

**Written Testimony of
Jeff Harleston
General Counsel and Executive Vice President of Business and Legal Affairs,
Universal Music Group**

Artificial Intelligence and Intellectual Property – Part II: Copyright

**U.S. Senate Committee on the Judiciary
Subcommittee on Intellectual Property
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Thank you, Chairman Coons, Ranking Member Tillis, and members of the Subcommittee. I'm Jeff Harleston, the General Counsel and Executive Vice President of Business and Legal Affairs at Universal Music Group (UMG), the world leader in music-based entertainment. It's an honor to be here today to testify on "AI and Copyright."

UMG is home to a broad array of businesses engaged in recorded music, music publishing, merchandising, and audiovisual content. Featuring the most comprehensive catalogue of recordings and songs across every musical genre, UMG identifies and develops artists and produces and distributes the most critically acclaimed and commercially successful music in the world. Committed to artistry, innovation, and entrepreneurship, UMG fosters the development of services, platforms, and business models in order to broaden artistic and commercial opportunities for our artists and create new experiences for fans.

In my thirty years with the company, I've lived through the music business experiencing tremendous growth and equally tremendous challenges. I have learned many lessons, having navigated the technological changes in our industry during my time with the company. I've led the storied Def Jam record label, worked for several years in management at Geffen Records, and helped broker deals with the services, platforms, and social media outlets where you access the music you love. It's been my life's honor to work with countless talented and creative artists, the ones who've occupied your playlists, sang as you danced at your wedding reception, or helped you process unspeakable grief. They have shared with us experiences we will never have and taken us places we will never go. Their creativity is the soundtrack to our lives. And without the fundamentals of copyright, we might not ever have known them.

Given the explosion of generative artificial intelligence (AI) over the past several months, I'm grateful for the opportunity to share our views on the impact of AI on creators, most specifically the songwriters and artists we represent.

If I can leave you with one message today, it's this: AI in the service of artists and creativity is a wonderful thing. But AI that uses, or worse yet, appropriates their work – or their name, image, likeness, or voice – without authorization is *not*. An artist's work and persona are valuable and

deeply personal. As you establish the rules of the road for artificial intelligence, your use of that guiding principle can help ensure that our creative class and the businesses that support them continue to enrich our world.

I. AI and the Music Industry

Long before an AI-generated recording imitating Drake and The Weeknd – both Universal Music artists – went viral and captured the attention of press and policymakers, UMG has been thinking about artificial intelligence. One of our companies, Ingrooves, has three patents in AI to assist with marketing independent artists. And AI has long been used as a tool in the studio: For example, Apple Logic Pro X to generate drum tracks, or Captain Plugins to generate chord progressions. We also use AI regularly as a tool to assist in creating Dolby Atmos immersive audio music. It's a great technology when employed responsibly – and one that we and our artists use.

However, we are before you today because generative AI is raising fundamental issues of responsibility in the creative industries and copyright space. Each day, troubling examples emerge. We know some generative AI engines have been trained on our copyrighted library of recordings and lyrics, image generators have been trained on our copyrighted cover art, and music generators have been trained on our copyrighted music, all without authorization.

We have a robust digital music marketplace, and UMG has hundreds of legitimate partners who've worked with us to bring music to fans in a myriad of ways. Those companies and services properly obtained the rights they need to operate from UMG, or from the associated record labels and publishers. So, it's unfathomable to think AI companies and developers think the rules and laws that apply to other companies and developers don't apply to them.

Beyond the issue of copyright infringement, these generative AI companies are often obtaining our content from sources that explicitly prohibit downloading and use of that content outside of personal and non-commercial purposes. We've also seen examples of AI-generated music being used to generate fraudulent plays on streaming services, siphoning income from human creators. And we've seen many troubling cases where an artist's name, image, likeness, or voice is used without their knowledge or authorization – to generate videos of them saying things they didn't say, to use their voice and recordings without their knowledge, or to exploit their name to promote fraudulent works.

To be clear: the core copyright industries add roughly \$1.8 trillion of value to U.S. GDP annually and employs 9.6 million American workers. When creative industries like music are harmed, the impact to our nation's economic health is real. And music is one of our great cultural exports. Music is a key element of our cultural mosaic. We need to protect music – and creators – from harm in this new era.

But while the risk is real, we have no naïve intention of sticking our head in the sand. It's very easy for those that steal copyrighted works and disrespect artists to rush into the market – it's

more work to do it legally and respectfully. It takes time to figure out and create a means to ensure legality and make sure artists get identified, paid, and respected. I am very confident we will get there, because we always do. We have a robust free market for sampling, sync licensing, deals with new entrants to the digital marketplace, social media companies and all manner of new technologies.

But, in order to get there, we need to ensure any potential partnerships are responsible, ethical, and artist-centric, protecting the livelihoods of artists, rightsholders, and the creative ecosystem from harm. And it's possible to use AI in this way.

An example: one of our distributed artists, South Korean artist Lee Hyun, used a generative AI system to train on recordings of his vocals – allowing him to simultaneously release his single in six languages – in his own voice – on the same day. Here, the ethically trained tool enhanced and extended the artist's creative intent – with his *consent* – enabling him to reach new markets and fans.

Imagine an artist or songwriter creating personalized recordings for fans – such as “Happy Birthday” or perhaps a brand-new creation. Imagine the ability to perform a concert and livestream it globally in dozens of languages simultaneously. Imagine collaborations never even dreamed before. It's a powerful technology – and once there is a more responsible, legal, and respectful AI marketplace, the opportunity for creators is vast.

