



NEWSLETTER

An Entertainment Industry Organization

The Register's Call for Updates to U.S. Copyright Law¹

The President's Corner

Welcome Friends,

After a year of planning, tonight a dream is realized: the first official joint event with the Society of Composers & Lyricists and the CCC. The SCL is a fantastic organization, and we're thrilled to partner with them for tonight's panel. A special thanks to Jonathan David Neil, Ashley Irwin & Dan Foliart for making this dream a reality.

Join us a week from today for another exciting joint event here at the Lodge from 3:00pm – 8:00pm: The Music Industry Toolbox with the AIMP.

Finally, I'm looking forward to a terrific international panel orchestrated by our own Teri Nelson Carpenter on April 16th.

All the best,

Eric Palmquist
President, California Copyright Conference.

commerce alike.

It has been fifteen years since Congress acted expansively in the copyright space. During that period, Congress was able to leave a very visible and far-reaching imprint on the development of both law and commerce. It enacted the Digital Millennium Copyright Act ("DMCA"), which created rules of the road for online intermediaries (e.g., Internet service providers) and a general prohibition on the circumvention of technological protection measures (so-called "TPMs") employed by copyright owners to protect their content. The DMCA also created a rulemaking mechanism by which proponents could make the case for temporary exemptions to the TPM provisions in order to facilitate fair use or other noninfringing uses (the "section 1201 rulemaking").

Nonetheless, a major portion of the current copyright statute was enacted in 1976. It took over two decades to negotiate, and was drafted to address analog issues and to bring the United States into better harmony with international standards, namely the Berne Convention. Moreover, although the Act is rightly hailed by many as an accomplishment in balance and compromise, its long trajectory defeated any hope that it could be effective into the 21st century. In fact, former Register of Copyrights Barbara Ringer, who had worked closely with Congress for much of the 1976 revision process, later called it a "good 1950 copyright law."

I think it is time for Congress to think about the next great copyright act, which will need to be more forward thinking and flexible than before. Because the dissemination of content is so pervasive to life in the 21st century, the law also should be less technical and more helpful to those who need to navigate it. Certainly some guidance could be given through regulations and education. But my point is, if one needs an army of lawyers to understand the basic precepts of the law, then it is time for a new law.

**Statement of Maria A. Pallante Register of Copyrights
United States Copyright Office before the Subcommittee on
Courts, Intellectual Property and the Internet Committee on
the Judiciary**

United States House of Representatives 113th Congress, 1st Session

March 20, 2013

Thank you for the opportunity to appear before you today to discuss the state of our copyright law. My message is simple. The law is showing the strain of its age and requires your attention. As many have noted, authors do not have effective protections, good faith businesses do not have clear roadmaps, courts do not have sufficient direction, and consumers and other private citizens are increasingly frustrated. The issues are numerous, complex, and interrelated, and they affect every part of the copyright ecosystem, including the public at large. For reasons that I will explain, Congress should approach the issues comprehensively over the next few years as part of a more general revision of the statute. A comprehensive effort would offer an occasion to step back and consider issues both large and small, as well as whether and how they relate to the equities of the statute as a whole. This Subcommittee in particular has an opportunity to do what it has done in the past, not merely to update particular provisions of copyright law, but to put forth a forward-thinking framework for the benefit of both culture and

A central equation for Congress to consider is what does and does not belong under a copyright owner's control in the digital age. I do not believe that the control of copyright owners should be absolute, but it needs to be meaningful. People around the world increasingly are accessing content on mobile devices and fewer and fewer of them will need or desire the physical copies that were so central to the 19th and 20th century copyright laws.

Moreover, while philosophical discussions have a place in policy debates, amending the law eventually comes down to the negotiation of complex and sometimes arcane provisions of the statute, requiring leadership from Congress and assistance from expert agencies like mine. The list of issues is long: clarifying the scope of exclusive rights, revising exceptions and limitations for libraries and archives, addressing orphan works, accommodating persons who have print disabilities, providing guidance to educational institutions, exempting incidental copies in appropriate instances, updating enforcement provisions, providing guidance on statutory damages, reviewing the efficacy of the DMCA, assisting with small copyright claims, reforming the music marketplace, updating the framework for cable and satellite transmissions, encouraging new licensing regimes, and improving the systems of copyright registration and recordation.

