



Testimony of Yolanda Adams

GRAMMY® Award-Winning Artist and Recording Academy Trustee

Before the

Senate Committee on the Judiciary

Subcommittee on Intellectual Property

“How Does the DMCA Contemplate Limitations and Exceptions Like Fair Use?”

July 28, 2020

Chairman Tillis, Ranking Member Coons and members of the Subcommittee.

My name is Yolanda Adams, I'm a Gospel singer and songwriter. I've been blessed with multiple awards for my craft, including four GRAMMY Awards. One of the ways I give back is in service to the Recording Academy. While known internationally for the GRAMMYS, the Academy is first and foremost the membership, charity and advocacy organization of music's creators: the songwriters, performers, studio professionals and other individuals who bring music to America and the world. The majority of Academy members are working class music creators who rely on multiple income streams to support themselves and their families.

As I testify today before the Senate, I feel a duty to mention a great man of the House: John Lewis. As "the conscience of the Congress" lies in state in the Capitol today, let us acknowledge his important work as an icon of civil rights. And for me personally as a Gospel artist, when I think of Congressman Lewis, I think of "We Shall Overcome," a Gospel song originally composed by the Minister Charles Albert Tindley. We need no further proof of the power and importance of songs.

Before giving you our perspective on Fair Use, it's worth setting the stage -- or rather the lack of a stage -- for artists right now. When the pandemic began, every public gathering shut down. But even as other businesses open— restaurants, bars, salons, even gyms – music venues remain shuttered for the most part. The occasional drive-in show or zoom concert is not the same as the experience of a live performer in front of a live audience.

But as I said earlier, we must always rely on multiple income streams. And when we can't perform, we try to make part of our living from our recordings. In the digital landscape, where streams only bring fractions of a penny to the creators, we hope to monetize every use. This is where fair use comes in.

As American creators, we are blessed with a Constitution that give us the exclusive rights to our creative work. Fair use exceptions – exceptions to this constitutionally

enshrined right – should be limited, so that the artist doesn't find their work used without their consent.

When you hear a debate about fair use, it's typically about monetization. And that's important to me and my fellow Recording Academy members. If someone's claim of fair use reduces the artists' ability to earn a living, it should be treated as infringement, plain and simple.

But I also want to talk about the moral aspect of using another's work without permission. As a Gospel artist, I'm not just an entertainer. I see my mission as using my gift to spread the Gospel. So for me, Fair Use is not about money; it's about access. Fair use can be very unfair to the artist if it takes our control away. If, for example, my music were used in a YouTube video that ran counter to my Christian values, I should have the right to take it down – regardless of the tests of fair use.

And speaking of YouTube, I wish to acknowledge my fellow witness today, the accomplished YouTube music instructor, Rick Beato. Mr. Beato, I salute you for using your gifts to bring the joy of music to others. Not only am I a former educator myself, but music education is a pillar of the Recording Academy's mission, and we bestow the nation's most prestigious award for music educators. So I know you're doing important work through your teaching.

I'm not a lawyer, so I can't speak to the Fair Use implications of your YouTube videos. But I do want to thank you for removing music when requested by the artists. By doing so, you are not only teaching your pupils how to play music, but teaching them how to *respect* music. And who knows, one of your students might just be the next guitar hero who herself may need to protect her work online!

I also must mention an issue that this Committee has recently addressed, but it bears repeating. If we are truly concerned with "fair use," we cannot allow large commercial businesses to use recordings 24 hours a day, every day, without a cent of compensation to the artist. I know the long-standing radio performance right issue is

not today's topic, but it is this Committee's jurisdiction. There is no use more unfair than exploiting an artists' music without permission or compensation.

Members of the Committee, I am not a copyright attorney. But after decades of watching debates about music in campaigns, I can offer a songwriter's advice in lieu of legal advice. Musicians run the spectrum of political views. If candidates want to use music in their campaigns, work with us – the artists and songwriters – to find the right match. I am often asked for the use of my music for all kinds of uses: services, weddings, alas, even funerals. And I almost always give my permission. But the operative word is permission. Legal battles and cease and desist letters will never be as effective as good old-fashioned cooperation.

Members of the Subcommittee, you have many legal experts on this panel who can convey the nuance of copyright law. What I offer here today is the view of an Academy Trustee, the heart of an artist and the soul of a songwriter. On behalf of tens of thousands of members of the Recording Academy, and *hundreds* of thousands of creators across the country, all we ask is that we abide by the founders' words, and let us have the "exclusive rights" to our works. As a performer and songwriter, I thank you for helping us protect our works' value – *and* its integrity.

Thank you.