# Exhibit A20

| Application ID: | 1-1115-14110 |
|---|---|
| Applied-for String: | Music |
| Applicant Name: | DotMusic Limited |

**Clarifying question 1, A - E:**

The criterion for Delineation under *Criterion 1: Community Establishment* as described in section 4.2.3 *(Community Priority Evaluation Criteria)* of the Applicant Guidebook specifies that credit is received when there is "a clear and straight-forward membership definition". The application lists 42 categories of members of the defined community and for each references a North American Industrial Classification System (NAICS) code, as noted in Table 1 below. For reference, the EIU has numbered each of the 42 categories in the first column of the table below.

**Table 1**

| # | Application's member category | Corresponding NAICS Code Cited by Application |
|---|---|---|
| 1 | Musical groups and artists [listed twice in application—see listing #14] | 711130 |
| 2 | Independent music artists, performers, arrangers & composers | 711500 |
| 3 | Music publishers | 512230 |
| 4 | Music recording industries | 512290 |
| 5 | Music recording & rehearsal studios | 512240 |
| 6 | Music distributors, promoters & record labels | 512220 |
| 7 | Music production companies & record producers | 512210 |
| 8 | Live musical producers | 711130 |
| 9 | Musical instrument manufacturers | 339992 |
| 10 | Musical instruments & supplies stores | 451140 |
| 11 | Music stores | 451220 |
| 12 | Music accountants | 541211 |
| 13 | Music lawyers | 541110 |
| 14 | Musical groups & artists | 711130 |
| 15 | Music education & schools | 611610 |
| 16 | Music agents & managers | 711400 |
| 17 | Music promoters & performing arts establishments | 711300 |
| 18 | Music promoters of performing arts with facilities | 711310 |
| 19 | Music promoters of performing arts without facilities | 711320 |
| 20 | Music performing arts companies | 711100 |
| 21 | Other music performing arts companies | 711190 |
| 22 | Music record reproducing companies | 334612 |
| 23 | Music, audio and video equipment manufacturers | 334310 |

| 24 | Music radio networks | 515111 |
|----|---------------------|--------|
| 25 | Music radio stations | 515112 |
| 26 | Music archives & libraries | 519120 |
| 27 | Music business & management consultants | 541611 |
| 28 | Music collection agencies & performance rights organizations | 561440 |
| 29 | Music therapists | 621340 |
| 30 | Music business associations | 813910 |
| 31 | Music coalitions, associations, organizations, information centers & export offices | 813920 |
| 32 | Music unions | 813930 |
| 33 | Music public relations agencies | 541820 |
| 34 | Music journalists & bloggers | 711510 |
| 35 | Internet Music radio station | 519130 |
| 36 | Music broadcasters | 515120 |
| 37 | Music video producers | 512110 |
| 38 | Music marketing services | 541613 |
| 39 | Music & audio engineers | 541330 |
| 40 | Music ticketing | 561599 |
| 41 | Music recreation establishments | 722410 |
| 42 | Music fans/clubs | 813410 |

**A)** The Panel notes that for the following member categories in Table 2 below, the official NAICS code definition refers to a broader industry group or an industry group that is not identical to the one cited by the applicant. The Panel would like to clarify whether all entities identified by the NAICS code (see "Official 2012 NAICS definition[1]" in the table below) are included in the applicant's defined community. If all entities included in the official NAICS definition are not included in the proposed community, please clarify the delineation of members and non-members and how that will be determined.

**Table 2**

| # | Application's member category | Corresponding NAICS Code Cited by Application[2] | Official 2012 NAICS definition |
|---|-------------------------------|--------------------------------------------------|--------------------------------|
| 4 | Music recording industries | 512290 | Other Sound Recording Industries |
| 5 | Music recording & rehearsal studios | 512240 | Sound Recording Studios |
| 6 | Music distributors, promoters & record labels | 512220 | Integrated Record Production/Distribution |
| 12 | Music accountants | 541211 | Offices of Certified Public Accountants |
| 13 | Music lawyers | 541110 | Offices of Lawyers |
| 15 | Music education & schools | 611610 | Fine Arts Schools |
| 18 | Music promoters of performing arts with facilities | 711310 | Promoters of Performing Arts, Sports, and Similar Events with Facilities |

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[1] See US Census website, http://www.census.gov/eos/www/naics/
[2] The Panel has noted instances where the NAICS code provided by the applicant does not match the database used by the Panel, which reflects the NAICS database as of 2012. The Panel welcomes clarification and corrections by the applicant with regard to the correct NAICS codes.

| 19 | Music promoters of performing arts without facilities | 711320 | Promoters of performing arts, sports, and similar events without facilities |
|---|---|---|---|
| 21 | Other music performing arts companies | 711190 | Other Performing Arts Companies |
| 23 | Music, audio and video equipment manufacturers | 334310 | Audio and Video Equipment Manufacturing |
| 24 | Music radio networks | 515111 | Radio Networks |
| 25 | Music radio stations | 515112 | Radio Stations |
| 26 | Music archives & libraries | 519120 | Libraries and Archives |
| 27 | Music business & management consultants | 541611 | Administrative Management and General Management Consulting Services |
| 28 | Music collection agencies & performance rights organizations | 561440 | Collection Agencies |
| 29 | Music therapists | 621340 | Offices of Physical, Occupational and Speech Therapists, and Audiologists |
| 30 | Music business associations | 813910 | Business Associations |
| 31 | Music coalitions, associations, organizations, information centers & export offices | 813920 | Professional Organizations |
| 32 | Music unions | 813930 | Labor Unions and Similar Labor Organizations |
| 33 | Music public relations agencies | 541820 | Public Relations Agencies |
| 34 | Music journalists & bloggers | 711510 | Independent Artists, Writers, and Performers |
| 35 | Internet Music radio station | 519130 | Internet Publishing and Broadcasting and Web Search Portals |
| 36 | Music broadcasters | 515120 | Television broadcasting |
| 37 | Music video producers | 512110 | Motion Picture and Video Production |
| 38 | Music marketing services | 541613 | Marketing Consulting Services |
| 39 | Music & audio engineers | 541330 | Engineering Services |
| 40 | Music ticketing | 561599 | All Other Travel Arrangement and Reservation Services |
| 41 | Music recreation establishments | 722410 | Drinking Places (Alcoholic Beverages) |
| 42 | Music fans/clubs | 813410 | Civic and Social Organizations |

**B)** For the member categories noted in Table 3 below, the applicant provided a corresponding NAICS code, which the Panel could not find listed in an official database[3]. Please clarify the appropriate code for each member category. If applicable, please also clarify, as per question A, if the official NAICS code definition matches the application's member category, and if not, clarify the delineation of members and non-members and how that will be determined.

**Table 3**

| # | Application's member category | Corresponding NAICS Code Cited by Application[4] |
|---|---|---|
| 2 | Independent music artists, performers, arrangers & composers | 711500 |
| 11 | Music stores | 451220 |
| 16 | Music agents & managers | 711400 |
| 17 | Music promoters & performing arts establishments | 711300 |
| 20 | Music performing arts companies | 711100 |
| 22 | Music record reproducing companies | 334612 |

**C)** The last category listed by the applicant is "Music fans/clubs" (see #42 in Table 1). The Panel would like to clarify the individuals and/or entities that would be included in this category.

**D)** The application also makes reference to the following description of its community:

> .MUSIC relates to the Community by representing all constituents involved in music creation, production and distribution, including government culture agencies and arts councils and other complementor organizations involved in support activities that are aligned with the .MUSIC mission. (application, 20(d))

The Community Priority Evaluation panel would like to clarify to which entities the application is making reference to when citing "other complementor organizations involved in support activities" and whether such organizations fall under one or more of the categories explicitly mentioned in Table 1.

**E)** In addition to the categories of members referred to above, the application also states the following:

> Registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community particularities" that "invoke a formal membership" (application, 20(a))

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[3] Ibid.

[4] The Panel has noted instances where the NAICS code provided by the applicant does not match the database used by the Panel, which reflects the NAICS database as of 2012. The Panel welcomes clarification and corrections by the applicant with regard to the correct NAICS codes.

The application goes on to cite four provisions related to the above, including: "(i) Qualification criteria as delineated by recognized NAICS codes corresponding to Community member classification music entity types…" (application, 20(a)).

The Community Priority Evaluation panel would like to clarify how "registrants will be verified" and what kind "formal membership" will be required.

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Applicants are asked to provide all documentation in one submission by the date due and are reminded that any additional information provided beyond the scope of the CQ or attempts to change information provided in the application will not be considered by the Panel.

# Exhibit A21

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# DotMusic Limited Response to Clarifying Question 1 (A - E) from ICANN and the EIU
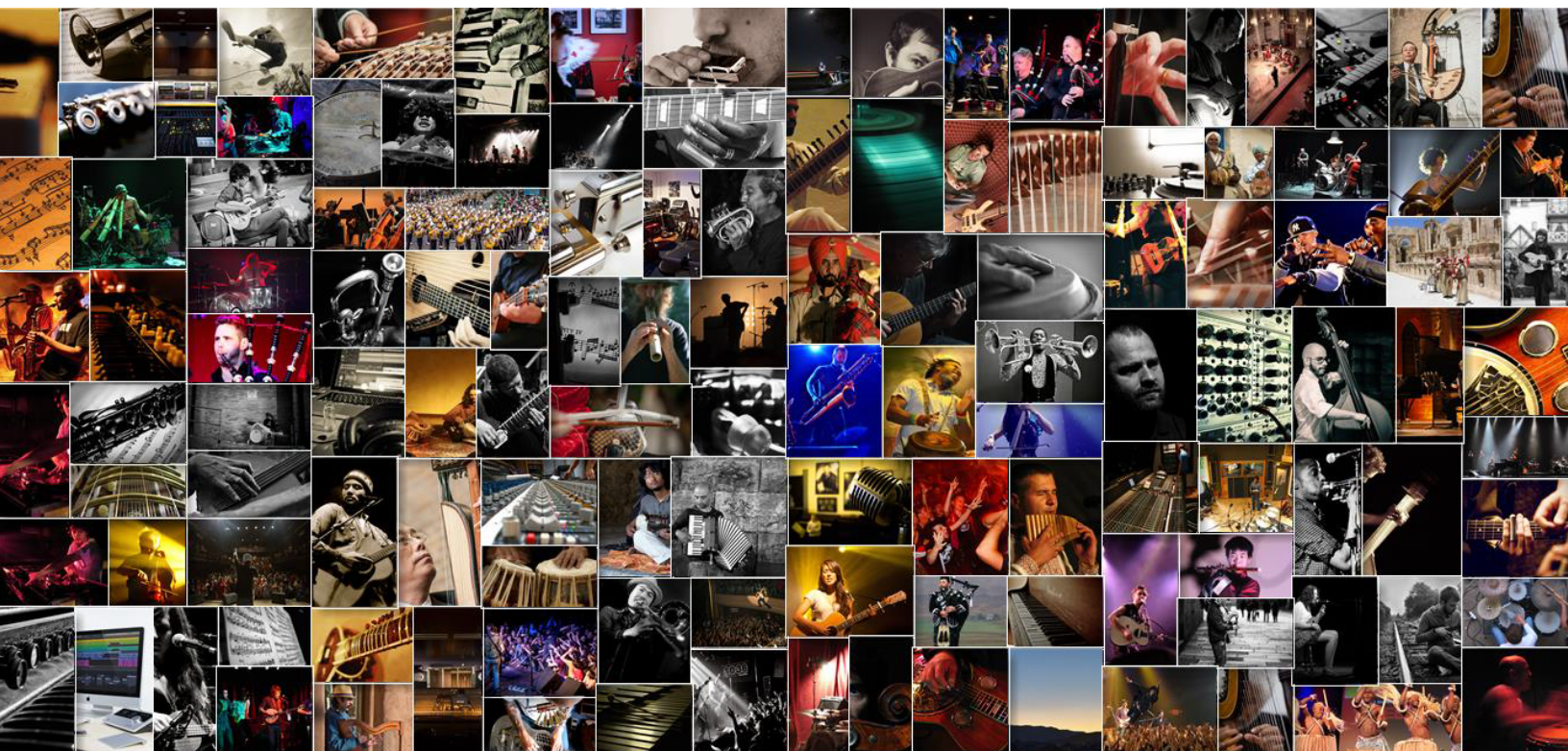
# Table of Contents

# Answers to Clarifying Questions

The objective of this Response to the EIU and ICANN is to answer the Clarifying Question (A – E) that was received from ICANN and the EIU on September 29th, 2015. All documentation and evidence provided by DotMusic is within the scope of the Clarifying Question in the areas of *Community Establishment* (Criterion 1) and the *Nexus between Proposed String and Community* (Criterion 2) consistent with the language in DotMusic's Application[1] and consistent with previous CPE Determinations.[2]

DotMusic will also provide compelling evidence that the methodology adopted to define the community relating to the Clarifying Question was not construed because DotMusic:

1) Used the industry standard methodology using NAICS codes adopted by several of the most prominent music cities (Georgia,[3] Nashville,[4] Seattle,[5] Detroit,[6] Austin,[7] Chicago,[8] Cleveland[9] and Memphis[10]) in defining, clustering and assessing their local music community's impact with organized and delineated criteria;

2) Used the delineation recommendations by UNESCO of using an organized, delineated and symbiotic cluster of industry classification codes, "since no single standard industry classification adequately encompasses the diversity of musical activity and commerce; rather, it is possible to identify several components which taken together provide a delineation of the extent and coverage of the term "music industry". This can be done by identifying…groups of stakeholders"[11] (emphasis added);

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[1] https://gtldresult.icann.org/applicationstatus/applicationdetails/1392

[2] https://newgtlds.icann.org/en/applicants/cpe#invitations

[3] B. William Riall, Ph.D., Economic and Fiscal Impact Analysis of the Music Industry in Georgia, May 2011, http://www.georgia.org/wp-content/uploads/2013/09/Georgia-Music-Business-Economic-Impact-Study2011.pdf

[4] http://www.nashville.gov/Portals/0/SiteContent/MayorsOffice/EcDev/NashvilleMusicIndustryStudy.pdf, Pg. 14-16

[5] W. Beyers, A. Bonds, A. Wenzl, P. Sommers, The Economic Impact of Seattle's music industry - A Report for the City of Seattle's Office of Economic Development, University of Washington, February 2004 http://web.williams.edu/Economics/ArtsEcon/Documents/Seattle_Music_StudyFinal.pdf

[6] Colby Spencer Cesaro, Alex Rosaen, Lauren Branneman, Music Business in Detroit, Anderson Economic Group, http://www.andersoneconomicgroup.com/portals/0/aeg%20report%20-%20music%20business%20in%20detroit.pdf

[7] Austin Music Census, The City of Austin Economic Development Department's Music & Entertainment Division, June 2015, https://www.austintexas.gov/sites/default/files/files/Austin_Music_Census_Interactive_PDF_53115.pdf

[8] Lawrence Rothfield, Don Coursey, Sarah Lee, Daniel Silver and Wendy Norris, A Report on the Music Industry in Chicago, Chicago Music Commission, Cultural Policy Center, University of Chicago, 2007, http://www-news.uchicago.edu/releases/08/pdf/080122.music.pdf

[9] Dr. Iryna V. Lendel, Remix Cleveland: The Cleveland Music Sector and its Economic Impact, Community Partnership For Arts and Culture, Center for Economic Development, 2011, http://cua6.urban.csuohio.edu/publications/center/center_for_economic_development/Remix_Cleveland_Full_Report_102411.pdf

[10] Gnuschke, John E.; Jeff Wallace, Economic Impact of the Music Industry in Memphis and Shelby County, Business Perspectives. University of Memphis. 2004. *HighBeam Research.* 28 Oct. 2015, http://www.highbeam.com/doc/1G1-126612058.html and http://www.freepatentsonline.com/article/Business-Perspectives/126612058.html

[11] UNESCO, The Global Alliance for Cultural Diversity, Division of Arts and Cultural Enterprise, The Music

3) Fine-tuned its Registration Policies to calibrate and offset the inefficiencies and deficiencies of the NAICS code methodology of Delineation to ensure there is no substantial overreaching (at either side of the spectrum) in order to completely match the Nexus of the string consistent with DotMusic's community definition (i.e. to ensure only entities related to the string with the requisite awareness of the community defined are included and not to exclude any entity that has a legitimate purpose in addressing the community represented by the string);

4) Conducted a Nielsen/Harris poll with over two-thousand (2,000) diverse participants to ensure that the general public would clearly associate the string with the community defined by DotMusic (See Annex H);

5) Provided forty-three (43) expert testimonies agreeing that the Delineation and Nexus of the community defined matches the string as provided by DotMusic in its application (See Annex K);

6) Provided support letters from nearly all the most globally-recognized music organizations that comprise of a majority of the global music community as defined and represent over 95% of global music consumed, including organizations, such as the IFPI that *mainly* dedicated to the community.[12] These relevant, non-negligible organizations also provide compelling evidence that DotMusic's definition is <u>not</u> construed and is indeed a definition supported by these endorsing organizations.

DotMusic used the NAICS Codes subset codes, allowing members to "<u>self-identify</u>" their "music" membership with "<mark>music</mark>" subsets of the NAICS. This standard NAICS methodology has been adopted by researchers analyzing the music industries, including city-based music industries. (See Annex A for further explanation and detailed analysis on the methodology and rationale adopted as well as Annexes I and J for a complete overview and analysis of the DotMusic application with respect to the CPE Guidelines and the Applicant Guidebook if more clarification is needed).

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Industry in the New Millenium: Global and Local Perspectives, October 2002, http://portal.unesco.org/culture/en/files/25428/11066604353The_Music_Industry_in_the_new_Millenium.pdf/The+Music+Industry+in+the+new+Millenium.pdf, Pg.2 and Pg.3

[12] For example, when the IFPI files to take down an illegal song on a pirate site, the IFPI also performs the function of protecting other specific rights that may be attributed to <u>other</u> rights holders as well, such as the publishers or songwriters that may also be associated with the song. This symbiotic and overlapping relationship further highlights why the IFPI is an organization *mainly* dedicated to the community defined (See http://ifpi.org/what-we-do.php and https://www.prsformusic.com/SiteCollectionDocuments/Membership/The_Music_Universe.pdf). Furthermore, the IFPI administers the International Standard Recording Code (ISRC), the international identification system and global industry standard for sound recordings and music video recordings…which enables recordings to be uniquely and permanently identified across different services, across borders, or under different licensing deals (See http://isrc.ifpi.org/en/).

## Answer to Clarifying Question #1: A

*The Panel notes that for the following member categories in Table 2 below, the official NAICS code definition refers to a broader industry group or an industry group that is not identical to the one cited by the applicant. The Panel would like to clarify whether all entities identified by the NAICS code (see "Official 2012 NAICS definition[1]" in the table below) are included in the applicant's defined community. If all entities included in the official NAICS definition are not included in the proposed community, please clarify the delineation of members and non-members and how that will be determined.*

| Table 2 # | Application's member category | Corresponding NAICS Code Cited by Application | Official 2012 NAICS definition |
|---|---|---|---|
| 4 | Music recording industries | 512290 | Other Sound Recording Industries |
| 5 | Music recording & rehearsal studios | 512240 | Sound Recording Studios |
| 6 | Music distributors, promoters & record labels | 512220 | Integrated Record Production/Distribution |
| 12 | Music accountants | 541211 | Offices of Certified Public Accountants |
| 13 | Music lawyers | 541110 | Offices of Lawyers |
| 15 | Music education & schools | 611610 | Fine Arts Schools |
| 18 | Music promoters of performing arts with facilities | 711310 | Promoters of Performing Arts, Sports, and Similar Events with Facilities |
| 19 | Music promoters of performing arts without facilities | 711320 | Promoters of performing arts, sports, and similar events without facilities |
| 21 | Other music performing arts companies | 711190 | Other Performing Arts Companies |
| 23 | Music audio and video equipment manufacturers | 334310 | Audio and Video Equipment Manufacturing |
| 24 | Music radio networks | 515111 | Radio Networks |
| 25 | Music radio stations | 515112 | Radio Stations |
| 26 | Music archives & libraries | 519120 | Libraries and Archives |
| 27 | Music business & management consultants | 541611 | Administrative Management and General Management Consulting Services |
| 28 | Music collection agencies & performance rights organizations | 561440 | Collection Agencies |
| 29 | Music therapists | 621340 | Offices of Physical, Occupational and Speech Therapists, and Audiologists |
| 30 | Music business associations | 813910 | Business Associations |
| 31 | Music coalitions, associations, organizations, information centers & export offices | 813920 | Professional Organizations |
| 32 | Music unions | 813930 | Labor Unions and Similar Labor Organizations |
| 33 | Music public relations agencies | 541820 | Public Relations Agencies |
| 34 | Music journalists & bloggers | 711510 | Independent Artists, Writers, and Performers |

| 35 | **Internal Music radio station** | **519130** | **Internet Publishing and Broadcasting and Web Search Portals** |
|----|----|----|----|
| 36 | **Music broadcasters** | **515120** | **Television broadcasting** |
| 37 | **Music video producers** | **512110** | **Motion Picture and Video Production** |
| 38 | **Music marketing services** | **541613** | **Marketing Consulting Services** |
| 39 | **Music  audio engineers** | **541330** | **Engineering Services** |
| 40 | **Music ticketing** | **561599** | **All Other Travel Arrangement and Reservation Services** |
| 41 | **Music recreation establishments** | **722410** | **Drinking Places (Alcoholic Beverages)** |
| 42 | **Music fans/clubs** | **813410** | **Civic and Social Organizations** |

Entities identified by the NAICS code (see "Official 2012 NAICS Definition" in Table 2) are included in the manner that DotMusic's application limits them solely to the Music Community. DotMusic addressed the NAICS Codes and ensured that only "music-related" entities that are organized and delineated by the NAICS codes may be members of the "Community" defined. It is noted that neither the Applicant Guidebook (the "AGB") nor the CPE Guidelines provided a concrete meaning for "define" and "definition" (emphasis added).  Furthermore, the AGB requires only that the constituents of a community be members of that community. There was no requirement that members of a community "act" as a community nor does the AGB say anything about how community members must "associate themselves." The AGB also has no language disallowing membership based on participation in the community defined.[13] Furthermore, a non-exhaustive list of membership criteria was allowed by the AGB, which may include "a logical alliance members based on categories that are solely community-related" (i.e. in the case of music, they are music-related),[14] "self-identification" in a community (e.g. identifying that they have a tie with the community) or those who have a legitimate purpose in addressing the community (e.g. by certifying to abide to a set of community-tailored registration requirements that are aligned with the goals of the community i.e. are aligned with the community's mission and purpose).[15] The AGB also allows for different types of membership just as long as there demonstrable involvement in community-related activities that may vary among member constituent types.[16]

As such, DotMusic used the industry standard methodology for defining music industries using NAICS codes, allowing members to "self-identify" their "music" membership with solely the "music" subsets of the NAICS codes that only relate to "music" (emphasis added) so there is no overreaching whatsoever and the community defined and delineated matches the "music" string. In order to match the string with

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[13] For example, in the prevailing .RADIO CPE Determination, the EIU was able to conclude that the .RADIO community is "clearly defined" and that, solely on the basis of being "participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community" (emphasis added) (Pg.2 ).

[14] For example, in the prevailing .HOTEL CPE Determination, the EIU awarded full points for Community Establishment for a community definition that is comprised of "categories [that] are a logical alliance of members" (emphasis added) (Pg. 2)

[15] For example, in the prevailing .OSAKA CPE Determination, the EIU awarded full points for Community Establishment and Nexus for a community definition that stated that: "[m]embers of the community are defined as those who are within the Osaka geographical area as well as those who self identify as having a tie to Osaka, or the culture of Osaka. Major participants of the community include, but are not limited to the following: […] Entities, including natural persons who have a legitimate purpose in addressing the community" (emphasis added) (Pg. 2).

[16] For example, in the prevailing .ECO CPE Determination, the EIU awarded full points for Community Establishment stating that "the application dictates four types of members, whose cohesion and awareness is founded in their demonstrable involvement in environmental activities and who "demonstrate active commitment, practice and reporting." This involvement may vary among member categories" (emphasis added) (Pg. 2).

the community defined it was vital to include all music constituent types (See Annex D, Venn Diagram for Community Definition and Nexus) – including complementary entities e.g. government culture agencies, arts councils and/or government agencies related to copyright -- that are considered essential for the smooth functioning of the music (industry) community and its sector's regulation (since music is a copyright industry). As stated in DotMusic's application, all legitimate Community members are included in the definition:

> *The Music Community encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders." (Answer to Question 20C)*

The only NAICS classifications that were delineated by DotMusic to define the community were those that were considered essential for "music." (For a more detailed analysis on the rationale and methodology for selecting the NAICS codes sub-sets in relation to music (industry) community defined consistent with the AGB and CPE Guidelines, see Annex A, Community Establishment & Definition Rationale and Methodology).

By way of example NAICS Code 541211 (Offices of Certified Public Accountants) is too broad and is therefore limited by DotMusic to solely "Music Accountants" who would have the requisite awareness of and association with the Community.   In this case, only "music accountants" that were members of an mCMO would be delineated as members.

For members with requisite awareness that are also part of existing Music Community Member Organizations (mCMOs), the Application provides a Landrush registration (members of mCMO's could also register their domains during General Registration as well as indicated below):

> *Music Community Member Organization (MCMO) Landrush for registrants with demonstrated MCMO memberships…*

> *MUSIC COMMUNITY MEMBER ORGANIZATION (MCMO) LANDRUSH LAUNCH*

> *This is the second phase of .MUSIC domain registration. It is a limited-time period reserved for members of DotMusic-accredited music Community Member Organizations (mCMO). (Application Answer to Question 18(B)(vi) & 20(e))*

> *The mCMO domain allocation method during the Landrush phase was created by DotMusic to allow Community members to register through established Community organizations. During the General Registration phase the TLD is open to all Community members for registration, but also restricted by Eligibility, Use and other Policies, including enhanced safeguards.  (Application Answer to Question 20B).*

Alternatively, if a "music accountant" is  not a member of an mCMO  but has a legitimate purpose in addressing the music community, then that "music accountant" could be delineated by demonstrating requisite awareness and identification with the Community by:

> 1) Selecting that corresponding with the NAICS Code 541211 (and as limited by DotMusic to solely "Music" Accountants), and;

2) Certifying acceptance to the DotMusic Registration Policies aligned with the community-based goals and purpose. This certification aligned with community's goals applies to all Community members, including mCMO members:

> *DotMusic has incorporated enhanced policies to ensure only eligible members of the Music Community who comply with the values, purpose and mission of the TLD can participate; to ensure domains are used in a manner benefitting the Community; to protect intellectual property; and to safeguard domains from malicious conduct and copyright infringement.*

> *USE POLICY*

> *This policy is in place for .MUSIC registrants regardless of the applicable launch phase. It is developed with extensive participation of Music Community members; tailored to meet the specific needs of the Music Community; and solve issues currently existing in the Music Community related to intellectual property infringement and malicious conduct.*

> *The policy is incorporated in the registration agreement for all .MUSIC registrants. DotMusic may modify or revise these use policies at any time…Registrants that do not accept and abide by the registration agreement are disqualified from domain registrations. (Application Answer to Question 20e)*

Only those that are defined by and identify with the sub-set of the NAICS code that relates to "music" would qualify as a member of the Community (See Annex B, Venn Diagrams for Clarifying Question A). These music community-tailored Policies ensure that members have the requisite awareness of belonging to the community. This means entities or individuals with a casual, tangential relationship with the string music are excluded (emphasis added) i.e. only entities or individuals that have the requisite awareness of the Community and have taken affirmative steps to associate with either an mCMO or self-identify with the appropriate sub-set of a corresponding NAICS group are delineated as members (emphasis added).

The Registration Process identification process (See Annex G, Registration Process Flowchart for more information) is aligned with the member's requisite awareness of the community defined "logical alliance of communities related to music." After their self-identifying, the Registry will place the registrant/community member into the corresponding premium channel(s) sorted according to music delineation type. Most importantly, all registrants/community members are governed by the applicant's Community Use Polices and Restrictions that are related to music.

## Answer to Clarifying Question #1: B

*For the member categories noted in Table 3 below, the applicant provided a corresponding NAICS code, which the Panel could not find listed in an official database₃. Please clarify the appropriate code for each member category. If applicable, please also clarify, as per question A, if the official NAICS code definition matches the application's member category, and if not, clarify the delineation of members and non-members and how that will be determined.*

| *Table 3 #* | *Application's member category* | *Corresponding NAICS Code Cited by Application* |
|---|---|---|
| **2** | **Independent music artists, performers, arrangers & composers** | **711500** |
| **11** | **Music stores** | **451220** |
| **16** | **Music agents & managers** | **711400** |
| **17** | **Music promoters & performing arts establishments** | **711300** |
| **20** | **Music performing arts companies** | **711100** |
| **22** | **Music record reproducing companies** | **334612** |

As clarified in the **Answer to Clarifying Question #1A** above, the official NAICS code definition refers to a broader industry group than that delineated by DotMusic in its Application. As clarified in #1A, members of the delineated community defined only include the "music" subset of each NAICS code set as cited in the Application. As the application indicates, every NAICS code is preceded by the applied-for string "music" to ensure that the Nexus of the string matches the community defined (i.e. a strictly delineated and organized community of individuals, organizations and business, a "logical alliance of communities of a similar nature" that relate to music (emphasis added): the art of combining sounds rhythmically, melodically or harmonically. (Question 20A)) and to exclude entities that have a no association or a non-essential relationship with "music" i.e. those casual entities that do not have the requisite awareness or recognition of the community are ineligible for registration.

DotMusic used official NAICS codes provided by the United States Department of Labor, Bureau of Labor Statistics (BLS).[17] The appropriate codes and BLS references to Table 3 are:

  2 - Independent music artists, performers, arrangers & composers 711500

    See http://www.bls.gov/oes/current/naics4_711500.htm and http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm

  11 - Music stores 451220

    See http://www.bls.gov/ppi/ppiretailtrade.htm, http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm,

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[17] http://www.bls.gov

http://www.dataplace.org/metadata?cid=112346&all=1 and
http://naicscode.org/NAICSCode/451220/Prerecorded-Tape-Compact-Disc-and-Record-Stores

According to the *United States Department of Labor, Bureau of Labor Statistics* (See
*http://www.bls.gov/ppi/ppiretailtrade.htm*):

> *NAICS 443142—Electronic stores are establishments that retail a general line of new consumer-type electronic products; including radios, televisions, computers, computer peripherals, prepackaged computer software, cameras, photographic equipment, photographic supplies, prerecorded audio and video tapes, compact discs (CDs), digital video discs (DVDs), cellular phones and cellular phone plans.*
>
> ***NAICS 443142 is an aggregate of the following 2007 NAICS industries****: -443112—Radio, Television, and Other Electronics Stores -443120—Computer and Software Stores -443130—Camera and Photographic Supplies Stores -**451220—Prerecorded Tape, Compact Disc, and Record Stores** prerecorded audio and video tapes, compact discs (CDs), digital video discs (DVDs), cellular phones and cellular phone plans.*
>
> *NAICS 443142 is an aggregate of the following 2007 NAICS industries:*
>
> - *443112—Radio, Television, and Other Electronics Stores*
> - *443120—Computer and Software Stores*
> - *443130—Camera and Photographic Supplies Stores*
> - ***451220—Prerecorded Tape, Compact Disc, and Record Stores***

Also see http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm, which indicates:

451220 NAICS07  451220 Precorded tape, cd, and record stores

16 - Music agents & managers 711400

See http://www.bls.gov/oes/current/naics4_711400.htm and
http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm

17  - Music promoters & performing arts establishments 711300

See http://www.bls.gov/oes/current/naics4_711300.htm and
http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm

20 - Music performing arts companies 711100

See http://www.bls.gov/oes/2003/november/naics4_711100.htm and
http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm

<u>22 - Music record reproducing companies 334612</u>

See http://unstats.un.org/unsd/cr/registry/regcssm.asp?Cl=230&Lg=1&Co=334612, http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm, http://www.census.gov/econ/isp/sampler.php?naicscode=334614&naicslevel=6 and http://download.bls.gov/pub/time.series/cs/cs.industry

For more clarification concerning membership delineation and references to the appropriate NAICS codes (including link references) also refer to **Annex C, Venn Diagrams for Clarifying Question B**. and **Answer to Clarifying Question #1A**.

## Answer to Clarifying Question #1: C

***The last category listed by the applicant is "Music fans/clubs" (see #42 in Table 1). The Panel would like to clarify the individuals and/or entities that would be included in this category.***

DotMusic clarifies that only fans that belong to strictly delineated and organized "music fan clubs" are eligible for membership and included in the category. In other words, only "music fan club" entities that have the requisite awareness of the community defined ("a strictly <u>delineated and organized community</u> of individuals, organizations and business, a "logical alliance of communities of a similar nature" that relate to music: the art of combining sounds rhythmically, melodically or harmonically) are members. Casual fans, i.e. those who do not have the requisite awareness of belonging to the community defined, are <u>not</u> eligible.

Some examples to clarify member eligibility include those that belong to recognized music fan clubs or music fan-funding organizations:

> The Bryan Adams Fan Club (See http://bryan-adams-fan-club.vancouver.ca.amfibi.company/ca/c/693462-bryan-adams-fan-club and http://www.manta.com/ic/mvqr3rf/ca/bryan-adams-fan-club).

> Ten Club – Pearl Jam's Official Fan Club (See https://pearljam.com/tenclub)

> Compass Records Street Team (See https://compassrecords.com/street-team.php)

> Linkin Park Street Team (See http://linkinpark.com/users/lpuhq/blogs/6065651)

> PledgeMusic (See http://www.pledgemusic.com/site/terms)

For more examples, see **Annex E, Music Fan Club Examples for Clarifying Question C**.

## Answer to Clarifying Question #1: D

*The application also makes reference to the following description of its community:*

> *.MUSIC relates to the Community by representing all constituents involved in music creation, production and distribution, including government culture agencies and arts councils and other complementor organizations involved in support activities that are aligned with the .MUSIC mission. (application, 20(d))*

*The Community Priority Evaluation panel would like to clarify to which entities the application is making reference to when citing "other complementor organizations involved in support activities" and whether such organizations fall under one or more of the categories explicitly mentioned in Table 1.*

According to the CPE Guidelines with respect to Nexus, there is no AGB language disallowing a community definition and delineation that may include complementary entities and subsets of the community, especially if they are essential components of the community defined (emphasis added).[18] Furthermore, according to the AGB and CPE Guidelines, "scoring of applications against these subcriteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed."

In order to match the string with the community defined it was vital to include all music constituent types – including complementary entities e.g. government culture agencies, arts councils and/or government agencies related to copyright -- that are considered essential for the smooth functioning of the music (industry) community and its sector's regulation because music is a copyright industry (See Annex F, Music Sector Background: Music is a Copyright Industry for Clarifying Question D).

As such "complementary organizations involved in support activities…aligned with the .MUSIC mission" are vital to the Nexus of the string to ensure the community is "complete" taking into consideration the primary Oxford Dictionary definition of "complement" defined as "a thing that completes"[19] [20] i.e. that makes whole or in the case of *Nexus*, it matches completely (emphasis added). According to the Applicant Guidebook and CPE Guidelines, "to receive the maximum score for Nexus, the applied-for string must match the name of the community."

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[18] For example, in the prevailing .SPA CPE Determination, the EIU awarded full points under Nexus stating that "the community as defined by the application also includes entities which are not spas or spa associations, such as distributors and providers of spa-related products and services. As described by the applicant, these affiliated services align closely with core spa services, and nothing in the application suggests that these entities are a non-essential component of the spa community (emphasis added). Furthermore, this category of the spa community is also included in the membership of organizations such as the International Spa Association. This subset of the community, along with the principal spa community, therefore, meets the requirement for "match" with regard to Nexus" (emphasis added) (Pg. 4 and Pg. 5).

[19] http://www.oxforddictionaries.com/us/definition/american_english/complement

[20] In music terms, "complement" is defined as "the musical interval required with a given interval to complete the octave," http://www.merriam-webster.com/dictionary/complement

==Music== is a copyright industry and a regulated sector. As such, the Community defined is subject to government regulation of <u>similar nature</u> (consistent with the definition of the community, which is a logical alliance of communities related to music are of "<u>similar nature</u>." As such, "complementor organizations involved in support activities" related to the regulation and/or dedicated promotion of music are eligible for registration.

While in other industries some complementors may be considered peripheral industries, the true test of a "matching" complementor is whether the complementor makes the defined community "whole" in alignment with the definition of "complement." ==Music== is a copyright industry so complementors, such as related government agencies, are <u>essential</u>. If you remove "copyright" and government regulation then the music (industry) community would cease to function as we know it today.

The DotMusic Application did not identify a category under which the "complementor organizations" fall under because the only complementor organization – the International Federation of Arts Councils and Culture Agencies, which is the only organization representing government culture agencies and arts councils globally – is already an mCMO and an essential stakeholder in the community defined as stated in the DotMusic application.[21]

The corresponding NAICS code for IFACCA is *926110 - Cultural and arts development support program administration* which is covered under *Administration of General Economic Programs*.[22] DotMusic has not identified any other such complementor constituent type so a NAICS classification code was not necessary for its application. If another such complementary organization exists then they would apply as an mCMO to qualify for a registration.[23]

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[21] DotMusic's application states: "DotMusic will be working closely with the International Federation of Arts Councils and Culture Agencies, with national members from over 70 countries comprised of governments' Ministries of Culture and Arts Councils covering all continents, to ensure country names protection and the promotion of government-related cultural and music initiatives." (Answer to Question 22) Customized government-tailored policies (such as appeals processes) have also been created to illustrate the significance of these complementor entities: "DotMusic will implement multiple dispute resolution policies to address dispute over any names not reserved by the above provisions; see response to question #20e and #28 and #29…DotMusic will ensure appropriate procedures to allow governments, public authorities or IGO's to challenge abuses of names with national or geographic significance at the second level. (Answer to Question 22)

[22] http://www.bls.gov/cew/doc/titles/industry/industry_titles htm

[23] See http://music.us/mcmo and http://music.us/DotMusic_Music_Community_MCMO_Application.pdf for mCMO requirements and application

## Answer to Clarifying Question #1: E

*In addition to the categories of members referred to above, the application also states the following:*

> *Registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community particularities" that "invoke a formal membership" (application, 20(a))*

*The application goes on to cite four provisions related to the above, including: "(i) Qualification criteria as delineated by recognized NAICS codes corresponding to Community member classification music entity types…" (application, 20(a)).*

*The Community Priority Evaluation panel would like to clarify how "registrants will be verified" and what kind "formal membership" will be required.*

As stated **Answer to Clarifying Question #1A**, music registrants may be verified if they are members of Music Community Member Organizations (mCMOs). As such, they will have the requisite awareness of belonging to the community defined. The Application provides a Landrush registration (members of mCMO's could also register their domains during General Registration as well as indicated below):

> *Music Community Member Organization (MCMO) Landrush for registrants with demonstrated MCMO memberships…*
>
> *MUSIC COMMUNITY MEMBER ORGANIZATION (MCMO) LANDRUSH LAUNCH*
>
> *This is the second phase of .MUSIC domain registration. It is a limited-time period reserved for members of DotMusic-accredited music Community Member Organizations (mCMO). (Application Answer to Question 18(B)(vi) & 20(e))*
>
> *The mCMO domain allocation method during the Landrush phase was created by DotMusic to allow Community members to register through established Community organizations. During the General Registration phase the TLD is open to all Community members for registration, but also restricted by Eligibility, Use and other Policies, including enhanced safeguards. (Application Answer to Question 20B).*

Alternatively, if a Community member is not a member of an mCMO but has a legitimate purpose in addressing the music community, then that Community member could be delineated by demonstrating requisite awareness and identification with the Community by:

> 1) Selecting corresponding NAICS subset code (which is limited by DotMusic to solely "Music" constituents), and;

2) Certifying acceptance to the DotMusic Registration Policies aligned with the community-based goals and purpose. This certification aligned with community's goals applies to all Community members, including mCMO members:

> *DotMusic has incorporated enhanced policies to ensure only eligible members of the Music Community who comply with the values, purpose and mission of the TLD can participate; to ensure domains are used in a manner benefitting the Community; to protect intellectual property; and to safeguard domains from malicious conduct and copyright infringement.*

> *USE POLICY*

> *This policy is in place for .MUSIC registrants regardless of the applicable launch phase. It is developed with extensive participation of Music Community members; tailored to meet the specific needs of the Music Community; and solve issues currently existing in the Music Community related to intellectual property infringement and malicious conduct.*

> *The <u>policy is incorporated in the registration agreement for all .MUSIC registrants</u>. DotMusic may modify or revise these use policies at any time…<u>Registrants that do not accept and abide by the registration agreement are disqualified from domain registrations</u>. (Application Answer to Question 20e)*

Only those that are defined by and identify with the <u>sub-set of the NAICS code that relates to "<mark>music</mark>"</u> would qualify as a member of the Community. These music community-tailored Policies ensure that members have the requisite awareness of belonging to the community. This means entities or individuals with a casual, tangential relationship with the string music are <u>excluded</u> (emphasis added) i.e. only entities or individuals that have the requisite awareness of the Community and have taken affirmative steps to associate with either an mCMO or <u>self-identify</u> with the appropriate sub-set of a corresponding NAICS group are delineated as members (emphasis added).