That said, Congress does not need to start from scratch, as it has already laid the groundwork for many core issues. For example, Congress already has had more than a decade of debate on the public performance right for sound recordings, and has given serious consideration to improving the way in which musical works are licensed in the marketplace. These issues are ripe for resolution.

Likewise, Congress has requested a number of studies from the Copyright Office in recent years, on a variety of timely topics, including the first sale doctrine, orphan works, library exceptions, statutory licensing reform, federalization of pre-72 sound recordings, and mass digitization of books. Additionally, we have reports in progress on small copyright claims and resale royalties for visual artists.

Congress also may need to apply fresh eyes to the next great copyright act to ensure that the copyright law remains relevant and functional. This may require some bold adjustments to the general framework. You may want to consider alleviating some of the pressure and gridlock brought about by the long copyright term — for example, by reverting works to the public domain after a period of life plus fifty years unless heirs or successors register their interests with the Copyright Office. And in compelling circumstances, you may wish to reverse the general principle of copyright law that copyright owners should grant prior approval for the reproduction and dissemination of their works — for example, by requiring copyright owners to object or "opt out" in order to prevent certain uses, whether paid or unpaid, by educational institutions or libraries.

If Congress considers copyright revision, a primary challenge will be keeping the public interest at the forefront, including how to define the public interest and who may speak for it. Any number of organizations may feel justified in this role, and on many issues there may in fact be many voices, but there is no singular party or proxy. In revising the law, Congress should look to the equities of the statute as a whole, and strive for balance in the overall framework. It is both possible and necessary to have a copyright law that combines safeguards for free expression, guarantees of due process, mechanisms for access, and respect for intellectual property.

To this end, I would like to state something that I hope is uncontroversial. The issues of authors are intertwined with the interests of the public. As the first beneficiaries of the copyright law, they are not a counterweight to the public interest but instead are at the very center of the equation. In the words of the Supreme Court, "[t]he immediate effect of our copyright law is to secure a fair return for an 'author's' creative labor. But the ultimate aim is, by this incentive, to stimulate artistic creativity for the general public good."² Congress has a duty to keep authors in its mind's eye, including songwriters, book authors, filmmakers, photographers, and visual artists. A law that does not provide for authors would be illogical — hardly a copyright law at all.

Finally, evolving the Copyright Office should be a major goal of the next great copyright act. In short, it is difficult to see how a 21st century copyright law could function well without a 21st century agency. The expertise of the Office is reflected in countless contributions over the last hundred years, including official studies, congressional hearings, treaty negotiations, trade agreements, policy recommendations, and legal interpretations, not to mention in the statute and its legislative history, and in opinions of the courts. But today, many constituents want the Copyright Office to do better the things it already does, and to do a host of new things to help make the copyright law more functional — from administering a small copyright claims tribunal to offering arbitration or mediation services to issuing advisory opinions. Moreover, as others have noted, the statute has become too detailed and less nimble, and could be more useful and flexible if certain aspects were handled administratively.

In closing I would like to express my gratitude to the members of the Subcommittee for your interest in and commitment to copyright policy, and encourage you to think big. The next great copyright act is possible if you approach it comprehensively, and as always, the staff of the U.S. Copyright Office is at your disposal.

¹ For a more extensive discussion of these issues, see Maria A. Pallante, *The Next Great Copyright Act*, 37 COLUM. J.L. & ARTS (forthcoming Spring 2013), available at <http://www.law.columbia.edu/kernochan/manges>.

² *Twentieth Century Music Corp. v. Aiken*, 422 US 151, 156 (1975)

Panelist Bios

BRIAN THOMAS HELGELAND

Brian Thomas Helgeland an American screenwriter, film producer and director. He is most known for writing the screenplays for L.A. Confidential (for which he received an Academy Award), Mystic River, and A Nightmare on Elm Street 4: The Dream Master.