We're doing all we can to encourage AI developers to act legally and with the artists' long-term benefit in mind. And we practice what we preach: as the General Counsel of the company, my edict has been clear: We respect copyright. Not just our own, but the copyrights of others as well. We avoid AI tools which we believe were illegally trained on copyrighted materials. And we have an AI review team internally that reviews projects and potential tools to effectuate that effort.

II. Guiding Principles for Sound AI Policy

Many in the music community have joined more than 140 trade bodies, collectives, and organizations representing creators and creative industries around the world – along with organized labor, athletes, and others – to support the Human Artistry CampAign. We concur with the campaign's seven high-level guiding principles for sound AI policy:

1. Technology has long empowered human expression, and AI will be no different;
2. Human created works will continue to play an essential role in our lives;
3. Use of copyrighted works and the use of voices and likenesses of professional performers requires authorization and free market licensing from all rights holders;
4. Governments should not create new copyright or other IP exemptions that allow AI

- developers to exploit creations without permission or compensation;
5. Copyright should only protect the unique value of human intellectual creativity;
 6. Trustworthiness and transparency are essential to the success of AI and protection of creators; and
 7. Creators' interests must be represented in policy making.

These are our guiding principles as we navigate generative AI. We encourage you to be mindful of them as you continue to craft and establish policies in this new technological era.

III. Specific Policy Suggestions

Currently, copyright law is largely fit for purpose – but there are cracks in the foundation I urge you to address. This is especially important if you want to future-proof the law to fit a technology evolving and advancing at breakneck speed. Moreover, if you want to cultivate a lawful, legitimate, trustworthy, and responsible AI marketplace, Congress needs to establish fundamental rules of the road that enable that development and ensure creators are respected and protected.

First, we urge you to enact a federal Right of Publicity statute. Deep-fake and/or unauthorized recordings or visuals of artists generated by AI could lead to consumer confusion, unfair competition against the actual artist, market dilution and damage to the artist's reputation and brand – potentially irreparably harming their career. An artist's voice is the most valuable part of their livelihood and public persona, and to steal it – no matter the means – is wrong.

AI-generated, mimicked vocals trained on vocal recordings extracted from our copyrighted recordings go beyond Right of Publicity violations and concerns about consumer deception, unfair trade practices, and privacy – copyright law has clearly been violated.

The fact that these vocal-cloned recordings are often covers means that both the underlying music work *and* the original track are being infringed. In fact, when the voice cloning AI is trained using copyrighted recordings, there are likely multiple infringements occurring, including:

- infringement when an artist's vocal stem is extracted from an existing sound recording and reproduced;
- infringement of *both* the musical work and the sound recording copyrights when an unauthorized reproduction is made to train the AI on the artists' vocals;
- infringement under Sec. 1201 if stream-ripping is used to extract those vocals; and

- infringement under Sec. 1202 if the Copyright Management Information (CMI) has been stripped from the original sound recording or as part of the process.

I imagine most of us here don't go digging for AI-generated music, but the problem is vast. It's easy to find online instructions telling people how to rip vocals from songs. Today, I entered the name of a popular artist/composer in an internet search engine with a reference to "AI Song" and it returned tens of millions of different links. Swap "song" for "lyrics" and I received tens of millions more. Pick any major singer songwriter and you'll likely get similar results. Many of those results might not be infringing upon inspection, but it's still a staggering scope of search returns associated with unauthorized generative AI and worthy of your attention.

Secondly, copyright owners must be able to see what's gone into a training data set without having to initiate full blown litigation. Ensuring the transparency of this data is paramount. Without it, you've stymied potential for a marketplace. Records cataloging the provenance of materials, including any and all authorizations or licenses of that material, must be kept by AI developers. Litigation takes time and great expense. Being forced to use litigation to gain visibility on the quantity and extent of infringed material is truly an insurmountable roadblock for individual creators. There needs to be a mechanism for rightsholders to be able to inspect these records on training data - without having to initiate litigation.

But as legislative policy on transparency is developing, I urge you to use your platform and position of power to reiterate the principle. Believe me, it has a real impact – as AI companies meet with you, ask about their training data and what authorizations they've received to use it. Remind AI developers of the law and signal its importance to you. It's blatant infringement to use copyrighted works for training without authorization, and it needs to stop. Frankly, it's a bit astonishing that this even has to be litigated.

Finally, fully AI-generated content should be labeled as such. Consumers deserve to know what they're getting. Was it created by a human, or machine? Is the audio or visual they're consuming real? Is that really their favorite artist's voice? At UMG, we are committed to protecting our artists and the authenticity of their creative works. Within the music industry, we're pioneering what it means for labels and publishers to be good stewards of this principle.

IV. Conclusion

As with other technological advances in the past, it would be wrong to view AI as nothing but a threat. In fact, when responsibly developed and employed, we see AI as a powerful tool for our future. In the service of artists, AI can and will enhance our business in the years to come.

But since unchecked "generative AI" poses many dangers, we support efforts to ensure that generative AI thrives as a technology that enhances rather than threatens human creativity, and one that protects the rights of artists, their livelihoods, the creative ecosystem and culture as a whole. In addition to exploring other options in this rapidly developing area, UMG is actively cultivating what we call "Responsible AI" opportunities by talking with leading AI music

companies, and by advocating with early-stage AI companies as their own technology unfolds. We will have more to announce in this space in the near future.

You have an opportunity to establish legal clarity that creates a brighter path towards generative AI legitimacy and legality. Those solutions will not always require legislation, but some, like a federal Right of Publicity statute or requiring the transparency of training datasets, require swift, decisive legislative action. We stand ready to work with you and your colleagues to find productive, practical solutions in the interest of creators and the longevity of our rich culture.

I look forward to answering your questions. Thank you.