The Registration Process identification process (See Annex G, Registration Process Flowchart for more information) is aligned with the member's requisite awareness of the community defined "logical alliance of communities related to music." After their self-identifying, the Registry will place the registrant/community member into the corresponding premium channel(s) sorted according to music delineation type.

Another step that is mandatory is DotMusic's 2-Step Authentication that validates members:

> *REGISTRY DATA VALIDATION: DotMusic will validate elements of the received WHOIS data as a requirement for domain registration, also providing access to Premium Channels, such as the registrant's:*

> *- Email address through validation links*

*- Phone number through validated PIN-codes (18B)*

*REGISTRY DATA VALIDATION*

*While DotMusic will hold the thick WHOIS data provided through registrars, we will also validate elements of the received WHOIS data:*

*1.        The registrant's email address through validation links*

*2.        The registrant's phone number through validated PIN-codes*

*Upon successful completion of these two steps, DotMusic will provide the registrant their Music Community membership details; used to join/access the Premium Channels. All future .MUSIC domains associated with the registrant-verified email address will not be re-verified. (Answer to Question 20e)*

As stated in the **Answer to Clarifying Question #1A**, the AGB also has no language disallowing membership based on participation in the community defined.[24] Furthermore, a non-exhaustive list of membership criteria was allowed by the AGB, which may include "a logical alliance members based on categories that are solely community-related" (i.e. in the case of music, they are music-related),[25] "self-identification" in a community (e.g. identifying that they have a tie with the community) or those who have a legitimate purpose in addressing the community (e.g. by certifying to abide to a set of community-tailored registration requirements that are aligned with the goals of the community i.e. are aligned with the community's mission and purpose).[26] The AGB also allows for different types of membership just as long as there is demonstrable involvement in community-related activities that may vary among member constituent types.[27]

As such, DotMusic used the industry standard methodology for defining music industries using NAICS codes, allowing members to "self-identify" their "music" membership with solely the "music" subsets of the NAICS codes that only relate to "music" (emphasis added) so there is no overreaching whatsoever and the community defined and delineated matches the "music" string. In order to match the string with the community defined it was vital to include all music constituent types – including complementary

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[24] For example, in the prevailing .RADIO CPE Determination, the EIU was able to conclude that the .RADIO community is "clearly defined" and that, solely on the basis of being "participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community" (emphasis added) (Pg.2 ).
[25] For example, in the prevailing .HOTEL CPE Determination, the EIU awarded full points for Community Establishment for a community definition that is comprised of "categories [that] are a logical alliance of members" (emphasis added) (Pg. 2)
[26] For example, in the prevailing .OSAKA CPE Determination, the EIU awarded full points for Community Establishment and Nexus for a community definition that stated that: "[m]embers of the community are defined as those who are within the Osaka geographical area as well as those who self identify as having a tie to Osaka, or the culture of Osaka. Major participants of the community include, but are not limited to the following: […] Entities, including natural persons who have a legitimate purpose in addressing the community" (emphasis added) (Pg. 2).
[27] For example, in the prevailing .ECO CPE Determination, the EIU awarded full points for Community Establishment stating that "the application dictates four types of members, whose cohesion and awareness is founded in their demonstrable involvement in environmental activities and who "demonstrate active commitment, practice and reporting." This involvement may vary among member categories" (emphasis added) (Pg. 2).

entities e.g. government culture agencies, arts councils and/or government agencies related to copyright -- that are considered essential for the smooth functioning of the music (industry) community and its sector's regulation (since music is a copyright industry). The only NAICS classifications that were delineated by DotMusic to define the community were those that were considered essential for "==music==." (For a more detailed analysis on the rationale and methodology for selecting the NAICS codes sub-sets in relation to music (industry) community defined consistent with the AGB and CPE Guidelines, see Annex A, Community Establishment & Definition Rationale and Methodology).

Furthermore, according to the AGB and CPE Guidelines, "scoring of applications against these subcriteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed." Under Community Establishment, the AGB and CPE Guidelines pertaining to Delineation outline a "non-exhaustive list denot[ing] elements of straight-forward member definitions: fees, skill and/or accreditation requirements, privileges or benefits entitled to members, certifications aligned with community goals, etc.

DotMusic's application also meets these additional "formal membership" criteria:

> (i) Fees  e.g. Paid members mCMOs  e.g. members of the The Recording Academy

> (ii) Skill and/or accreditation requirements  e.g. a ==music== creator/musician/songwriter, manager, accountant, lawyer

> (iii) Privileges or benefits entitled to members  e.g. royalties collected (which are government regulated because music is copyright industry and a regulated sector); free exposure/marketing/branding through free mCMOs (such as Reverbnation).

> Other benefits and privileges to Community members are inclusion in the DotMusic Premium Channels and the Song Registry:

> *INNOVATIVE PREMIUM NAMES RESERVATIONS:*

> *DotMusic will reserve premium names that will be used in an innovative manner to benefit eligible members including the development of Premium Channels, such as genres (e.g Rock.MUSIC), that will define the locale web of music, promote Community members based on their classification/cateogry, and improve music discovery. (Answer to Question 20e)*

> *Developing the Music Community Social Network Premium Domain Channels (Premium Channels) sorted by NAICS classifications and category types e.g. genre/language.  They will leverage Search Engine Optimization (SEO) best practices to improve .MUSIC site search result rankings. The objective is for .MUSIC domains to signal a badge of trust that enables search engines to provide music consumers more relevant and safer search results while reducing infringing and unlicensed rogue websites. Premium Channel development will also include a global Song Registry. (Answer to Question 20c)*

(iv)   Certifications aligned with community goals e.g. All Community members must certify their agreement to the music-tailored DotMusic Registration Policies:

> *DotMusic has incorporated enhanced policies to ensure only eligible members of the Music Community who comply with the values, purpose and mission of the TLD can participate; to ensure domains are used in a manner benefitting the Community; to protect intellectual property; and to safeguard domains from malicious conduct and copyright infringement.*

> *USE POLICY*

> *This policy is in place for .MUSIC registrants regardless of the applicable launch phase. It is developed with extensive participation of Music Community members; tailored to meet the specific needs of the Music Community; and solve issues currently existing in the Music Community related to intellectual property infringement and malicious conduct.*

> *The policy is incorporated in the registration agreement for all .MUSIC registrants. DotMusic may modify or revise these use policies at any time…Registrants that do not accept and abide by the registration agreement are disqualified from domain registrations. (Answer to Question 20e)*

> *Dispute mechanisms, compliance efforts, and data validation processes will provide an added level of trust. (Answer to Question 18a)*

 As indicated, with registration, community members are mandated to certify that they align with the community goals and mission and music-tailored registration policies, including to certify that their activity will only relate to legal music activities and content (See Content and Use policy) and be subject to the music-tailored MPCIDRP, including dispute resolution and appeals processes. As mentioned earlier, all registrants must also go through 2-Step authentication to certify authenticity and to increase safety and trust (e.g. to eliminate impostors, impersonators and/or cybersquatters). These processes also improve quality control with respect to enforcing the Name Selection policy. Other quality control policies that are part of the certification agreement include the Content and Use policy that only allows legal music content and use  i.e. no one can use a .MUSIC domain without music-related content. This will eliminates peripheral entities or entities that have no association with music. Also, registrants must certify that they will not have a parked page, which eliminates cybersquatters and domain speculators/investors and ensures higher quality, music related content.

## <u>Annexes</u>

Annex A – Community Establishment & Definition Rationale and Methodology

Annex B – Venn Diagrams for Clarifying Question A

Annex C – Venn Diagrams for Clarifying Question B

Annex D – Venn Diagram for Community Definition and Nexus

Annex E – Music Fan Club Examples for Clarifying Question C

Annex F – Music Sector Background: Music is a Copyright Industry for Clarifying Question D

Annex G – Registration Policies Flowchart for Clarifying Question E

Annex H – Independent Nielsen / Harris Poll for Community Establishment and Nexus

Annex I – Community Application Overview, Specifications and Applicant Comparison Matrix

Annex J – Community Application Analysis with Respect to CPE Guidelines

Annex K – Forty-three (43) Expert Testimonies

# ANNEX A

# Community Establishment & Definition Rationale and Methodology

Neither the Applicant Guidebook (the "AGB") nor the CPE Guidelines provided a concrete meaning for "define" and "definition" (emphasis added). Furthermore, the AGB requires only that the constituents of a community be members of that community. There was no requirement that members of a community "act" as a community nor does the AGB say anything about how community members must "associate themselves." The AGB also has no language disallowing membership based on participation in the community defined.[1] Furthermore, a non-exhaustive list of membership criteria was allowed by the AGB, which may include "a logical alliance members based on categories that are solely community-related" (i.e. in the case of music, they are music-related),[2] "self-identification" in a community (e.g. identifying that they have a tie with the community) or those who have a legitimate purpose in addressing the community (e.g. by certifying to abide to a set of community-tailored registration requirements that are aligned with the goals of the community i.e. are aligned with the community's mission and purpose).[3] The AGB also allows for different types of membership just as long as there is demonstrable involvement in community-related activities that may vary among member constituent types.[4] In addition, according to the CPE Guidelines with respect to Nexus, there is no AGB language disallowing a community definition and delineation that may include complementary entities and subsets of the community, especially if they are essential components of the community defined (emphasis added).[5]

As such, DotMusic used the industry standard methodology for defining music industries using NAICS codes, allowing members to "self-identify" their "music" membership with solely the "==music==" subsets of the NAICS codes that only relate to "==music==" (emphasis added) so there is no overreaching whatsoever and the community defined and delineated matches the "==music==" string. In order to match the string with the community defined it was vital to include all music constituent types – including complementary entities e.g. government culture agencies, arts councils and/or government agencies related to copyright -- that are considered essential for the smooth functioning of the music (industry) community and its sector's regulation (since music is a copyright industry). The only NAICS classifications that were delineated by DotMusic to define the community were those that were considered essential for "==music==."

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[1] For example, in the prevailing .RADIO CPE Determination, the EIU was able to conclude that the .RADIO community is "clearly defined" and that, solely on the basis of being "participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community" (emphasis added) (Pg.2 ).

[2] For example, in the prevailing .HOTEL CPE Determination, the EIU awarded full points for Community Establishment for a community definition that is comprised of "categories [that] are a logical alliance of members" (emphasis added) (Pg. 2)

[3] For example, in the prevailing .OSAKA CPE Determination, the EIU awarded full points for Community Establishment and Nexus for a community definition that stated that: "[m]embers of the community are defined as those who are within the Osaka geographical area as well as those who self identify as having a tie to Osaka, or the culture of Osaka. Major participants of the community include, but are not limited to the following: […] Entities, including natural persons who have a legitimate purpose in addressing the community" (emphasis added) (Pg. 2).

[4] For example, in the prevailing .ECO CPE Determination, the EIU awarded full points for Community Establishment stating that "the application dictates four types of members, whose cohesion and awareness is founded in their demonstrable involvement in environmental activities and who "demonstrate active commitment, practice and reporting." This involvement may vary among member categories" (emphasis added) (Pg. 2).

[5] For example, in the prevailing .SPA CPE Determination, the EIU awarded full points under Nexus stating that "the community as defined by the application also includes entities which are not spas or spa associations, such as distributors and providers of spa-related products and services. As described by the applicant, these affiliated services align closely with core spa services, and nothing in the application suggests that these entities are a non-essential component of the spa community (emphasis added). Furthermore, this category of the spa community is also included in the membership of organizations such as the International Spa Association. This subset of the community, along with the principal spa community, therefore, meets the requirement for "match" with regard to Nexus" (emphasis added) (Pg. 4 and Pg. 5).

This standard NAICS methodology has been adopted by the most prominent music industries and cities studies ever conducted (Georgia,[6] Nashville,[7] Seattle,[8] Detroit[9]Austin,[10] Chicago,[11] Cleveland[12] and Memphis[13]) in defining, clustering and assessing their local music community's impact with organized and delineated criteria, which is consistent with the Applicant Guidebook with respect to Delineation and CPE Determinations.[14]

This NAICS methodology for defining the music (industry) community is standard in research studies:

> *Several studies have collected data regarding urban music scenes and their economic impact on Metropolitan Statistical Areas (MSAs), including Austin (Texas), Seattle (Washington), Nashville (Tennessee), Atlanta (Georgia), and Memphis (Tennessee). In general, these estimates tally businesses and people associated with music scenes through various sources, and use a multiplier to estimate the economic impact of these businesses and individuals. Edmiston and Thomas (2004) use commercial data from ReferenceUSA, which categorizes businesses by SIC code. Beyers et al. (2004) use U.S. Census data to estimate music-related establishments, employment, and economic impact in the Seattle area. Austin's study (2001) uses U.S. Census data, as well as data from the Texas Music Office, a Texas state government entity charged with promoting the Texas music industry and compiling useful statewide information. Raines and Brown (2006) use ReferenceUSA and U.S. Census data, along with survey data from the local music community, to estimate employment and economic impact around Nashville, Tennessee.*

[6] B. William Riall, Ph.D., Economic and Fiscal Impact Analysis of the Music Industry in Georgia, May 2011, http://www.georgia.org/wp-content/uploads/2013/09/Georgia-Music-Business-Economic-Impact-Study2011.pdf

[7] http://www.nashville.gov/Portals/0/SiteContent/MayorsOffice/EcDev/NashvilleMusicIndustryStudy.pdf, Pg. 14-16

[8] W. Beyers, A. Bonds, A. Wenzl, P. Sommers, The Economic Impact of Seattle's music industry - A Report for the City of Seattle's Office of Economic Development, University of Washington, February 2004 http://web.williams.edu/Economics/ArtsEcon/Documents/Seattle_Music_StudyFinal.pdf

[9] Colby Spencer Cesaro, Alex Rosaen, Lauren Branneman, Music Business in Detroit, Anderson Economic Group, http://www.andersoneconomicgroup.com/portals/0/aeg%20report%20-%20music%20business%20in%20detroit.pdf

[10] Austin Music Census, The City of Austin Economic Development Department's Music & Entertainment Division, June 2015, https://www.austintexas.gov/sites/default/files/files/Austin_Music_Census_Interactive_PDF_53115.pdf

[11] Lawrence Rothfield, Don Coursey, Sarah Lee, Daniel Silver and Wendy Norris, A Report on the Music Industry in Chicago, Chicago Music Commission, Cultural Policy Center, University of Chicago, 2007, http://www-news.uchicago.edu/releases/08/pdf/080122.music.pdf

[12] Dr. Iryna V. Lendel, Remix Cleveland: The Cleveland Music Sector and its Economic Impact, Community Partnership For Arts and Culture, Center for Economic Development, 2011, http://cua6.urban.csuohio.edu/publications/center/center_for_economic_development/Remix_Cleveland_Full_Report_102411.pdf

[13] Gnuschke, John E.; Jeff Wallace, Economic Impact of the Music Industry in Memphis and Shelby County, Business Perspectives. University of Memphis. 2004. *HighBeam Research.* 28 Oct. 2015, http://www.highbeam.com/doc/1G1-126612058.html and http://www.freepatentsonline.com/article/Business-Perspectives/126612058.html

[14] The EIU also used the NAICS to delineate the prevailing .RADIO CPE determination. The prevailing .HOTEL community applicant also used the ISO 18513:2003 classification code for its delineation (The prevailing .SPA and .ECO community applications passed CPE without using industry classifications as part of their delineation).

> *Each of these studies serves as a useful reference tool regarding local music scenes in established music cities.*[15]

DotMusic also selected NAICS for delineation because it is the most contemporary system of classification:

> *In contrast to the SIC system, NAICS identifies hundreds of new and emerging industries.*[16]

Furthermore, the NAICS was chosen because it is the standard method for classifying music industries as highlighted in many prominent studies and reports. A reason for the use of NAICS for music (industry) community delineation is the <u>nature of music being a copyright industry</u>. The NAICS is allows for a more accurate delineation of industries that specifically distribute copyrighted works (such as the music (industry) community):

> NAICS codes may also permit more precise recognition of the industries that specifically distribute copyright protected works.[17]

In a study by the Creative Economy Coalition on recent definitions and approaches of measurement of creative economies, such as music, there was emphasis on individuals and entities engaging in activities that involve the creation, production, distribution and usage of goods and/or services, such as in the case of music:

> [T]here seems to be reasonably strong congruence around the idea that the creative economy involves both individuals and entities who engage in activities that add value to society in one or more ways through the provision of goods and/or services that are inextricably linked to human creativity manifesting itself in one or more dimensions throughout the process of ideation, creation, production, distribution, and use.[18]

DotMusic's methodology was adopted based on the widespread use of NAICS code to define creative industries and communities. For example, according to the Creative Economy Coalition's research concerning reports related to defining creative industries, nearly all used an array of related NAICS codes to define creative industries:

> Thirteen NAICS codes were used by 24 or more of the 25 reports; i.e., <u>all or virtually all</u> participants.... Our research suggests that the 39 NAICS codes used by 75% or more of the reports (i.e., 18 or more of the 25) could be considered <u>a strong concurrence set of NAICS</u>

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[15] Erik Porse, Innovation and Production Networks in Regional Music Scenes, George Mason University, http://www.meiea.org/Journal/html_ver/Vol07_No01/2007_Vol_7_No_1_A2.htm

[16] Stephen E. Siwek, The Measurement of "Copyright" Industries, Review of Economic Research on Copyright Issues, 2004, vol. 1(1), http://www.serci.org/docs/siwek.pdf, Pg. 23

[17] Ibid, Pg.24

[18] Christine Harris, Margaret Collins, Dennis Cheek, America's Creative Economy: A Study of Recent Conceptions, Definitions, and Approaches to Measurement across the USA, Creative Economy Coalition (CEC), a Working Group of the National Creativity, Network, August, 2013, https://www.arts.gov/sites/default/files/Research-Art-Works-Milwaukee.pdf, Pg.2

codes[19]…to be jointly considered in the framing of a definition.[20] (which in the case of DotMusic is the music (industry) defined).

A few NAICS codes define a broader industry set, so would include a wider remit than music.[21] For example, a music lawyer is defined by NAICS code 541110 (Offices of Lawyers). However, other types of lawyers (e.g. divorce lawyers) are also defined by the same NAICS category code 541110:

> *[The] U.S. Census data can effectively estimate many categories, but <u>lack specificity in the NAICS codes for some music-related businesses. This lack of specificity leads to overestimation in the absence of further crosschecking or validation.</u>[22]*

This is why DotMusic's application has specified that only the "music" subset of the NAICS code qualifies for membership in the defined community for the applied-for string. So in the case of lawyers, only music lawyers would qualify as an eligible community member while divorce lawyers would not. Each NAICS industry group cited by DotMusic only includes the music subset i.e. this is why DotMusic added the word "music" as a requisite for each classification code so there is no overreaching beyond the community defined, "a delineated and organized logical alliance of communities of similar nature related to music" and to ensure only music constituents can register a .MUSIC domain. This way any entities related to a broader industry other than music would be excluded from the community defined by DotMusic. (emphasis added)

The comprehensive study conducted by State of Georgia on the "Economic and Fiscal Impact Analysis of the Music Industry in Georgia"[23] defined, organized and delineated its "Music Industry Definition and Description" using NAICS codes (which was the same industry standard methodology that DotMusic adopted to delineate and organize the community defined):

> *<u>The music industry is defined for this analysis as being composed of the subsectors described by the NAICS (North American Industrial Classification System) codes presented in Table E-1</u>. Official NAICS codes do not go beyond the 6-digit classifications shown in the table, and some contain non-music elements. <u>Steps were taken to minimize the inclusion of non-music elements by examining the individual firms which comprise</u>*

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[19] Ibid, Pg.4

[20] Ibid, Pg.86

[21] For example, the fact that recently reformulated NAICS codes lump arts, entertainment and sports together makes it more difficult for researchers to distinguish arts [e.g. music] from other elements." (See Ann Markusen (University of Minnesota), Gregory H. Wassall (Northeastern University), Douglas DeNatale (Community Logic, Inc), Randy Cohen (Americans for the Arts), Defining the Cultural Economy: Industry and Occupational Approaches, November 2006 , Pg.8 and Pg.9, http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.542.4308&rep=rep1&type=pdf). To ensure that the delineation is consistent with the community defined and matches the applied-for string, DotMusic's application specifically restricts eligibility to only the "music" subset of any NAICS code (See Venn diagrams for more detail).

[22] Ibid

[23] B. William Riall, Ph.D., Economic and Fiscal Impact Analysis of the Music Industry in Georgia, May 2011, http://www.georgia.org/wp-content/uploads/2013/09/Georgia-Music-Business-Economic-Impact-Study2011.pdf

*each sector. For example, "Promoters of Performing Arts with Facilities" also includes sports, so all firms that contained sports references were eliminated from the data; similar filtering was done for other sound recording studios.*

*This definition of the music industry is very similar to that used in two studies done by Georgia State University in 2003 (Edmiston, Kelley, and Marcus Thomas, "The Commercial Music Industry in Atlanta and the State of Georgia: An Economic Impact Study," Fiscal Research Program Georgia State University (report FRC-85), August 2003.) updated in 2005 (Rushton, Michael and Marcus Thomas, "The Economics of the Commercial Music Industry in Atlanta and the State of Georgia: Industrial Organization and New Estimates of Economic Impacts," Fiscal Research Program Georgia State University, February, 2005). The primary difference between the industry definition used in this analysis and that used previously is that this definition is in terms of NAICS sectors:*

### Table E-1: Definition of the Music Industry in Georgia

| NAICS Code | Description |
|---|---|
| 334310 | Household Audio and Video Equipment Manufacturing |
| 334610 | CD,Tape and Record Production |
| 339992 | Musical Instrument Manufacturing |
| 451140 | Musical Instrument and Supplies Stores |
| 451220 | Prerecorded Tape, CD, and Record Stores |
| 512210 | Record production |
| 512220 | Integrated record production/distribution |
| 512230 | Music Publishers |
| 512240 | Sound Recording Studios |
| 611610 | Fine Arts Schools |
| 711130 | Musical Groups and Artists |
| 711310 | Promoters of Performing Arts with Facilities |
| 711320 | Promoters of Performing Arts without Facilities |
| 711410 | Agents |
| 711510 | Independent Artists, Writers, and Performers[24] |

The Georgia Music Industry Study further substantiated NAICS as the standard for defining, organizing and delineating music (industry) communities:

*[All] of the data used to describe the music industry is organized by NAICS (North American Industrial Classification System) codes:*

### Table 2-1: Music Industry Definition and Components

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[24] Ibid, Pg.2 and Pg.3

*Home Audio Equipment Manufacturing (NAICS 33410):*

      *Amplifiers (e.g., auto, home, musical instrument, public address) manufacturing*
      *Automobile radio receivers manufacturing*
      *Car stereos manufacturing*
      *Coin-operated jukebox manufacturing*
      *Compact disc players (e.g., automotive, household-type) manufacturing*
      *Home stereo systems manufacturing*
      *Home tape recorders and players (e.g., cartridge, cassette, reel) manufacturing*
      *Home theater audio and video equipment manufacturing*
      *Jukeboxes manufacturing*
      *Loudspeakers manufacturing*
      *Microphones manufacturing*
      *Portable stereo systems manufacturing*
      *Radio headphones manufacturing*
      *Radio receiving sets manufacturing*
      *Speaker systems manufacturing*
      *Tape players and recorders, household-type, manufacturing*

*CD, Tape, and Record Production (NAICS 334611, 334612, and 334613):*

      *CD-ROM, software, mass reproducing*
      *Compact discs (i.e., CD-ROM), software, mass reproducing*
      *Cassette tapes, pre-recorded audio, mass reproducing*
      *Compact discs, prerecorded audio, mass reproducing*
      *Phonograph records manufacturing*
      *Pre-recorded magnetic audio tapes and cassettes mass reproducing*
      *Audiotape, blank, manufacturing*
      *Blank tapes, audio and video, manufacturing*
      *Compact discs, recordable or rewritable, blank, manufacturing*
      *Diskettes, blank, manufacturing*
      *Magnetic and optical media, blank, manufacturing*
      *Magnetic recording media for tapes, cassettes, and disks, manufacturing*
      *Magnetic tapes, cassettes and disks, blank, manufacturing*
      *Tapes, magnetic recording (i.e., audio, data, video), blank, manufacturing*

*Musical Instrument Manufacturing (NAICS 339992)*

*Musical Instrument and Supplies Stores (NAICS 451140)*

*Prerecorded Tape, CD, and Record Stores (Naics 451220):*

*Music stores (e.g., cassette, compact disc, record, tape)*
*Record stores, new*

*Record Production (NAICS 512210)*

*Integrated Record Production/Distribution (NAICS 512220)*

*Music Publishers (NAICS 512230)*

*Sound Recording Studios (NAICS 512240)*

*Other Sound Recording Studios (NAICS 512290):*

*Music program distribution, pre-recorded*
*Radio program tape production (except independent producers)*
*Recording seminars and conferences, audio*
*Stock music and other audio services*
*Stock sound library (e.g., general background sounds, stock music)*

*Fine Arts Schools (NAICS 611610):*

*Conservatory of music (except academic)*
*Music instruction (e.g., guitar, piano)*
*Music schools (except academic)*
*Performing arts schools (except academic)*
*Schools, music (except academic)*
*Voice instruction*

*Musical Groups and Artists (NAICS 711130)*

*Promoters of Performing Arts with and without Facilities (NAICS 711310 and 711320):*

*Arts event managers, organizers and promoters*
*Arts festival managers, organizers and promoters*
*Concert hall operators*
*Concert booking agencies*
*Concert Managers, Organizers and Promoters*
*Live arts center operators*
*Live theater operators*
*Managers of arts events*
*Managers of festivals*
*Managers of live performing arts productions (e.g., concerts)*
*Music Festival Managers, Organizers, and Promoters*
*Organizers of live performing arts productions (e.g., concerts)*

*Performing arts center operators*
*Promoters of live performing arts productions (e.g., concerts)*

*Agents (NAICS 711410)*

*Independent artists, Writers, and Performers (NAICS 711510)*[25]

Another comprehensive Study by the Music City Music Council called *Nashville Music Industry: Impact, Contribution and Cluster Analysis*[26] also used NAICS codes to define its (industry) community using cluster sectors that make up the Nashville Music Industry (which was the same industry standard methodology that DotMusic adopted to delineate and organize the community defined):[27]

> *[F]irms will be <u>identified with primary and secondary NAICS classifications</u>. The choices of organizing segments of music derive from a body of research that fashions various approaches. Since the music industry at its heart is a "copyright industry," it is useful to note the constant evolution of the industry and to recognize that particular components will always be shifting in the mix of the industry (Wikstrom, 2009).*[28]

The Nashville Music Industry Study noted that there is no single classification code available that covers the entire scope of the music community:

> *<u>No single standardized measurement classification</u>, such as NAICS (North American Industry Classification System), <u>offers a singular grouping for music</u>.*[29]

This is why DotMusic did not use a singular NAICS classification code to delineate and organize the community defined. Taking such a methodology would overreach substantially because major categories of music constituent types would be excluded.

The NAICS categorization and clustering methodology was also adopted by another music industry economic study conducted for the City of Seattle's Office of Economic development to present findings on the economic impact of Seattle's music industry (which was the same industry standard methodology that DotMusic adopted to delineate and organize the community defined).[30]

Another similar Study was conducted by the Anderson Economic Group on the Music Business in Detroit,[31] which also used the NAICS methodology to "fit [their] definition of the music industry:"

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[25] Ibid, Pg.13-15
[26] http://www.nashville.gov/Portals/0/SiteContent/MayorsOffice/EcDev/NashvilleMusicIndustryStudy.pdf
[27] Ibid, Pg.14
[28] Ibid, Pg.11
[29] Ibid, Pg.15 and Pg.16
[30] W. Beyers, A. Bonds, A. Wenzl, P. Sommers, The Economic Impact of Seattle's music industry - A Report for the City of Seattle's Office of Economic Development, University of Washington, February 2004 http://web.williams.edu/Economics/ArtsEcon/Documents/Seattle_Music_StudyFinal.pdf, Appendix II Music Industry SIC/NAICS/SOC Codes
[31] Colby Spencer Cesaro, Alex Rosaen, Lauren Branneman, Anderson Economic Group, Music Business in Detroit, Estimating the Size of the Music Industry in the Motor City, http://www.andersoneconomicgroup.com/portals/0/aeg%20report%20-%20music%20business%20in%20detroit.pdf

*To help gather data that <u>fit our definition of the music industry</u>, we identified the following NAICS codes:*

*33999 Musical Instrument Manufacturing*
*45114 Music Instrument and Supplies Stores*
*51222 Integrated Record Production/Distribution*
*51223 Music Publishers*
*51224 Sound Recording Studios*
*51229 Other Sound Recording Industries*
*61161 Fine Arts Schools*
*71113 Musical Groups and Artists*
*71131 Promoters of Performing Arts, Sports and Similar Events with facilities*
*71132 Promoters of Performing Arts, Sports and Similar Events without facilities*
*71151 Independent Artists, Writers and Performers*[32]

*Traditional Business Data for estimating the size of the music industry and benchmarking the music industry...came from the U.S Census Bureau...using ...NAICS codes.*[33]

The same methodology was also used by the Center for Economic Development in its study of the Cleveland music sector (which was the same industry standard methodology that DotMusic adopted to delineate and organize the community defined):[34]

*The Cleveland Music Sector was defined and studied using occupational data from the U.S. Bureau of Labor Statistics...The music sector was defined in terms of core music occupations and support music occupations.*[35]

*The Cleveland Music Sector was also defined and studied by the industries it encompasses. The Center for Economic Development designed a methodology describing an industry-based Cleveland Music Sector by using a computer program capable of identifying music-related industries through keyword searches (Chapters 1 and 9). Using this program, the Center defined the Cleveland Music Sector as encompassing musicians and music venues from 45 unique industry codes in the North American Industry Classification System (NAICS). See Appendix 1-1 for brief descriptions of the 45 NAICS codes included as part of the Cleveland Music Sector's industry-based definition.*[36]

*The first step in defining the Cleveland Music Sector was to identify and collect the NAICS codes of industries that are involved both with music and music-related activities.... The preceding steps yielded a total of 45 unique music and music-related NAICS codes. Of those 45, all the*

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[32] Ibid, Pg.4

[33] Ibid, Appendix A. Methodology

[34] Dr. Iryna V. Lendel, Remix Cleveland: The Cleveland Music Sector and its Economic Impact, Community Partnership For Arts and Culture, Center for Economic Development, 2011, http://cua6.urban.csuohio.edu/publications/center/center_for_economic_development/Remix_Cleveland_Full_Report_102411.pdf

[35] Ibid, Pg.xiv

[36] Ibid, Pg.xv

*establishments (companies) in 10 NAICS codes were determined to be completely related to music. These 10 NAICS codes are listed in Table 1-1 (See below). The additional 35 NAICS codes were identified as encompassing both music-related and non-music-related establishments.[37]*

**Table 1-1:**[38] **Industry Sectors Encompassing All Music-Related Establishments NAICS Code**          **Definition**

| | |
|---|---|
| *334310* | *Audio and Video Equipment Manufacturing* |
| *334612* | *Prerecorded Compact Disc (except Software), Tape, and Record Producing* |
| *339992* | *Musical Instrument Manufacturing* |
| *451140* | *Musical Instrument and Supplies Stores* |
| *451220* | *Prerecorded Tape, Compact Disc, and Record Stores* |
| *512210* | *Record Production* |
| *512230* | *Music Publishers* |
| *512240* | *Sound Recording Studios* |
| *512290* | *Other Sound Recording Industries* |
| *711130* | *Musical Groups and Artists* |

**Table 1-2:**[39] **Music Subsectors by NAICS Code**

| **NAICS Code** | **Definition** |
|---|---|
| **Education & Museums** | |
| *611610* | *Fine Arts Schools* |
| *712110* | *Museums* |
| | |
| **Manufacturing** | |
| *334310* | *Audio and Video Equipment Manufacturing* |
| *334612* | *Prerecorded Compact Disc (except Software), Tape, and Record Reproducing* |
| *339992* | *Musical Instrument Manufacturing* |
| | |
| **Musicians** | |
| *711110* | *Theater Companies and Dinner Theaters* |
| *711130* | *Musical Groups and Artists* |
| *711510* | *Independent Artists, Writers, and Performers* |
| **Promoters** | |
| *425120* | *Wholesale Trade Agents and Brokers* |
| *511110* | *Newspaper Publishers* |
| *515111* | *Radio Networks* |
| *515112* | *Radio Stations* |

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[37] Ibid, Pg.1
[38] Ibid, Pg.2
[39] Ibid, Pg.3

| 541840 | *Media Representatives* |
| 711320 | *Promoters of Performing Arts, Sports, and Similar Events without Facilities* |
| 711410 | *Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures* |
| 722110 | *Full-Service Restaurants* |
| 722211 | *Limited-Service Restaurants* |
| 722410 | *Drinking Places (Alcoholic Beverages)* |

### Recording & Publishing

| 512110 | *Motion Picture and Video Production* |
| 512210 | *Record Production* |
| 512230 | *Music Publishers* |
| 512240 | *Sound Recording Studios* |
| 512290 | *Other Sound Recording Industries* |
| 541430 | *Graphic Design Services* |

### Retail

| 443112 | *Radio, Television, and Other Electronics Stores* |
| 451110 | *Sporting Goods Stores* |
| 451120 | *Hobby, Toy, and Game Stores* |
| 451140 | *Musical Instrument and Supplies Stores* |
| 451220 | *Prerecorded Tape, Compact Disc, and Record Stores* |
| 452990 | *All Other General Merchandise Stores* |
| 454111 | *Electronic Shopping* |

### Service Providers

| 484210 | *Used Household and Office Goods Moving* |
| 518210 | *Data Processing, Hosting, and Related Services* |
| 522130 | *Credit Unions* |
| 524126 | *Direct Property and Casualty Insurance Carriers* |
| 532299 | *All Other Consumer Goods Rental* |
| 541519 | *Other Computer Related Services* |
| 621340 | *Offices of Physical, Occupational and Speech Therapists, and Audiologists* |
| 811490 | *Other Personal and Household Goods Repair and Maintenance* |
| 813319 | *Other Social Advocacy Organizations* |
| 813410 | *Civic and Social Organizations* |
| 813930 | *Labor Unions and Similar Labor Organizations* |

### Wholesale

| 423690 | *Other Electronic Parts and Equipment Merchant Wholesalers* |
| 423920 | *Toy and Hobby Goods and Supplies Merchant Wholesalers* |
| 423990 | *Other Miscellaneous Durable Goods Merchant Wholesalers* |

The City of Austin Economic Development Department's Music & Entertainment Division also released a study on the Austin Music Industry that used NAICS codes and the categorization and sub-categorization methodology of delineating and organizing the Austin Music Industry. The Study re-affirms once again that research studies typically use NAICS codes for categorization to ensure standardization of methodology approach, consistency and comparability. However since there is no single category to delineate and organize the entire music (industry) community, segmentation using sectors and sub-sectors

is required (which was the same industry standard methodology that DotMusic adopted to delineate and organize the community defined):[40]

> *Typically…research studies…will use the U.S. Federal North American Industry Standard Classification System (NAICS) codes to categorize respondent data. This approach has the advantage of making the data easily comparable to other research studies that use the same method, which can be useful for comparisons or other activities. However, a drawback to using this system to measure the Music Industry is that the standard NAICS classifications do not directly map to the way the Music Industry operates or describes itself.*
>
> *The segmentation design contains 33 main Music Industry job sectors (and 74 sub-sectors) using common music industry job terminology, and then contains an internal (invisible to the respondent) mapping system, in which each of these "common" job descriptions is then mapped to an NAICS Sector and Subsector. For the purposes of the Austin Music Census, all of the analysis is explained using the common industry job descriptions rather than NAICS classifications…The core of this economy of course is the musicians, but the presence of those musicians spin off the creation of at least 13 other major NAICS economic activity sectors (and a correlating 66 sub-sectors):[41]*
>
> *The thinking and strategic planning around any city-based "Music Industry" is better understood as a number of industries that comprise a large economic system based around commercial music.[42]*

The NAICS classification methodology to define the music (industry) community was also adopted by the Texas Music Office, which delineated the music industry through "conversion of music industry-related Standard Industrial Classifcation (SIC) codes into North American Industry Classification System (NAICS) codes:"[43]

> ***SIC to NAICS 2007 Conversion***
>
> ***COMMERCIAL MUSIC***
> *(7311) Advertising Agencies | 541810 [Advertising Agencies]*
> *(8999) Arrangers/Composers | 711510 [Independent Artists, Writers, and Performers incl. Composers, independent and Music arrangers, independent]*
> *(4832) Environmental/Business Music | 513112 [Radio stations incl. Piped-in music services, Radio transmitted]*
> *(8999) Film/Industrial Scoring | 711510 [Independent Artists, Writers, and Performers]*
> *(4832) Jingles and advertising soundtracks | 541840 [Media Representatives]*
> *(4832) Sound effects libraries | 513110 [Radio Broadcasting]*

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[40] Austin Music Census, The City of Austin Economic Development Department's Music & Entertainment Division, June 2015, https://www.austintexas.gov/sites/default/files/files/Austin_Music_Census_Interactive_PDF_53115.pdf
[41] Ibid, Pg.38
[42] Ibid, Pg.39
[43] http://gov.texas.gov/music/guides/naics

## EDUCATION

*(8222) Community and technical college music programs | 611210 [Junior colleges]*

*(8211) Performing arts elementary/secondary schools | 611110 [Elementary and Secondary Schools]*

*(8231) Music Archives | 519120 [Music Archives]*

*(8299) Music Camps | 611610 [Fine arts schools]*

*(8299) Music Instruction Materials | 611610 [Fine arts schools]*

*(8299) Private Music Schools or instruction | 611610 [Fine arts schools]*

*(8221) University and college music programs | 611310 [Colleges, Universities, and Professional Schools]*

## INDUSTRY SERVICES

*(8721) Accountants | 541211 [Offices of Certified Public Accountants]*

*(7336) Art/Creative studios | 541430 [Graphic design services]*

*(7922) Artist Management | 711410 [Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures]*

*(8111) Attorneys | 541110 [Offices of Lawyers]*

*(6399) Insurance | 524128 [Other Direct Insurance (except Life, Health, and Medical) Carriers]*

*(6021) Financial Institutions/Banks | 522110 [Commercial Banking]*

*(9999) Mobile DJs/Karaoke | 711510 [Independent Artists, Writers, and Performers incl. Announcers, independent radio and television]*

*(6794) Music administration/clearance | 512230 [Music Publishers incl. Music copyright authorizing use and Music copyright buying and licensing]*

*(6794) Music business consultants | 541611 [Management Consulting Services]*

*(2754) Music engraving | 323111 [Commercial Gravure Printing]*

*(6794) Music publishers | 512230 [Music Publishers]*

*(8049) Music therapy | 621340 [Offices of Physical, Occupational and Speech Therapists, and Audiologists incl. Music therapists' offices (e.g., centers, clinics)]*

*(7375) Record stores| 451220 [Prerecorded Tape, Compact Disc, and Record Stores]*

*(8600) Organizations/Associations | 813920 [Professional organizations]*

*(7221) Photographers | 541921 [Photography Studios, Portrait]*

*(8049) Physicians/Music medicine | 621399 [Offices of All Other Miscellaneous Health Practitioners]*

*(8743) Publicists | 541820 [Public Relations Agencies]*

*(8600) Unions | 813930 [Labor Unions and Similar Labor Organizations]*

## MEDIA

*(2711) Daily newspapers | 511110 [Newspaper Publishers]*

*(2711) College newspapers | 511110 [Newspaper Publishers]*

*(2721) Weekly publications | 511120 [Periodical Publishers]*

*(2721) Monthly publications | 511120 [Periodical Publishers]*

*(2721) Publications on-line only | 511120 [Periodical Publishers]*

*(2721) Publications/Journals | 511120 [Periodical Publishers]*

*(8999) Freelance journalists | 711510 [Independent Artists, Writers, and Performers incl. Freelance journalists]*