Helgeland was born in Providence, Rhode Island, the son of Norwegian-born parents Karin and Thomas. His surname is Norwegian, named after a landscape in Northern Norway. A graduate of Loyola Marymount University in Los Angeles, he received his undergraduate degree at the University of Massachusetts Dartmouth.

In 1998, Helgeland won both an Academy Award for Best Adapted Screenplay (for L.A. Confidential) and a Razzie (for The Postman) in the same year. Only one person had achieved the dubious feat before (Alan Menken in 1993), and only one other (Sandra Bullock in 2010) has achieved it since. He accepted the Razzie and became only the fourth person in its history to be personally presented with the statuette.

Helgeland wrote and directed the films A Knight's Tale (2001) and The Order (2003). He has worked with director Clint Eastwood twice, in 2002 on Blood Work, and in 2003 on Mystic River, for which he was Oscar nominated for Best Adapted Screenplay, and has also written an as yet unproduced adaptation of Moby-Dick. In 2004, Helgeland also co-wrote the screenplay for the major motion picture The Bourne Supremacy, for which he was uncredited. In early 2008, Helgeland was attached to shape the script of the thriller Green Zone after screenwriter Tom Stoppard had to drop out, once again collaborating with director Paul Greengrass, whom he worked with on The Bourne Supremacy, as well as reuniting with actor Matt Damon, who played the Bourne trilogy's main protagonist, Jason Bourne. Helgeland also wrote the remake of The Taking of Pelham 1 2 3, starring Denzel Washington and John Travolta. The film was released on June 12, 2009. In 2009, director Richard Donner mentioned a second collaboration with writer Helgeland and actor Mel Gibson on an unnamed project, having previously all worked together on the 1997 thriller Conspiracy Theory.

MARK ISHAM

From his days as one of the pioneering icons of electronic music, a jazz artist to his current status as a renowned film composer, Mark Isham continues to be one of the most prolific and provocative artists working today. His gift for creating unforgettable melodies and his love of fresh, innovative musical palettes have earned Isham many awards including a Grammy, an Emmy, and a Clio. Additionally, his film scores have earned him Oscar and Golden Globe nominations. Recently, Mark Isham was honored with the prestigious Henry Mancini Career Achievement Award for musical excellence.

Isham states, "I create emotion through music. Whether it's high or low, anger or passion, exhilaration or death, denial or lust, motion or solitude. And when I can take a person on this journey through film or recordings, there's nothing more satisfying."

Isham's musical signature is evident in his memorable scores for such notable award-winning features including the Oscar-winning film Crash, the Golden Globe winning film Bobby, and The Black Dahlia, for which Isham was awarded "Best Score" by the International Film Music Critics Association.

Mark Isham's collaborators include icons from both film and music – Robert Redford, Tom Cruise, Brian De Palma, Jodi Foster, Robert Altman, Sting, Wil.I.Am, Sydney Lumet, and Mick Jagger. Crash director Paul Haggis stated, "I merely asked Mark Isham, to completely forget everything he has ever done and reinvent himself. And he has never failed to do so." Robert Redford remarked "Mark is a man who really lives his craft. One of the most attractive features about Mark is that he knows how to keep the music subtle, but still support the drama. Mark does that so beautifully."

Mark Isham's trumpet sound has been described as cool, avant-garde, sexy, lush, sumptuous, vibrant, haunting – even achingly beautiful. He has performed around the globe, and collaborated with celebrated artists in multiple genres. His albums have been critically lauded, and received the highest honors.

Born in New York City, Mark Isham was exposed to all types of music through his parents who were musicians themselves. The young Isham began studies in piano and violin, but it was the trumpet that captured his imagination. While at one of his mother's concert rehearsals, Isham was struck by the members of the trumpet section. Isham explained, "They sat in the back and played loud. And they seemed like the coolest guys in the whole place!" The trumpet became his signature instrument.

The Ishams moved from NYC to San Francisco, and by the age 15 Mark was playing his horn in jazz clubs simultaneously performing with The Oakland and San Francisco Symphonies. Word of Isham's talent continued to spread as he played in different bands, ultimately forming his own band Group 87.

