

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of:

**Determination of Rates and Terms for
Digital Performance of Sound Recordings
and Making of Ephemeral Copies to
Facilitate those Performances (*Web VI*)**

**Docket No. 23-CRB-0012-WR
(2026-2030)**

**DECLARATION OF ALEXANDER B. COGUT, ESQ. IN SUPPORT OF
SOUNDEXCHANGE JOINT PETITIONERS'
RENEWED UNOPPOSED MOTION TO ACCEPT
LATE-FILED WRITTEN DIRECT STATEMENT**

Alexander B. Cogut, Esq. hereby declares, under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an associate at Milbank LLP and counsel for SoundExchange, Inc., the American Association of Independent Music, the American Federation of Musicians of the United States and Canada, Screen Actors Guild-American Federation of Television and Radio Artists, Secretly Group, Sony Music Entertainment, UMG Recordings, Inc., and Warner Music Group Corp. (collectively, the "SoundExchange Joint Petitioners") in the above-captioned matter. I respectfully submit this Declaration in support of the SoundExchange Joint Petitioners' Renewed Unopposed Motion to Accept Late-Filed Written Direct Statement (the "Motion") in the above captioned proceeding, and in response to the inquiries of the Copyright Royalty Judges included in their September 20, 2024 Order 12 Denying, Without Prejudice, SoundExchange Joint Petitioners' Unopposed Motion to Accept Late-Filed Written Direct Statement (the "Order").

2. The Order requested “a full and detailed description of the technical problems which caused the delay in the submission” Order at 2.

3. I was responsible for applying highlighting and brackets to confidential, “Restricted” information to portions of the SoundExchange Joint Petitioners’ Written Direct Statement (“WDS”) on the evening of September 13, 2024, including the testimony of Jonathan Orszag, the SoundExchange Joint Petitioners’ retained economic expert.

4. Mr. Orszag’s testimony was the final document to which I needed to apply redaction markings. I began applying highlighting to indicate Restricted information in Mr. Orszag’s testimony at approximately 8:30 p.m. To allow our paralegal team to confirm, and revise, exhibit numbers and references to other witnesses’ testimony, I set up a Microsoft SharePoint “share drive” file that permitted multiple members of the team to access and edit it at the same time. I gave three paralegals and four other attorneys access to the file. While I was applying the highlighting, I could see that paralegals were simultaneously making other non-substantive edits to the document including to exhibit numbers and other citations.

5. At approximately 10:30 p.m., while I was finalizing the marking of Restricted materials, the “share drive” file I had created crashed. I re-opened the “share drive” file and saw that certain redaction highlights I had made were not included in the file. To ensure I did not leave any Restricted material without highlighting, I had to (1) review for a second time certain portions of the testimony to ensure that the redaction highlighting was correct, (2) apply any missing highlighting, and (3) confirm that my new changes were saved in the “share drive” file the team was using.

6. At approximately 11:00 p.m., the “share drive” file on my computer crashed again, creating a repeat of the issues that occurred at 10:30 p.m. I followed the same process described



above to fix the issues caused by the second crash. The 10:30 p.m. and 11:00 p.m. crashes substantially delayed my completion of marking the redactions to Mr. Orszag’s testimony.

7. At approximately 11:30 p.m., additional members of the attorney team signed into the “share drive” file to assist me in finalizing the redaction highlighting. My understanding is that no other changes were being made to the document at that time.

8. At approximately 11:55 p.m., Andrew Porter instructed our team to stop making any edits to the document, and requested that a PDF version of Mr. Orszag’s testimony be generated. I promptly saved the “share drive” version of the Word document locally. I then converted the document into a PDF using the “Save As .pdf” function. Due to the size of the document, that process took approximately fifteen minutes and was complete at approximately 12:12 a.m. on September 14, 2024. At 12:14 a.m. I emailed the PDF version of Mr. Orszag’s testimony to Mr. Porter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: September 23, 2024
New York, NY

 
By: _____
Alexander B. Cogut

Proof of Delivery

I hereby certify that on Monday, September 23, 2024, I provided a true and correct copy of the Declaration of Alexander Cogut in Support of SoundExchange Joint Petitioners' Renewed Unopposed Motion to Accept Late-Filed Written Direct Statement to the following:

College Broadcasters, Inc., represented by Seth D. Greenstein, served via E-Service at sgreenstein@constantinecannon.com

Educational Media Foundation, represented by Keenan P Adamchak, served via E-Service at kadamchak@wbklaw.com

George Johnson dba Geo Music, represented by George D Johnson, served via E-Service at george@georgejohnson.com

National Religious Broadcasters Music License Committee, represented by Karyn K Ablin, served via E-Service at ablin@fhhlaw.com

Public Broadcasting Entities, represented by David P Mattern, served via E-Service at dmattern@kslaw.com

Sirius XM Radio LLC/Pandora Media LLC, represented by Todd Larson, served via E-Service at todd.larson@weil.com

SoundExchange, Inc., represented by Steven R. Englund, served via E-Service at SEnglund@jenner.com

The National Association of Broadcasters, represented by Joseph R. Wetzel, served via E-Service at joe.wetzel@lw.com

Word Collections, Inc., represented by Eric B Goldberg, served via E-Service at eric@wordcollections.com

Signed: /s/ Andrew Porter