*(4832) Radio consultants | 813920 [Consultants' associations]*

*(4832) Radio Stations | 515112 [Radio Stations]*

*(4832) Internet Radio Stations | 519130 [Internet Radio Stations]*

*(4833) Television programming | 515120 [Broadcasting stations, television]*

## MUSIC VIDEOS

*(7812) Soundstages | 512110 [Motion Picture and Video Production]*

*(7822) Video distribution | 512120 [Motion Picture and Video Distribution]*

*(7812) Video postproduction and duplication | 512191 [Teleproduction and Other Postproduction Services]*

*(7812) Video production | 512110 [Motion Picture and Video Production]*

## MUSICAL INSTRUMENTS AND EQUIPMENT

*(3651) Electrical equipment-Manufacturers | 334310 [Audio and Video Equipment Manufacturing]*

*(3161) Instrument and touring cases | 316991 [Luggage incl. Cases, musical instrument, manufacturing]*

*(3931) Musical instruments-manufacturers | 339992 [Musical Instrument Manufacturing]*

*(7359) Musical instruments-rental | 532299 [All Other Consumer Goods Rental incl. Musical instrument rental]*

*(7699) Musical instruments-repair | 811490 [Other Personal and Household Goods Repair and Maintenance incl. "Musical instrument repair shops without retailing new musical instruments" and "Tuning and repair of musical instruments"]*

*(5736) Musical instruments-retail | 451140 [Musical Instrument and Supplies Stores]*

*(5932) Musical instruments-used | 453310 [Used Merchandise Stores incl. Music stores (e.g., cassette, instrument, record, tape), used]*

*(5099) Musical instruments-wholesale/distribution | 423990 [Other Miscellaneous Durable Goods Wholesalers]*

*(5736) Sheet music suppliers-Retail/wholesale | 451140 [Musical Instrument and Supplies Stores incl. Sheet music stores]*

## RECORD PRODUCTION, DISTRIBUTION, AND SALES

*(3652) Cassette duplication | 334612 [Prerecorded Compact Disc (except Software), Tape, and Record Reproducing]*

*(3652) CD manufacturers | 334612 [Prerecorded Compact Disc (except Software), Tape, and Record Reproducing]*

*(7993) Jukeboxes | 713990 [All Other Amusement and Recreation Industries]or 334310 [Audio and Video Equipment Manufacturing incl. jukebox manufacturing]*

*(5099) Record distributors | 512220 [Sound recording, releasing, promoting, and distributing]*

*(2782) Record jacket, CD booklet, J-card mfgrs. | 323118 [Blankbook, Looseleaf Binders, and Devices manufacturing]*

*(3652) Record labels | 512220 [Integrated Record Production/Distribution]*

*(3652) Record pressing plants | 334612 [Prerecorded Compact Disc (except Software), Tape, and Record Reproducing]*

*(4832) Record promotion and record pools | 513111 [Radio Networks]*

*(5735) Record stores | 451220 [Prerecorded Tape, Compact Disc, and Record Stores]*

*(4832) Retail marketing | 541613 [Marketing consulting services]*

## RECORDING SERVICES

*(7389) Audio engineers | 541330 [Engineering Services]*

*(3695) Audiotape-manufacturers/retail | 334613 [Magnetic and Optical Recording Media Manufacturing incl. Audiotape, blank, manufacturing]*

*(7389) Mastering | 512290 [Other Sound Recording Industries]*

*(7389) Mobile recording studios | 512240 [Sound Recording Studios]*

*(7389) Record producers | 512210 [Record Production incl. Record producers (except independent)]*

*(7289) Recording studios | 512240 [Sound Recording Studios] or [Recording studios, sound, operating on a contract or fee basis] or [Sound recording studios (except integrated record companies)]*

*(7389) Rehearsal studios | 512240 [Sound Recording Studios]*

*(1542) Studio and audio design/construction/consultation | 236220 [Radio and television broadcast studio construction]*

*(3663) Studio equipment mfgrs/sales/rental | 532490 [Other Commercial and Industrial Machinery and Equipment Rental and Leasing incl. TV broadcasting and studio equipment rental or leasing]*

## TOUR SERVICES

*(7922) Annual events 711310 | [Promoters of Performing Arts, Sports, and Similar Events with Facilities]*

*(7922) Booking agents 711320 | [Promoters of Performing Arts, Sports, and Similar Events without Facilities]*

*(7922) Concert and event production | 711320 [Promoters of Performing Arts, Sports, and Similar Events without Facilities]*

*(3648) Lighting-manufacturers and supplies | 335129 [Other Lighting Equipment Manufacturing incl. Stage lighting equipment manufacturing]*

*(7922) Lighting-services | 541490 [Lighting design services]*

*(1731) PA systems/sound reinforcement | 334310 [Audio and Video Equipment Manufacturing incl. Public address systems and equipment mfgr] or 235310 [Electrical contractors]*

*(7359) PA/Staging equipment-rental | 532490 [Audio visual equipment rental or leasing]*

*(7922) Promoters | 711320 [Promoters of Performing Arts, Sports, and Similar Events without Facilities]*

*(7381) Security | 561612 [Security Guards and Patrol Services]*

*(1799) Staging/stage construction | 711510 [Stage set (e.g., concert, motion picture, television) erecting and dismantling, independent]*

*(2759) Ticket printing | 323119 [Other Commercial Printing]*

*(7922) Ticket sales outlets | 561599 [All Other Travel Arrangement and Reservation Services incl. Ticket agencies, theatrical]*

*(4142) Tour buses/transportation | 532120 [Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing incl. Bus rental or leasing and Trailer rental or leasing]*

*(1799) Tour management and personnel | 541611 [General management consulting services]*

## VENUES

*(6512) Auditoriums/Arenas | 711310 [Promoters of Performing Arts, Sports, and Similar Events with Facilities]*

*(5813) Clubs/Dancehalls | 722410 [Drinking Places (Alcoholic Beverages) incl. Night clubs, alcoholic beverage] 713990 [All Other Amusement and Recreation Industries incl. Dance halls, Ballrooms, and Night clubs without alcoholic beverages]*

*(6512) Concert Halls/Performing arts centers / 711310 [Promoters of Performing Arts, Sports, and Similar Events with Facilities]*

*(7941) Stadiums/Amphitheaters/Fairgrounds / 711310 [Promoters of Performing Arts, Sports, and Similar Events with Facilities][44]*

The University of Memphis also released a study[45] that assessed local music industries and also used the NAICS classification methodology to delineate and organize the music industry in categories:

> *Commercial music studios, producers, promoters, bands, lawyers, singers, musicians, retail establishments, teachers, professors, and others form parts of the complex fabric of the music industry in the city....The data in Table 5 contain business employment and payroll information for Shelby County, Tennessee (Memphis), Davidson County, Tennessee (Nashville), and Travis County, Texas (Austin) provided by the United States Department of Labor, Bureau of Labor Statistics (BLS).*

> *Since data for some segments are not released by BLS because of confidentiality restrictions, the data tend to understate the number of businesses, employment, and payrolls that could properly be attributed to the music industry. But, it does help in benchmarking the music industry in this area.*

### Table 5

| NAICS | Description |
|---|---|
| 51223 | Music Publishers |
| 339992 | Musical Instrument Mfg. |
| 33431 | Audio and Video Equipment Mfg. |
| 45114 | Musical Instrument and Supplies Stores |
| 71113 | Musical Groups and Artists |
| 71151 | Independent Artists, Performers,and Writers |
| 51224 | Sound Recording Studios |
| 51229 | Other Sound Recording Industries |
| 334612 | Pre Recorded CD (Except Software), Tape, and Record Producing |
| 51222 | Integrated Record Production/Distribution |
| 51221 | Record Production |
| 71312 | Amusement Arcades |
| 53311 | Lessors of Non-Financial Intangible Assets |
| 61161 | Fine Arts Schools |
| 51211 | Motion Picture and Video Production |
| 323119 | Other Commercial Printing |
| 45122 | Prerecorded Tape, CD, and Record Stores |
| 71141 | Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures |

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[44] Ibid

[45] Gnuschke, John E.; Jeff Wallace, Economic Impact of the Music Industry in Memphis and Shelby County, Business Perspectives. University of Memphis. 2004. *HighBeam Research.* 28 Oct. 2015, http://www.highbeam.com/doc/1G1-126612058 html and http://www.freepatentsonline.com/article/Business-Perspectives/126612058 html

Another such Report was conducted on the Music Industry in Chicago by the Chicago Music Commission.[46] Once again, the Report illustrated that there is no classification code to cover the entire music (industry) community and that it was necessary to select NAICS categories and sub-categories to cover the "whole industry" (which was the same industry standard methodology that DotMusic adopted to delineate and organize the community defined). As the Report illustrates, one shortcoming of NAICS codes was that some NAICS codes also lump peripheral industries with categories that contain music industries. For example, "independent artists, writers or performers" lump together both music-related entities and non-music related entities. So that DotMusic does not overreach beyond the community defined, the DotMusic application clarifies that only the "music" component is relevant and peripheral entities not associated with "music" are excluded. This is why for every NAICS code the DotMusic application includes the word music as part of each NAICS classification category to clarify that all entities unrelated to music or with a tangential relationship with "music" are excluded . This methodology incorporated by DotMusic was  to ensure that all entities  have the requisite awareness that they belong to the music community defined in its application of a strictly delineated and organized logical alliance of communities related to music (emphasis added). The Report states:

> Because music production involves what Caves calls a "motley crew" using very different skill sets and engaged in very different kinds of productive processes, however, there is no one NAICS code or set of codes covering the whole industry. To begin with, then, it is necessary to pick out those categories of business units that participate in the music industry.
>
> We did this by examining each coded industry category to determine whether it had any connection to music at all, and if so, whether it constituted part of the core component of the music industry or part of its periphery. Businesses wholly or predominantly involved in the performance, production, or distribution of musical activity—such as "musical groups & artists," "sound recording studios," and "radio networks"—were easily designated as part of the core component. However, some industry categories, such as "independent artists, writers or performers," lump together musical and non-musical work. Other categories—for example, "audio and video equipment manufacturing"—define businesses that support the performance, production or distribution of music, but may also support non-musical work. We place both these kinds of hybrids in the peripheral component of the music industry. The table below provides an exhaustive list of the 6-digit industries included in our definition of the music industry:[47]

FIGURE 1 - MUSIC INDUSTRY DEFINITION
NAICS Code     Sub-Industry Description

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[46] Lawrence Rothfield, Don Coursey, Sarah Lee, Daniel Silver and Wendy Norris, A Report on the Music Industry in Chicago, Chicago Music Commission, Cultural Policy Center, University of Chicago, 2007, http://www-news.uchicago.edu/releases/08/pdf/080122.music.pdf
[47] Ibid, Defining the Music Industry, Pg.4

*CORE MUSIC SUB-INDUSTRIES*

| | |
|---|---|
| *339992* | *Musical instrument manufacturing* |
| *451140* | *Musical instruments and supplies stores* |
| *451220* | *Prerecorded tape, compact disc and record stores* |
| *512210* | *Record production* |
| *512220* | *Integrated record production/distribution* |
| *512230* | *Music publishing* |
| *512240* | *Sound recording studios* |
| *512290* | *Other sound recording industries* |
| *515111* | *Radio networks* |
| *515112* | *Radio stations* |
| *711130* | *Musical groups and artists* |

*PERIPHERAL MUSIC SUB-INDUSTRIES*

| | |
|---|---|
| *334310* | *Audio and video equipment manufacturing* |
| *334612* | *Prerecorded compact disc, tape and record reproducing* |
| *611610* | *Art, drama and music schools* |
| *621340* | *Offices of physical, occupational and speech therapists and audiologists* |
| *711110* | *Theater companies and dinner theaters* |
| *711300* | *Promoters of performing arts, sports and similar events* |
| *711400* | *Agents and managers for artists, athletes, entertainers and other public figures* |
| *711500* | *Independent artists, writers and performers* |
| *722400* | *Drinking places*[48] |

The Report all points out another NAICS discrepancy with respect to delineating music profit and non-profit entities:

> *A classificatory framework of some kind is indispensable, and like every framework, ours has certain shortcomings. One is that it <u>fails to register the distinction between for-profit and non-profit music businesses</u>.* [49]

With respect to DotMusic's application, in order to match the Nexus of the string with the community defined, DotMusic clarifies that both for-profit and non-profit entities are included in its community delineation:

> *The Music Community encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders. (20c)*

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[48] Ibid, Defining the Music Industry, Pg.5
[49] Ibid, Defining the Music Industry, Pg.5

DotMusic's methodology and rationale for using NAICS codes is one based on what is traditionally used in research studies. However, as previously illustrated, there are some limitations to using classification codes with respect to overreaching beyond the community defined by DotMusic in its application, as highlighted by several reports on defining the cultural economy and methodological approaches for measuring creative industries (such as the music (industry) community) as well as UNESCO:

> *All efforts to operationalize the cultural economy are forced to work with industrial and occupational categories…Given the regional variation, researchers might include different sets of industries in defining their regional cultural economies.[50]*

> *[P]roblems of highly aggregated occupational code categories (see Higgs et al., 2008) seem to jeopardize an accurate analysis.[51]*

> *Implicit in the notion of class is "some kind of self-identity and consistent value system within a socio-political hierarchy" (Clifton, 2008: 66). Indeed, creative individuals have aspects in common. They often get involved in the social networks or communities…and they have common values, principles. (Florida 2002a: 78-9)[52]*

> *[T]he creative class concept needs to be related to a production context that should be interrelated with other organizations, institutional bodies and the community itself, in order to understand the linkages along the value chain and the locally enrooted practices that arise from these interconnections.[53]*

> *One of the most important issues in the analysis of creative activities is the emergent need for a universal conception and a classification system that can accurately gather and map data on these industries.[54]*

> *Classification of cultural industries is another issue which requires attention. The lack of a strong theoretical definition has led to misunderstanding and confused the situation concerning structural elements of these industries.[55]*

> *The term "cultural industries" [such as the music industry community] is used in accordance with UNESCO's view "as a set of activities that produce and distribute cultural goods or services, which at the time they are considered as a specific attribute, use or purpose, embody or convey cultural expressions irrespective of the commercial value they may have" (UNESCO-UIS, 2009). A consensus seems to be emerging for a*

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[50] Ann Markusen (University of Minnesota), Gregory H. Wassall (Northeastern University), Douglas DeNatale (Community Logic, Inc), Randy Cohen (Americans for the Arts), Defining the Cultural Economy: Industry and Occupational Approaches, November 2006 , Pg.8 and Pg.9, http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.542.4308&rep=rep1&type=pdf, Pg.23

[51] Sara Cruz and Aurora A.C. Teixeira, Methodological approaches for measuring the creative employment, Universidade do Porto, http://wps.fep.up.pt/wps/wp455.pdf, Pg.2 and Pg.3

[52] Ibid, Pg.4

[53] Ibid, Pg.8

[54] Ibid, Pg.9

[55] United Nations Educational, Scientific and Cultural Organization (UNESCO), Measuring the Economic Contribution of Cultural Industries: A review and assessment of current methodological approaches, Framework for Cultural Statistics Handbook, 2009, http://www.uis.unesco.org/culture/Documents/FCS-handbook-1-economic-contribution-culture-en-web.pdf, Pg.15

*working definition of the "core" creative or cultural industries, while there is still confusion surrounding non-core and supporting activities. Usero and del Brío (2011) in their recent article also discuss and assess the contribution of the 2009 UNESCO FCS to the field of measuring the economic contribution of culture.*[56]

*In the first Resolution of the European Parliament on this topic entitled European Parliament Resolution on Cultural Industries (2002/2017) cultural industries was considered as a field of multidimensional forms of cultural expressions ranging from cultural heritage to audiovisual industries. Two years later, Opinion of European Economic and Social Committee on Europe`s Creative Industries (2004) adopted a prescriptive definition of creative industries by identifying provisional list of activities labelled as creative industries.*[57]

*There is a lack of a unique and common platform for discussing the classification of cultural industries, the measurement of their economic impact, and the potential of linking and upgrading multidisciplinary approaches. This lack not only has a negative impact on research in this field, but also makes it difficult to build a comprehensive scientific and practical framework for measuring the economic contribution of cultural industries to development.*[58]

*At present, the statistics for cultural industries have not been harmonised in a systematic manner, and there is no unique statistical methodology.*[59]

*Despite all the novelties and progress, the „original sin" intractably remains - the vagueness or even lack of clarification regarding the definitions and estimations of creative industries, creative class, cultural activities, creative city, or cultural labour force (Glaeser, 2005; Markusen et al., 2008; Pratt et al., 2009)...So far, the literature has barely come to agreement on what comprises the concepts of creative and cultural economics, as well as their precise boundaries and extent.*[60]

*The formal [UK"s Department of Culture, Media and Sport (DCMS)] definition of creative industries is "...those activities which have their origins in individual creativity, skill and talent and which have the potential for wealth and job creation through generation and exploitation of intellectual property"...This definition provided the basis for several works developed by national governments worldwide (e.g., DCMS, 2001; Walton and Duncan, 2002; Heng et al., 2003; Scottish Government Social Research, 2009).*[61]

*The Branches of Activity approach categorizes the creative economy in terms of "upstream activities", i.e., core cultural activities, and "downstream activities", i.e., commercial and distribution industries, dedicated to the diffusion and commercialization of cultural contents (e.g., Heng et al., 2003; Scott, 2004; UNCTAD 2008: 13). The strength of this perspective lies in the importance of tracing the linkages and*

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[56] Ibid, Pg.17
[57] Ibid, Pg.29
[58] Ibid, Pg. 80
[59] Ibid, Pg. 87
[60] Sara Cruz and Aurora A.C. Teixeira, Industry-based methodological approaches to the measurement of Creative Industries: a theoretical and empirical account, Universidade do Porto, http://wps.fep.up.pt/wps/wp453.pdf, Pg.2
[61] Ibid, Pg.4

*interdependencies among all the industries that compose the value chain, differentiating the upstream segments from the downstream (Scott, 2004)...Finally, the Systemic/Evolutionary approach holds that creative industries are evolutionary systems characterized by processes mainly grounded in interactions (the "agents - networks - firms" triad) and social networks (Potts et al., 2008: 170). Here, creative industries are defined and modelled as complex systems of activities, where agents and firms interact dynamically through value flows on the basis of a network structure. Supply and demand of creative goods is characterized as a process where "decisions both to produce and to consume are determined by the choice of others in the social network" (Potts et al., 2008: 169-170).[62]*

*In order to be as accurate as possible in this mapping and the respective estimation of all the approaches analyzed, we used detailed 5-digit industry codes...The use of ISIC - Rev. 3.1 in all the industry based approaches that were mapped...[63]*

As highlighted by UNESCO and the many research studies and reports, there is no single universal classification code that can accurately map the music (industry) community as defined. To ensure that the community definition matches the string, DotMusic's application calibrated its delineation to only restrict the "music" subset of each NAICS code (See Venn diagrams).

The Future of Music also indicates the value of using NAICS codes because they are government classifications that provide categories that are consistent and reliable:

*Government statistics have some value because they are reliably collected over time.*

However, the one discrepancy that DotMusic calibrated in its Application is that the fact that NAICS codes do not include self-employed music entities or musicians e.g. amateurs:

*[E]xamining government data can give you a sense of the size and changes over time, but the fact that BLS OES data [i.e. NAICS] does not included self-employed musicians makes it likely that the published number is far lower than reality.*

*Estimates for detailed occupations do not sum to the totals because the totals include occupations not shown separately. Estimates do not include self-employed workers.[64]*

So that DotMusic does not overreach beyond the community defined by excluding self-employed entities, it clarified in its application the community defined includes commercial, non-commercial and amateurs without discrimination:
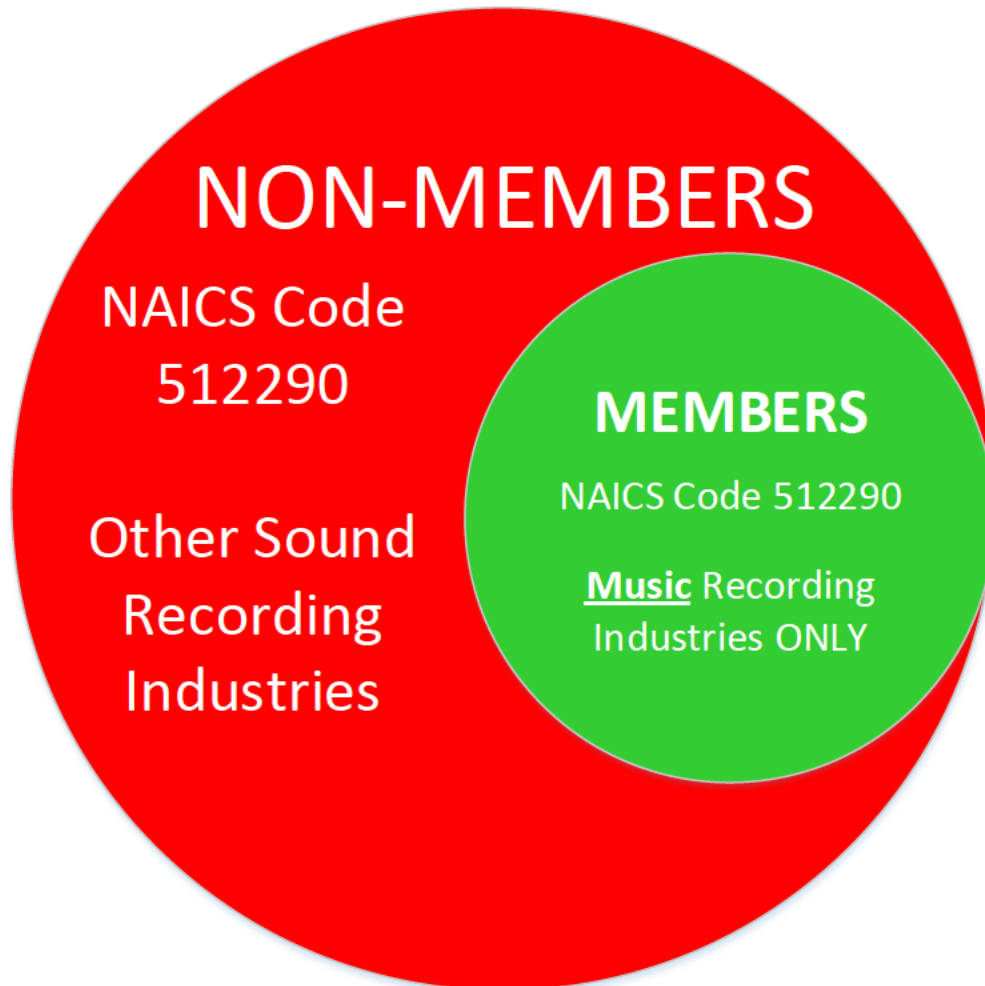
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[62] Ibid, Pg.10

[63] Ibid, Pg.12. With respect to ISIC vs. NAICS, "definitions of individual categories have been designed in a way that statistical data collected according to NAICS can be re-aggregated into the two-digit divisions of ISIC, Rev.4, ensuring the comparability of data." (See http://unstats.un.org/unsd/publication/seriesM/seriesm_4rev4e.pdf, Pg.37 and https://www.census.gov/eos/www/naics/concordances/2012_NAICS_to_ISIC_4.xls and http://www.naics.com/naicswp2014/wp-content/uploads/2014/10/NAICS-to-SIC-Crosswalk.pdf).

[64] U.S Bureau of Labor Statistics, http://www.bls.gov/oes/current/oes272041.htm#%281%29, (1)

*The Music Community encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders. (20c)*

# ANNEX B

**NON-MEMBERS**

NAICS Code 512290

Other Sound Recording Industries

**MEMBERS**

NAICS Code 512290

**Music** Recording Industries ONLY

# Clarifying Question A - Table 2 - #5 - NAICS 512240

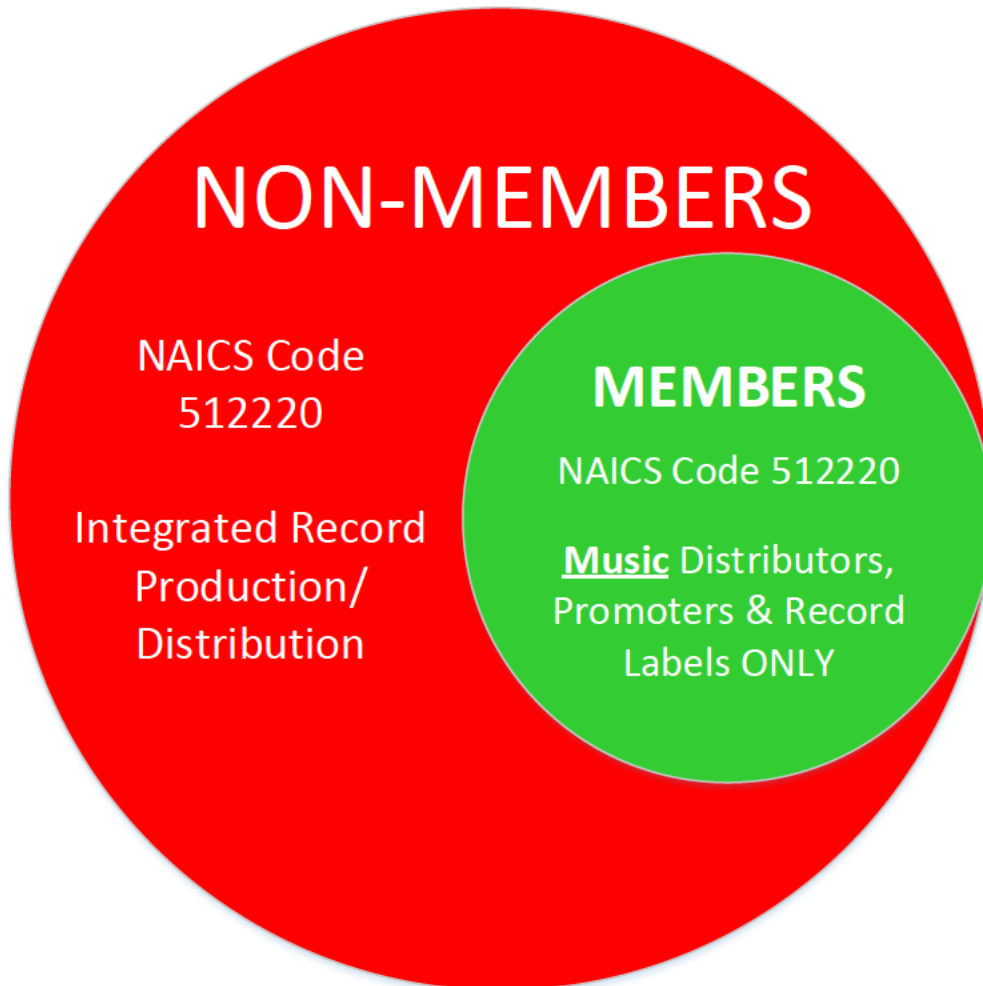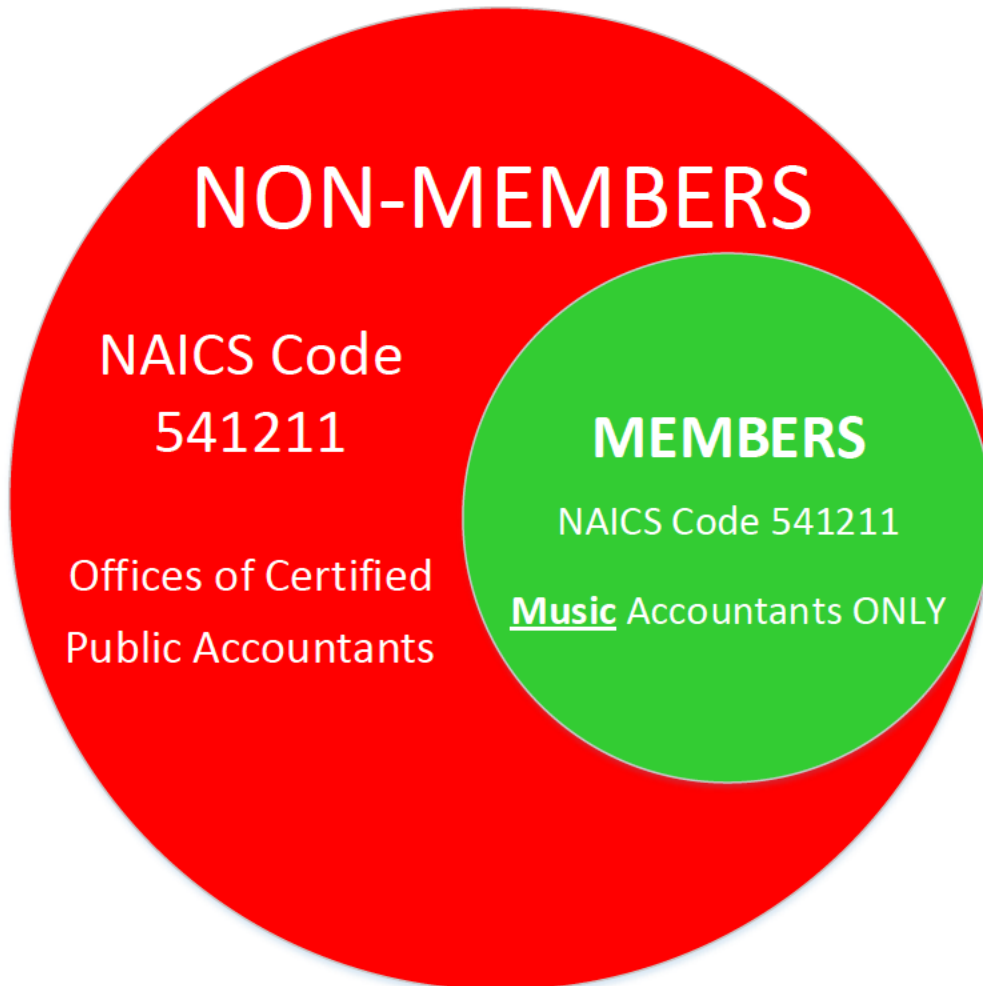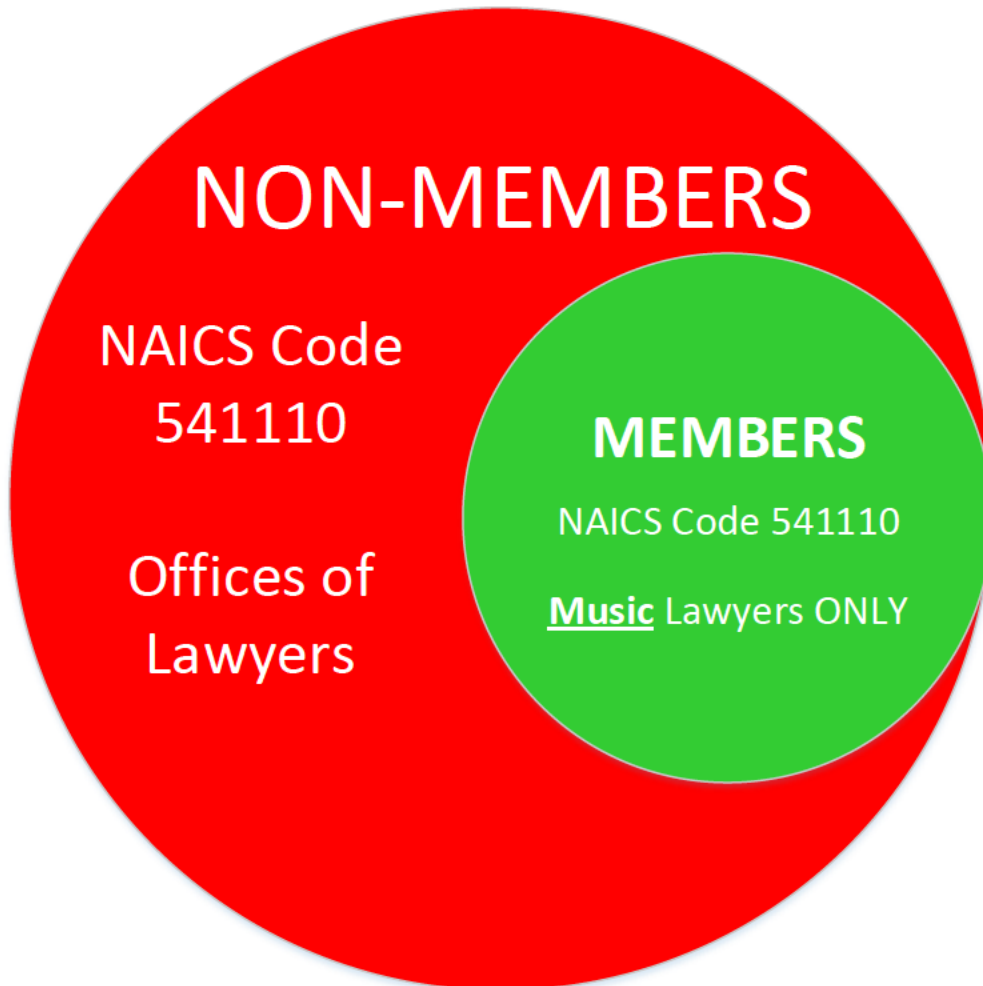# Clarifying Question A - Table 2 - #6 - NAICS 512220

NON-MEMBERS

NAICS Code
512220

Integrated Record
Production/
Distribution

MEMBERS

NAICS Code 512220

**Music** Distributors,
Promoters & Record
Labels ONLY

# Clarifying Question A - Table 2 -  #12 - NAICS 541211



NON-MEMBERS

NAICS Code
541211

Offices of Certified
Public Accountants
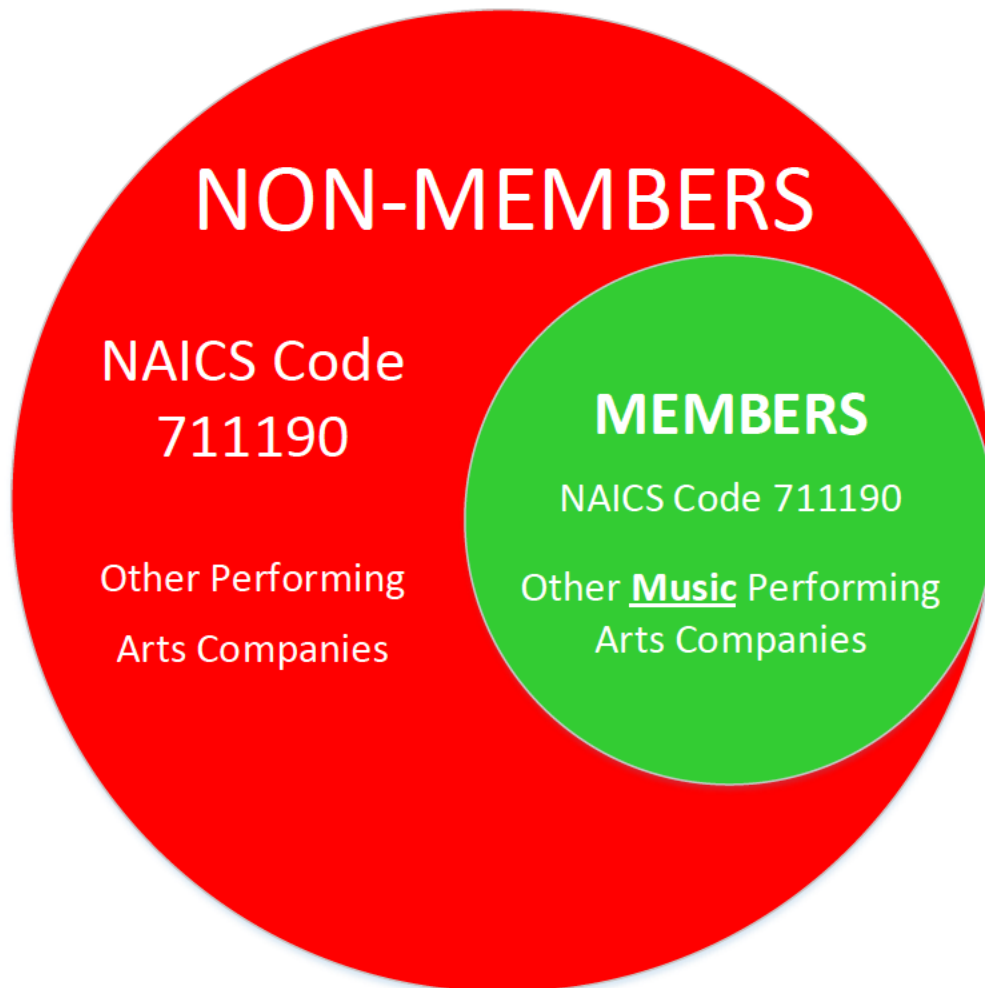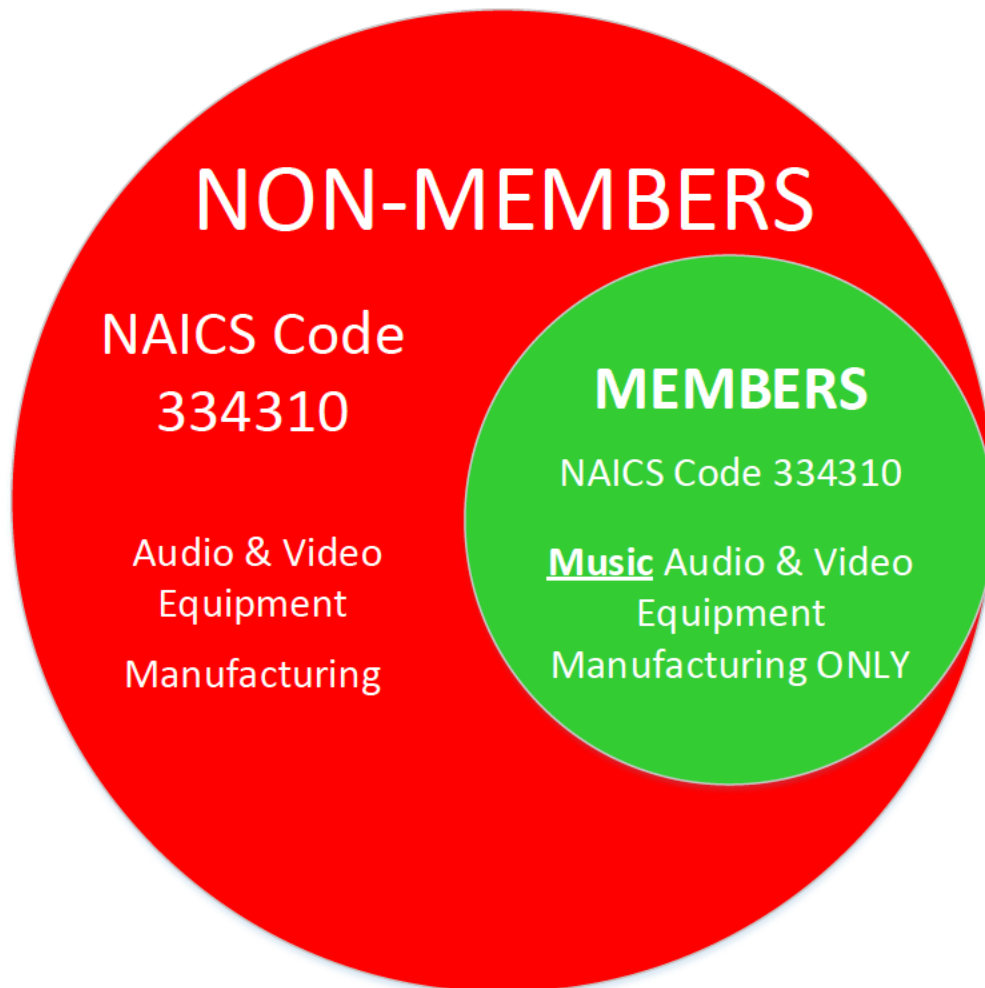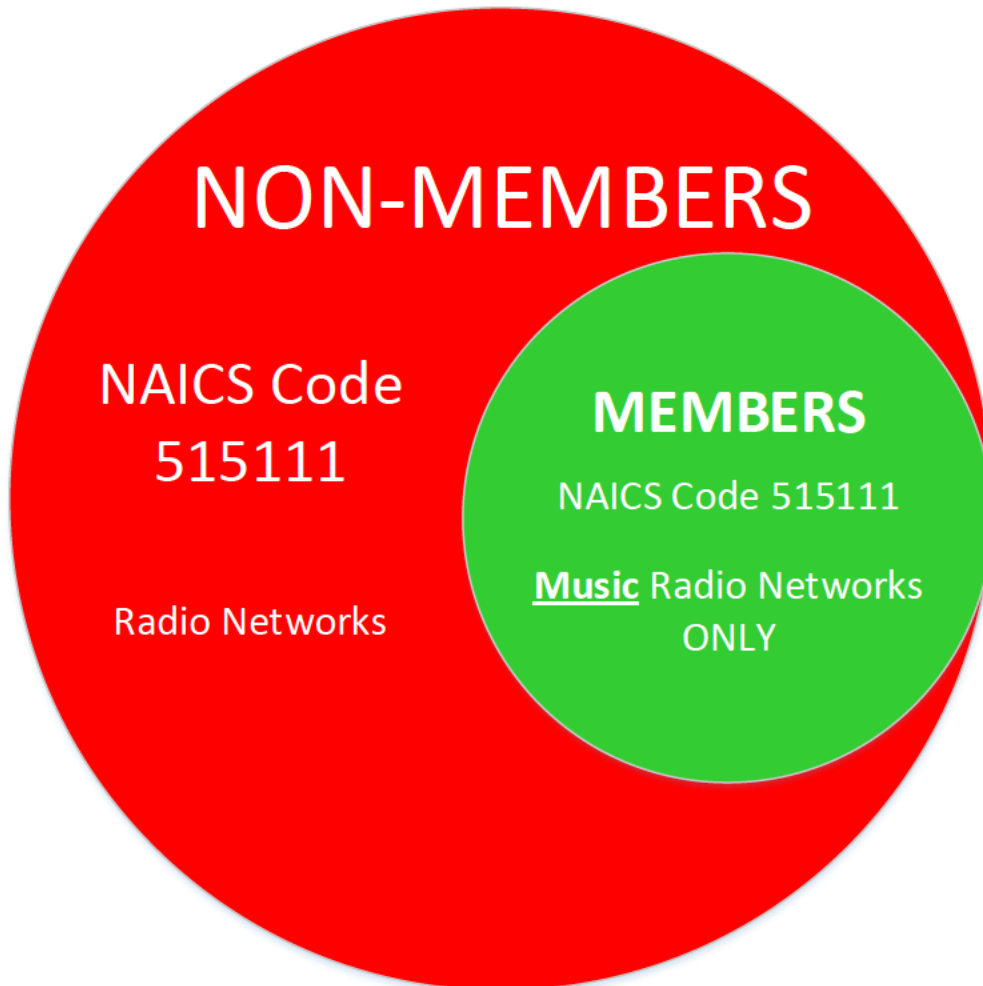
MEMBERS

