEC Joint Strategic Plan
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Attachments: [SESAC IPEC Comments 032410.pdf](#)

[Please see attached.](#)

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Before the
OFFICE OF MANAGEMENT AND BUDGET
Washington, DC 20554

In the Matter of the)
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Joint Strategic Plan of the)
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Intellectual Property Enforcement Coordinator)

REPLY COMMENTS OF SESAC, INC.

SESAC, Inc.
55 Music Square East
Nashville, TN 37203

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REPLY COMMENTS OF SESAC, INC.

SESAC, Inc. (“SESAC”) respectfully submits the following Reply Comments in response to Office of Management and Budget’s Request for Written Submissions, as noticed in the Federal Register, 75 Fed. Reg. 8137 (Feb. 23, 2010).

I. Introduction.

SESAC is one of the three “performing rights societies” (also known as “performing rights organizations,” or “PROs”) expressly recognized under the Copyright Act. SESAC, like its competitors, ASCAP and BMI, represents the creators and owners of nondramatic musical works (the statutory term for what are commonly referred to as songs) through music licensing, royalty collection, and distribution services. Established in 1930, SESAC is the second oldest PRO in the United States and one of the fastest growing PROs in the world, representing more than a quarter of a million copyrights on behalf of its thousands of affiliated songwriters, composers, and music publishers. While all three PROs license the public performance of songs on behalf of their copyright owners, SESAC, unlike its competitors, is a privately held company, as are the vast majority of its affiliated music publishers including many songwriter-owned publishing companies.

The public performance of songs is so ubiquitous that individual composers and publishers generally cannot effectively oversee the licensing of their songs to large numbers of potential music users, and those music users cannot effectively or efficiently

obtain individual licenses for the large number of songs that they perform. Thus, the PROs, including SESAC, take on the important role of protecting such rights on behalf of their affiliated composers and music publishers.

Through reciprocal agreements, SESAC authorizes various PROs in other countries to represent the rights of its affiliated songwriters, composers, and music publishers in a given territory. Likewise, the affiliates of those foreign PROs may authorize SESAC to represent their public performing rights in this country. Through these reciprocal agreements with foreign PROs, the music created by SESAC's affiliates is provided to entertain millions of people around the world.

II. Recommendations to Address Threats Posed to Intellectual Property Rights.

Regarding general concerns and recommendations about intellectual property protections to be addressed in the Joint Strategic Plan, SESAC has joined in the comments submitted by the Copyright Alliance, of which it is a member. Regarding more specific concerns about copyright protection of the public performing right in non-dramatic musical works, SESAC concurs with the concerns and recommendations presented in the comments submitted by its fellow U.S. PROs, including:

(1) The Federal Government should support the efforts of creators to combat copyright infringement by music providers and users who publicly perform songs without authorization from the music creators and owners. Such infringement occurs in various venues and by various methods and has greatly increased with the rise of the internet.

(2) The national laws of various countries often present unreasonable procedural hurdles to foreign PROs attempting to pursue copyright infringement actions there. Protections to alleviate such hurdles should be considered when the United States negotiates foreign trade agreements.

(3) Additionally, the national laws of various countries often create onerous tax requirements that result in unfairly diminished compensation ultimately reaching U.S. songwriters and music publishers. Again, negotiation of trade agreements should address such remedies as caps in the amount of income tax withheld by foreign countries.

(4) Various PROs in foreign countries take what are known as "social and cultural" deductions from royalties to be distributed to U.S. songwriters and music publishers. These deductions, which are unfair and which are not taken by U.S. PROs when distributing royalties back to foreign PROs, also should be considered in trade agreement negotiations.

(5) China is the United States' second largest trading partner in goods and services. Despite intellectual property laws enacted in recent years there, there is no money distributed to U.S. PROs for public performances of American songs in China.

The IPEC and the Office of the United States Trade Representative should continue their efforts to address China's disregard for intellectual property rights, particularly as they impact U.S. copyright creators and owners, including songwriters and music publishers.

III. Educational Efforts.

Beyond recommendations for the Joint Strategic Plan concerning enforcement of intellectual property rights, SESAC recognizes that educating the public, including its own affiliates, about the economic and creative importance of copyright cannot be underestimated. In this regard, SESAC has taken a leading role.

For example, SESAC regularly hosts special events designed to inform and enlighten affiliates on a variety of pertinent topics. SESAC hosts Publisher Information Nights offering topics such as using new technology to further songwriting and publishing careers. In addition, the "SESAC Songwriter Bootcamp" is a free symposium that has become an in-demand event for artists and songwriters to be educated and updated on all aspects of the music business via panel lectures and discussions courtesy of an array of established writers, producers, lawyers, and industry insiders among many others.

SESAC also is committed to educating students about the importance of intellectual property to the fabric of the U.S. culture and economy. SESAC established EDU Music Business 101, a no-cost program that provides materials to assist teachers and students in the classroom. SESAC is also hands-on in the educational process often providing executives to colleges and universities to speak with students about the role of the performing rights organizations and the importance of protecting copyrights. Moreover, SESAC is actively involved with MEIEA (the Music & Entertainment Industry Educators Association) and MENC (the National Association for Music Education), often offering executives for lectures and panels at leading colleges and universities across the country.

Conclusion

SESAC appreciates the opportunity to present these comments to the IPEC. Please do not hesitate to contact me if you would like further input from SESAC on the topics to be addressed in the Join Strategic Plan.

Respectfully Submitted,



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