Mark Isham's career as a successful musician was about to open a door to his next calling...film composer. Already an established performer and recording artist, he began to experiment with electronic music and incorporated it into several of his albums, earning a reputation as a live and electronic instrumentalist. In 1983 Isham received critical-acclaim as a solo artist with the release of his debut album Vapor Drawings.

He circulated a demo album intended for ECM Records, but fortuitously catching the attention of Film Director Carroll Ballard. Ballard was searching for a new sound for a project and came across Isham's music. He was impressed by the unique approach and hired Isham to compose Disney's critically acclaimed *Never Cry Wolf*.

Mark Isham began to traverse the musical landscape of performing musician and film composer and continues to do so today. His distinctive trumpet voice remains in-demand. His signature sound is heard on albums of music icons including Bruce Springsteen, Willie Nelson, Lyle Lovett, Ziggy Marley, Joni Mitchell, The Rolling Stones, Chris Isaak, and Van Morrison. His solo recordings span from electronica and classic jazz to hip-hop and ethnic world music. Mark Isham has received worldwide critical-acclaim including a Grammy for his Virgin Records release, *Mark Isham*. He has received Grammy nominations for his albums *Castalia* and *Tibet*.

Though renowned for his work in the electronic and New Age genres, Mark Isham is perhaps most recognized for his contributions to the world of jazz. Isham has collaborated and performed with jazz legends including Horace Silver, Chick Corea, Herbie Hancock and Bobby McFerrin. His jazz releases have received worldwide praise. Mark Isham's 1995 release, *Blue Sun*, was chosen by *Downbeat* as one of the "Top 100 Jazz Albums of the Decade." Isham's album, *Miles Remembered: The Silent Way Project* was named "Best Jazz Album of 1999" — *London Times*. Recorded live, the album is Isham's reinterpretation of material from Miles Davis's late '60s – early '70s phase which had a significant impact on Isham as a developing musician.

As a prolific film composer, Mark Isham continues to demonstrate his diverse musical voice with over one hundred film scores including *Eight Below*, *The Cooler*, *A River Runs Through It*, *Blade*, *Nell*, *Men of Honor*, and *The Secret Life of Bees*. His recent credits include *Warrior* and *Dolphin Tale* along with the ABC hit *Once Upon A Time*. He is currently scoring the Jackie Robinson biopic, *42*, starring Harrison Ford.

This year, Mark Isham's musical disciplines would once again intersect; his original film scores were performed live with full orchestras and choirs in Spain and Poland with Mark Isham featured on trumpet. He received standing ovations in both countries. No matter the genre, medium, or venue, Mark Isham displays a boundless ability to electrify the listener with his talent for crafting evocative new musical works.

DAN KIMPEL

Acknowledged as one of the American media's foremost authorities on popular music and songwriters, Dan Kimpel contributes to a dizzying variety of print and electronic mediums: books, interactive CD's, magazines, web sites, feature films, videos and new media. His recent interview subjects include Natalie Cole, Ringo Starr, Akon, Bobby Brown, Ne-Yo, Melissa Etheridge, Kelly Clarkson, Mary J. Blige, Green Day, Usher, Alicia Keys, Metallica, Jason Mraz and Black Eyed Peas. Over six years, passengers on United Airlines heard Kimpel's incisive interviews with hit songwriters and recording artists worldwide on The United Entertainment Network. In addition, he has written, produced and/or voiced segments for TED, Regal Cinemas, and the presidential and vice presidential planes, Air Force One and Two. In 2008, under the auspices of DMI Music and Media Solutions, Dan began conducting interviews for Delta Airlines in-flight audio service, *Delta On Air*, co-hosting a show with Natalie Cole to debut her two time Grammy-Award winning album *Still Unforgettable*.