NAICS Code 541211

**Music** Accountants ONLY

# Clarifying Question A - Table 2 - #13 - 541110

# Clarifying Question A - Table 2 - #15 - NAICS 611610
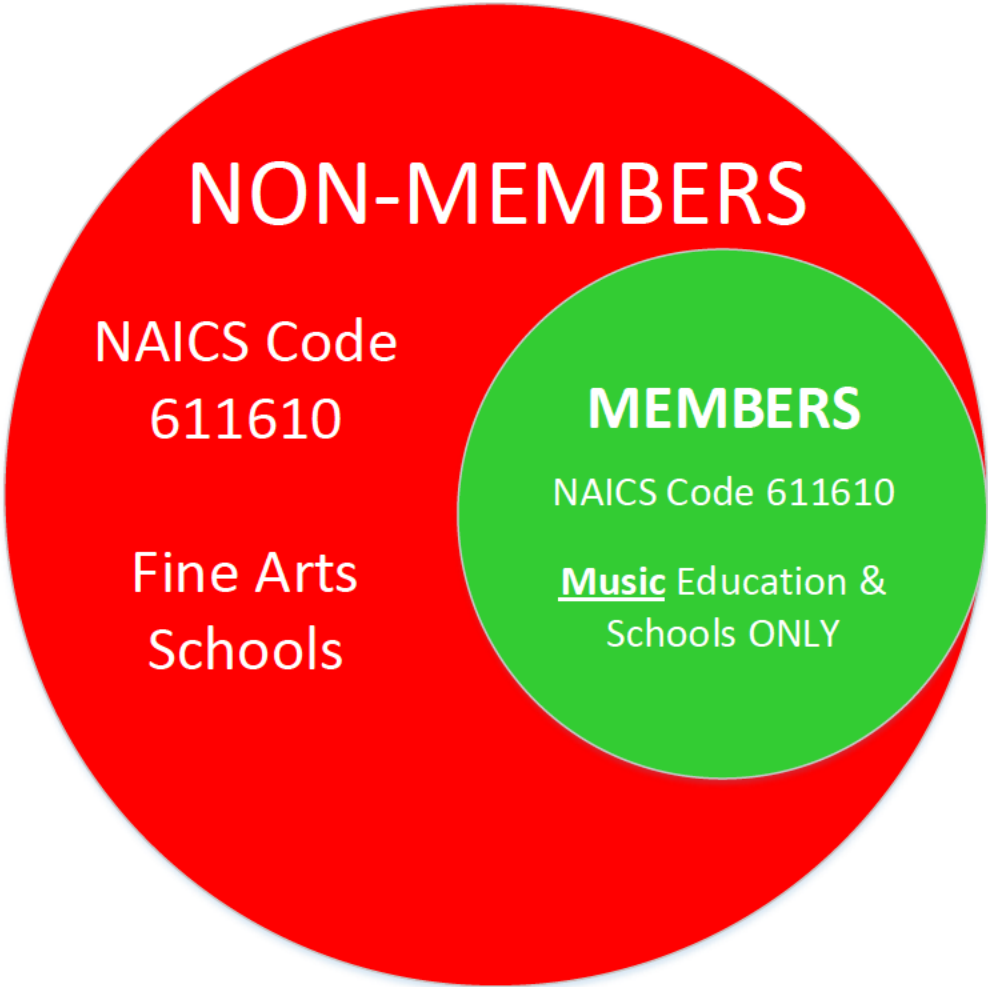
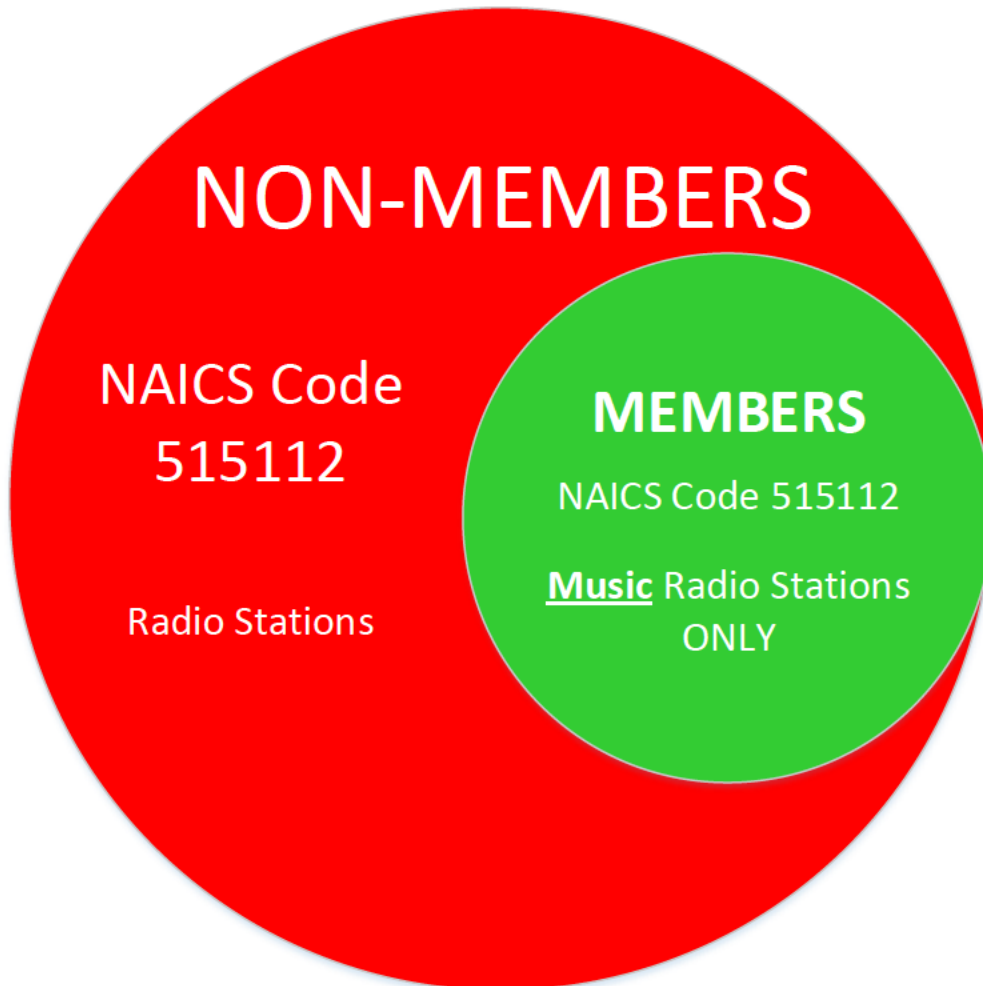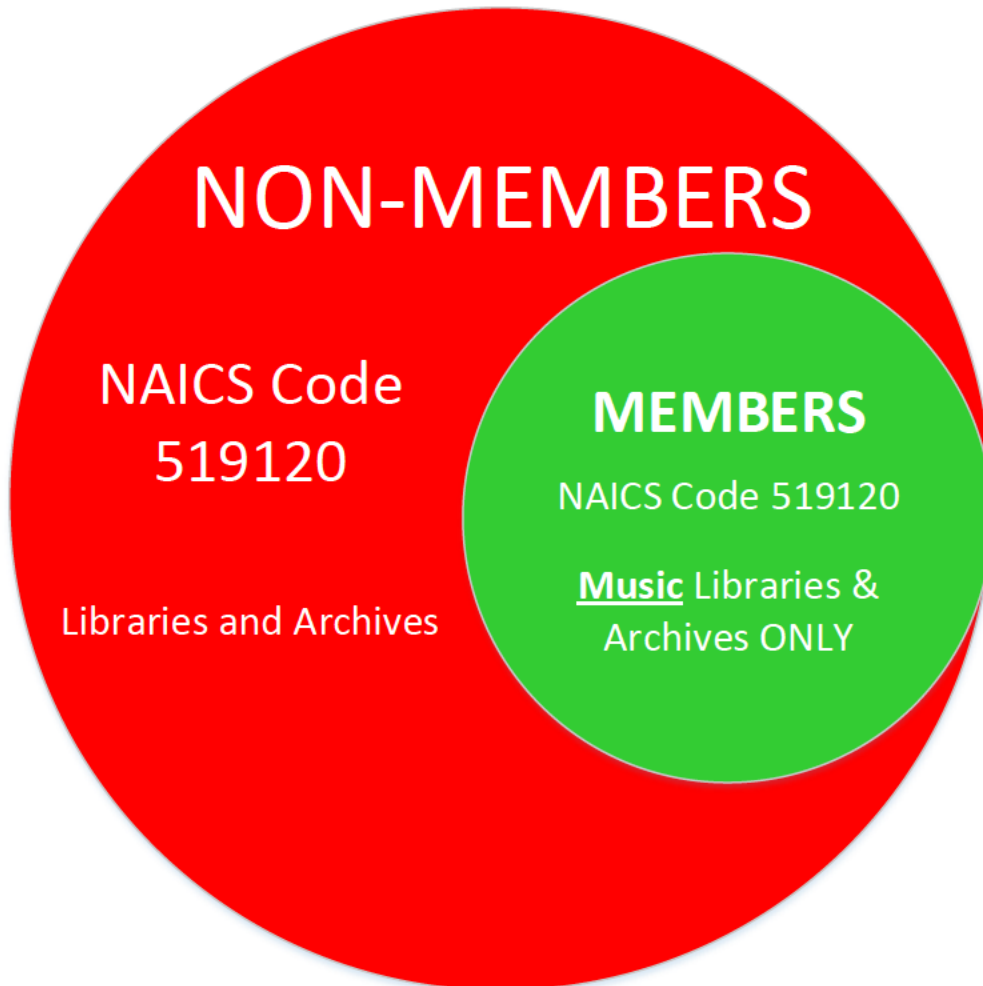# Clarifying Question A - Table 2 - #18 - NAICS 711310

NON-MEMBERS

NAICS Code
711310

Promoters of
Performing Arts,
Sports & Similar

Events with Facilities

**MEMBERS**

NAICS Code 711310

**Music** Promoters of
performing arts with
facilities ONLY
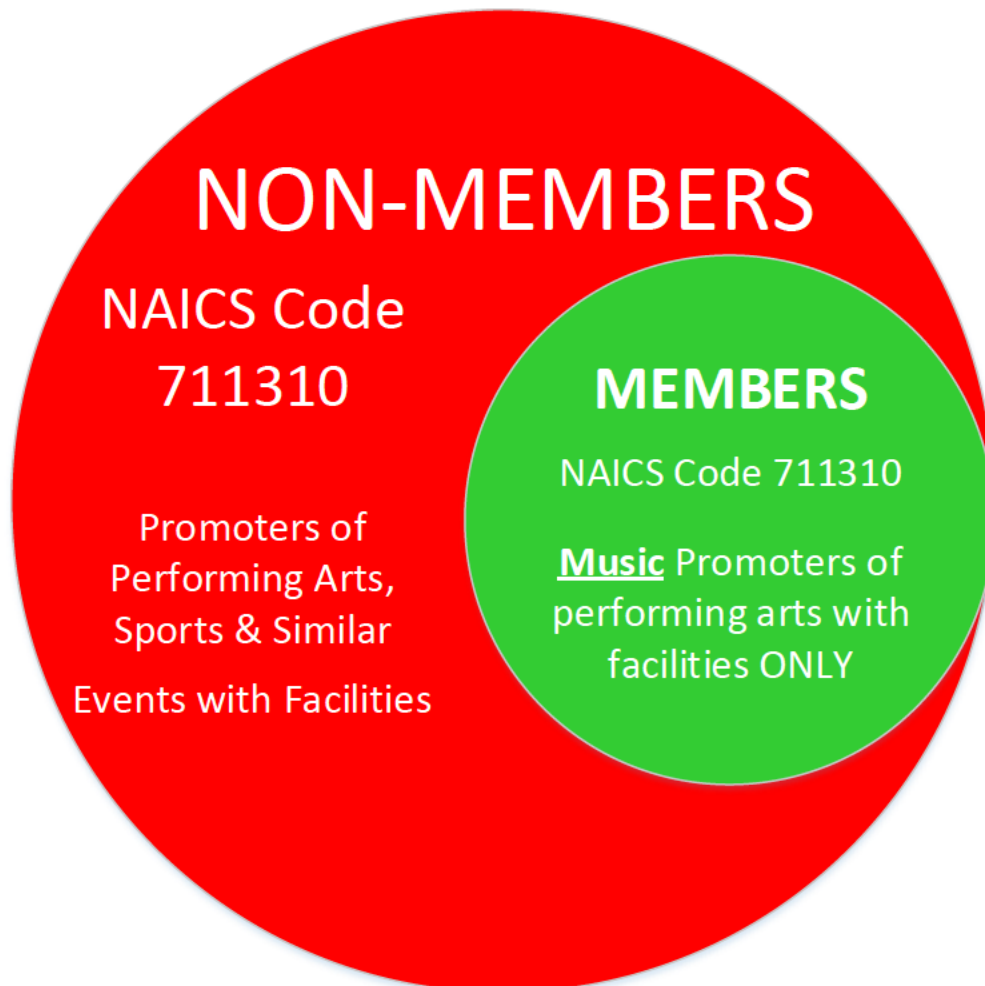
# Clarifying Question A - Table 2 - #19 - NAICS 711320



**NON-MEMBERS**
NAICS Code
711320

Promoters of
Performing Arts,
Sports & Similar
Events without

Facilities

**MEMBERS**

NAICS Code 711320

**Music** Promoters of
performing arts without
facilities ONLY

# Clarifying Question A - Table 2 - #21 - NAICS 711190

# Clarifying Question A - Table 2 -  #23 - NAICS 334310

NON-MEMBERS

NAICS Code
334310

Audio & Video
Equipment

Manufacturing

MEMBERS

NAICS Code 334310

**Music** Audio & Video
Equipment
Manufacturing ONLY

# Clarifying Question A - Table 2 - #24 - NAICS 515111

# Clarifying Question A - Table 2 -  #25 - NAICS 515112

NON-MEMBERS

NAICS Code
515112

Radio Stations

MEMBERS

NAICS Code 515112

**Music** Radio Stations
ONLY

# Clarifying Question A - Table 2 - #26 - NAICS 519120

# Clarifying Question A - Table 2 - #27 - NAICS 541611

NON-MEMBERS

NAICS Code
541611

Administrative
Management &
General Management

Consulting Services

MEMBERS

NAICS Code 541611

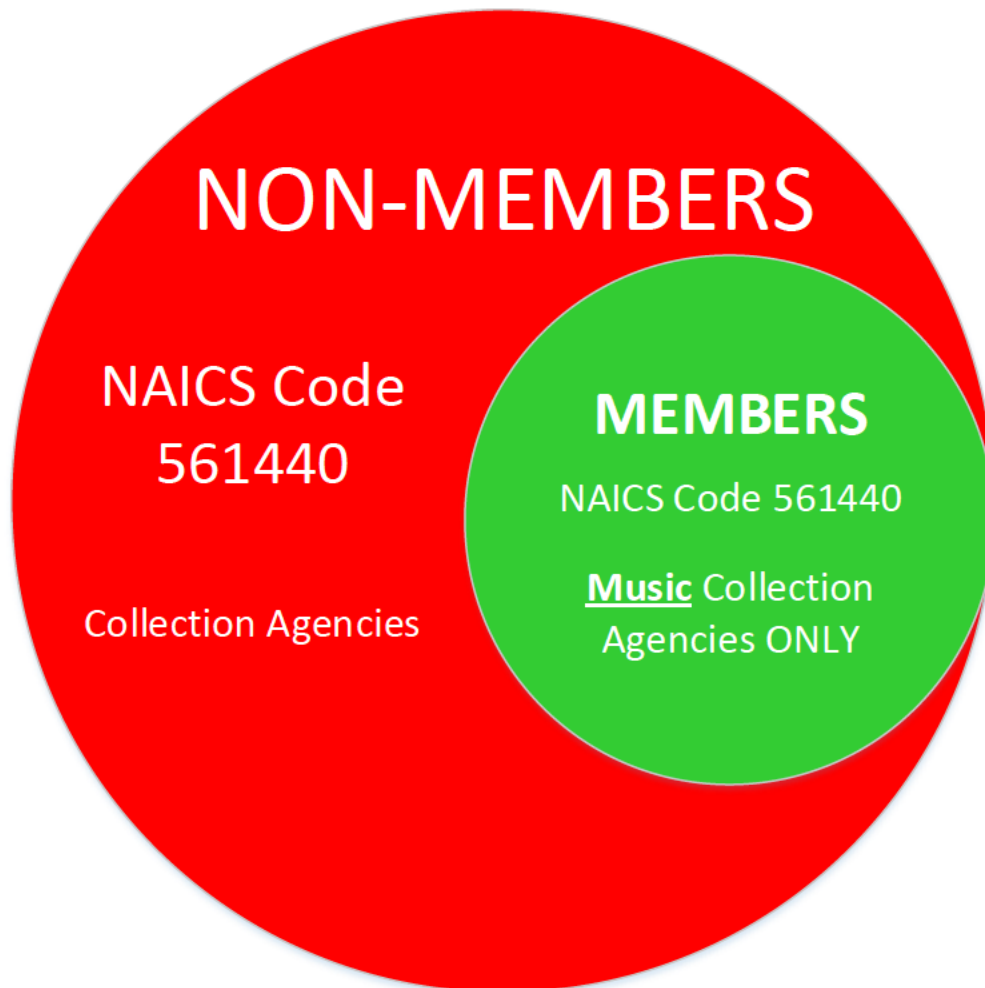**Music** Business &
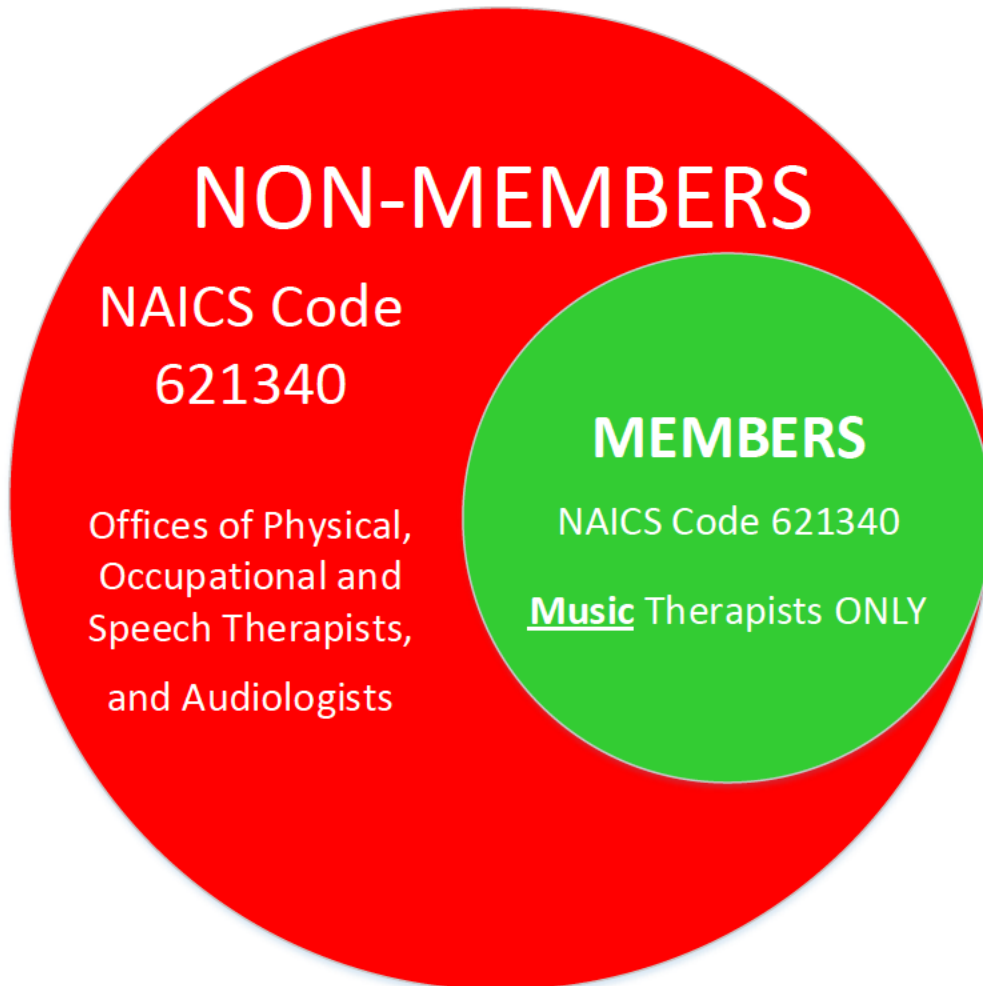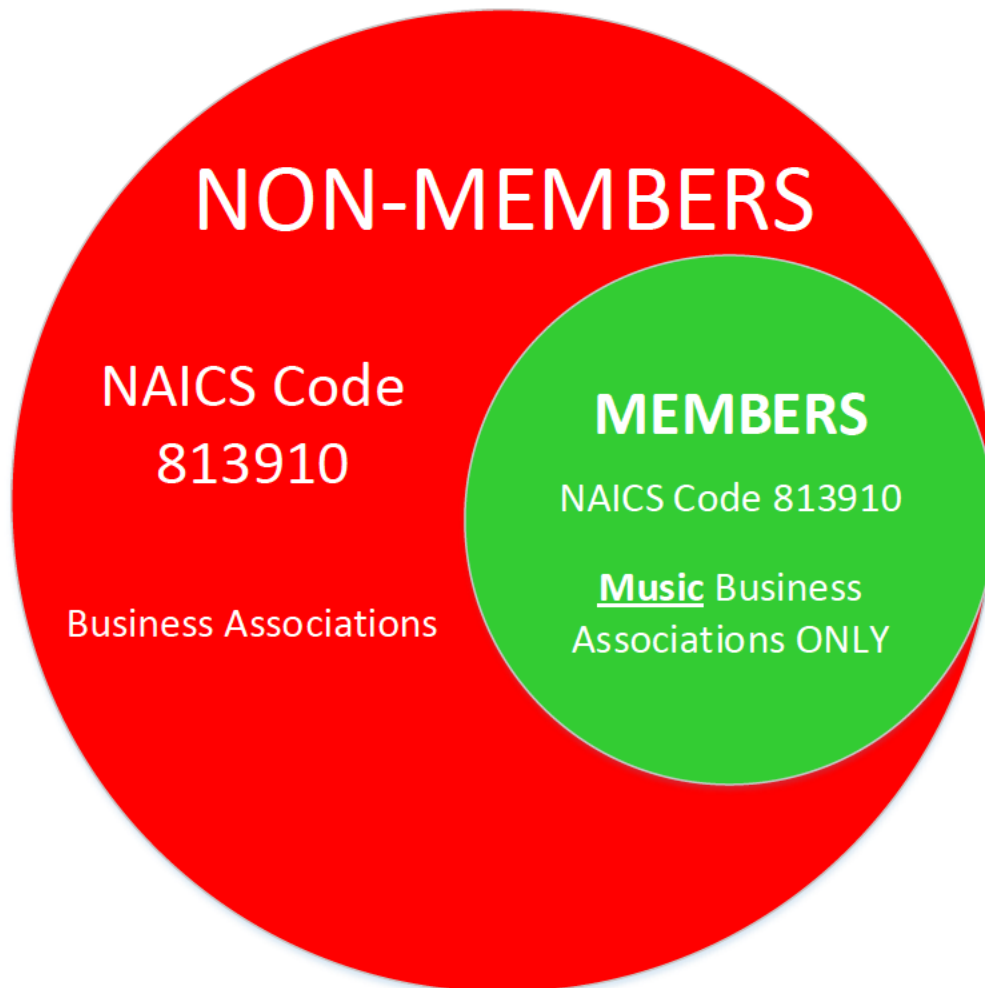Management
Consultants ONLY
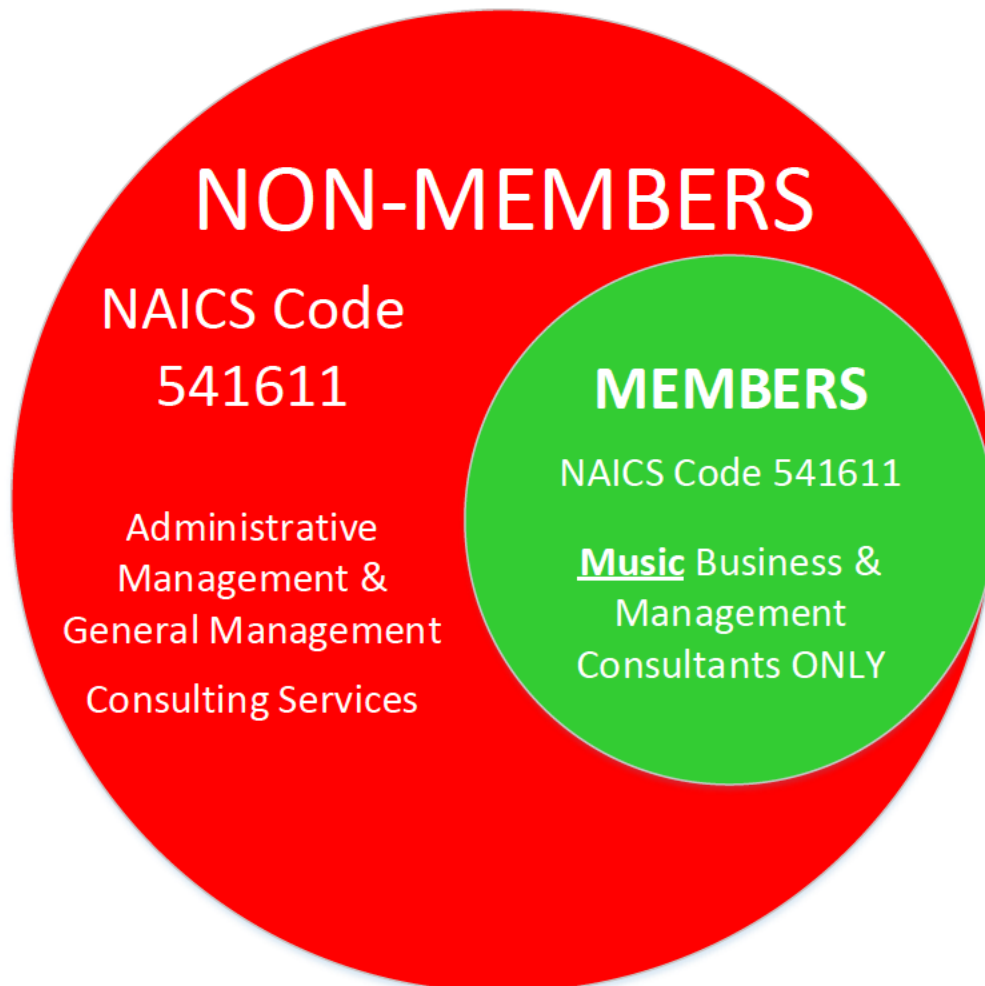
# Clarifying Question A - Table 2 - #28 - NAICS 561440

# Clarifying Question A - Table 2 - #29 - NAICS 621340

# Clarifying Question A - Table 2 - #30 - NAICS 813910

# Clarifying Question A - Table 2 - #31 - NAICS 813920

# Clarifying Question A - Table 2 - #32 - NAICS 813930

# Clarifying Question A - Table 2 - #33 - NAICS 541820
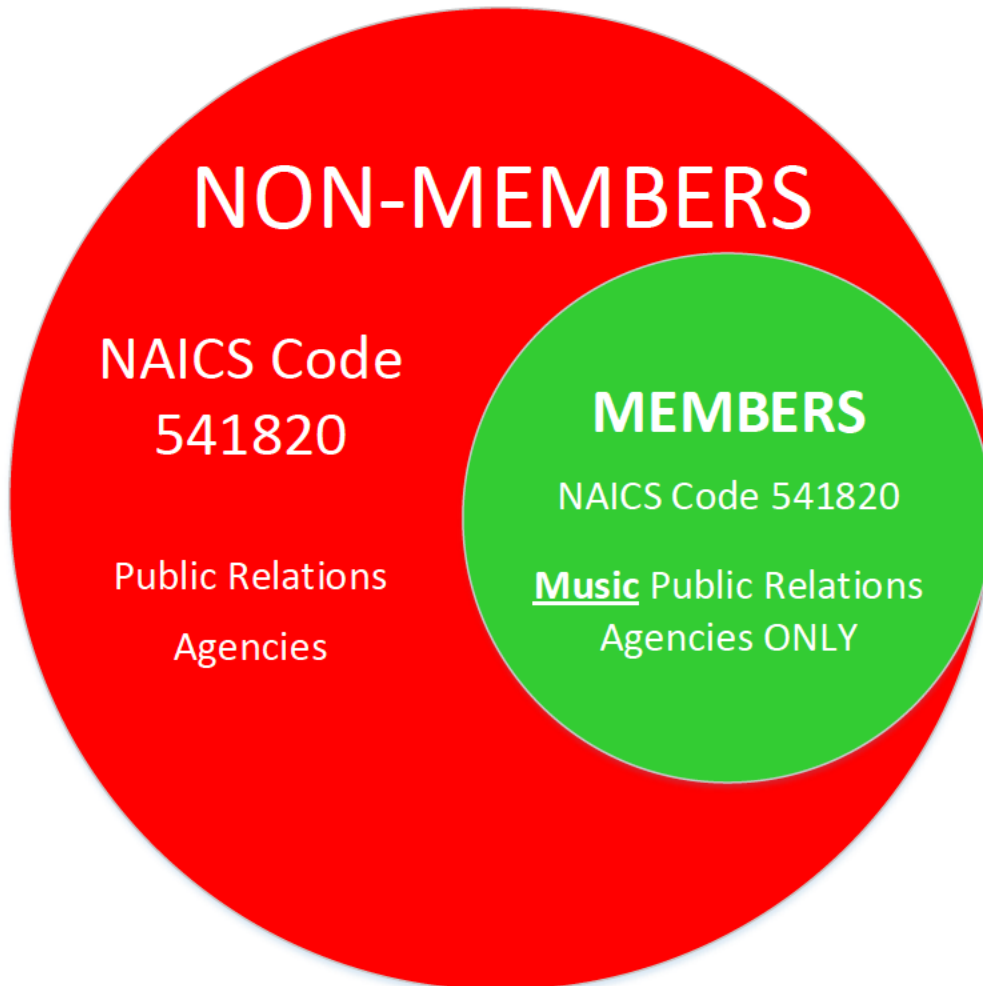
# Clarifying Question A - Table 2 - #34 - NAICS 711510
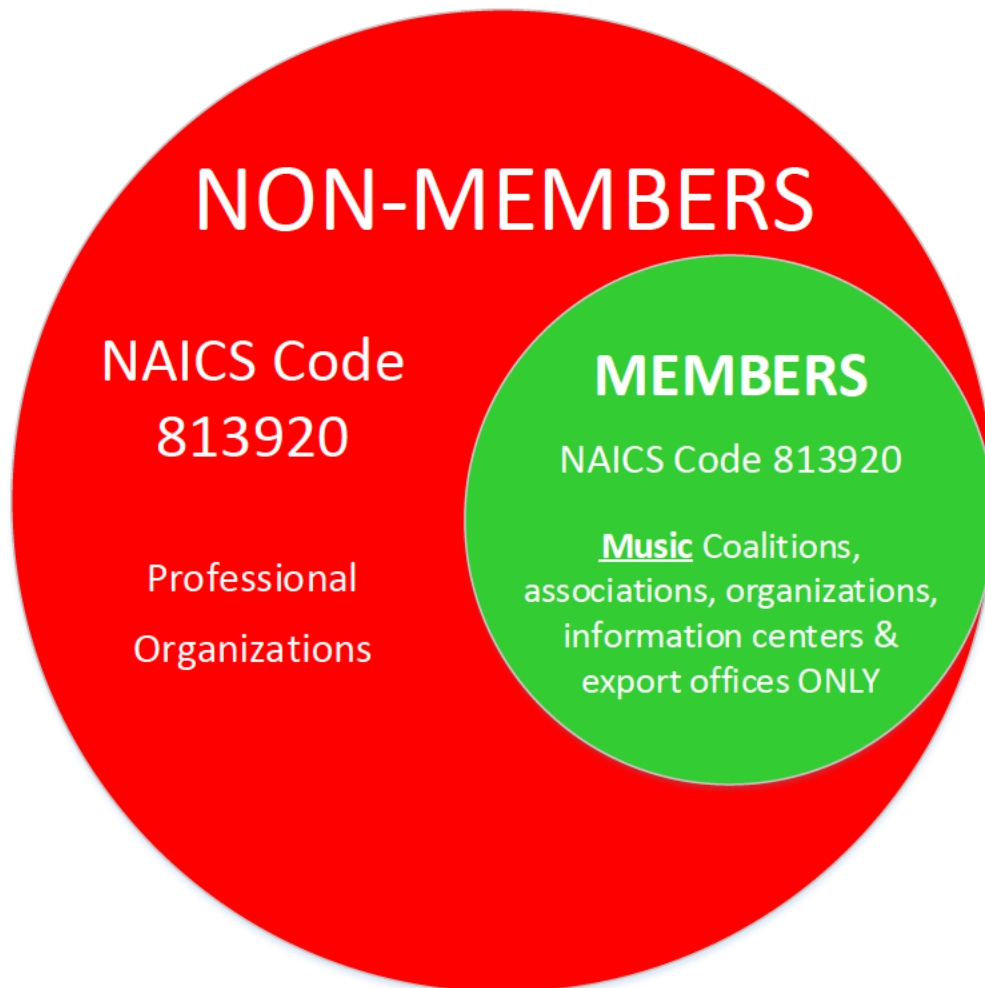
**NON-MEMBERS**

NAICS Code
711510

Independent Artists,

Writers & Performers

**MEMBERS**

NAICS Code 711510

**Music** Journalists and
Promoters ONLY

# Clarifying Question A - Table 2 - #35 - NAICS 519130

NON-MEMBERS

NAICS Code
519130

Internet Publishing
and Broadcasting and

Web Search Portals

MEMBERS

NAICS Code 519130

**Music** Internet Music
Radio Station ONLY
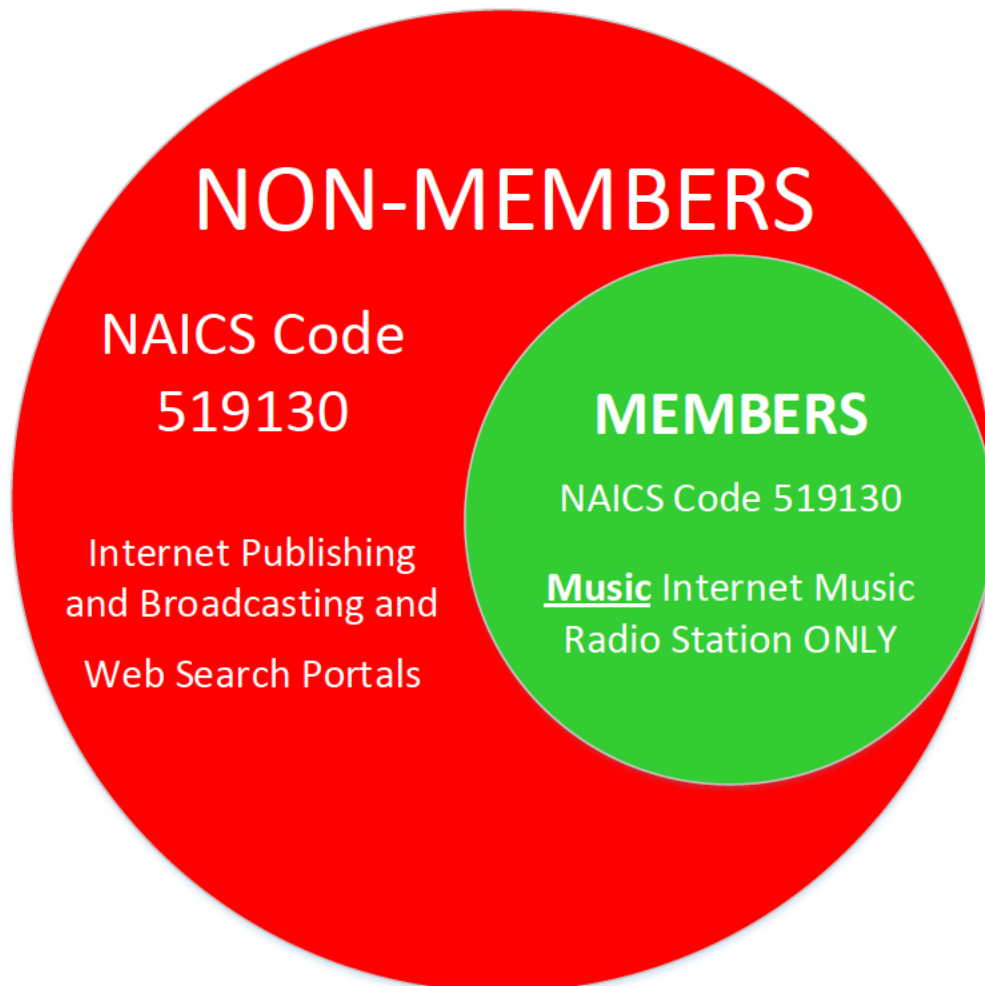
# Clarifying Question A - Table 2 - #36 - NAICS 515120



NON-MEMBERS

NAICS Code
515120

Television

Broadcasting

MEMBERS

NAICS Code 515120

**Music** Broadcasters
ONLY

# Clarifying Question A - Table 2 - #37 - NAICS 512110
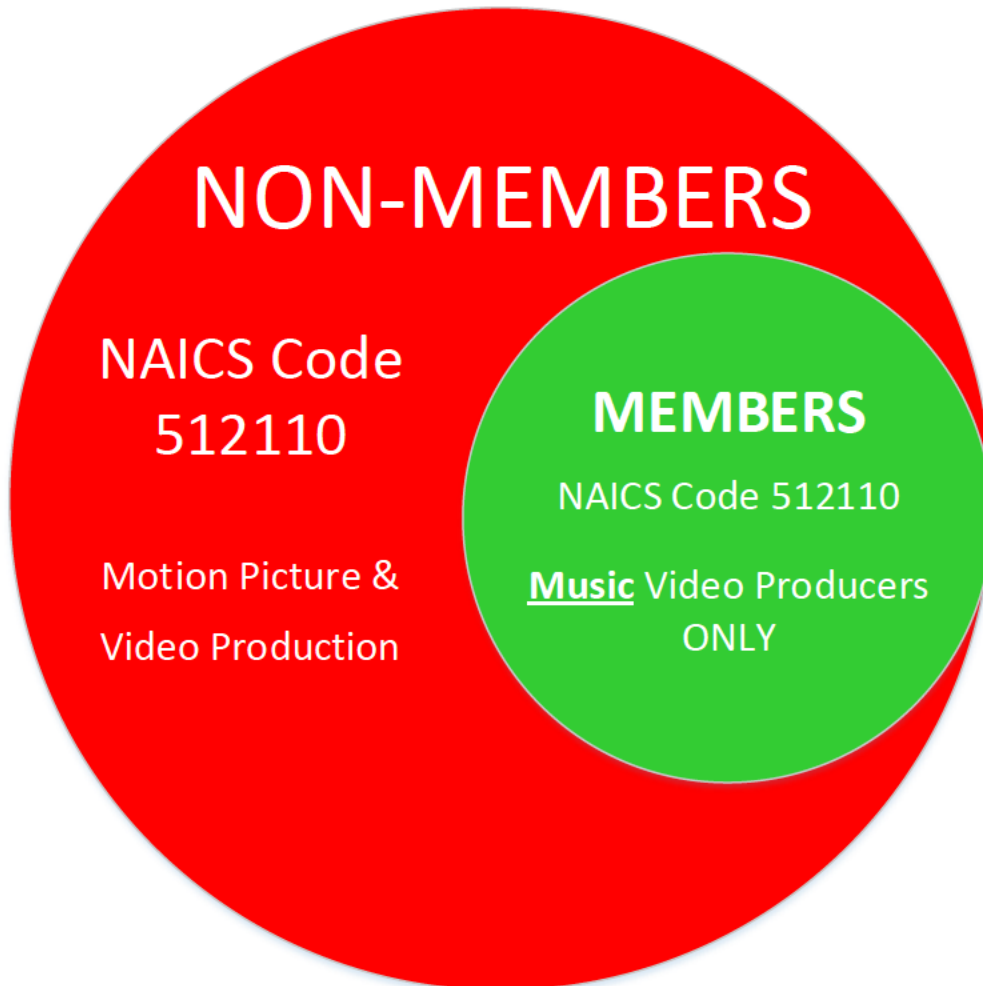
# Clarifying Question A - Table 2 -  #38 - NAICS 541613
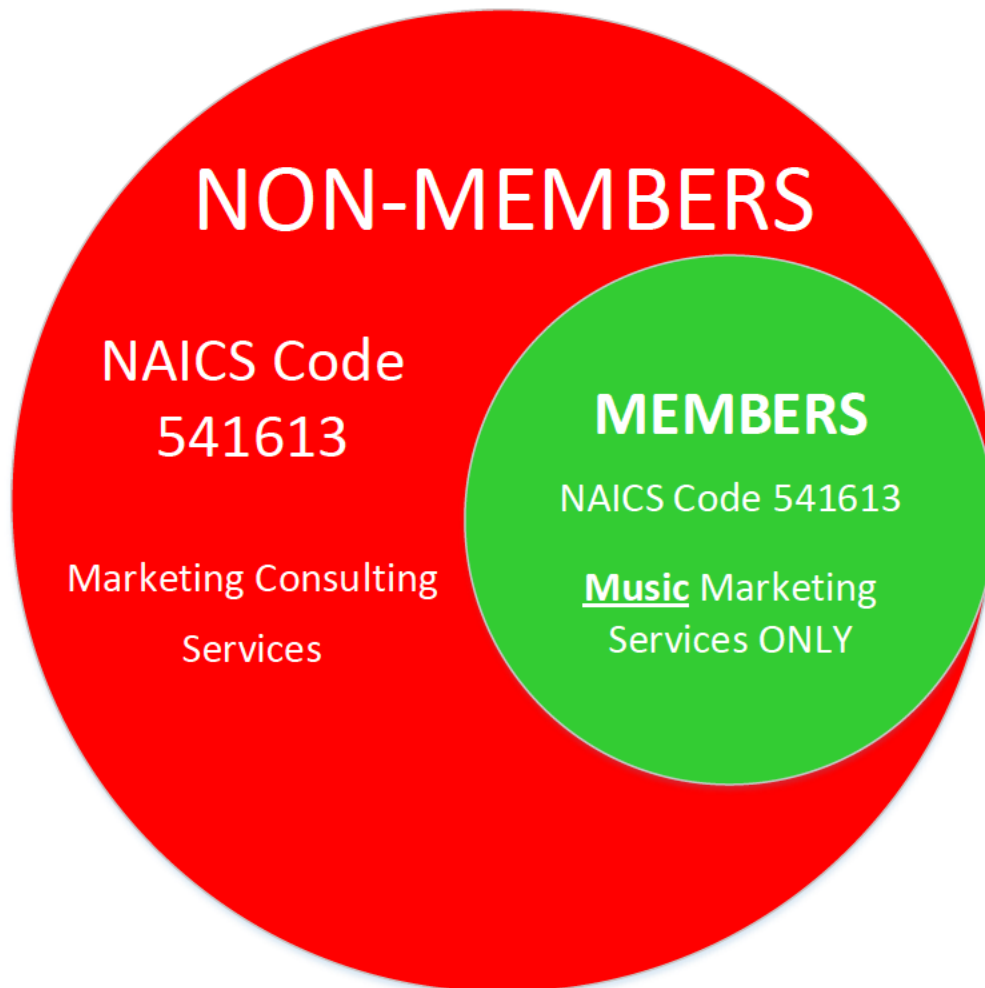
# Clarifying Question A - Table 2 - #39 - NAICS 541330
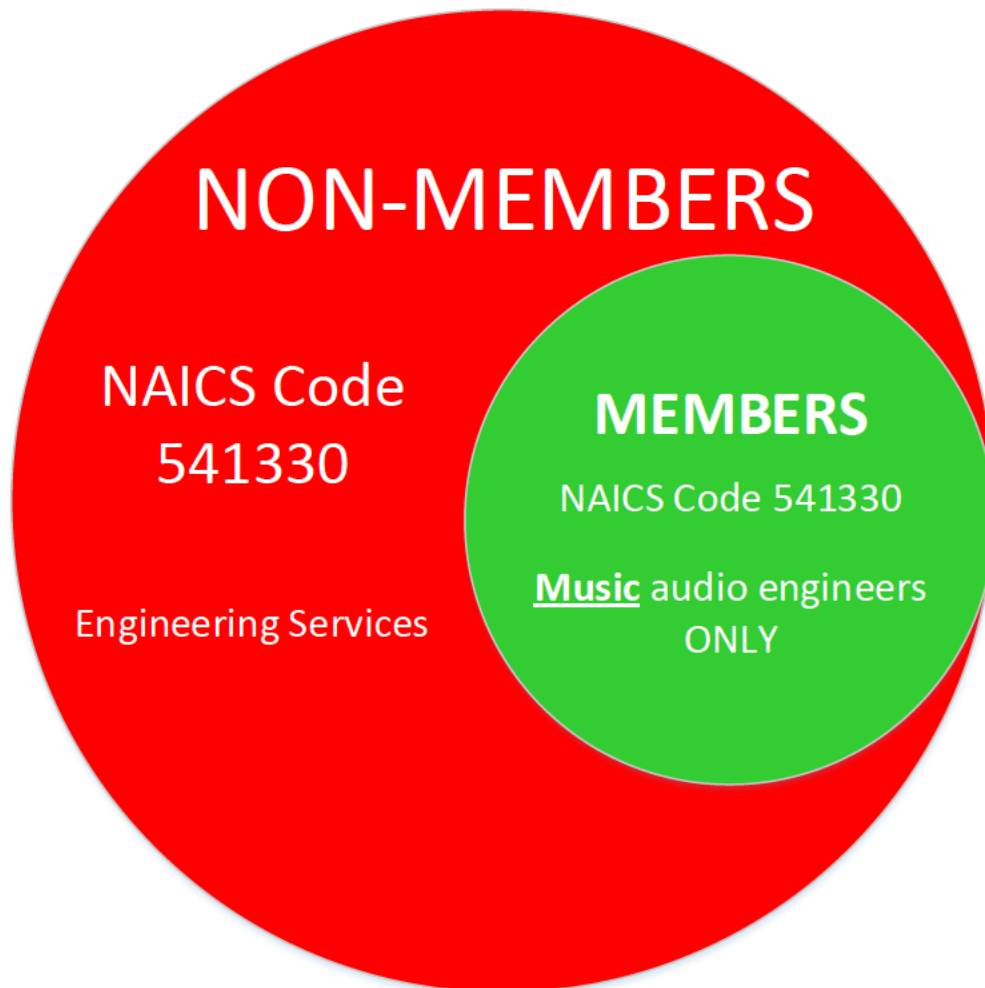
# Clarifying Question A - Table 2 - #40 - NAICS 561599
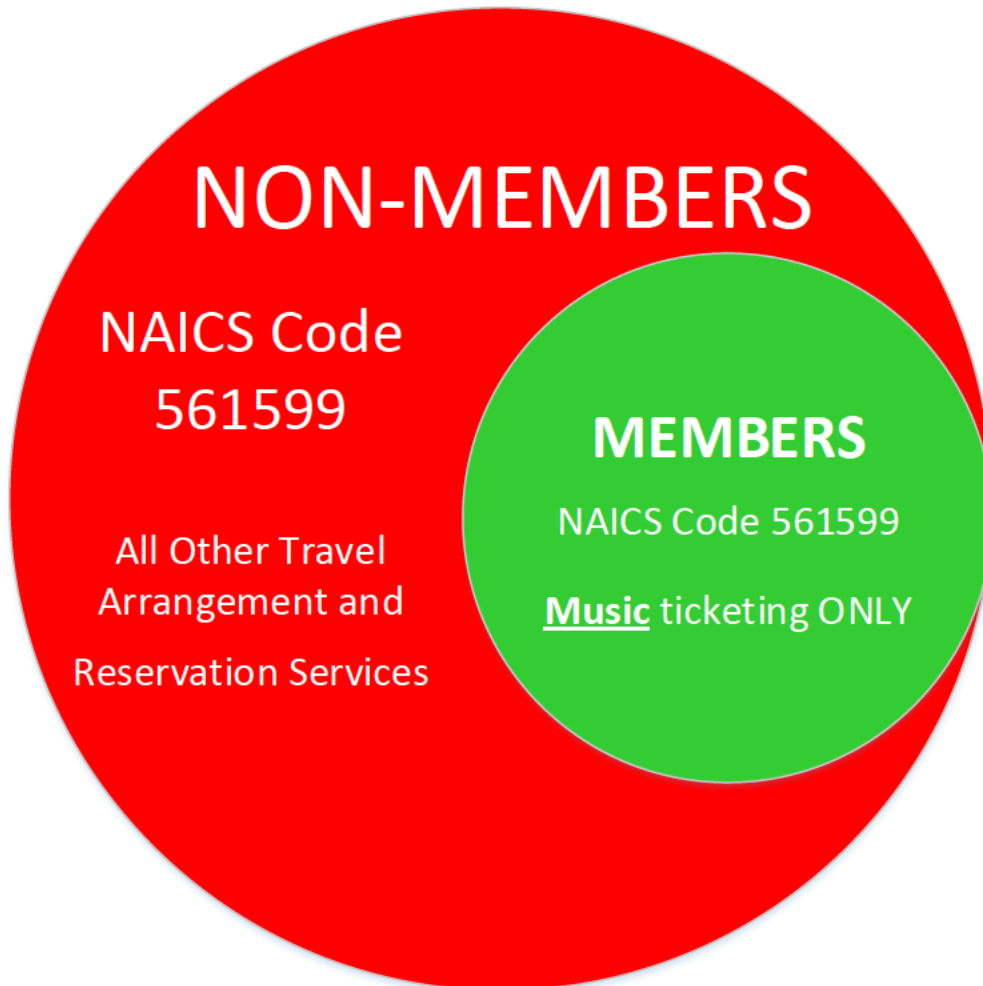
# Clarifying Question A - Table 2 - #41 - NAICS 722410
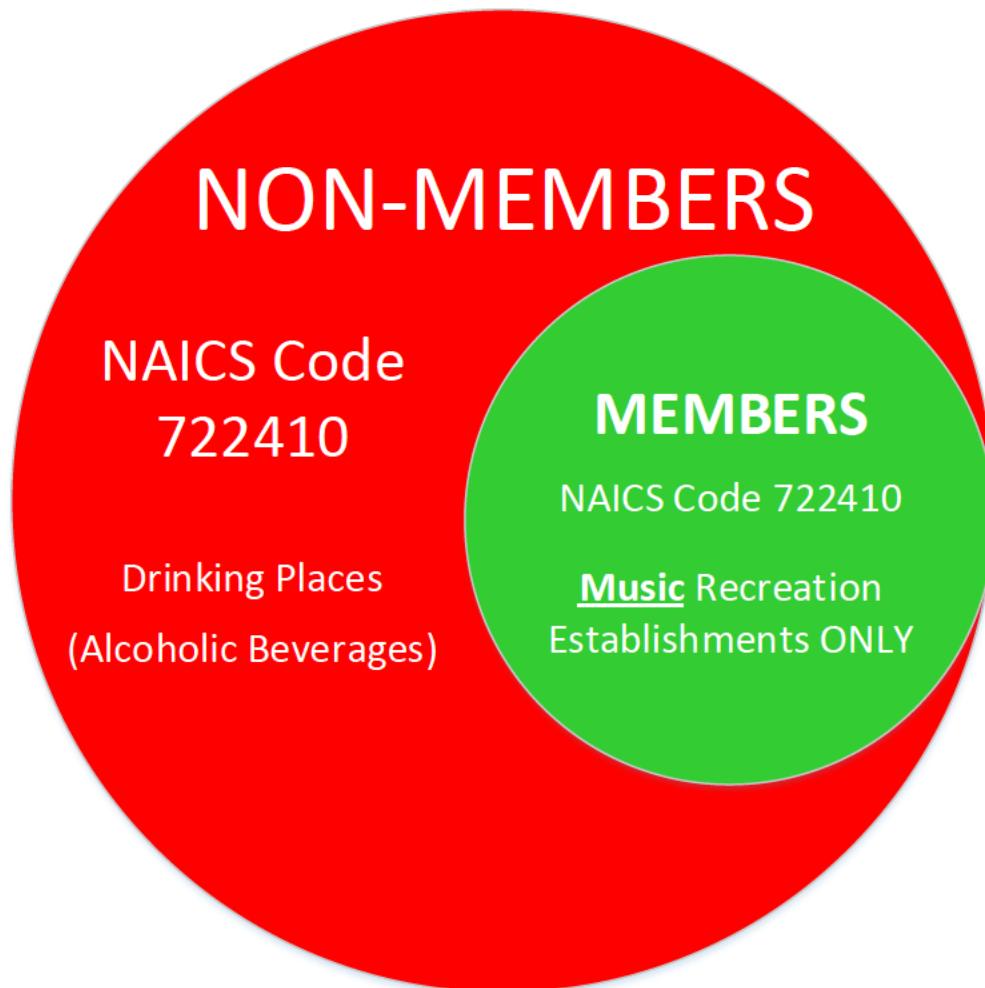
NON-MEMBERS

NAICS Code
722410

Drinking Places

(Alcoholic Beverages)

MEMBERS

NAICS Code 722410

**Music** Recreation
Establishments ONLY

Clarifying Question A - Table 2 - #42 - NAICS 813410
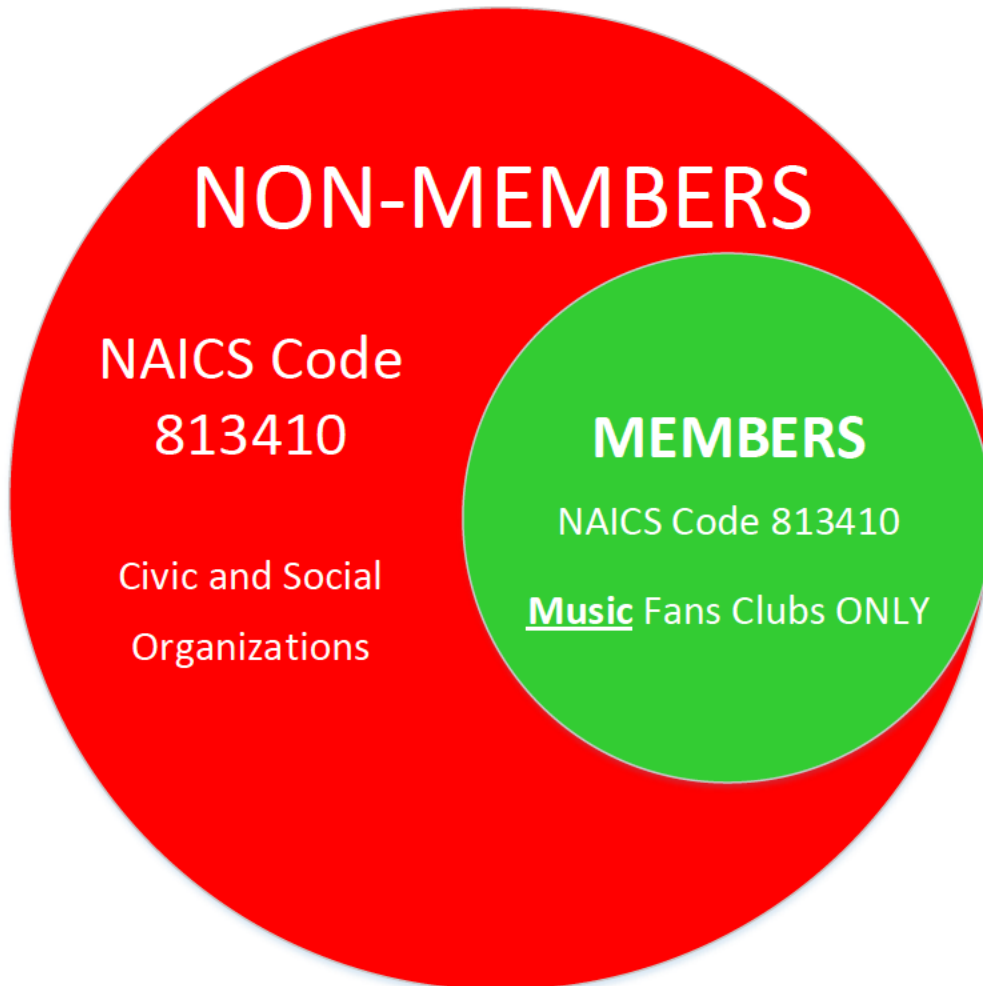
# ANNEX C

**<u>Clarifying Question B - Table 3 - #2 - NAICS 711500*</u>**
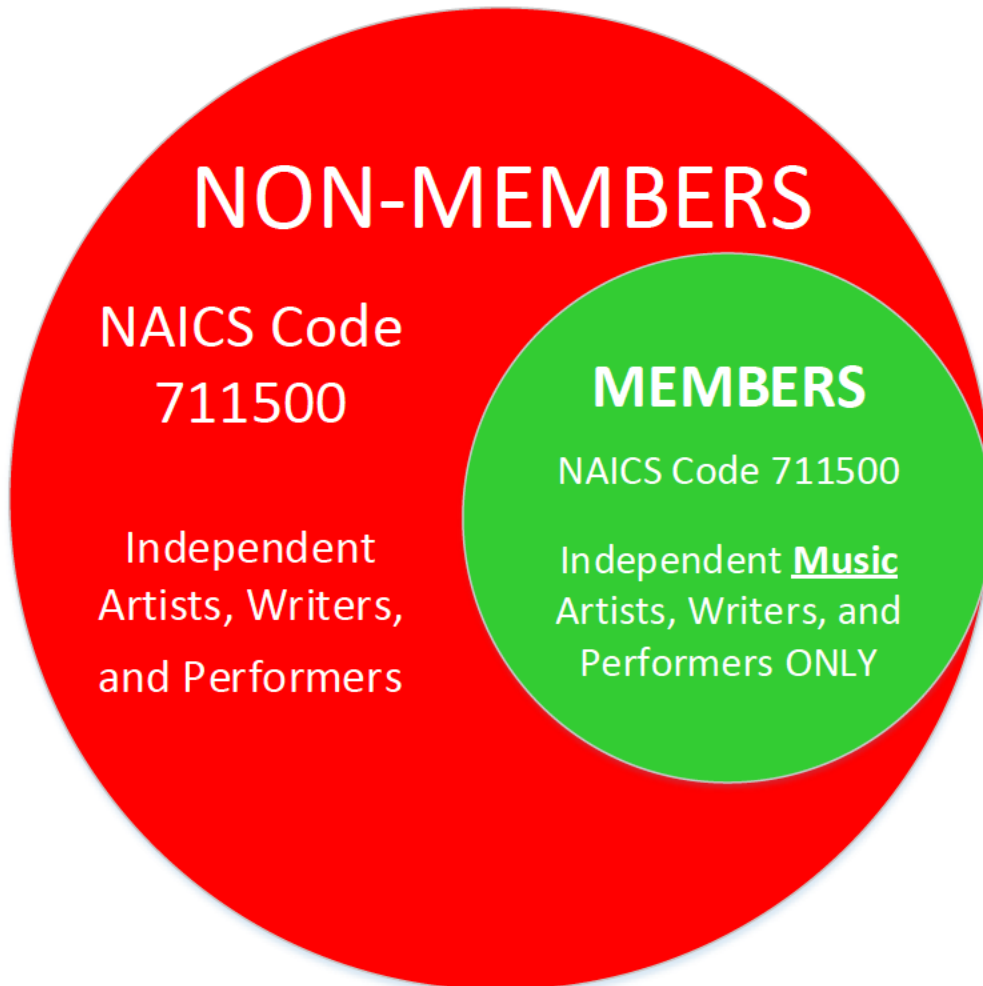


NON-MEMBERS

NAICS Code 711500
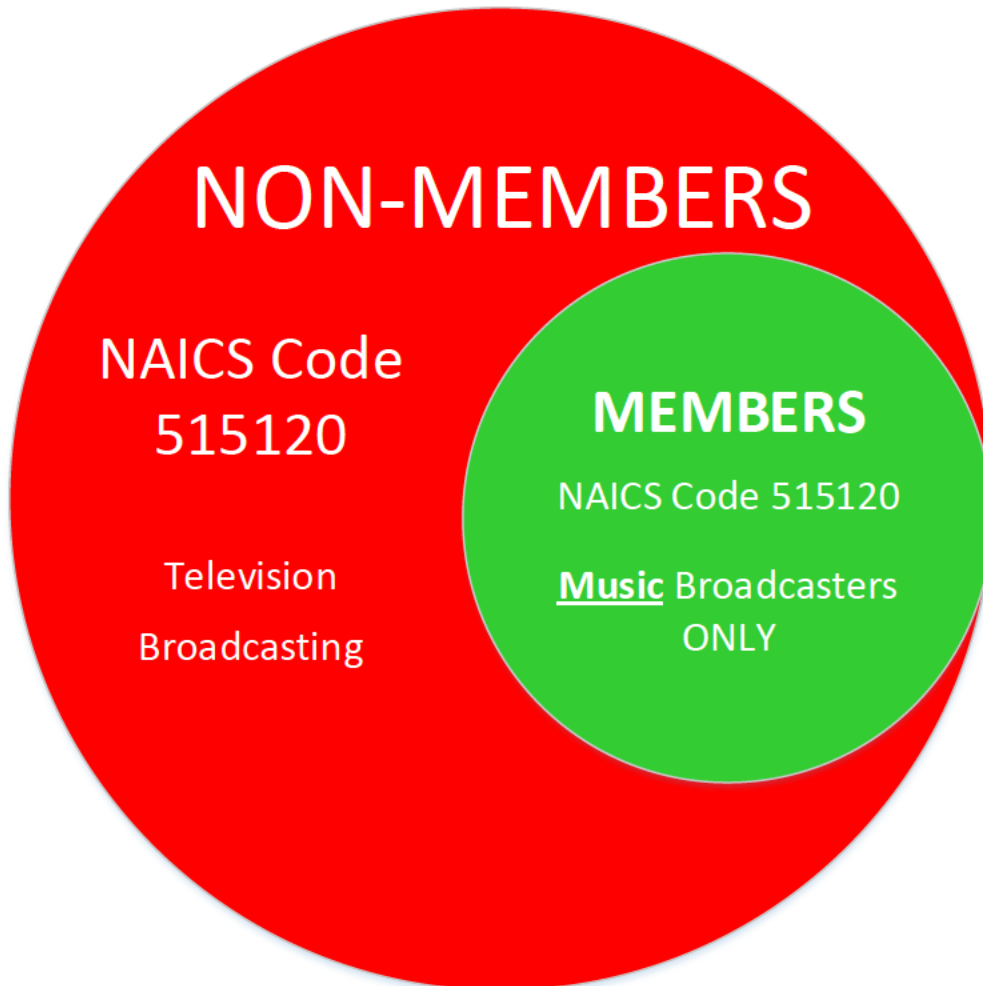
Independent Artists, Writers, and Performers

MEMBERS

NAICS Code 711500

Independent **Music** Artists, Writers, and Performers ONLY

* See <u>*United States Department of Labor, Bureau of Labor Statistics*</u>:

http://www.bls.gov/oes/current/naics4_711500.htm and

http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm

# Clarifying Question B - Table 3 - #11 - NAICS 451220*



* See http://www.dataplace.org/metadata?cid=112346&all=1 and http://naicscode.org/NAICSCode/451220/Prerecorded-Tape-Compact-Disc-and-Record-Stores

According to the _United States Department of Labor, Bureau of Labor Statistics_ (See _http://www.bls.gov/ppi/ppiretailtrade.htm)_:

"NAICS 443142—Electronic stores are establishments that retail a general line of new consumer-type electronic products; including radios, televisions, computers, computer peripherals, prepackaged computer software, cameras, photographic equipment, photographic supplies, prerecorded audio and video tapes, compact discs (CDs), digital video discs (DVDs), cellular phones and cellular phone plans.

**NAICS 443142 is an aggregate of the following 2007 NAICS industries:**

- 443112—Radio, Television, and Other Electronics Stores

- 443120—Computer and Software Stores

- 443130—Camera and Photographic Supplies Stores

- _451220—Prerecorded Tape, Compact Disc, and Record Stores_"

# Clarifying Question B - Table 3 - #16 - NAICS 711400*
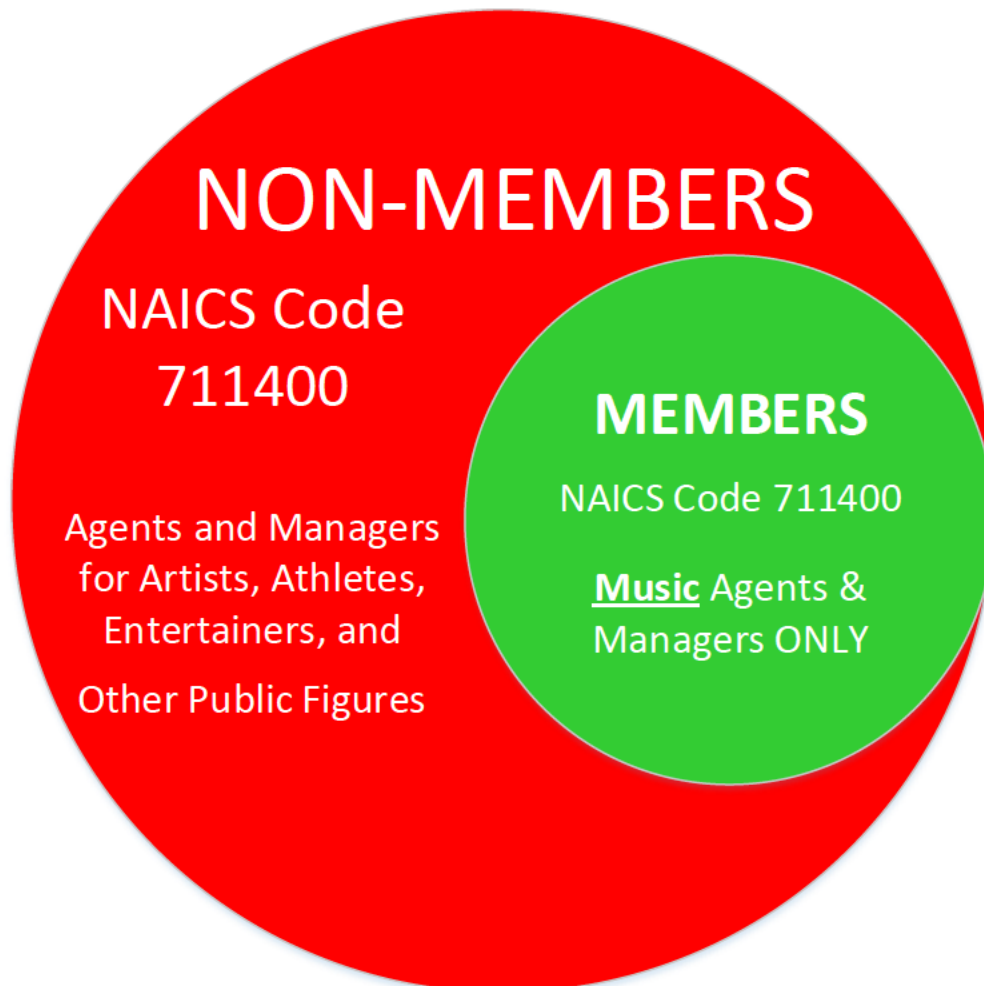


**NON-MEMBERS**

NAICS Code
711400

Agents and Managers
for Artists, Athletes,
Entertainers, and

Other Public Figures

**MEMBERS**

NAICS Code 711400

**Music** Agents &
Managers ONLY

* See *United States Department of Labor, Bureau of Labor Statistics*:

http://www.bls.gov/oes/current/naics4_711400.htm and

http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm

# Clarifying Question B - Table 3 - #17 - NAICS 711300*



NON-MEMBERS
NAICS Code 711300

Promoters of Performing Arts, Sports, and Similar Events

MEMBERS
NAICS Code 711300

**Music** Promoters of Performing Arts, Sports, and Similar Events ONLY

\* See *United States Department of Labor, Bureau of Labor Statistics*:

http://www.bls.gov/oes/current/naics4_711300.htm and

http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm

# Clarifying Question B - Table 3 - #20 - NAICS 711100*
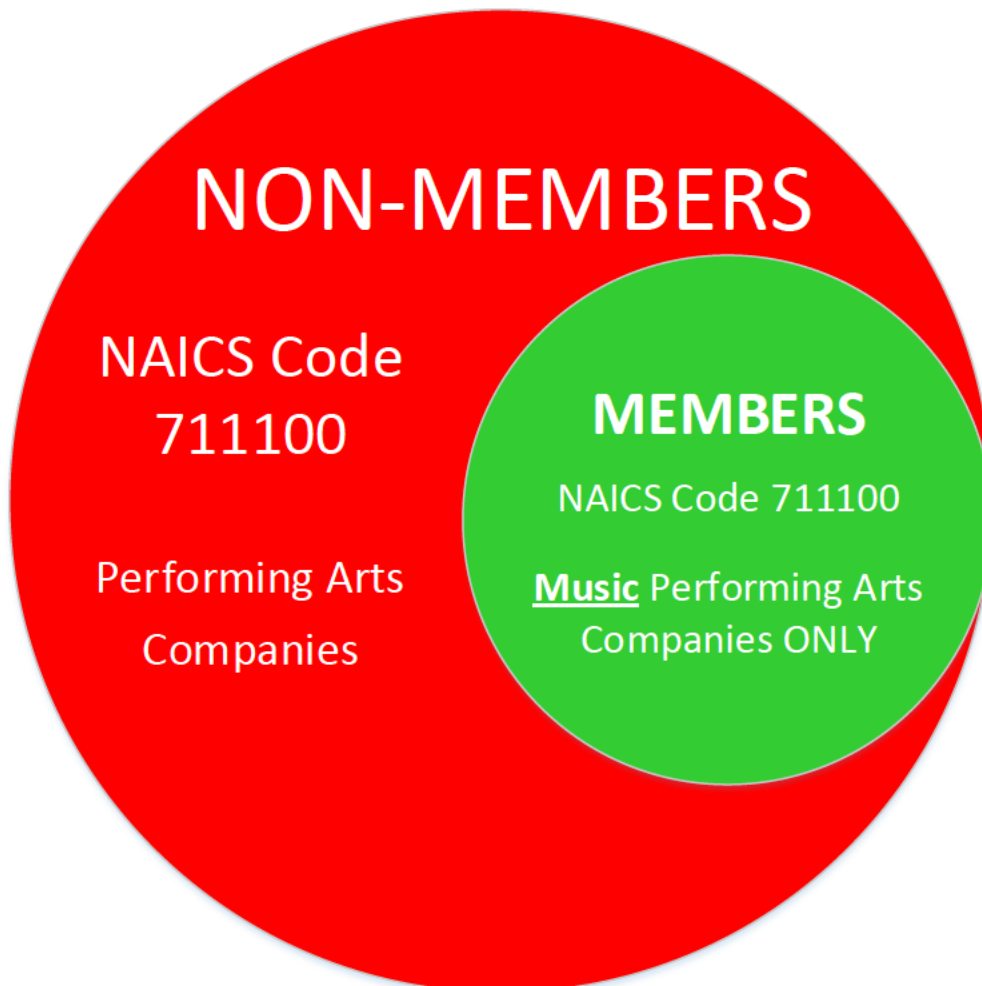


NON-MEMBERS

NAICS Code 711100

Performing Arts Companies

MEMBERS

NAICS Code 711100

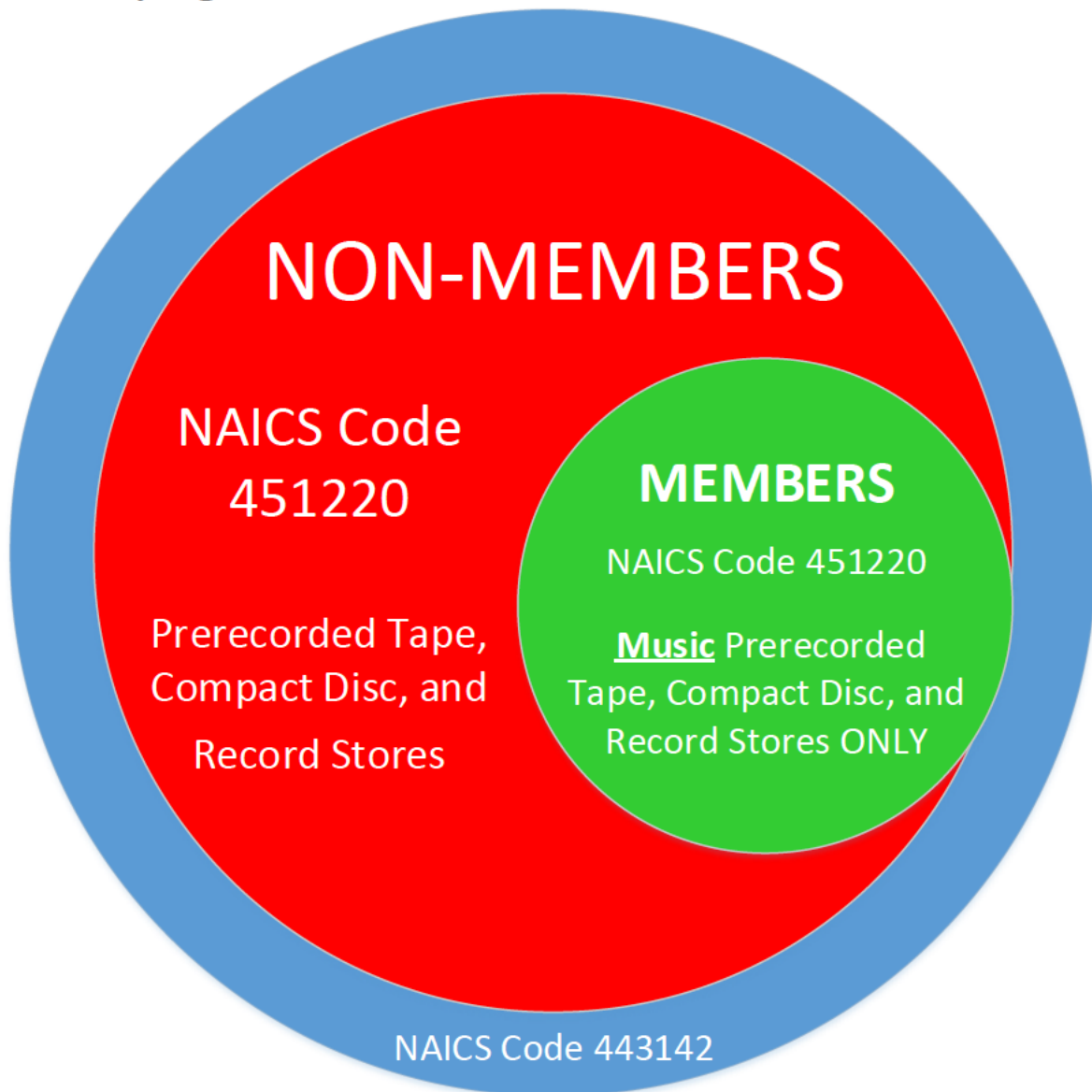**Music** Performing Arts Companies ONLY

* See _United States Department of Labor, Bureau of Labor Statistics_:

http://www.bls.gov/oes/2003/november/naics4_711100.htm and

http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm

# Clarifying Question B - Table 3 - #22 - NAICS 334612*



NON-MEMBERS

NAICS Code
334612

Audio and video
media
reproduction

MEMBERS

NAICS Code 334612

**Music** Audio and video
media reproduction
ONLY
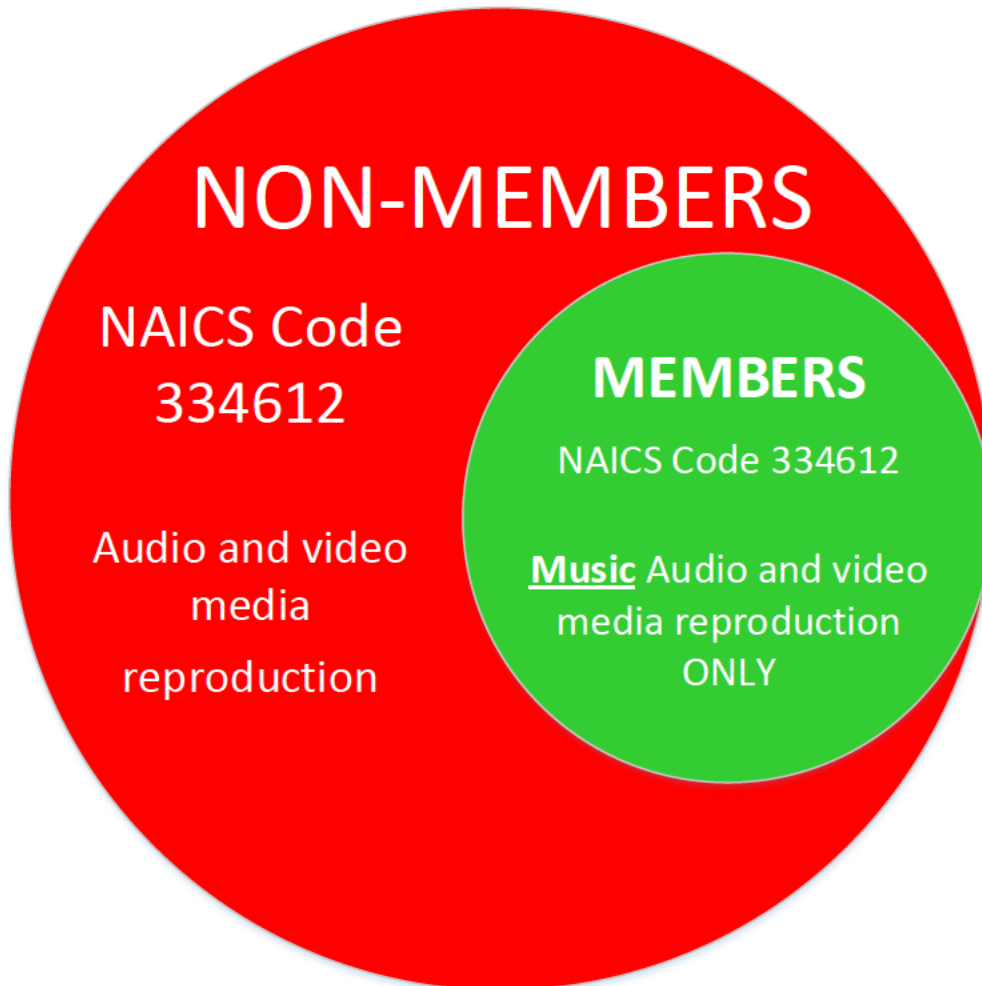
* See *United Nations Statistics Division, United States Department of Labor (Bureau of Labor Statistics) and United States Census Bureau*:

http://unstats.un.org/unsd/cr/registry/regcssm.asp?Cl=230&Lg=1&Co=334612,

http://census.gov/econ/isp/sampler.php?naicscode=334614&naicslevel=6 ,

http://download.bls.gov/pub/time.series/cs/cs.industry  and

http://www.bls.gov/cew/doc/titles/industry/industry_titles.htm

Note: NAICS07 334612 (i.e. Prerecorded Compact Disc (except Software), Tape, and Record Reproducing) is now under the same NAICS Code 334612 and re-categorized as "Audio and video media reproduction"