In print, Dan contributes cover features to the west coast trade publication *Music Connection* magazine, plus a regular column, "Song Biz," that includes a profile of a writer or composer in each issue. To date, Dan has conducted over 300 interviews for the magazine covering such diverse talents as Avril Lavigne, Alanis Morissette, Randy Newman, Glen Ballard, John Mayer, Jill Scott and Rufus Wainwright. Other publications that feature his writing include *BMI World*, *ASCAP Playback*, *Grammy*, *SESAC Magazine*, *Film Music* and *American Songwriter*.

Dan's book on maximizing personal relationships, *Networking Strategies For The New Music Business* (ArtistPro/Thomson) is the follow up to his best-selling title, *Networking in the Music Business*. Over five years, he conducted a weeklong master class on networking at Sir Paul McCartney's Liverpool Institute for Performing Arts (LIPA) in the UK. Stateside, he lectures at colleges, universities and conferences across the U.S. and Canada, and he is currently on the faculty of Musician's Institute in Hollywood where he is the two-time MBP Teacher of the Year honoree.

How They Made It: True Stories of How Music's Biggest Stars Went From Start to Stardom, signing stories of today's most successful recording artists, was released in 2006 by Hal Leonard. *Electrify My Soul: Songwriters and the Spiritual Source* followed in 2008 from Thomson/PTR and in 2009 came *It All Begins with the Music: Developing Successful Artists & Careers for the New Music Business*, co-authored with legendary A&R executive, Don Grierson.

Dan also strategizes on projects and writes copy for record labels, music libraries, DVD releases and major label and independent recording artists with a client roster that has included the multi-platinum, Grammy-winning writing and production duo, Jimmy Jam and Terry Lewis and R&B legend Bill Withers. His resume includes a variety of services for the entertainment industry including event production and coordination and artist management/public relations consulting.

Dan conducted an extensive series of on-camera interviews to commemorate the 90th anniversary of the American Society of Composers, Authors and Publishers with Quincy Jones, Marilyn Bergman, Queen Latifah, Mary J. Blige, Andre 3000 (OutKast), Randy Newman, Hal

David and the late Elmer Bernstein. He also interviews all of the Society's award-winners in Pop, Film & Television and Rhythm and Soul, including Smokey Robinson, Metallica, Usher, Alicia Keys, Clint Eastwood, Jackson Browne, Elvis Costello, Timbaland and others.

Another of Dan's most rewarding endeavors was conducting on-camera interviews with 12 prominent female vocalists who grew up singing in church, including Dr. Maya Angelou, Denyce Graves, Patti LaBelle, Chaka Kahn and the Rev. Shirley Caesar. The enhanced CD -- titled Church: Songs of Soul and Inspiration -- was released through Universal and Ms. LaBelle was nominated for a Grammy Award for "Best Traditional Gospel Performance."

Dan began his career as a musician in his hometown, Lima, Ohio. He was a staff songwriter in Nashville and continued his performing, recording and composing careers in New York and Los Angeles. In Hollywood, his career took a new turn as he became instrumental with a non-profit organization: the Los Angeles Songwriters Showcase (LASS). In 1995, he was appointed creative director for the National Academy of Songwriters (NAS).

At NAS, Dan oversaw all of the Academy's periodicals and publications and produced concerts and events with the most revered names in songwriting: Joni Mitchell, Crosby, Stills & Nash, Randy Newman, Don Henley, Quincy Jones, Tom Petty, Leiber & Stoller, Burt Bacharach, John Fogerty, Babyface, Glen Ballard and Diane Warren. In 1998, he exited the Academy to devote more time to writing, and was named editor of Film Music magazine. He also was a commentator for shows on DirecTV, delivering on-camera commentary on the subject of film soundtracks.

Dan lives in the Eagle Rock neighborhood of Los Angeles, California.

ROBIN SWICORD

Robin Swicord is an American screenwriter and film director. She wrote the screenplay for the film *Memoirs of a Geisha*, based on the novel of the same name by Arthur Golden. Her other screenplay credits include *Little Women*, *Practical Magic*, *Matilda*, *The Perez Family*, and *Shag*.