# ANNEX D
# Music Community Eligibility Venn Diagram

**Eligible .MUSIC Community**

Strictly Delineated and Organized
Logical Alliance of Communities
Related to Music with Requisite
Awareness of Community Defined

Amateur
Music
Constituents

Commercial
Music
Constituents

Non-Commercial
Music
Constituents

**Ineligible Non-Music Community Members that lack
Recognition and Awareness of the Community Defined**

LOG IN   SIGN UP   SEARCH   **f** **y** **o** **YouTube** **g+**

0 tems n Your Cart

# PEARL JAM

NEWS   MUSIC   TOUR   MEDIA   FORUM   ACTIVISM   SHOP   THE BAND   TEN CLUB   GIFT CARDS

FAQ   JOIN   TICKET POLICY   EVENTS   SIGN UP

**TENCLUB**



# TEN CLUB IS PEARL JAM'S OFFICIAL FAN CLUB

Ten Club was born from the remains of the Mother Love Bone Earth Affair    a fan organization started by Pearl Jam in 1990 as a way for the band to give back to their fans and create a community around Pearl Jam's music

Run entirely in house since its inception  Ten Club has a staff of seven individuals dedicated to the care of the band's most devoted fans

**For $20 a year (Digital) and $40US/$50INT a year (Analog) Ten Club members from around the globe are provided with members-only goods and services that include:**

- **Annual DEEP magazine:** A beautiful booklet made by the band for its fans   t's a collectible piece that will look great up on your shelf  (Digital members get digital download of the Deep Magazine)

- **Annual vinyl 45 single:** Our way of holding onto a touchstone of music the way it was when Pearl Jam and Ten Club started (Digital members get digital download of the Annual Single)

- **Priority ticketing:** Ten Club holds the best seats in the house for members only pre sales and rewards long time fans for their dedication with seniority based seating  Ticket allocations and box office relations are handled in house to ensure that the best tickets end up in the hands of Ten Club members  Although members are not guaranteed tickets  they are given the best chance at the best seats via a drawing  before the public on sales

- **Access to exclusive content on www.pearljam.com:** ncludes posting privileges on Ten Club Forums   Ten Club Radio  Ten Club Theater and much more

- **Monthly email newsletter:** ncludes updates about releases  touring  members only contests  merchandise  web content  activism and more

BECOME A TEN CLUB MEMBER HERE

**PEARL JAM**

Search Site

# COMPASS RECORDS STREET TEAM

**JOIN THE COMPASS RECORDS STREET TEAM**

**Compass Records is looking for motivated individuals (who appreciate great music) to join our Street Team and help us spread the word about our talented roster  If you are enthusiastic about music and wish to acquire experience in the music industry, the Compass Records Street Team is the perfect opportunity for you.**

DETAILS  Be ore an artist per orms or releases a new album  considerable work must be done to noti y the public o  such an occasion  Street  eam Representatives place posters in high-tra ic areas and distribute handbills/contest postcards to audiences at shows o  other s milar artists  Street  eam Reps keep their ears to the ground about trends and events in their places o  residence and help spread the word about upcoming gigs  n return  or their e  orts  members receive a monthly insider newsletter and are thus the  irst to hear the latest at Compass Records  Members may also quali y  or  ree merchandise  signed posters   ree tickets and more

**\*WAYS STREET TEAM MEMBERS CAN GET INVOLVED**

- *Passing out hanging up posters to promote upcoming shows of Compass artists.*
- *Passing out handbills and contest postcards to audiences at various other shows.*
- *Hosting parties for new releases.*
- *Providing Compass with feedback about audience response in their areas, marketing techniques that worked, and their overall promotional experience.*
- *Announcing performances or album releases on the web (email (no spamming, please!), community blogs, Myspace pages, etc.).*

**\*IN APPRECIATION FOR ALL THEIR HELP, STREET TEAM MEMBERS QUALIFY TO RECEIVE AN ARRAY OF REWARDS, INCLUDING**

- *Posters signed by a variety of artists.*
- *CDs for listening parties (often before they are officially released).*
- *Access to special promotional materials.*
- *Tickets to Compass artists  performances.*
- *And More!*

**We here at Compass - including the artists with whom we work - have the utmost appreciation for our fan-base and know that we absolutely could not succeed without you. Thank you for supporting independent music**

*SIGN UP TO BECOME A STREET TEAM MEMBER TODAY!*

Compass Records    Green Linne    Mulligan Records    Xenophile    Tayberry    Cel ophile

**Dis ribu ed Labels**    Dead Reckoning

## BLOGS

# JOIN THE LP STREET TEAM FOR THE THP TOUR
Nov 13, 2014 By: LPU HQ

The Linkin Park Street Team is seeking new and current members to carryout missions in the following cities and vicinities:

Orlando, FL - Nashville, TN - Indianapolis, IN -  Pittsburgh, PA - Albany, NY - New York City - New York State - New Jersey - Pennsylvania, PA - Atlantic City, NJ - Providence, RI - Hershey, PA - Greensboro, NC - Uncasville, CT -  Manchester, NH - Hamilton, ONT - Grand Rapids, MI - Des Moines, IA - Lincoln, NE - Saskatoon, SK - Calgary, AB - Edmonton, AB

Missions will be a mix of digital and street promotions. The deadline to complete this application is November 20, 2014.

To complete an application click HERE.

- Lulu

Please Login to comment.

Dec 9, 2014 at 5:08 PM • L U C A S said

Nice

Reply    Message L U C A S

Nov 22, 2014 at 5:50 AM • Mari37 said

Same Here KSetler :-/

Reply    Message Mari37

Nov 17, 2014 at 6:44 PM • KSetler said

Wish I could, but I have to travel 3 1/2 hours to attend the concert in the closest venue to where I live.

Reply    Message KSetler
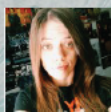
Nov 17, 2014 at 3:46 PM • lpxerotheoryfan said

This is awesome! Hope I get to help out.

Reply    Message lpxerotheoryfan

Nov 17, 2014 at 12:30 PM • dominique meza said

Hmm :/ not in chile, sorry

Reply    Message dominique meza

Nov 17, 2014 at 6:00 AM • Radden said

LPsMart, no :/

Reply    Message Radden

Nov 16, 2014 at 11:41 AM • LPsMart said

Is there a street team in Germany??
Maaann I wanna live in america :'( :D

Reply    Message LPsMart

Nov 15, 2014 at 5:55 AM • Bayra said

Too bad I'm stuck living in Belgium. BOO :-)

Reply    Message Bayra

Nov 15, 2014 at 5:06 AM • kaitlxnshaw said

Providence!!!!

Reply     Message kaitlxnshaw

Nov 15, 2014 at 4:55 AM • Annalisa said

Wish I could do it!

Reply     Message Annalisa

→

music orrelie .org / power heworld.org / lpunderground.com / mikeshinoda.com / joehahn.com

# Terms and Conditions

## General Terms and Conditions

1. Acceptance of Terms: P edgeMus c.com L m ted ("P edgeMus c") s an on ne serv ce that fac tates mus c fans (a "P edger") contr but ng to the record ng costs of ndependent mus c an s (the "Art st") mus c and a so (opt ona y) to contr bute to a char ty des gnated by the Art st (the "Char ty") (co ect ve y, the "Serv ce"). The Serv ce s operated from the webs te www.p edgemus c.com. The use of the P edgeMus c Serv ce by an Art st to ra se money from P edgers sha be referred to as a "Campa gn". To part c pate n the Serv ce you must read and accept a of the terms and cond t ons of th s agreement. Art sts are a so subject to the terms and cond t ons n Supp ementa Terms and Cond t ons – Art sts, wh ch s ncorporated by reference nto th s agreement. P edgeMus c may mod fy the terms of th s agreement, n our so e d scret on, by post ng amended terms to the P edgeMus c.com webs te. Your cont nued use of the serv ce nd cates your acceptance of the amended agreement.

2. Part c pat on: Your part c pat on n the Serv ce may requ re that you supp y certa n persona nformat on to P edgeMus c. The nformat on you supp y must be fu , comp ete, and accurate. You are requ red t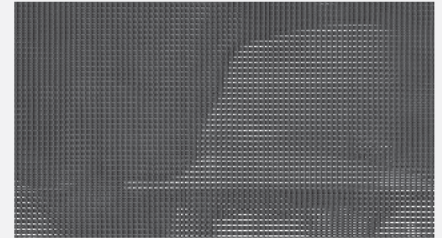o ma nta n and update th s nformat on to keep t current, comp ete and accurate. Persona nformat on supp ed w be subject to P edgeMus c Pr vacy Po cy, wh ch s ncorporated by reference nto th s agreement. By us ng the S te or the Serv ce, you are consent ng to have your persona data transferred to and processed n the Un ted States.

3. Respons b e Use / Code of Conduct: As a cond t on of part c pat on n the Serv ce you w not to use the Serv ces for any purpose that s un awfu or proh b ted by these Terms of Serv ce, or any other purpose not reasonab y ntended by P edgeMus c. Further your use of the Serv ce w be n conform ty w th the P edgeMus c Code of Conduct, wh ch s ncorporated by reference nto th s agreement. P edgeMus c may remove any content or account at any t me for any reason at ts so e d scret on.

4. Abuse: To report any abuse of the Serv ce p ease ema :
nfo@p edgemus c.com

5. Content: A post ngs, messages, text, f es, mages, photos, v deo, sounds, or other mater a s ("Content") posted on, transm tted through, or nked from the Serv ce, are the so e respons b ty of the person from whom such Content or g nated. You are ent re y respons b e for any tem of Content that you post, ema or otherw se make ava ab e v a the Serv ce. P edgeMus c does not contro , and s not respons b e for, Content made ava ab e through the Serv ce, and by us ng the Serv ce you may be exposed to Content that s offens ve, ndecent, naccurate, m s ead ng, or otherw se object onab e. P edgeMus c makes no representat on or warranty as to the accuracy, comp eteness or authent c ty of the nformat on conta ned n such Content. You must eva uate, and bear a r sks assoc ated w th, the use of any Content or any re ance on sa d Content, and n no c rcumstances w P edgeMus c be ab e n any way for any Content or for any oss or damage of any k nd ncurred as a resu t of the use of any Content made ava ab e v a the Serv ce. You acknow edge that P edgeMus c does not pre-screen or approve Content, but that P edgeMus c sha have the r ght (but not the ob gat on) n ts so e d scret on to refuse, de ete or move any Content that s ava ab e v a the Serv ce for any reason.

6. Trademark and Copyr ght: P edgeMus c.com L m ted, P edgeMus c, P edgeMus c.com, the P edgeMus c ogo, and other names, ogos, cons and marks dent fy ng P edgeMus c products and serv ces are trademarks of P edgeMus c.com L m ted and may not be used w thout the pr or wr tten approva of P edgeMus c.com L m ted. A r ghts not express y granted n th s agreement are reserved.

7. F nanc a Transact ons: P edgeMus c acts as an ntermed ary between P edgers and Art sts, and a mon es co ected are he d on account unt they are d sbursed. After a Campa gn reaches a predeterm ned co ect on po nt (the

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## Artist? Sign Up Now

### Featured Projects



**Charity Children**
**Charity Children**
Help us finish our new album if you like Peace and love Charity Children

68% of goal | 48 days left



**G. Love & Special Sauce**
**'Love Saves The Day'**
is now available for Pre order with L M TED ED T ON goodies & experiences EXCLUS VELY here on PledgeMusic

Order Now



**Baroness**
**'Purple'**
our new album is now available for pre order Deluxe bundle and limited edition items exclusively available here

Order Now

"Pledge Target"), PledgeMusic will charge participating Pledger's credit cards or payment accounts for the pledged amount. PledgeMusic will then make any charitable contribution required as part of the Campaign, and disburse funds to cover the Artist's recording and associated expenses (including PledgeMusic's fee for running the Campaign). If a Campaign does not reach the Pledge Target, or expires before collecting enough contributions to meet its target, PledgeMusic will neither charge nor accept payments from any Pledger. PledgeMusic is in no way responsible for the performance or obligations of the Artist. After PledgeMusic charges a Pledger's credit card or other payment account there will be no refunds, unless in its sole discretion PledgeMusic determines that a refund is appropriate (and any refunds made sha be subject to any associated transaction costs). PledgeMusic is under no obligation to become involved in disputes between Pledgers and Artists, or between Pledgers and any third party. In the event of a dispute, you release PledgeMusic, its officers, employees, agents and successors from claims, damages, or demands of any kind, known or unknown, suspected or unsuspected, disclosed or undisclosed, arising out of or in any way related to such disputes and our service. Artists are wholly responsible for fulfilling obligations both implied and stated in any campaign they create. PledgeMusic will engage in commercially reasonable efforts to collect monies committed by Pledgers, however PledgeMusic does not guarantee that it will collect the full amount of money committed by Pledgers. PledgeMusic reserves the right to terminate a Campaign and refund all Pledgers payments at any time for any reason.

8. Termination: PledgeMusic may terminate or suspend any and all Services, and your PledgeMusic account, immediately and without prior notice or liability, if you breach any of the terms or conditions of the Terms of Service. Upon termination of your account, your right to use the Services will immediately cease. If you wish to terminate your PledgeMusic account, you may simply discontinue using the Services or send an email to info@pledgemusic.com (a termination request will be completed within 30 days). All provisions of the General Terms and Conditions which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnities and limitations of liability.

9. Disclaimer of Warranties: YOU EXPRESSLY AGREE THAT USE OF THE SERVICES AND/OR ANY OTHER CONTENT YOU DOWNLOAD FROM PLEDGEMUSIC IS AT YOUR SOLE RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF FILES, SOFTWARE, SERVICES AND/ OR OTHER CONTENT. THE SERVICES AND/OR OTHER CONTENT YOU DOWNLOAD FROM PLEDGEMUSIC ARE PROVIDED ON AN "AS IS" BASIS. PLEDGEMUSIC EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. PLEDGEMUSIC MAKES NO WARRANTY THAT THE SOFTWARE, SERVICES AND/OR ANY OTHER CONTENT YOU DOWNLOAD FROM PLEDGEMUSIC WILL MEET YOUR REQUIREMENTS, OR THAT THE SOFTWARE OR SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; NOR DOES PLEDGEMUSIC MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE OR AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE SERVICE OR THAT DEFECTS IN THE SOFTWARE WILL BE CORRECTED.

10. Limitation of Liability: IN NO EVENT WILL PLEDGEMUSIC OR ITS DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO YOU OR ANY THIRD PERSON FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING FOR ANY LOST PROFITS OR LOST DATA ARISING FROM YOUR USE OF THE SERVICE, ANY PLATFORM APPLICATIONS OR ANY OF THE SITE CONTENT OR OTHER MATERIALS ON, ACCESSED THROUGH OR DOWNLOADED FROM THE SERVICE, EVEN IF PLEDGEMUSIC IS AWARE OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, PLEDGEMUSIC'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO PLEDGEMUSIC FOR THE SERVICE, BUT IN NO CASE WILL PLEDGEMUSIC'S LIABILITY TO YOU EXCEED £200. YOU ACKNOWLEDGE THAT IF NO SUMS ARE PAID TO PLEDGEMUSIC FOR THE SERVICE, YOU SHALL BE LIMITED TO INJUNCTIVE RELIEF ONLY, UNLESS OTHERWISE PERMITTED BY LAW, AND SHALL NOT BE ENTITLED TO DAMAGES OF ANY KIND FROM PLEDGEMUSIC, REGARDLESS OF THE CAUSE OF ACTION.

11. External Links: PledgeMusic may provide links to other websites or resources,



**Chris Mann**
**The New Album!**
Pre order my new album or other exclusive items & gain access to behind the scenes videos pictures music +…

83% of goal    48 days left

however P edgeMus c s not respons b e for the ava ab ty of such externa s tes or resources, and does not endorse and s not respons b e or ab e for any Content, advert s ng, products or other mater a s on or ava ab e from such s tes or resources. You further acknow edge and agree that P edgeMus c sha not be respons b e or ab e, d rect y or nd rect y, for any damage or oss caused or a eged to be caused by or n connect on w th use of or re ance on any such Content, goods or serv ces ava ab e on or through any such s te or resource.

12. Indemn ty: You agree to ndemn fy and ho d P edgeMus c, ts subs d ar es and aff ates, and each of the r d rectors, off cers, agents, contractors, partners and emp oyees, harm ess from and aga nst any oss, ab ty, c a m, demand, damages, costs and expenses, nc ud ng reasonab e attorney s fees, ar s ng out of or n connect on w th any content, any th rd party content you post or share on or through P edgeMus c, your use of the Serv ce or P edgeMus c, your conduct n connect on w th the Serv ce or P edgeMus c or w th other users of the Serv ce or P edgeMus c, or any v o at on of th s Agreement, any aw or the r ghts of any th rd party.

13. Ent re Agreement: Th s agreement const tutes the ent re agreement between you and P edgeMus c regard ng the use of the Serv ce, supersed ng any pr or agreements between you and P edgeMus c re at ng to the Serv ce. The fa ure of P edgeMus c to exerc se or enforce any r ght or prov s on of th s agreement sha not const tute a wa ver of such r ght or prov s on n that or any other nstance. If any prov s on of th s agreement s he d nva d, the rema nder of th s agreement sha cont nue n fu force and effect. If any prov s on of th s agreement sha be deemed un awfu , vo d or for any reason unenforceab e, then that prov s on sha be deemed severab e from th s agreement and sha not affect the va d ty and enforceab ty of any rema n ng prov s ons. No var at on to th s agreement w be b nd ng upon P edgeMus c un ess t s made n wr t ng and s gned by a d rector or off cer of P edgeMus c.

14. Govern ng Law and Jur sd ct on: These terms and cond t ons sha be governed by and construed n accordance w th Eng sh aw, w thout regard to ts conf ct of aws pr nc p es. D sputes ar s ng n connect on w th these terms and cond t ons sha be subject to the exc us ve jur sd ct on of the Eng sh courts. You wa ve any c a m that any a ega proceed ng ( nc ud ng any tort c a m) brought n accordance w th th s c ause has been brought n an nconven ent forum or that the venue of that proceed ng s mproper.

# Supplemental Terms and Conditions – Artists

1. P edgeMus c.com L m ted ("P edgeMus c") s an on ne serv ce that fac tates mus c fans (a "P edger") contr but ng to the record ng costs of ndependent mus c an s (the "Art st") mus c and a so (opt ona y) to contr bute to a char ty des gnated by the Art st (the "Char ty") (co ect ve y, the "Serv ce"). The Serv ce s operated from the webs te www.p edgemus c.com. The use of the P edgeMus c Serv ce by an Art st to ra se money from P edgers sha be referred to as a "Campa gn". These Supp ementa Terms and Cond t ons govern the re at onsh p between P edgeMus c and an Art st n re at on to the Serv ce.

2. S gn ng up: In s gn ng up to use the Serv ce, or dur ng the r Campa gn, Art sts may be requested to prov de nformat on to P edgeMus c re evant to the r

3. W thd awa be o e edge Ta get: A t sts may at any t me be o e each ng the P edge Target, but a ways on 30 days not ce, w thdraw from the Serv ce and term nate the r Campa gn by ema ng nfo@p edgemus c.com and prov d ng deta s of the r reasons.

4. W thdrawa after P edge Target: Art sts who have reached the r P edge Target are comm tted to comp et ng and record ng and d str but ng the r a bum. If for any reason th s s not poss b e the Art st must mmed ate y nform P edgeMus c of th s fact, and cooperate fu y and n the utmost of good fa th w th P edgeMus c to address th s s tuat on n a way that s cons stent w th the nterests of P edgeMus c, the Art st, and nvo ved P edgers.

5. D sbursement of p edged mon es: Mon es co ected by P edgeMus c for a Campa gn w be he d on account for the Art st. P edgeMus c w mmed ate y make any Char tab e Contr but ons requ red by the Campa gn n the Art st s name, and then d sburse funds to cover the Art st s record ng and assoc ated expenses ( nc ud ng P edgeMus c s fee for runn ng the Campa gn) d rect y to the serv ce prov ders nvo ved. The Art st and P edgeMus c w agree together on wh ch serv ces prov ders are su tab e for the Art sts Campa gn requ rements, and P edgeMus c sha contract d rect y w th these serv ce prov ders for the Art sts requ rements. If P edgeMus c has reason to be eve that Art st w not comp ete the r Campa gn ob gat ons P edgeMus c may cease to d sburse funds for the Art st, and requ re that the Art st enter nto d scuss ons w th P edgeMus c to address P edgeMus c s concerns regard ng the comp et on of

the campaign obligations. If the Artist and PledgeMusic are unable to reach a satisfactory agreement regarding the outstanding campaign obligations of the Artist PledgeMusic may terminate the Campaign and refund monies to Pledgers of the Campaign in proportion to the amounts remaining in the account for the Campaign. Interest on all funds held shall accrue to the benefit of PledgeMusic

6. ChargeBacks and Refunds: If, for any reason, PledgeMusic is required to refund monies to Pledgers of a Campaign, the Artist will fully compensate PledgeMusic for the amount refunded as well as any associated costs, including but not limited to transaction or administrative costs.

7. Intellectual Property: Artist shall fully own all the intellectual property to all publishings and recordings they create through or result from their Campaign. Artist grants to PledgeMusic a non-exclusive, worldwide, royalty free license to reproduce, digitally distribute, and publicly perform the recordings (as well as any underlying musical compositions) created or contributed by the Artist as part of the Campaign via any means developed, owned, or controlled by PledgeMusic or its partners solely for the purposes of promoting the Artist's Campaign or PledgeMusic. Artist also grants to PledgeMusic a non-exclusive, worldwide license to (i) to reproduce, display and distribute any artwork, photographs supplied by the Artist, liner notes, metadata, track data lyrics and editorial content relating to the recordings, and (ii) to use the name (including professional name(s)), likeness, performances, photographs, and biographical material of each performer, producer, and songwriter featured on a recording, in connection with promoting the Artist's Campaign or PledgeMusic. Notwithstanding the foregoing, Artist acknowledges and agrees that PledgeMusic's business model may involve free promotional downloads and/or streams of recordings.

8. Representations, Warranties and Indemnities: Artist hereby warrants and represents that: (i) It has the right and power to enter into and fully perform all of its obligations under this Agreement; (ii) It has the authority and right to provide PledgeMusic with the rights granted herein; (iii) PledgeMusic's exercise of the rights granted herein will not infringe upon any copyright, trademark, right of publicity, moral right or other proprietary, intellectual property, contractual or other right of any person anywhere in the world; (iv) Neither the recordings, nor any other content provided to PledgeMusic by the Artist violate any applicable laws or regulations, including, without limitation, defamation and obscenity laws; (v) The recordings do not include any unlicensed samples or interpolations, Artist shall have the sole responsibility to ensure, as necessary, that all recordings are fully licensed; (vi) No agreement of any kind entered into by Artist does or will interfere in any manner with PledgeMusic's complete performance of this Agreement, or with the rights granted to PledgeMusic herein; and (vii) PledgeMusic shall not be required to make any payments to third parties in connection with exploitation of the Masters, Controlled Compositions or Content hereunder. Artist will defend, indemnify, and hold harmless PledgeMusic, its parents, subsidiaries, affiliates, and their respective directors, officers, employees, and agents, with respect to any claim, demand, cause of action, or debt or liability brought by or claimed by any third party, including attorneys fees, to the extent that any such claim is based upon or arises out of a breach of any of Licensor's representations, warranties, covenants, or obligations.

9. Tax or other financial obligations: Artist will be fully responsible for any taxation or other financial obligations arising out of its participation in the service. If, for any reason, PledgeMusic is required to pay any monies relating either directly or indirectly to an Artist's campaign, Artist shall fully reimburse PledgeMusic for those amounts within 30 days of being informed of these payments.

# Code of Conduct

1. Principles: PledgeMusic.com Limited ("PledgeMusic") is an online service that facilitates music fans (a "Pledger") contributing to the recording costs of independent musicians (the "Artist") music and also (optionally) to contribute to a charity designated by the Artist (the "Charity") (collectively, the "Service"). In order to facilitate this we require that all users of the Service abide by this Code of Conduct. PledgeMusic may modify the terms of this Code of Conduct, in our sole discretion, by posting amended terms to the PledgeMusic.com website. Your continued use of the Service indicates your acceptance of the amendments.

2. When using the Service activities that are not permitted include, but are in no way limited to, the following:
   1. to act in an abusing or threatening way;
   2. to intimidate or impersonate anyone;
   3. any illegal acts;
   4. any infringement of intellectual property rights;
   5. any commercial activities not approved in writing by PledgeMusic

3. You will not to post, email, or otherwise make available Content:

1. that is unlawful, harmful, threatening, abusive, harassing, defamatory, libelous, invasive of another's privacy, or is harmful to minors in any way;
2. that is pornographic;
3. that harasses, degrades, intimidates or is hateful toward an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;
4. that impersonates any person or entity, including, but not limited to, a PledgeMusic employee, or falsely states or otherwise misrepresents your affiliation with a person or entity;
5. that includes personal or identifying information about another person without that person's explicit consent;
6. that is false, deceptive, misleading, or deceitful;
7. that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party, or Content that you do not have a right to make available under any law or under contractual or fiduciary relationships;
8. that constitutes or contains "affiliate marketing," "link referral code," "junk mail," "spam," "chain letters," "pyramid schemes," or unsolicited commercial advertisement;
9. that constitutes or contains any form of advertising or solicitation;
10. that includes links to commercial services or web sites;
11. that advertises any illegal service or the sale of any items the sale of which is prohibited or restricted by any applicable law;
12. that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
13. that disrupts the normal flow of dialogue with an excessive amount of Content (flooding attack) to the Service, or that otherwise negatively affects other users' ability to use the Service; or
14. that employs misleading email addresses, or forged headers or otherwise manipulated identifiers in order to disguise the origin of Content transmitted through the Service.
4. You agree not to:
   1. contact anyone who has asked not to be contacted;
   2. "stalk" or otherwise harass anyone;
   3. collect personal data about other users for commercial or unlawful purposes;
   4. use automated means, including spiders, robots, crawlers, data mining tools, or the like to download data from the Service – unless expressly permitted by PledgeMusic;
   5. post irrelevant Content, repeatedly post the same or similar Content or otherwise impose an unreasonable or disproportionately large load on our infrastructure;
   6. attempt to gain unauthorized access to PledgeMusic's computer systems or engage in any activity that disrupts, diminishes the quality of, interferes with the performance of, or impairs the functionality of, the Service or PledgeMusic website; or
   7. use any form of automated device or computer program that enables the submission of postings on PledgeMusic without each posting being manually entered by the author thereof (an "automated posting device"), including without limitation, the use of any such automated posting device to submit postings in bulk, or for automatic submission of postings at regular intervals, or engage in any other acts which could be considered "gaming the system"

# Privacy Policy

1. Principles: PledgeMusic.com Limited ("PledgeMusic") is an online service that facilitates music fans (a "Pledger") contributing to the recording costs of independent musicians (the "Artist") music and also (optionally) to contribute to a charity designated by the Artist (the "Charity") (collectively, the "Service"). To achieve this aim PledgeMusic collects and processes certain personal information (the "Personal Information"). PledgeMusic may modify the terms of this Privacy Policy, in our sole discretion, by posting amended terms to the PledgeMusic.com website. Your continued use of the Service indicates your acceptance of the amendments.
2. What information is collected: When signing up with the Service you will be asked to supply information which may include your name, address, telephone number, email address, credit card details, date of birth, gender, or other information. When using the Service we may collect your browser type, OS type, IP address. We also store certain information in your browser called "cookies". We use session ID cookies to confirm that users are logged in. These cookies terminate once the user closes the browser. By default, we use a persistent cookie that stores your login ID (but not your password) to make it easier for you

to log in when you come back to the Service. You can remove or block this cookie using the settings in your browser if you wish to disable this convenience feature.

3. Why is this information gathered and how is it used: All information gathered by PledgeMusic is for the express purpose of enabling a more productive, customized, and efficient experience for our users. We do not sell user information. Private information gathered may be used to verify users in order to increase the soundness of a Campaign, by a Campaign in which the Pledger is a member to make a statement (as organized by members of that Campaign), or any other disclosure if, and only if, approved by the user whose information is being revealed. Campaign information, detached from any private information, will also be reviewed by PledgeMusic staff periodically for the purpose of improving the website and enforcing the General Terms and Conditions. PledgeMusic may occasionally email you notifications regarding new services, the status of a Campaign you belong to, internal messages you have received from other site members, and other account information. PledgeMusic may disclose this information to business partners, and Artists running a Campaign to which a Pledger has Pledged.

4. Abuse: Any improper collection or misuse of information provided on PledgeMusic is a violation of PledgeMusic's General Terms and Conditions and should be reported to: info@pledgemusic.com

5. Credit Card Information and Security: PledgeMusic does not store credit card information. Credit card transactions are transmitted to a secure financial gateway, and we endeavour to protect the security of your payment information during transmission by using Secure Sockets Layer (SSL) technology. Credit card information is stored in an encrypted form by our payment gateway provider. PledgeMusic stores only the last four digits of any credit card with a reference ID for the payment gateway.

6. Archives: PledgeMusic may keep copies of user information or Campaigns after their removal from the site in archive storage. This archive storage may include past versions of stored items that have since been modified or deleted.

7. Children Under Age 13: PledgeMusic does not knowingly collect any information from persons under the age of 13. If PledgeMusic learns that a posting is by a person under the age of 13, PledgeMusic will remove that post.

8. Children Between the Ages of 13 and 18: We recommend that minors over the age of 13 ask their parents for permission before sending any information about themselves to anyone over the Internet.

9. Changes to this privacy policy: PledgeMusic may amend this privacy policy from time to time, at its sole discretion. Use of information we collect now is subject to the privacy policy in effect at the time such information is used. If we make changes to the privacy policy, we will notify you by posting an announcement on PledgeMusic website to allow you to learn what information we collect, how we use it, and under what circumstances if any, it is disclosed.

10. Conditions of Use: If you decide to visit PledgeMusic website, your visit and any possible dispute over privacy is subject to this privacy policy and our General Terms and Conditions, including limitations on damages, and jurisdiction.

11. Contacting PledgeMusic: If you have any questions about this privacy policy, please contact us. You may also reach us by mail at "Pledge Music, 22 Endell Street, Covent Garden, London, WC2H 9AD", or you can contact us through email at info@pledgemusic.com

## Copyright Policy

1. PledgeMusic.com is in compliance with international copyright laws including 17 U.S.C. 512 and the Digital Millennium Copyright Act ("DMCA"). It is our policy to respond to any infringement notices and take appropriate actions under the Digital Millennium Copyright Act ("DMCA") and other applicable intellectual property laws.

2. If you are a copyright owner or an agent thereof and believe that any file or other content or link infringes upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing us with the following information in writing (see 17 U.S.C 512©(3)):

    1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;

    2. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;

    3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit PledgeMusic to locate the material;

    4. Information reasonably sufficient to permit PledgeMusic to contact you, such as an address, telephone number, and, if available, an electronic mail;

5. A statement that you have a good fa th be ef that use of the mater a n the manner comp a ned of s not author zed by the copyr ght owner, ts agent, or the aw; and
6. A statement that the nformat on n the not f cat on s accurate, and under pena ty of perjury, that you are author zed to act on beha f of the owner of an exc us ve r ght that s a eged y nfr nged.

3. If your not f cat on comp es w th a of these requ rements, you can send t to us by ema to nfo@p edgemus c.com. Any not f cat ons not comp y ng w th the above requ rements w be gnored. P ease a ow 1-2 bus ness days for an ema response.

# ANNEX F

# Music Sector Background: Music is a Copyright Industry

The community defined by DotMusic -- "a strictly delineated and organized community of individuals, organizations and business, a "logical alliance of communities of a similar nature" that relate to music, the art of combining sounds rhythmically, melodically or harmonically" -- functions in a regulated sector. Evidence to support this assessment include recent ICANN Resolutions and GAC Advice that recognized music as a regulated, sensitive sector.[1]

As such, one can clearly "categorize the music industry is to consider it as a copyright industry. Copyright legislation is what makes it possible to commodify a musical work...The core of music industry is about 'developing musical content and personalities' (Negus, 1992), and to be able to license the use of that content and those personalities to consumers and business they need to be protected by copyright legislation.... The use of this term is not new in any way, but has been used by several institutions, for instance OECD, IFPI (2004a), Congress of the United States (CBO 2004) and of course by WIPO... The term also has a clearer definition and is less ambiguous than many of the other terms."[2]

The music (industry) community is "commonly referred to in the literature and in public policy as one of the 'cultural industries' or 'culture industries' first coined by Theodor Adorno and Max Horkheimer in Dialectic of Enlightenment (2002). These are usually described as those industries that create, produce and distribute goods and services that are cultural in nature, and may be further defined by their relationship to copyright as a primary means of control over the economic functions of those industries."[3] "The study of the music industries as a function of culture and society is another popular approach to understanding the music industries. Music is culture, and industries are formed from aspects of cultural engagement."[4]

Governments and their supporting government agencies play an essential complementary[5] role in the music (industry) community because they regulate copyright. According to the U.S Copyright Office:[6]

> The government's involvement in the music marketplace is unusual and expansive relative to other kinds of works created and disseminated under the Copyright Act. In many cases, it compels copyright owners to license their works at government-set rates.

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[1] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3

[2] Patrick Wikström, The Music Industry: Music in the Cloud, Polity Press, Cambridge, 2009, https://www.google.com/search?q=music+is+a+copyright+industry&ie=utf-8&oe=utf-8#q=music+is+a+%22copyright+industry%22, Pg. 5

[3] Chris Anderton, Andrew Dubber and Martin James, Understanding the Music Industries, Sage Publications Ltd, first edition, 2013, https://us.sagepub.com/sites/default/files/upm-binaries/54808_Anderton_ch_1.pdf, Pg. 8

[4] Ibid, Pg.9

[5] For example, IFACCA, a DotMusic supporting organization that is *mainly* dedicated to the community defined, is the sole organization that represents arts councils and government culture agencies globally, which provide essential complementary support services, regulatory enforcement and substantial funding to music globally.

[6] United States Copyright Office, Copyright and the Music Marketplace, A Report of the Register of Copyright, February 2015, http://copyright.gov/policy/musiclicensingstudy/copyright-and-the-music-marketplace.pdf, Pg. 16-18. Also see Appendix D for diagrams concerning Licensing Frameworks. For more examples on royalty flow that many be regulated by government and the symbiotic relationships among music (industry) community members and organizations mainly dedicated to the community, see https://www.prsformusic.com/SiteCollectionDocuments/Membership/The_Music_Universe.pdf.

Regulation of music publishers and songwriters is particularly pervasive: the two most significant areas of their market (mechanical and performance licensing) are subject to mandatory licensing and ratesetting. Antitrust concerns have been the traditional rationale for government intervention. To be sure, where particular actors engage in anticompetitive conduct in violation of antitrust laws, that conduct should be addressed. But compulsory licensing does more than that—it removes choice and control from all copyright owners that seek to protect and maximize the value of their assets.[7] …[L]icensees urge that government oversight is essential to forestall alleged monopolistic practices on the part of the PROs and large music publishers.[8] Many licensing transactions are regulated by the government…They represent a series of statutory and judicial mandates that came into effect at various points during the last century to address particular concerns of the day.[9]

Congress passed the first federal copyright act in 1790 (Act of May 31, 1790, ch. 15, 1 Stat. 124)….In 1831, Congress amended the law to provide expressly that musical works were subject to federal copyright protection.(Act of Feb. 3, 1831, ch. 16, 4 Stat. 436). The 1831 amendment, however, provided owners of musical works with only the exclusive right to reproduce and distribute their compositions, i.e., to print and sell sheet music, because, "[a]t the time, performances were considered the vehicle by which to spur the sale of sheet music."(See Maria A. Pallante, ASCAP at 100, 61 J. COPYRIGHT SOC'Y 545, 545-46 (2014)) In 1897, Congress expanded the rights of music owners to include the exclusive right to publicly perform their works.(Act of Mar. 3, 1897, ch. 392, 29 Stat. 694; see also Zvi S. Rosen, The Twilight of the Opera Pirates: A Prehistory of the Exclusive Right of Public Performance for Musical Compositions, 24 CARDOZO ARTS & ENT. L.J. 1157, 1158-59 (2007)). With the 1909 Copyright Act, federal copyright protection for musical works was further extended by adding an exclusive right to make "mechanical" reproductions of songs in "phonorecords"—in those days, piano rolls, but in the modern era, vinyl records and CDs. At the same time, Congress limited the new phonorecord right by enacting a compulsory license for this use…And in 1995, Congress confirmed that an owner's exclusive right to reproduce and distribute phonorecords of musical works extends to digital phonorecord deliveries ("DPDs")—that is, the transmission of digital files embodying musical works.(Digital Performance Right in Sound Recordings Act of 1995 ("DPRSRA"), Pub. L. No. 104-39, § 4, 109 Stat. 336, 344-48; see also 17 U.S.C. § 115(c)(3)(A).)[10]

Over time, new technologies changed the way people consumed music, from buying and playing sheet music, to enjoying player pianos, to listening to sound recordings on a phonograph or stereo system.(See U.S. COPYRIGHT OFFICE, FEDERAL COPYRIGHT PROTECTION FOR PRE-1972 SOUND RECORDINGS 7, 11 (2011) ("PRE-1972 SOUND RECORDINGS REPORT"); Michael Erlinger, Jr., An Analog

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[7] Ibid, Pg. 3
[8] Ibid, Pg. 12
[9] Ibid, Pg. 16
[10] Ibid. Pg. 17

Solution in a Digital World: Providing Federal Copyright Protection for Pre-1972 Sound Recordings, 16 UCLA ENT. L. REV. 45, 57-58 (2009).) But it was not until 1971 that Congress recognized artists' sound recordings as a distinct class of copyrighted works that were themselves deserving of federal copyright protection.(Pub. L. No. 92-140, 85 Stat. 391 (1971) ("Sound Recording Act of 1971")) This federal protection, however, was limited to sound recordings fixed on or after February 15, 1972, and, until more recently, protected only the exclusive rights of reproduction, distribution, and preparation of derivative works. No exclusive right of public performance was granted. Then, in 1995, Congress granted sound recording owners a limited public performance right for digital audio transmissions—though, as discussed below, that right was made subject to compulsory licensing under sections 112 and 114 of the Copyright Act (DPRSRA §§ 2, 3. The digital performance right is also subject to a number of exceptions, including for transmissions to or within a business for use in the ordinary course of its business, for nonsubscription broadcast transmissions, and for certain geographically limited retransmissions of nonsubscription broadcast transmissions. 17 U.S.C. § 114(d)(1)(A), (B), (C)(ii), (C)(iv).).[11]

As discussed, the United States government is one of many examples of government oversight and royalty rate-setting that are illustrated in the below charts:[12]

| SERVICE TYPE | COPYRIGHT TYPE | REVENUE (%) |
|---|---|---|
| Terrestrial radio | Musical work | 3.7 (2011-2016) [1] |
| | Sound recording | 0.0 |
| | *TOTAL* | *3.7* |
| Pre-existing satellite radio (i.e., Sirius XM) | Musical work | 2.4 (2008) [2] |
| | Sound recording | 9.0-11.0 (2013-2017) |
| | *TOTAL* | *11.4-13.4* |
| Pre-existing cable music service (i.e., Music Choice) | Musical work | 5.5 |
| | Sound recording | 8.0-8.5 (2013-2017) |
| | *TOTAL* | 13.5-14.0 |
| Noninteractive | Musical work | 4.0 (2014) [3] |

[11] Ibid, Pg. 17 and Pg. 18
[12] Loren, Lydia Pallas, The Dual Narratives in the Landscape of Music Copyrights (August 1, 2014). Houston Law Review, Vol. 52, No. 2, 2014. Available at SSRN: http://ssrn.com/abstract=2551342

| | | |
|---|---|---|
| webcasters | Sound recording | 25.0-56.0 |
| | *TOTAL* | *29.0-60.0* [4] |
| Interactive webcasters | Musical work | 10.5 |
| | Sound recording | Unknown [2] |
| | *TOTAL* | *Unknown* |

| TYPE OF COPY | PRICE |
|---|---|
| Physical phonorecords | $0.091 per song or $0.0175 per minute of playing time [6] |
| Digital phonorecord deliveries (DPDs) | $0.091 per song or $0.0175 per minute of playing time [7] |
| Limited downloads (tethered devices) | 3.9 percent of revenue [8] |
| Ringtones | $0.24 per song [9] |

[1] Rate extrapolated by using the 1.7 percent rate charged by ASCAP, with a 45.6 percent PRO market share for ASCAP, resulting in an industrywide rate of 3.7 percent. See *Pandora Media Inc.*, 6 F. Supp. 3d at 361 (45.6 percent market share; *id.* at 366 (1.7 percent royalty rate).