Her directorial debut was with the 1993 short film *The Red Coat*, for which she also wrote the screenplay. Swicord wrote the screenplay for Karen Joy Fowler's 2004 novel *The Jane Austen Book Club* and directed the film, which was released in the United States on September 21, 2007. She also collaborated with Eric Roth on the screen adaptation of *The Curious Case of Benjamin Button*, based on the short story of the same name by F. Scott Fitzgerald.

Swicord was born in Columbia, South Carolina. She is married to screenwriter Nicholas Kazan, son of director Elia Kazan. Their daughter is actress Zoe Kazan.

Swicord was featured in *The Dialogue* interview series. In this 90 minute interview with journalist Jay A. Fernandez, Swicord delves into the adaptations, collaborations and frustrations she's experienced as a screenwriter.

AARON ZIGMAN

Aaron Zigman's resume as a songwriter, producer, arranger and musician underscores his reputation as one of the west coast's more prolific hit makers. But Aaron Zigman has propelled himself beyond the borders of the pop world in order to establish himself as a film composer. His ability to create memorable scores in genres from drama and comedy to action films has in just a few short years moved him to the top rank of film composers today.

Zigman combines his classical background and training with a strong knowledge of contemporary music which has enabled him to quickly adapt to any assignment. His ability to be highly collaborative with directors, producers and editors and to get the music on target on budget and on time has earned him a solid reputation as one of movieland's most sought after composers.

A native of San Diego, Aaron Zigman began training as a classical pianist at age six with his mother, a pianist and harpist. While in his third year at UCLA, Zigman signed a 4 year songwriting contract with publishing giant Almo Irving and began writing producing arranging and orchestrating for many of the top major artists in the record industry. He was one of 4 songwriters on their staff and under their aegis, he penned songs for Carly Simon, the T.V. show *Fame*, co-wrote with David Lasley, Jerry Knight and Steve Cropper.

In 1983 at the age of 20 he began studying with his renowned cousin George Bassman, a noted MGM composer who orchestrated for the "Wizard of Oz" and wrote the music for the films "Marty and The Postman Always Rings Twice". He penned the Tommy Dorsey Classic, "Getting Sentimental Over You", was the musical arranger for Lena Horne and Benny Goodman and orchestrated for the legendary Andre Kostelanetz.

Then in the middle 1980's, Zigman broke in as a studio musician, working with producers Don Was, Gary Katz, Steely Dan and Stewart Levine. From this experience he started to get a name for himself as a producer/writer and soon wrote a big hit in pop music called "Crush On You" which was a top chart record for a group called The Jets. He then worked for Clive Davis and produced and arranged for Aretha Franklin and Natalie Cole. During this time he wrote, arranged and produced songs for many of the top singers and artists in the industry such

as Ray Charles, Sting, Phil Collins, Dionne Warwick, Bozz Skaggs, Tina Turner, Seal, Carly Simon, the Pointer Sisters, Huey Lewis, Jennifer Holliday, Patty LaBelle, Chicago, Natalie Cole and Christina Aguilera.

In the 1990's he entered the film industry, with his work being featured on film soundtracks for Mulan, What's Love Got To Do With It, Bird Cage, License to Kill, Caddyshack and Pocahontas.

Although his list of pop accomplishments was formidable, creating orchestral music was still Zigman's primary focus. It was inevitable that Zigman's lifelong devotion to classical music would eventually lead him to the film scoring stage.

His big break came in 2000 when film director Nick Cassavetes went to hear Zigman's classical 35 minute symphonic tone poem "Rabin" which was performed by the L.A. Jewish Symphony. The work was composed in memory of Yitzhak Rabin, the late prime minister of the State of Israel. Cassavetes was very moved and asked Zigman to score Denzel Washington's movie "John Q"!

The success of John Q was followed by "The Notebook" which was a major box office success in which Zigman's sound track has sold a record number of albums.

Describing his feeling on the orchestral fabric of film music Zigman says, "I try to transcend the emotional value of what I write with the orchestra. When I finally hear it played, it's magical; the relationship is so interdependent, sharing a sound stage with a group of people I love. The sound of all these pitches and bodies together — it's such an incredible experience".