[2] Determination of Rates and Terms for Preexisting Subscription Services and Satellite Digital Audio Radio Services, 73 Fed. Reg. 4,080, 4,088 (Jan. 24, 2008) (to be codified at 37 C.F.R. pt. 382); Peter DiCola, *Copyright Equality: Free Speech, Efficiency, And Regulatory Parity in Distribution*, 93 B.U. L. REV. 1837, 1848 (2013).

[3] This rate is extrapolated by using the 1.85 percent rate set for ASCAP. Using a 45.6 percent PRO market share for ASCAP, this results in an industrywide rate of approximately 4.0 percent. *Pandora Media Inc.*, 6 F. Supp. 3d at 361 (45.6 percent market share); *see id.* at 366 (1.85 percent royalty rate for noninteractive services). This 4 percent approximation was confirmed by the court's description. *Id.* at 346.

[4] 60 percent is used here because it has been reported that "[i]n 2013, Pandora's content acquisition costs were…over 60 percent of its revenue for that fiscal year." *Pandora Media, Inc., 6 F. Supp. 3d at 328*

[5] The arrangements between interactive webcasters and sound recording copyright owners are privately negotiated and not subject to any disclosure requirements. *See* 17 U.S.C. § 114(e) (2012) (providing for private negotiations).

[6] *Mechanical License Royalty Rates,* U.S. COPYRIGHT OFF., http://www.copyright.gov/licensing/m200a.pdf (last visited July 15, 2015)

[7] *Ibid.*

[8] This rate is arrived at by taking the 10.5 percent aggregate rate set by Copyright Office regulation and subtracting 6.6 percent as the portion to be paid for the public performance right. See infra notes 85–91 and accompanying text. 6.6 percent is arrived at by extrapolating from the 3 percent that ASCAP charges interactive webcasters, using a 45.6 percent market share for ASCAP, resulting in an industrywide rate of 6.6 percent. See *Pandora Media, Inc. v. Am. Soc'y of Composers, Authors*, & Publishers, 6 F. Supp. 3d 317, 351, 365 (S.D.N.Y. 2014).

[9] *Mechanical License Royalty Rates*, supra note 6.


MusicBiz also provides other examples and infographics of Master, Mechanical Rights, and Public Performance/Communication Rights royalties that are regulated by global governments in 12 different countries are handled for the six most frequently requested types of music uses (download, non-interactive, on-demand, sync, lyrics, and karaoke).[13] This symbiotic and overlapping structure of music (industry) community relationships and royalty structure of rights can also be downloaded below:

- Argentina
- Australia
- Brazil
- Canada
- France
- Germany
- Italy
- Japan
- Mexico
- United Kingdom
- United States

According to WIPO:[14]

> These rights are defined within national copyright laws which are, in large part, shaped by international treaties, many of which are administered by WIPO (see box). Copyright law defines the rights conferred on authors of original works, and those who perform them, as well as those who support their widespread dissemination (i.e. record companies and broadcasters).

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[13] http://musicbiz.org/press-releases/new-music-biz-infographic-simplifies-global-music-licensing-country-specific-guide/

[14] World Intellectual Property Organization, http://www.wipo.int/ip-outreach/en/ipday/2015/creating_value_from_music.html

Once a work has been created – lyrics or musical notes written down, arranged or recorded - copyright protection kicks in. There is no formal obligation to register a work with a national authority, although in some countries, such the US, registering a work with the Library of Congress is the only way to bring a court action for infringement.

Under the 1886 WIPO Berne Convention for the Protection of Literary and Artistic Works,[15] an original work is protected for a minimum of 50 years after the author's death but in many jurisdictions that figure can be 70 years or more.

In a nutshell, copyright enables those who hold rights in a work to decide how, when and where it may be used and by whom. One of the purposes of copyright is to create the conditions for creators to be able: to earn a living from their talent by getting a financial return on the time and energy they put into producing a work and being recognized as its author.

Copyright includes economic rights which give the creator the right to authorize, prohibit or obtain financial compensation (in the form of equitable remuneration) for:

- the reproduction of a work, for example, on a CD, online or in a film;
- the distribution of copies of a work;
- the communication to the public of a work. If a piece of music is performed in public or played over a sound system in a shopping mall or a disco, a royalty is payable to authors, performers and/or right holders according to the national legislation.
- broadcasting or otherwise making available a work to the public (i.e. via radio, TV or online)
- the adaptation of a work (if someone translates the lyrics of a song and wants to record these using the same music as that of the original song, or changes an original work adding new elements to it, they first need to get authorization from those with rights in the original work). The new adapted work also qualifies for copyright protection in its own right. Depending on the terms of the agreement to license the original work, anyone seeking to publish or use such a work may need to get authorization to do so from those with rights in the original work.

Copyright also confers moral rights (Article 6b is of the Berne Convention) allowing the creator of a work to claim authorship in it (the right of paternity or attribution) and to object to any modification of it that may be damaging or prejudicial to them (the right of integrity).

Under certain circumstances, there are limitations on copyright and related rights (as set out in international and national copyright laws). For example, when someone wants to use a work or a portion of it for teaching, scientific research, news reporting, etc.

Most countries recognize the possibility of using work without the right owner's authorization but may regulate such use in different ways. Some countries have a list of "permitted uses" whilst others have a general provision in their copyright law (e.g. "fair use" in the US). Considerations in determining "fair use" include the nature and purpose of use, the nature of the work used; the amount of the work used; and the likely impact on the work's commercial value.

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[15] http://www.wipo.int/treaties/en/ip/berne/

As a guiding principle, the "free use" of protected works must be confined to certain specific instances; must not "conflict with the normal exploitation of the work"; and must "not unreasonably prejudice the legitimate interests of the author (or right holder)."

The owner of economic rights in a musical work (moral rights can never be transferred from the original author) can use them to generate income. They can **sell** or **license** them to a third party – a company or individual who is well placed to commercialize the work - in return for a payment known as a royalty, where payments usually depend on the actual use of the work. They can assign the rights to authorize or prohibit certain or all of the acts outlined above. In both instances, the person to whom the rights are sold or assigned becomes the new owner of the copyright. In some countries, e.g. Germany, assignment is not legally possible and so works can only be licensed.

Licensing involves the copyright owner entering into a deal with a third party, authorizing it to use the work for a specific purpose and time period. For example, a songwriter may give permission to a music publisher to authorize the recording of his or her song by performers and record companies. These licenses may be exclusive, involving only one party, or non-exclusive involving multiple parties.

Given the fact that it simply is not practical for authors and performers to negotiate separate licensing deals with every single radio or television station, or business that wants to use their work, musicians and other creators often sign up with, and in so doing, grant exclusive licenses to, a collective management organization**.** Acting on behalf of songwriters, musicians and performers, CMOs connect creators with those who want to use their work. National laws may also authorize a CMO to negotiate on behalf of authors and performers. CMOs authorize the use of a musician's work; collect and distribute licensing fees or royalties, and also keep tabs on any misuse or infringement.

Every piece of music is protected by copyright. There is copyright in the music itself; in the lyrics of a song and related rights in the sound recording. If anyone wants to use a musical work, or a portion of it, they must obtain the permission of the copyright holder(s), except in the cases covered by a limitation (see above). Just as CMOs can help artists manage their music and collect associated royalties; they can also help those seeking to obtain permission to use a protected work.

# .MUSIC Registration
## Process Flowchart

yourname.music

.Music™

www.music.us

**Start**

**Domain Available** — No / Yes

**Community Member with Community Recognition** — No / Yes

**Comply to Naming, Content & Use, MPCIDRP & Enforcement TOS *** — No / Yes

**Globally Protected Marks List** — No / Yes

**Sunrise** — No / Yes

**MCMO Phase** — Yes / No

**Landrush** — Yes / No

**General Availability**

**Two-Step Validation** — Yes / No

**Two-Step Validation** — Yes / No

**Ineligible**

**Select Music Delineation Community Type for Premium Channels**

**Select Music Delineation Community Type for Premium Channels**

**Contention** — No / Yes

**Win Auction** — Yes / No

**Registration**

**Domain Not Available**

**\* Registration Policies include:**

- <u>Eligibility</u> - Restricted to Music Community members with requisite awareness and recognition of the community addressed: the "strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music" (which includes members of DotMusic Music Community Member Organizations -- MCMOs);
- <u>Authentication</u> - Mandatory Two-Step Phone & Email Authentication
- <u>Naming Conditions</u> - Name of (entire or portion of) entity or DBA; Acronym; Name recognizing or describing registrant; or Name related to registrant mission or activities;
- <u>Content & Use</u> - Only legal music content & legal music-related usage. No parking pages allowed;
- <u>Enforcement</u> - Proactive and reactive enforcement measures and anti-abuse procedures with random compliance checks, including appropriate appeals mechanisms to fix compliance issues governed by the music-tailored .MUSIC Policy & Copyright Infringement Dispute Resolution Process ("MPCIDRP"). Independent appeals may be also conducted with the <u>National Arbitration Forum</u> (NAF).

**For More Information on DotMusic:**

<u>.MUSIC Community Website</u>

<u>.MUSIC Community Supporters</u>

<u>.MUSIC Community Application</u>

<u>.MUSIC Community Public Interest Commitments</u>

# ANNEX H

# Independent Nielsen/Harris Poll

To address the DotMusic Application's "Community Establishment," "Community Definition" and "Nexus," an independent survey was conducted within the United States from August 7-11, 2015 among 2,084 adults ages 18 and older, by Harris Poll[1] on behalf of DotMusic Limited. Figures for age, sex, race/ethnicity, education, region and household income were weighted where necessary to bring them into line with their actual proportions in the population. The data was weighted to reflect the composition of the adult population. The independent polling organization Nielsen/Harris Poll addressed whether the applied-for string was <u>commonly-known</u> (i.e. known by <u>most</u> people[2]) and associated with the identification of the community defined by DotMusic by asking the question:

> **If you saw a website domain that ended in ".music" (e.g., www.name.music), would you associate it with musicians and/or other individuals or organizations belonging to the music community (i.e., a logical alliance of communities of individuals, organizations and business that relate to music)?[3]**

<u>Most</u> people, 1562 out of 2084 (i.e. 3 in 4 or 75% of the respondents) responded "Yes,"[4] which is aligned with the "Nexus" Criterion 2A requirements that the applied for-string is "<u>commonly-known</u>" as the identification of the community addressed by the application.

Furthermore, a majority agreed that DotMusic's associated definition of the community addressed that matches the string (i.e. a logical alliance of communities of individuals, organizations and business that relate to music) is representative and accurate.

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[1] http://www.harrisinteractive.com/Products/HarrisPollQuickQuery.aspx
[2] http://www.wordreference.com/es/translation.asp?tranword=commonly%20known
[3] Nielsen / Harris Poll, Quick Query Q3505, http://music.us/nielsen-harris-poll.pdf,
Fielding Period: August 7-11, 2015, Pg. 1,2,3
[4] Nielsen / Harris Poll, Quick Query Q3505, http://music.us/nielsen-harris-poll.pdf,
Fielding Period: August 7-11, 2015, Pg. 1,2,3

QuickQuery
Fielding Period: August 7-11, 2015
DotMusic Limited
Weighted To The U.S. General Adult Population - Propensity

**Q3505 If you saw a website domain that ended in ".music" (e.g., www.name.music), would you associate it with musicians and/or other individuals or organizations belonging to the music community (i.e., a logical alliance of communities of individuals, organizations and business that relate to music)?**

Base: All Respondents

| | Total | Region | | | | Age | | | | | Male Age | | | | | | Female Age | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | North-east | South | Mid-west | West | 18-34 | 35-44 | 45-54 | 55-64 | 65+ | Total | 18-34 | 35-44 | 45-54 | 55-64 | 65+ | Total | 18-34 | 35-44 | 45-54 | 55-64 | 65+ |
| | (A) | (B) | (C) | (D) | (E) | (F) | (G) | (H) | (I) | (J) | (K) | (L) | (M) | (N) | (O) | (P) | (Q) | (R) | (S) | (T) | (U) | (V) |
| Unweighted Base | 2084 | 478 | 656 | 561 | 389 | 551 | 290 | 379 | 389 | 475 | 888 | 203 | 119 | 141 | 191 | 234 | 1196 | 348 | 171 | 238 | 198 | 241 |
| Weighted Base | 2084 | 437 | 705 | 449 | 493 | 634 | 311 | 386 | 358 | 395 | 999 | 322 | 147* | 162* | 194 | 175 | 1085 | 311 | 165 | 225 | 165 | 220 |
| Yes | 1562 75% | 323 74% | 509 72% | 345 77% | 386 78% c | 465 73% | 251 81% fhj | 280 72% | 277 77% | 290 73% | 737 74% | 234 73% | 114 78% | 114 70% | 151 78% | 124 71% | 826 76% | 231 74% | 137 83% rt | 166 74% | 126 77% | 166 76% |
| No | 522 25% | 113 26% | 196 28% e | 105 23% | 107 22% | 168 27% g | 60 19% | 107 28% g | 81 23% | 105 27% g | 263 26% | 88 27% | 32 22% | 48 30% | 43 22% | 51 29% | 259 24% | 80 26% s | 27 17% | 59 26% s | 39 23% | 54 24% |
| Sigma | 2084 100% | 437 100% | 705 100% | 449 100% | 493 100% | 634 100% | 311 100% | 386 100% | 358 100% | 395 100% | 999 100% | 322 100% | 147 100% | 162 100% | 194 100% | 175 100% | 1085 100% | 311 100% | 165 100% | 225 100% | 165 100% | 220 100% |

Proportions/Means: Columns Tested (5%, 10% risk level) - B/C/D/E - F/G/H/I/J - K/Q - L/M/N/O/P - R/S/T/U/V - L/R - M/S - N/T - O/U - P/V
Overlap formulae used.  * small base

QuickQuery
Fielding Period: August 7-11, 2015
DotMusic Limited
Weighted To The U.S. General Adult Population - Propensity

Q3505 If you saw a website domain that ended in ".music" (e.g., www.name.music), would you associate it with musicians and/or other individuals
or organizations belonging to the music community (i.e., a logical alliance of communities of individuals, organizations and business
that relate to music)?

**Base: All Respondents**

| | Total | Income | | | | Education | | | Employment Status | | | | Children in HH | | Parent of Child Under 18 in HH | | Home Ownership | | Marital Status | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Less Than $50K | $50K - $74.9K | $75K - $99.9K | $100K+ | H.S. or Less | Some Col. | Col. Grad+ | Total Emp. | Total Un- emp. | Stud- ent | Ret- ired | Yes | No | Yes | No | Home- owner | Renter | Marr- ied | Not Married |
| | (A) | (B) | (C) | (D) | (E) | (F) | (G) | (H) | (I) | (J) | (K) | (L) | (M) | (N) | (O) | (P) | (Q) | (R) | (S) | (T) |
| Unweighted Base | 2084 | 932 | 393 | 231 | 335 | 678 | 666 | 740 | 990 | 1094 | 132 | 543 | 597 | 1487 | 521 | 1563 | 1301 | 721 | 1071 | 1013 |
| Weighted Base | 2084 | 771 | 347 | 256 | 515 | 866 | 600 | 618 | 1039 | 1045 | 182* | 474 | 670 | 1414 | 552 | 1532 | 1306 | 729 | 1067 | 1017 |
| Yes | 1562 75% | 563 73% | 262 75% | 205 80% b | 424 82% Bc | 620 72% | 457 76% | 485 78% F | 789 76% | 773 74% | 139 77% | 346 73% | 495 74% | 1067 75% | 424 77% | 1138 74% | 1000 77% | 537 74% | 827 77% T | 735 72% |
| No | 522 25% | 208 27% dE | 85 25% e | 50 20% | 91 18% | 246 28% H | 143 24% | 133 22% | 249 24% | 272 26% | 43 23% | 128 27% | 175 26% | 347 25% | 128 23% | 394 26% | 306 23% | 192 26% | 240 23% | 281 28% S |
| Sigma | 2084 100% | 771 100% | 347 100% | 256 100% | 515 100% | 866 100% | 600 100% | 618 100% | 1039 100% | 1045 100% | 182 100% | 474 100% | 670 100% | 1414 100% | 552 100% | 1532 100% | 1306 100% | 729 100% | 1067 100% | 1017 100% |

Proportions/Means: Columns Tested (5%, 10% risk level) - B/C/D/E - F/G/H - I/J/K/L - M/N - O/P - Q/R - S/T
Overlap formulae used.  * small base

# ANNEX I

**Enhanced Safeguards to Protect IP.**
Monies Flow to the Music Community.
**Governed by the Global Music Community.**
Available to the Entire Global Music Community.

## What is the DotMusic's community-based .MUSIC Initiative?

DotMusic is the only remaining .MUSIC community applicant with policies that ensure that music artists, bands, industry professionals and organizations register a trusted, secure and verified .MUSIC domain — just like a .EDU or .GOV domain — and own their exclusive **www.name.music** web address.

A community-based .MUSIC differentiates itself from .COM, .NET, .ORG and other domains because:

1. .MUSIC is exclusive only to legitimate members of the entire global music community;
2. .MUSIC is governed and controlled by the global music community. Each music constituent community type[1] has a governance seat on the multi-stakeholder .MUSIC policy advisory board;
3. .MUSIC's community application is supported by a majority of the global music community in terms of headcount, and growing (See http://music.us/supporters);
4. .MUSIC has enhanced safeguards to protect intellectual property**,** prevent cybersquatting and eliminate copyright infringement;
5. .MUSIC has incorporated all RIAA intellectual property protection provisions that include policies to stop domain hopping, takedown policies in the case of piracy, authorization provisions, permanent blocks, privacy/proxy provision, true name/address mandates and trusted sender complaint policies amongst others;
6. .MUSIC requires registrant validation through a mandatory two-step phone and email authentication process;
7. .MUSIC protects names of famous music artists and brands by giving registration priority to those entities during a priority-based launch phase. .MUSIC also gives registration priority to community members belonging to legitimate Music Community Member Organizations to spur adoption, trust and safety;
8. .MUSIC has domain naming conditions that eliminate cybersquatting and famous music brand trademark infringement. Registrants are only allowed to register their own name, acronym or "Doing Business As;"
9. .MUSIC only allows legal music content and legal music usage; and
10. .MUSIC will take down any domain infringing on any of its enhanced safeguard policies.

The DotMusic Mission for .MUSIC is focused on furthering the common interest shared by the entire global music community it serves: the legal promotion and distribution of music. Its purpose is:

1. Creating a trusted, safe online haven for music consumption and licensing;
2. Establishing a safe home on the Internet for Music Community members;
3. Protecting intellectual property and fighting piracy;
4. Supporting musicians' welfare, rights and fair compensation; and
5. Promoting music and the arts, cultural diversity and music education; and
6. Following a multi-stakeholder approach of fair representation of all types of global music constituents without discrimination, including both commercial and non-commercial entities.

For more information on .MUSIC visit: http://www.music.us

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[1] *Constituent types include artists/bands/musicians, songwriters, major/independent labels, publishers, instrument and music product manufacturers, performance rights organizations, collection societies, unions, managers, engineers, agents, promoters, government ministries of culture, music/arts councils, music associations, music radio and others.*

# DotMusic Limited: .MUSIC Community Application Specifications

| | DotMusic Limited |
|---|---|
| "Also Known As" | .MUSIC™ |
| Application ID | 1-1115-14110 |
| Total Top-Level Domain Applications Filed | 1 |
| Type of Application | Community (Restricted) |
| Policy Advisory Board & Multi-Stakeholder Governance | Yes. |
| Community Member Organization Resellers/Partners | Yes |
| Music Organization Accreditation Requirements | Yes. Eligible organizations get priority in MCMO Phase(1) |
| Who Can Register (Eligibility) | Entire global Music Community |
| Phone & Email Two-Step Authentication | Yes |
| Protect Famous Music Artist/Brand Names | Music Globally Protected Marks List (GPML) |
| Domain Naming Conditions | Yes. 1. Entity name (or portion of); or |
| | 2. Doing Business As; or |
| | 3. Acronyn (AKA); or |
| | 4. Name recognizing en ity; or |
| | 5. Name describing entity |
| **Use:** | |
| *Only Legal Music Activities* | Yes. Only legal music activities allowed |
| *Only Music-Related Activity Usage* | Yes. Only music usage allowed |
| *Prohibits  registering of domain* | |
| *with established artist's/brand's name* | Yes |
| **Content:** | |
| *Only Music-Related Content* | Yes. Only music content allowed |
| *Quality Content Control (Parking Pages)* | Yes. Parking pages are not allowed |
| Policy, IP & Copyright Infringement Enforcement | Extensive enforcement measures constituting a coherent set |
| Enforcement & Appeals Mechanisms | Appropriate appeals mechanisms |
| Independent Dispute Resolution Provider | Yes. National Arbitration Forum (NAF) |
| Music-Focused Registration Policy Dispute Resolution | MPCIDRP |
| Music-tailored Copyright Protection Provisions | Extensive enhanced safeguards and copyright provisions (2) |
| Community Definition | Organized & delineated logical alliance of music communities |
| Community Support | Majority. Coalition represents over 95% of global music consumed |
| Community Objection | There has been no Community Objection or relevant opposition (3) |
| Music-Tailored Public Interest Commitments (PIC) | Public Interest Commitments with Clarifications (4) |
| .music Community TLD Support Petition | 1.5+ million signed petition |
| Public Community Outreach Campaign | 200+ public events (2008-Present) |
| .music-focused Social Media Engagement | Extensive. 5+ million across all media |
| Trademark for .MUSIC™ | Yes. Over 40 countries/regions |
| Community Premium Channels | Yes. Sorted by Type, Genre, Language, Geography, Keyword (5) |
| Global Legal Song Licensing Registry based on DNS | Yes |

(1) DotMusic gives priority to members of Music Organizations during MCMO Phase. During General Availability all Community members (including non-MCMO members) can register .MUSIC.

(2) DotMusic has more enhanced safeguards than all .MUSIC applicants combined. DotMusic has incorporated all IFPI/RIAA IP protection provisions that include stopping domain hopping, takedown policies, authorizations, pemanent blocks, privacy/proxy, true name/address and  trusted sender complaint policies.

(3) DotMusic addressed all concerns/comments raised by the Music Community and filed the PIC which clarifies how the Application serves the Community and the public interest.
    According to the ICANN New gTLD Program Applicant Guidebook: "To be taken into account as relevant opposition, such objections or comments must be of a reasoned nature. Sources of opposition that are clearly spurious, unsubstantiated, made for apurpose incompatible with competition objectives, or filed for the purpose of obstruction will not be considered relevant." (Community Priority Evaluation Guidelines, P.20).

(4) By filing these Public Interest Commitments with ICANN, DotMusic commits to serve the Music Community and Public Interest as clarified and may be held accountable via the PICDRP.

(5) The Premium Channels available to all validated community members are sorted/delineated according to NAICS community type (Musician/Band/Professional/Company), Genre (e.g www.Rock.music), Language (e.g French.music), Geography (e.g London.music / France.music) and Keywords (e.g Lyrics.music).


**For More Info on .MUSIC™ (DotMusic) visit:**          **http://www.music.us**

**.MUSIC Supporting Organizations:**          **http://www.music.us/supporters**

yourname.music

.Music™

www.music.us

# .MUSIC Applicant Comparison Chart: DotMusic Limited vs. Other .MUSIC Applicants

yourname

.Mu

www.mu

| | DotMusic Limited | .music LLC | Amazon S.a.r.l | Charleston Road | dot Music Limited | Victor Cross | Entertainment Names | Dotmusic Inc |
|---|---|---|---|---|---|---|---|---|
| "Also Known As" | .MUSIC™ | Far Further | Amazon | Google | Famous Four Media | Donuts/Rightside | Minds and Machines | Radix |
| Application ID | 1-1115-14110 | 1-959-51046 | 1-1316-18029 | 1-1680-18593 | 1-1175-68062 | 1-1571-12951 | 1-994-99764 | 1-1058-25065 |
| Total Top-Level Domain Applications Filed | 1 | 1 | 76 (Portfolio) | 101 (Portfolio) | 60 (Portfolio) | 307 (Portfolio) | 71 (Portfolio) | 31 (Portfolio) |
| Type of Application | Community | Community | Standard (Closed) | Standard (Open) | Standard (Open) | Standard (Open) | Standard (Open) | Standard (Open) |
| Policy Advisory Board & Multi-Stakeholder Governance | Yes. | Yes. Board still pending. | No | No | Limited Board | No | No | No |
| Community Member Organization Resellers/Partners | Yes | Yes | No | No | No | No | No | No |
| Music Organization Accreditation Requirements | Yes. Eligible organizations get priority in MCMO Phase(1) | No. Invite-only. | No | No | No | No | No | No |
| Who Can Register (Eligibility) | Entire global Music Community | Only those belonging to 42 organizations | No | No | No | No | No | No |
| Phone & Email Two-Step Authentication | Yes | No | No | No | No | No | No | No |
| Protect Famous Music Artist/Brand Names | Music Globally Protected Marks List (GPML) | No | No | No | No | No | No | No |
| Domain Naming Conditions | Yes. 1. Entity name (or portion of); or | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |
| | 2. Doing Business As; or | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |
| | 3. Acronyn (AKA); or | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 4. Name recognizing entity; or | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |
| | 5. Name describing entity | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |
| **Use:** | | | | | | | | |
| *Only Legal Music Activities* | Yes. Only legal music activities allowed | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |
| *Only Music-Related Activity Usage* | Yes. Only music usage allowed | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |
| *Prohibits registering of domain* | | | | | | | | |
| *with established artist's/brand's name* | Yes | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |
| **Content:** | | | | | | | | |
| *Only Music-Related Content* | Yes. Only music content allowed | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |
| *Quality Content Control (Parking Pages)* | Yes. Parking pages are not allowed | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open | No. Open |
| **Policy, IP & Copyright Infringement Enforcement** | Extensive enforcement measures constituting a coherent set | No. General | No. General | No. General | No. General | No. General | No. General | No. General |
| **Enforcement & Appeals Mechanisms** | Appropriate appeals mechanisms | No. General | No. General | No. General | No. General | No. General | No. General | No. General |
| **Independent Dispute Resolution Provider** | Yes. National Arbitration Forum (NAF) | None specified | None | None | None | None | None | None |
| **Music-Focused Registration Policy Dispute Resolution** | MPCIDRP | Partial. Only for Eligibility (MEDRP) | No | No | No | No | No | No |
| **Music-tailored Copyright Protection Provisions** | Extensive enhanced safeguards and copyright provisions (2) | No. General. | No. General. | No. General. | No. General. | No. General. | No. General. | No. General. |
| **Community Definition** | Organized & delineated logical alliance of music communities | Segments from 42 organizations | Open | Open | Open | Open | Open | Open |
| **Community Support** | Majority. Coalition represents over 95% of global music consumed | Minority. Only 4 million members. | Open | Open | Open | Open | Open | Open |
| **Community Objection** | There has been no | Objection. | Objection. | Objection. | Objection. | Objection. | Objection. | Objection. |

| | Community Objection or relevant opposition (3) | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Music-Tailored Public Interest Commitments (PIC) | Public Interest Commitments with Clarifications (4) | No | No | No | No | No | No | No |
| .music Community TLD Support Petition | 1.5+ million signed petition | No | No | No | No | No | No | No |
| Public Community Outreach Campaign | 200+ public events (2008-Present) | Negligible | No | No | No | No | No | No |
| .music-focused Social Media Engagement | Extensive. 5+ million across all media | Negligible | No | No | No | No | No | No |
| Trademark for .MUSIC™ | Yes. Over 40 countries/regions | No | No | No | No | No | 1 country | No |
| Community Premium Channels | Yes. Sorted by Type, Genre, Language, Geography, Keyword (5) | No | No | No | No | No | No | No |
| Global Legal Song Licensing Registry based on DNS | Yes | No | No | No | No | No | No | No |

(1) DotMusic gives priority to members of Music Organizations during MCMO Phase. During General Availability all Community members (including non-MCMO members) can register a .MUSIC domain.

(2) DotMusic has more enhanced safeguards than all .MUSIC applicants combined. DotMusic has incorporated all IFPI/RIAA IP protection provisions that include stopping domain hopping, takedown policies, authorizations, permanent blocks, privacy/proxy, true name/address and trusted sender complaint policies.

(3) DotMusic addressed all concerns/comments raised by the Music Community and filed the PIC which clarifies how the Application serves the Community and the public interest. According to the ICANN New gTLD Program Applicant Guidebook: "To be taken into account as relevant opposition, such objections or comments must be of a reasoned nature. Sources of opposition that are clearly spurious, unsubstantiated, made for a purpose incompatible with competition objectives, or filed for the purpose of obstruction will not be considered relevant." (Community Priority Evaluation Guidelines, P.20)

(4) By filing these Public Interest Commitments with ICANN, DotMusic commits to serve the Music Community and Public Interest as clarified and may be held accountable via the PICDRP.

(5) The Premium Channels available to all validated community members are sorted/delineated according to NAICS community type (Musician/Band/Professional/Company), Genre (e.g. www.Rock.music), Language (e.g. French.music), Geography (e.g London.music / France.music) and Keywords (e.g Lyrics.music).

Note: DotMusic has partnered with Afilias, the backend registry provider of .ORG. Afilias is the second largest registry in the world with over 20 million domains under management, which is more than all other .MUSIC applicants combined (See http://www.afilias.info/about-us).

# ANNEX J
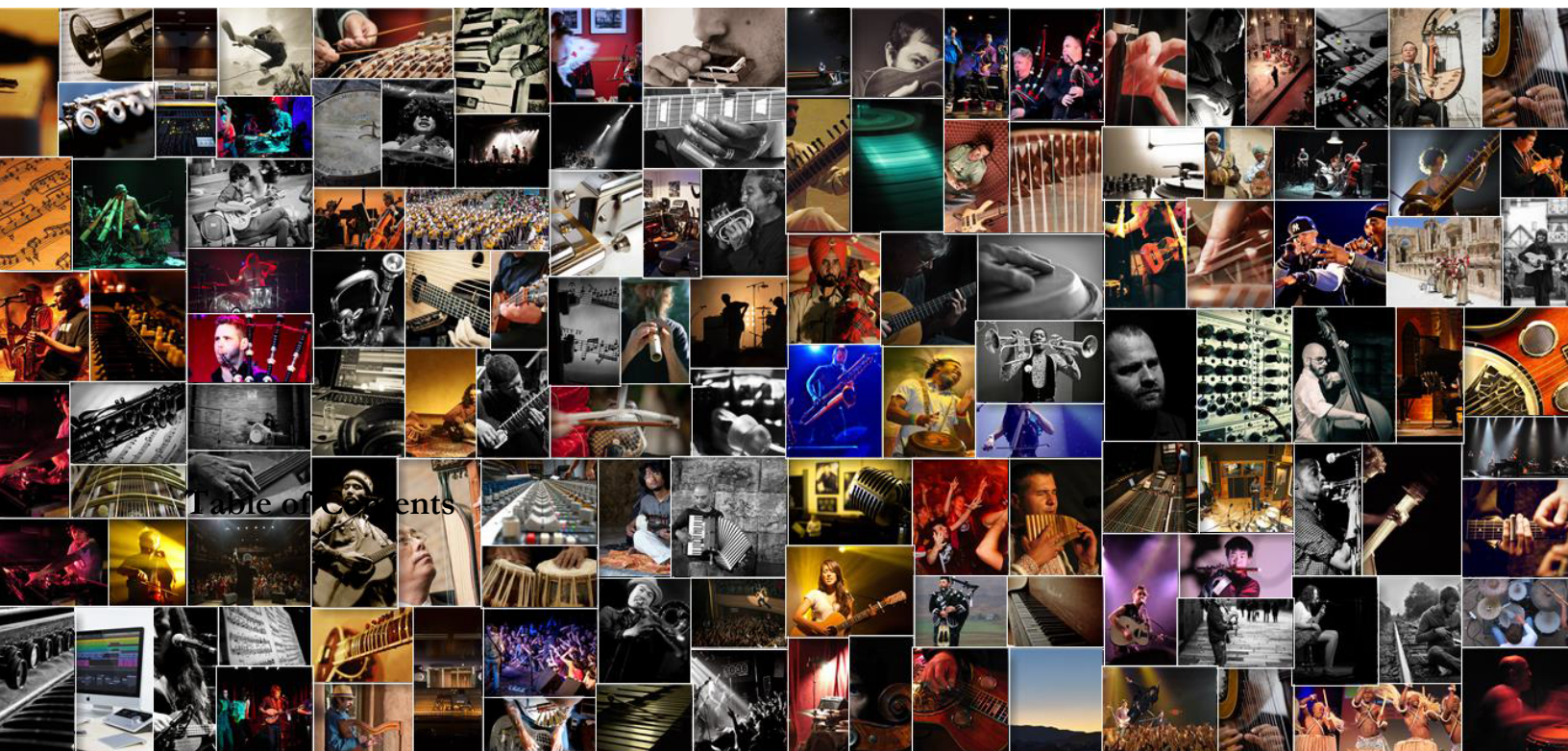
# yourname.music

## .Music™

### www.music.us

# Letter to ICANN & Economist Intelligence Unit

**Analysis of DotMusic's Community-Based Application for .MUSIC <u>consistent</u> with other CPE Determinations by the EIU**

September 23, 2015

Table of Contents

**Preface**

The objective of this letter to the EIU and ICANN is to provide compelling evidence that DotMusic Limited's community-based application for .MUSIC:

1) Is <u>entirely</u> different from that of Far Further's (.music LLC) community-based application for .MUSIC (See .MUSIC Applicant Comparison Chart, Appendix E);
2) Should pass CPE based on <u>consistency</u> with respect to points awarded to other CPE applicants by the EIU in their CPE Determinations; and
3) Has no opposition that is deemed relevant (i.e. opposition is <u>clearly spurious, unsubstantiated,</u> made for a purpose <u>incompatible with competition objectives</u>, and <u>filed for the purpose of obstruction</u> and should <u>not be considered relevant</u>)


**Criterion #1: Community Establishment**

**1-A Delineation**

The Community Priority Evaluation panel should determine that the community, as defined by the application, meets the criterion for Delineation as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook (AGB), because the community defined in the application demonstrates sufficient delineation, organization, and pre-existence. It is respectfully submitted that the application should receive a score of 2 out of 2 points under criterion 1-A: Delineation.

**Delineation**

Two conditions must be met to fulfill the requirements for delineation: there must be a clear, straightforward membership definition and there must be awareness and recognition of a community (as defined by the application) among its members.

The application defines its community as follows:

> **The Community is a <u>strictly delineated</u> and <u>organized</u> community of individuals, organizations and business, a "<mark>logical alliance</mark> of communities of a similar nature ("COMMUNITY"),"** <u>that relate to music</u>**: the art of combining sounds rhythmically, melodically or harmonically. (Question 20A)**

According to the .HOTEL[1] EIU Determination for *Delineation:*

> *.hotel domains will be available for registration to all companies which are member of the Hotel Community on a local, national and international level. The registration of .hotel domain names shall be dedicated to all entities and organizations representing:*
>
> *1. Individual Hotels*
> *2. Hotel Chains*
> *3. Hotel Marketing organizations representing members from 1. and/or 2.*

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[1] http://www.icann.org/sites/default/files/tlds/hotel/hotel-cpe-1-1032-95136-en.pdf

*4. International, national and local Associations representing Hotels and Hotel Associations representing members from 1. and ⁄ or 2.*
*5. Other Organizations representing Hotels, Hotel Owners and other solely Hotel related organizations representing on members from 1. and ⁄ or 2.*

*These categories are a* <mark>**_logical alliance_**</mark> *of members… Furthermore, association with the* _hotel sector_ *can be verified through membership lists, directories and registers. In addition, the community as defined in the application has awareness and recognition among its members. This is because the community is defined in terms of its* _association with the hotel industry_ *and the provision of specific hotel services.*

According to the AGB, "[d]elineation relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low." As required by the AGB, the application shows a clear and straight-forward membership definition because the application specifies that the Community definition is a "strictly delineated and organized community of individuals, organizations and business…that relate to music: the art of combining sounds, rhythmically, methodically or harmonically."

According to the application:

> **DotMusic will use clear, organized, consistent and interrelated criteria to demonstrate Community Establishment beyond reasonable doubt and incorporate safeguards in membership criteria "aligned with the community-based Purpose" …**

> **Registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community particularities" that "invoke a formal membership" without discrimination, conflict of interest or "likelihood of material detriment to the rights and legitimate interests" of the Community. (Question 20A)**

The Application also provides that the "Community" served consists of:

> **[M]usic stakeholders being structurally organized using pre-existing, strictly delineated classes and recognized criteria to clearly organize the Community classified by:**

- **North American Industrial Classification System codes (NAICS[2]) used by the Census Bureau and Federal statistical agencies as the classification standard for the purpose of collecting, analyzing, and publishing statistical data related to the U.S.**

- **United Nations International Standard Industrial Classification (ISIC) system[3] to "delineate according to what is the customary combination of activities"[4] such as those representing the Community.**

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[2] http://www.census.gov/eos/www/naics

The Music Community is strictly delineated using established NAICS codes that align with the (i) characteristics of the globally recognized, organized Community, and (ii) .MUSIC global rotating multi-stakeholder Advisory Board model of fair representation, irrespective of locale, size or commercial/non-commercial status, organized with the following delineation (corresponding NAICS code in parenthesis):

• **Musical groups and artists (711130)**

• **Independent music artists, performers, arrangers & composers (711500)**

• **Music publishers (512230)**

• **Music recording industries (512290)**

• **Music recording & rehearsal studios (512240)**

• **Music distributors, promoters & record labels (512220)**

• **Music production companies & record producers (512210)**

• **Live musical producers (711130)**

• **Musical instrument manufacturers (339992)**

• **Musical instruments & supplies stores (451140)**

• **Music stores (451220)**

• **Music accountants (541211)**

• **Music lawyers (541110)**

• **Music education & schools (611610)**

• **Music agents & managers (711400)**

• **Music promoters & performing arts establishments (711300)**

• **Music promoters of performing arts with facilities (711310)**

• **Music promoters of performing arts without facilities (711320)**

• **Music performing arts companies (711100)**

• **Other music performing arts companies (711190)**

• **Music record reproducing companies (334612)**

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[3] http://www.unstats.un.org/unsd/publication/seriesM/seriesm_4rev4e.pdf
[4] http://www.unstats.un.org/unsd/class/family/family2.asp?Cl=17

- **Music, audio and video equipment manufacturers (334310)**

- **Music radio networks (515111)**

- **Music radio stations (515112)**

- **Music archives & libraries (519120)**

- **Music business & management consultants (541611)**

- **Music collection agencies & performance rights organizations (561440)**

- **Music therapists (621340)**

- **Music business associations (813910)**

- **Music coalitions, associations, organizations, information centers & export offices (813920)**

- **Music unions (813930)**

- **Music public relations agencies (541820)**

- **Music journalists & bloggers (711510)**

- **Internet Music radio station (519130)**

- **Music broadcasters (515120)**

- **Music video producers (512110)**

- **Music marketing services (541613)**

- **Music & audio engineers (541330)**

- **Music ticketing (561599)**

- **Music recreation establishments (722410)**

- **Music fans⁄clubs (813410)**

**(Question 20A)**

Membership is determined through those individuals or entities with requisite awareness that identify as members of the Music Community through either active verified membership and participation in a Music Community Member Organization (mCMO) (of which members comprise over 95% of music produced and consumed worldwide) **or** those individuals or organizations, which may not be mCMO members, but which have requisite awareness of the community and affirmative identify and categorize

themselves according to NAICS/ISIC classifications[5] and agree to abide by and support the Community focused Use Policies (Also see Venn Diagram, Appendix C).

In support of those goals the Application provides that:

1) **DotMusic will incorporate Community membership eligibility restricted only to members verifying themselves as Community members based on NAICS/ISIC classifications and agreeing to Community-focused Use policies and dispute resolution/takedown mechanisms to benefit the .MUSIC Mission/Purpose and multi-stakeholder mission and to protect DotMusic from privacy and monopoly laws. Any violation of the membership criteria, Use and other Policies might lead to the cancellation of membership status, including domain takedown if deemed appropriate.**

   **Community members will be able to use their membership credentials to be included in the uniquely-classified Premium Channels that are sorted according to NAICS/ISIC classifications. For example, music publishers (NAICS code 512230) will be able to organically self-categorize themselves in a highly relevant manner and be included in the Publishers.MUSIC Premium Channel using their membership credentials to participate. (Question 18B ii );**

And

2)    For members with requisite awareness that are also part of existing Music Community Member Organizations (mCMOs), the Application provides a Landrush registration:

   **Music Community Member Organization (MCMO) Landrush for registrants with demonstrated MCMO memberships…**

   **MUSIC COMMUNITY MEMBER ORGANIZATION (MCMO) LANDRUSH LAUNCH**

   **This is the second phase of .MUSIC domain registration. It is a limited-time period reserved for members of DotMusic-accredited music Community Member Organizations (mCMO). (Application Answer to Question 18(B)(vi) & 20(e))**

   **The mCMO domain allocation method during the Landrush phase was created by DotMusic to allow Community members to register through established Community organizations. During the General Registration phase the TLD is open to all Community members for registration, but also restricted by Eligibility, Use and other Policies, including enhanced safeguards. (Application Answer to Question 20B).**

Applicant requires that members of the Community self-identify by selecting the delineation of the music constituent type to which they belong to or associate with.  This identification process is aligned with the member's requisite awareness of the "logical alliance of communities related to music."   After

---

[5] Members sorted according to these classifications must be music-related

their self-identifying, the Registry will place the registrant/community member into the corresponding premium channel(s) sorted according to music delineation type. Most importantly, all registrants/community members are governed by the applicant's Community Use Polices and Restrictions that are related to music.

According to the .ECO[6] EIU CPE Determination in *Community Establishment*:

> *The community as defined in the application has awareness and recognition among its members. According to the application:*
>
> *The Community has historically structured and organized itself and its work through an* _international network of organizations_*, including millions of individual members with* _strongly aligned goals, values and interests_*. As well as collaborating via long-standing international multi-stakeholder fora and* _membership organizations_*, members traditionally organize through* _multi-organization alliances_ *around specific events, geographies, and issues.*
>
> *According to the AGB, "community" implies "more of cohesion than a mere commonality of interest" and there should be "an awareness and recognition of a community among its members." Based on the Panel's research and materials provided in the application, the community members as defined in the application demonstrate the "cohesion" required by the AGB. The application dictates four types of members, whose* _cohesion and awareness is founded in their demonstrable involvement in environmental activities_ *and who "demonstrate active commitment, practice and reporting."*
>
> *…the community as defined in the application has awareness and recognition among its members. This is because the community is defined in terms of its association with, and* _active participation_ *in, environmental activities and environmental conservation and preservation.*

The EIU's CPE Determination for .ECO is also _consistent_ with DotMusic's Delineation for .MUSIC. According to the AGB's second Delineation criterion, "community" implies "more of cohesion than a mere commonality of interest" and there should be "an awareness and recognition of a community among its members." The community as defined in the application (the "Community") has awareness and recognition among its members. This is because the community as defined consists of entities that are in the music Community (which may be commonly referred to by many in the general public as the "music industry")[7], and as participants, whether they be creators (amateur or professional), producers, manufacturers, publishers in this clearly defined industry, they have an awareness and recognition of their inclusion in the music Community. In addition, membership in the Community is sufficiently structured, as the requirements listed in the community definition above show. Members recognize

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[6] http://www.icann.org/sites/default/files/tlds/eco/eco-cpe-1-912-59314-en.pdf

[7] http://www.encyclopedia.com/doc/1G2-3401802800.html and
http://is.jrc.ec.europa.eu/pages/ISG/documents/FINALMusicreportwithcovers_EB_Corrected_02.pdf

themselves as part of the music community as evidenced, for example, by their inclusion in many music community organizations and participation in their events.

The application's Public Interest Commitments[8] provide clarification of the application language concerning the requirement of Community awareness and recognition among its members:

- A commitment to <u>not</u> discriminate against any legitimate members of the global music community by adhering to the DotMusic Eligibility policy of non-discrimination that restricts eligibility to Music Community members -- as explicitly stated in DotMusic's Application -- that have an active, non-tangential relationship with the applied-for string and also have the requisite awareness of the music community they identify with as part of the registration process. This public interest commitment ensures the inclusion of the entire global music community that the string .MUSIC connotes. (PIC at p.1)
- A commitment that the string will be launched under a multi-stakeholder governance structure of representation that includes <u>all</u> music constituents represented by the string, irrespective of type, size or locale, including commercial, non-commercial and amateur constituents, as explicitly stated in DotMusic's Application.

  As explicitly stated in its Application, DotMusic commits to:

  a. uphold its Community definition of a "logical alliance of communities of similar nature that relate to music" to incorporate <u>all</u> Music Community members;

  b. accredit eligible non-negligible music organizations of relevance without discrimination if they meet the Music Community Member Organization (MCMO) Accreditation criteria;

  c. to give members of MCMOs priority to register a .MUSIC domain during the MCMO Launch Phase to help launch .MUSIC responsibly and drive adoption;

  d. to allow all legitimate members of the Community as defined to register a .MUSIC domain;

  e. maintain a rotating, global Advisory Committee ("Policy Advisory Board" "PAB") consisting of and representing <u>all</u> multi-stakeholder constituent types. (PIC at p.2)

- [E]ntities with a casual, tangential relationship with music (i.e. without the requisite awareness of belonging to the Community) or those entities belonging to pirate networks or unlicensed networks are entirely excluded from the Music Community

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[8] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadpicposting/1392?t:ac=1392

definition. (PIC at p.16)

- The defined Community is delineated and organized because it operates in a regulated sector that uses numerous globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless whether the constituent is a commercial, non-commercial or amateur entity. The "music" community cohesion is evidenced in commonly used in classification systems such as the ISMN,[9] ISRC,[10] ISWC[11] and ISNI[12]). (PIC at p.11 and Application Answer to Question 20a)

- DotMusic expects that the substantial majority of all of its registrations will originate from the music entity type classified as "Musical groups and artists" (e.g. See North American Industrial Classification System (NAICS) code 711130[13] or the United Nations Industrial Classification (ISIC) code 9214[14]).  (PIC at p.11).

- DotMusic has required all music entity types to be "music"-related. For example, all eligible entities delineated and organized under constituent types (using NAICS as a reference for clearly classifying constituent types) must have an association with the gTLD and "music" with respect to their primary activity. This is because the string naturally identifies all entities involved in music. For example, the NAICS code for "lawyers" is 541110.  According to DotMusic's Application, .music is only restricted to the "music" Community and excludes any peripheral entities. DotMusic's Application has added the word "music" next to the DotMusic-selected NAICS code to ensure that

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[9] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009).  See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[10] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI (a DotMusic supporting organization that is mainly dedicated to the Community defined), See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[11] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[12] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[13] The equivalent code for the NAICS code for "Musical groups and artists" (See http://unstats.un.org/unsd/cr/registry/regcssm.asp?Cl=230&Lg=1&Co=711130) under the United Nations International Standard of Industrial Classification (ISIC) is "Musicians and musical groups" with code 9214, See https://unstats.un.org/unsd/cr/registry/regso2.asp?Cl=17&Co=9214&Lg=1

[14] See http://www.census.gov/econ/isp/sampler.php?naicscode=711130&naicslevel=6. The corresponding code relating to music-related activities according to the United Nations International Standard Industrial Classification (ISIC) is 592 ("sound recording and music publishing activities"), See http://unstats.un.org/unsd/publication/seriesM/seriesm_4rev4e.pdf Pg. 209 and http://unstats.un.org/unsd/cr/registry/regcs.asp?Cl=27&Co=592&Lg=1. According to the United Nations, "NAICS does provides more comparability to ISIC" and "NAICS is more detailed and recognizes many more high-tech and service industries," See http://unstats.un.org/unsd/class/intercop/expertgroup/1998/ac63-10.pdf, Pg.8

> the eligible Community members are automatically associated with the string. In this example, eligibility is restricted to "*Music lawyers (541110)*" (See Application Answer to Question 20a below) i.e. general, non-music lawyers are prohibited from registration because they are peripheral entities not automatically associated with the gTLD. (PIC at pp. 11-12).

> - music-only eligibility is also in alignment with the Content & Use requirement that any content and usage must be music-only. This coherent set of restrictions serves the public interest because it is consistent with the string's articulated community-based purpose tailored for music. (PIC at p.12)

As a result, the Music Community as defined is "closely united" (As per the definition of "cohesion" according to Merriam-Webster dictionary[15]) or "united or form a whole" (As per the definition of the word "cohesion" according to Oxford Dictionaries[16]).

The "Music Community" as defined (a "strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music") establishes that:

(1) There is an awareness and recognition among its members;

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" (i.e. Each "organized community that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).

Based on the Application, DotMusic uses "clear, organized, consistent and interrelated criteria to demonstrate Community Establishment beyond reasonable doubt and incorporate safeguards in membership criteria aligned with the community-based Purpose" (Application Answer to Question 20a). As such, each Community member must have demonstrable involvement in music-related activities aligned with the application's articulated community-based purpose that follows unified goals which the Community addressed subscribes to, such as:

1) creating a trusted identifier and safe haven for music consumption by protecting musicians' rights and intellectual property,
2) fighting copyright infringement/piracy,
3) supporting fair compensation and music education;
4) following a multi-stakeholder approach supporting all types of global music constituents without discrimination; and
5) Multi-stakeholder governance[17] by relevant organizations with Community members representing over 95% of music consumed globally, including many

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[15] http://www.merriam-webster.com/dictionary/cohesion
[16] http://www.oxforddictionaries.com/us/definition/american_english/cohesion
[17] See expanding governance board at http://music.us/board

entities *mainly* dedicated to the Community. (See Application, Mission and Purpose, Q.18 and Q.20)

This active and overlapping commitment to shared goals among the various types of delineated music constituents are indicative of "cohesion" because they cohere in their activities which are aligned with DotMusic's clearly defined purpose. The mission and activities overlap among the wide array of supporting member organizations and community members.

Accordingly, it is respectfully submitted that the Panel should determine that the community as defined in the application satisfies both of the conditions to fulfill the requirements for delineation.

**Organization**

Two conditions must be met to fulfill the requirements for organization: there must be at least one entity mainly dedicated to the community and there must be documented evidence of community activities.  According to the AGB, "organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities."

According to ICANN's Applicant Guidebook ("AGB")[18]: "With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an international federation of national communities of a similar nature… viable as such, provided the requisite awareness and recognition of the community is at hand among the members." (AGB, 4-12). The community as defined in the DotMusic application has at least one entity mainly[19] dedicated to the community which has supported DotMusic.   Applicant's supports include <u>several</u> "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.   At least seven (7) such entities support Applicant.

One entity that is mainly dedicated to the community is the International Federation of Phonographic Industry (IFPI). The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[20] whose members[21] – major and

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[18] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[19] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

[20] http://www.ifpi.org/about.php

independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[22] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[23] the world's largest music market with 30% global market share.[24] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora." The IFPI has been active since its founding in 1933 and its documented activities and events include market research and global insight, legal policy and litigation, performance rights, anti-piracy, international trade, technology and communications.[25]

A second entity that is mainly dedicated to the community is the International Federation of Musicians (FIM) representing the "voice of musicians worldwide." FIM is the only global music body representing musicians and their trade unions globally with members in over 60 countries.[26] FIM is the only international federation that is mainly dedicated to and represents musicians globally which has official relations with the United Nations Economic and Social Council (ECOSOC)(Ros C); the United Nations Educational, Scientific and Cultural Organization (UNESCO) (Consultative Status); the World Intellectual Property Organization (WIPO) (Permanent Observer Status); and the Organisation internationale de la Francophonie (OIF). FIM is a member of International Music Council (IMC) founded in 1949 by UNESCO, which represents over 200 million music constituents from over 150 countries and over 1000 organizations.[27] FIM's aim is to "protect and elevate the economic, social and artistic status and interests of musicians, both in their role as performers and as producers of the recording of their own performances."[28]

The FIM, founded in 1948, is globally-recognized and has a permanent relationship with the *United Nations Educational, Scientific and Cultural Organization* (UNESCO),[29] the International Labor Organization (ILO)[30] and the World Intellectual Property Organization (WIPO).[31] It is recognized and consulted by the Council of Europe,[32] the European Commission[33] and the European Parliament.[34] It enables it to participate in crucial negotiations on the protection of performers where it can make the voice of musicians heard. The FIM is also member of the International Music Council (IMC).[35] It also collaborates with all national and international organizations representing workers in the media field. Activities include the creation of the International Arts and Entertainment Alliance (IAEA)[36] with the

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[21] http://www.ifpi.org/our-members.php
[22] http://www.ifpi.org/national-groups.php
[23] http://www.riaa.com/faq.php
[24] http://www.statista.com/topics/1639/music/
[25] http://www.ifpi.org/what-we-do.php
[26] http://www.fim-musicians.org
[27] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[28] http://ngo-db.unesco.org/r/or/en/1100025135
[29] http://en.unesco.org
[30] http://www.ilo.org
[31] http://wipo.int
[32] http://www.coe.int
[33] http://ec.europa.eu/index_en.htm
[34] http://www.europarl.europa.eu/portal/en/
[35] http://www.imc-cim.org
[36] http://www.iaea-globalunion.org

International Federation of Actors (FIA)[37] and UNI-Media and Entertainment International (UNI-MEI).[38] IAEA is a member of the Council of Global Unions (CGU).[39] Furthermore, the FIM works closely with collecting societies administering performers' rights. Its documented activities and events include the furtherance of musicians in all countries, strengthening of international collaboration, promoting of national and international protective legislative (or other) initiatives in the interests of musicians, obtaining and compilation of statistical and other information referring to the music profession and provision of such information to member unions, as well as holding events such as international congresses and conferences.[40]

Another third entity dedicated to the community is the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA). IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[41] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per (Application Answer to Question 20a).

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[42] The UNESCO strategic partnership[43] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[44] IFACCA's extensive activities, campaigns and global recognition can be evidenced by the recent release of a communique[45] in collaboration with other leading networks, such as the International Music Council, IFCCD, Agenda 21 for culture (UCLG), Culture Action Europe, Arterial Network, ICOMOS, IFLA and Red Latinoamericana de Arte para la Transformación Social. This global campaign was signed by 900 organisations in 120

[37] http://www.fia-actors.com
[38] http://www.uniglobalunion.org
[39] http://www.global-unions.org
[40] http://www.fim-musicians.org/about-fim/history/
[41] http://www.ifacca.org/membership/current_members/
[42] http://www.ifacca.org/strategic_partners/
[43] http://www.ifacca.org/strategic_partners/
[44] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[45] http://media.ifacca.org/files/IFACCA_Sept2015_SDG_ENG.pdf

countries to create a global voice for the cultural sector.[46]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[47]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries.  The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[48] Other small government Ministries of Culture, such as Albania,[49] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[50] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[51]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects.  Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[52]

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[46] http://www.ifacca.org/announcements/2015/09/24/global-campaign-culture-releases-joint-communique

[47] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html

[48] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus  (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10), Musical Festivities for the European Volunteerism Year (1.2.11)

[49] http://www.culturalpolicies.net/down/albania_012011.pdf

[50] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[51] http://my.midem.com/en/contact-us/pavilion-representatives/

[52] 2011 Annual Report from New Zealand Ministry of Culture:

- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[53]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[54] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[55]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[56]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[57] and has a strong focus on music as outlined in its Strategic Plan[58] with Congress requested to provide $154,465,000 for fiscal year 2014.[59]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[60]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[61]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[62]

http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[53] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[54] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[55] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[56] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[57] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[58] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[59] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[60] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[61] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[62] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries.  In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

A fourth entity NAMM, the International Music Products Association, is an entity mainly dedicated to the community and is a group of non-negligible size that has supported DotMusic.  NAMM, formed in 1901, has globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[63] [64] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM documented activities and events include the NAMM Show, the world's largest event for the music products community.[65]

A fifth global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [66]  – a majority of global music.[67]

Another letter[68] sent to ICANN (on April 14th, 2015) from a sixth entity, the NMPA and on behalf of a music publisher and songwriter community coalition, representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Finally, a seventh example of an "entity *mainly* dedicated to the community," with members that cover hundreds of millions of music constituents with formal boundaries, is A2IM, the American Association of Independent Music.  A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[69]

The reach of A2IM Associate[70] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions

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[63] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[64] http://www.musictrades.com/global.html
[65] https://www.namm.org/thenammshow
[66] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[67] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[68] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[69] http://a2im.org/about-joining/
[70] http://a2im.org/groups/tag/associate+members/

associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[71] – iTunes accounts for <u>63% of global digital music market</u>[72] - a <u>majority</u> – with a registered community of 800 million registered members[73] available in <u>119 countries</u> who abide to strict terms of service and boundaries[74] and have <u>downloaded over 25 billion songs</u>[75] from iTunes' catalog of over <u>43 million songs</u>[76] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[77]

- **Pandora**[78] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[79]
- **Spotify**[80] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[81]
- **Vevo**[82] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[83]
- **Youtube**[84] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[85] of which 38.4% is music-related.[86]

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[71] http://a2im.org/groups/itunes
[72] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[73] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[74] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[75] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[76] https://www.apple.com/itunes/features/
[77] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[78] http://a2im.org/groups/pandora
[79] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[80] http://a2im.org/groups/spotify
[81] https://press.spotify.com/us/information/
[82] http://a2im.org/groups/vevo/
[83] http://www.vevo.com/c/EN/US/about
[84] http://a2im.org/groups/youtube/
[85] https://www.youtube.com/yt/press/statistics.html
[86] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and

- **Reverbnation**[87] – Reverbnation[88] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[89] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[90]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[91]), China (China Audio Video Association[92]) and Germany (Initiative Musik).[93] A2IM also has Affiliate[94] associations within the global music community. These include Affiliates such as MusicFirst,[95] the Copyright Alliance,[96] the Worldwide Independent Network (WIN)[97] and Merlin.[98]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[99] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size

According to the .HOTEL[100] EIU CPE Determination for *Delineation (Organization):*

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[87] http://a2im.org/groups/reverb-nation/
[88] http://www.reverbnation.com/about
[89] http://a2im.org/groups/bmg-rights/
[90] http://www.bmg.com/category/about-us/history/
[91] http://a2im.org/groups/french-music-export-office
[92] http://a2im.org/groups/china-audio-video-association-cava
[93] http://a2im.org/groups/initiative-musik-gmbh
[94] http://a2im.org/groups/tag/associate+members/
[95] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[96] http://www.copyrightalliance.org/members
[97] http://www.winformusic.org
[98] http://www.merlinnetwork.org
[99] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf
[100] http://www.icann.org/sites/default/files/tlds/hotel/hotel-cpe-1-1032-95136-en.pdf

*The community as defined in the application has at least one entity mainly dedicated to the community. There are, in fact, several entities that are mainly dedicated to the community, such as the International Hotel and Restaurant Association (IH&RA), Hospitality Europe (HOTREC), the American Hotel & Lodging Association (AH&LA) and China Hotel Association (CHA), among others.*

According to the .ECO[101] EIU CPE Determination for *Delineation (Organization):*

*The community as defined in the application has at least one entity mainly dedicated to the community. In fact, several entities are mainly dedicated to the community as defined by the application, such as the International Union for Conservation of Nature (IUCN), World Wide Fund For Nature (WWF), United Nations Environment Program and the Global Reporting Initiative, among others.*

Consistent with the .HOTEL and the .ECO EIU CPE Determinations, the equivalent for the International Hotel and Restaurant Association (.HOTEL) and the International Union for Conservation of Nature (.ECO) or World Wide Fund (.ECO) with respect to "music" include the International Federation of Phonographic Industry (IFPI), the International Confederation of Music Publishers (ICMP), the International Federation of Arts Councils and Culture Agencies (IFACCA), the International Federation of Musicians (FIM), the Worldwide Independent Network (WIN), Merlin and many others. The equivalent of Hospitality Europe (.HOTEL) includes the Independent Music Companies Association (IMPALA) and many others. The equivalent of the American Hotel (.HOTEL) and Lodging Association is the American Association of Independent Music.

Accordingly, it is respectfully submitted that the Panel should determine that the community as defined in the application satisfies both of the conditions to fulfill the requirements for organization.

**Pre-existence**

To fulfill the requirements for pre-existence, the community must have been active prior to September 2007 (when the new gTLD policy recommendations were completed) and must display an awareness and recognition of a community among its members.

The community as defined in the application was active prior to September 2007 as required by the AGB, section 4.2.3. According to the application:

> **The Community has bought, sold, and bartered music for as long ("LONGEVITY") as it has been made (R. Burnett, International Music Industry, 1996 and P. Gronow, International History of the Recording Industry, 1998). The Community is a delineated network where production and distribution of music occur in a process relying on labor division and technology. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial (M. Talbot, Business of Music, 2002). The foundation for the structured**

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[101] http://www.icann.org/sites/default/files/tlds/eco/eco-cpe-1-912-59314-en.pdf

**and strictly delineated Community only resulted from the interplay between the growing music publishing business and an emerging public music concert culture in the 18th century ("PRE-EXISTING"). Consequently, music publishers and concert promoters assumed the function of institutional gatekeepers of the Music Community who decided which music reached consumers and in what form, thus setting the parameters within which creativity was able to unfold (P. Tschmuck, Creativity & Innovation in the Music Industry, Institute of Culture Management & Culture Science, 2006). (Question 20A)**

The community as defined in the application was active prior to September 2007.

Furthermore, most of the supporting organizations that fall within the application's delineation have been active prior to 2007, including the IFPI[102] (1933), FIM[103] (1948), NAMM[104] (1901) and others. The Panel can determine that because organizations like those referenced above are mainly dedicated to the members of the community as defined by the application, and because they and most others were active prior to 2007, the community as defined in the application fulfills the requirements for Pre-existence.

As discussed above, these organizations and their members, in addition to being active prior to 2007, demonstrate the AGB's requirements for awareness and recognition.

Accordingly, it is respectfully submitted that the Panel should determine that the community as defined in the application fulfills the requirements for pre- existence.

**1-B Extension**

The Panel should determine that the community as identified in the application meets the criterion for Extension specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, as the application fulfilled the requirements for the size and longevity of the community. The application should receive a score of 2 out of 2 points under criterion 1-B: Extension.

**Size**

Two conditions must be met to fulfill the requirements for size: the community must be of considerable sizeand must display an awareness and recognition of a community among its members.

The community as defined in the application is of considerable size.

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[102] http://www.ifpi.org/downloads/ifpi-a-short-history-november-2013.pdf
[103] http://www.fim-musicians.org/about-fim/history/
[104] https://www.namm.org/library/blog/oldest-known-namm-member-photo-donated

According to the application:

> **The Music Community's geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries ("EXTENSION") with a Community of <u>considerable size with millions of constituents</u> ("SIZE"). (Question 20A)**

This is consistent with the .HOTEL,[105] .ECO[106] and .RADIO EIU CPE Determination for *Size*:

> *.HOTEL: The community as defined in the application is of a considerable size. The community for .HOTEL as defined in the application is large in terms of the number of members. According to the applicant, "the global Hotel Community consists of more than 500,000 hotels and their associations"*

> *.ECO: The community as defined in the application is of a considerable size. The community for .ECO as defined in the application is large in terms of the number of members. According to the applicant:*

>> *40,000+ Not-for-Profit Organizations, eg, 34,376 US environmental organizations (2011 Internal Revenue Service Exempt Organizations Business Master File, National Center for Charitable Statistics); 6,157 in the UK (March 2012, 1⁄3 of 18,470 Environment ∕ Conservation ∕ Heritage registered charities, Charity Commission); 148,000+ Businesses, eg, 68,200 US businesses committed to environmental sustainability (Pew Charitable Trust, "The Clean Energy Economy", 2009); 80,000 small and medium enterprises in the EU use certified environmental management systems (Danish Technological Institute, "SMEs and the Environment in the European Union", 2010);  193+ Environment-focused Governmental Bodies – eg, 193 member states (UN website, March 2012);  18 million+ Individuals, eg, International: WWF, 5M; Greenpeace, 2.8M; FOE, 2M; Ocean Conservancy, 0.5M. National: National Wildlife Federation, 4M; Sierra Club, 1.4M; National Resources Defense Council, 1.2M; The Nature Conservancy, 1M (Members, 2010).*

> *.RADIO: The community as defined in the application is of a considerable size. The community for .RADIO as defined in the application is large in terms of the number of members. According to the application:*

>> *Currently, there are about 50,000 radio stations worldwide, according to the figure published by CIA World Facts on their website. In addition, there are at least another 50,000 web radios.*

Additionally, as discussed earlier, the community defined by the application demonstrates the recognition and awareness required by the AGB.

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[105] http://www.icann.org/sites/default/files/tlds/hotel/hotel-cpe-1-1032-95136-en.pdf
[106] http://www.icann.org/sites/default/files/tlds/eco/eco-cpe-1-912-59314-en.pdf

> **While the <u>exact</u> size of the global Music Community as defined is unknown (there is no evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string.  (PIC at p.13)**

Accordingly the Panel should determine that the community as defined in the application satisfies both of the conditions to fulfil the requirements for size and awareness.

**Longevity**

Two conditions must be met to fulfill the requirements for longevity: the community must demonstrate longevity and must display an awareness and recognition of a community among its members.

The community as defined in the application demonstrates longevity. According to the application:

> **The Community has bought, sold, and bartered music for as long ("LONGEVITY") as it has been made (R. Burnett, International Music Industry, 1996 and P. Gronow, International History of the Recording Industry, 1998). The Community is a delineated network where production and distribution of music occur in a process relying on labor division and technology. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial (M. Talbot, Business of Music, 2002). The foundation for the structured and strictly delineated Community only resulted from the interplay between the growing music publishing business and an emerging public music concert culture in the 18th century ("PRE-EXISTING"). Consequently, music publishers and concert promoters assumed the function of institutional gatekeepers of the Music Community who decided which music reached consumers and in what form, thus setting the parameters within which creativity was able to unfold (P. Tschmuck, Creativity & Innovation in the Music Industry, Institute of Culture Management & Culture Science, 2006). (Question 20A)**

Given the size of the music community and its historical background, the Panel should determine that the pursuits of the community are of a lasting, non-transient nature. Additionally, as discussed above, the community defined by the application demonstrates the recognition and awareness required by the AGB.

The Panel should determine that the community as defined in the application satisfies both of the conditions to fulfill the requirements for longevity.

**Criterion #2: Nexus between Proposed String and Community**

**2A – Nexus**

The Panel should determine that the application meets the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB. The string matches the name of the community as defined in the application. The application received a score of 3 out of 3 points under criterion 2-A: Nexus.

To receive the maximum score for Nexus, the applied-for string must match the name of the community or be a well-known short-form or abbreviation of the community name. To receive a partial score for Nexus (of 2 out of 3 points; 1 point is not possible), the applied-for string must identify the community. "Identify means that the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community."

According to the application:

> **The .MUSIC string relates to the Community by:**
> **- Completely representing the entire Community. It relates to all music-related constituents using an all-inclusive, multi-stakeholder model**
> **- Directly communicating that the content is music- related and representing the Community in a positive and beneficial manner consistent with the .MUSIC Purpose and Use policy**
>
> **…The Community is not subject to merely commercial∕financial variables. The music Community is driven primarily by technology and the socio-cultural environment that influence music-related media cultures and consumer behavior, including the Community itself.**
> **The socio-cultural environment drives the TLD, including the cultural diversity that provides space within the Community for many genres∕participants, general socioeconomic and demographic factors and their impact on diverse local environments, and the support that the Community gives to new creators∕performers. The string and Community share a particular cultural ambience: a sensitivity and preference for certain cultural expressions. The ambience is diverse and influential: music preferences of different sections of the society vary, ranging from metal to classical; Socio-economic distributions and demographic patterns.**
>
> **…The Community and the .MUSIC string share a core value system of artistic expression with diverse, niche subcultures and socio-economic interactions between music creators, their value chain, distribution channel, and ultimately engaging fans as well as other music constituents subscribing to common ideals. (Question 20D)**

The Panel should determine that the Community (as defined by the application, including those community organizations supporting the application) are also "commonly known by others" (AGB) both in and outside of the community by the applied-for string "MUSIC" as required by the AGB. Indeed, the word "music" is defined in the application as "the art of combining sounds rhythmically, melodically or harmonically" or "vocal or instrumental sounds (or both) combined in such a way as to produce beauty of form, harmony, and expression of emotion" (Oxford Dictionaries). This common usage of the applied-for string closely aligns with the community as defined in the application.[107]

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[107] A dictionary or encyclopedia may be used to determine how the applied-for string is used for Nexus evaluation.

Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner with DotMusic's community-based purpose and connotes community cohesion i.e. only entities with music-related activities are able to register .MUSIC domains.

According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[108] given the symbiotic overlapping nature of the music (industry) Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

According to the AGB, "with respect to "Nexus," for a score of 3, the essential aspect is that the applied-for string is commonly known by others as the identification / name of the community." (CPE Guidelines, Pg.8)

Consistently, to address "Nexus," an independent survey was conducted by Nielsen/Harris Poll[109] within the United States from August 7th through August 11th, 2015 among 2,084 adults ages 18 and older. Figures for age, sex, race/ethnicity, education, region and household income were weighted where necessary to bring them into line with their actual proportions in the population. The data was also weighted to reflect the composition of the adult population. Nielsen/Harris Poll addressed whether the applied-for string was commonly-known (i.e. known by most people[110]) and associated with the identification of the community defined by DotMusic by asking the question:

> **If you saw a website domain that ended in ".music" (e.g., www.name.music), would you associate it with musicians and/or other individuals or organizations belonging to the music community (i.e., a logical alliance of communities of individuals, organizations and business that relate to music)?[111]**

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These may analyze present and evolving uses of a word, capturing in this case the most prevalent uses of "music". See: http://oxforddictionaries.com/us/definition/american_english/music

[108] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music (industry) Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

[109] http://www.harrisinteractive.com/Products/HarrisPollQuickQuery.aspx

[110] http://www.wordreference.com/es/translation.asp?tranword=commonly%20known

[111] Nielsen / Harris Poll, Quick Query Q3505, http://music.us/nielsen-harris-poll.pdf, Fielding Period: August 7-11, 2015, Pg. 1,2,3 and Appendix B

Most people, 1562 out of 2084 (3 in 4 or 75% of the respondents) responded "Yes,"[112] which is aligned with the "Nexus" Criterion 2A requirements that the applied for-string is "commonly-known" as the identification of the community addressed by the application.

Furthermore, independent testimonies and disclosures from over 40 experts agree that the application's defined community matches the applied-for string.[113]

DotMusic's community definition only includes members "related to music" i.e. there is no substantial overreach beyond the community defined. As such, the defined community matches the applied-for string because, according to the application, it "**completely represent[s] the entire Community. It relates to all music-related constituents using an all-inclusive, multi-stakeholder model.**" According to the application, the Community "will be **verified** using **Community-organized, unified "criteria** taken from holistic perspective with due regard of Community particularities" that **"invoke a formal membership" without discrimination, conflict of interest or "likelihood of material detriment to the rights and legitimate interests" of the Community."**

As stated (and reiterated in its Public Interest Commitments), DotMusic's application does not exclude or discriminate against any legitimate constituent associated with the applied-for string (Also see Venn Diagram, Appendix C). Therefore, the Panel should determine that the applied-for string is the established name by which the community is commonly known by others, and the applied-for string matches the community as defined in the application. Therefore, it is respectfully submitted that the Applicant meets the requirements for a full credit of 3 points on Nexus.

## 2B – Uniqueness

The Panel should determine that the application meets the criterion for Uniqueness as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB. The application should receive a score of 1 out of 1 point under criterion 2-B: Uniqueness.

The string's unique phonetic, visual and contextual meaning to identify the "music" Community described in the DotMusic application is also established in a significant number of other languages e.g. musiek (Africaans), muzikë (Albanian), musiqi (Azerbaijani), musika (Basque), музыка (Belarusian), muzika (Bosnian), музика (Bulgarian), música (Catalan), music (Cebuano), musik (Danish), muziek (Dutch), muziko (Esperanto), muusika (Estonian), musika (Filipino), musiikki (Finnish), musique (French), música (Galician), Musik (German), μουσική (Greek), mizik (Haitian Creole), music (Indonesian), musica (Italian), music (Javanese), musica (Latin), mūzika (Latvian), muzika (Lithuanian), музика (Mecedonian), muzik (Malay), mużika (Maltese), musikk (Norwegian), muzyka (Polish), música (Portuguese), muzică (Romanian), музыка (Russian), музика (Serbian), música (Spanish), muziki (Swahili), music (Swedish), müzik (Turkish), музика (Ukrainian) and others.

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[112] Nielsen / Harris Poll, Quick Query Q3505, http://music.us/nielsen-harris-poll.pdf, Fielding Period: August 7-11, 2015, Pg. 1,2,3 and Appendix B
[113] http://music.us/expert/letters and Appendix A

To fulfill the requirements for Uniqueness, the string must have no other significant meaning beyond identifying the community described in the application and it must also score a 2 or a 3 on Nexus. The string as defined in the application demonstrates uniqueness, as the string does <u>not</u> have any other meaning beyond identifying the community described in the application. The Community Priority Evaluation panel should determine that the applied-for string satisfies the condition to fulfill the requirements for Uniqueness.

Therefore, the Panel should determine that the applied-for string satisfies the condition to fulfill the requirements for Uniqueness.

**Criterion #3: Registration Policies** (Also See Registration Process & Policies Flowchart, Appendix D)

**3-A Eligibility**

The Panel should determine that the application meets the criterion for Eligibility as specified in section

4.2.3
(Community Priority Evaluation Criteria) of the AGB, as eligibility is restricted to community members. The application should receive a maximum score of 1 point under criterion 3-A: Eligibility.

To fulfill the requirements for Eligibility, the registration policies must restrict the eligibility of prospective registrants to community members. According to the application:

> **The TLD will be <u>exclusive</u> to the Community… .MUSIC domains will be validated to belong to Community members, who can only use the domains under Community-focused Policies. This way, Internet users will experience trusted interactions with registrants and be confident that any interaction is with legitimate Community members. (Question 18A)**

> **…Registrants will be <u>verified</u> using <u>Community-organized, unified "criteria</u> taken from <u>holistic perspective</u> with due regard of <u>Community particularities"</u> that "<u>invoke a formal membership</u>" without discrimination, conflict of interest or "likelihood of material detriment to the rights and legitimate interests" of the Community… (Question 20A)**

> **…Music Community Member Organization (MCMO)… phase… is a limited-time period reserved for members of DotMusic-accredited music Community Member Organizations (MCMO).  Unique registrations will be granted to the sole registrant and delegated at the close of the time period; multiple registration requests for the same string will go through an auction.  …General Availability… phase of registration of .MUSIC domains. .MUSIC registrations will now be available to Music Community members on a first come, first served basis. (Question 20E)**

The DotMusic *Eligibility* policy is consistent with various EIU CPE Determinations for *Eligibility*:

> .ECO: To fulfill the requirements for Eligibility, the registration policies must restrict the eligibility of prospective registrants to community members. The application demonstrates adherence to this requirement by <u>restricting eligibility to individuals and entities</u> (non-for-profit, businesses and governments) that are <u>members of the global environmental community</u> and that meet recognized standards.

> .RADIO: The application demonstrates adherence to this requirement by <u>restricting eligibility to the community categories</u> mentioned in Delineation, and additionally requiring that the registered domain name be "accepted as legitimate; and beneficial to the cause and values of the radio industry; and commensurate with the role and importance of the registered domain name; and in good faith at the time of registration and thereafter."

.HOTEL: The application demonstrates adherence to this requirement <u>by restricting eligibility to the narrow category of hotels and their organizations</u> as defined by ISO 18513, and <u>verifying this association through membership lists, directories and registries</u>.

.ART (Dadotart): The application demonstrates adherence to this requirement by <u>restricting eligibility to artists and those who have an identifiable engagement with the arts</u>.

.ART (Eflux): The application demonstrates adherence to this requirement by restricting eligibility to art-related institutions and entities, and professionals or semi-professional members of the art community.

The application therefore demonstrates adherence to the AGB's requirement by restricting domain registration to entities who are members of the community defined by the application. The Panel should determine that the application satisfies the condition to fulfill the requirements for Eligibility.

**3-B Name Selection**

The Panel should determine that the application meets the criterion for Name Selection as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as name selection rules are consistent with the articulated community-based purpose of the applied-for TLD. The application should receive a score of 1 out of 1 point under criterion 3-B: Name Selection.

According to the application:

> **The Names Selection Policy ensures only music-related names are registered as domains under .MUSIC, with the following restrictions:**
>
> 1) **A <u>name of (entire or portion of)</u> the musician, band, company, organization, e.g. the registrants "doing business as" name**
> 2) **An <u>acronym</u> representing the registrant**
> 3) **A name that <u>recognizes</u> or <u>generally describes</u> the registrant, or**
> 4) **A name <u>related</u> to the mission or activities of the registrant" (Question 20E)**

The DotMusic *Name Selection* policy is consistent with various EIU CPE Determinations for *Name Selection*:

> .MLS:[114] *The application demonstrates adherence to this requirement by specifying that the associated boards use their corporate <u>name or an acronym</u>, while foreign affiliates will also have to include geographical modifiers in their second level domains.*

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[114] http://www.icann.org/sites/default/files/tlds/mls/mls-cpe-1-1888-47714-en.pdf

.LLP,[115] .INC,[116] and .LLC:[117] *The application demonstrates adherence to this requirement by outlining a comprehensive list of name selection rules, such as requirements that second level domain names should <u>match or include a substantial part</u> of the registrant's legal name."*

Also, the Name Selection Policy also covers the music Globally Protected Marks List (GPML) and does not allow registrants to register a domain containing an established music brands' name that would be deemed confusing to Internet users and the Music Community:

> **Globally Protected Marks List (GPML) will ensure major music brands and established artists, such as RIAA-certified platinum-selling bands, are protected not cybersquatted. These are reserved at all times. (Question 20E)**

> **…Applicants "cannot register a domain containing an established music brand's name in bad faith that might be deemed confusing to Internet users and the Music Community. (Question 20E)**

The DotMusic GPML Name Selection policy is consistent with the .HOTEL[118] EIU CPE Determination for *Name Selection*:

> *[T]he registry has set aside a list of domain names that will be reserved for the major hotel industry brands and sub-brands.*

Therefore, the Panel should determine that the application satisfies the conditions to fulfill the requirements for Name Selection.

**3-C Content and Use**

The Community Priority Evaluation panel should determine that the application meets the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the rules for content and use are consistent with the articulated community-based purpose of the applied-for TLD. The application should receive a maximum score of 1 point under criterion 3-C: Content and Use.

To fulfill the requirements for Content and Use, the registration policies must include rules for content and use for registrants that are consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by specifying that use of the domain name must be beneficial to the cause and values of the Community:

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[115] http://www.icann.org/sites/default/files/tlds/llp/llp-cpe-1-880-35508-en.pdf
[116] http://www.icann.org/sites/default/files/tlds/inc/inc-cpe-1-880-35979-en.pdf
[117] http://www.icann.org/sites/default/files/tlds/llc/llc-cpe-1-880-17627-en.pdf
[118] http://www.icann.org/sites/default/files/tlds/hotel/hotel-cpe-1-1032-95136-en.pdf

**.MUSIC will effectively differentiate itself by addressing the key online usage issues of safety, trust, consistency, brand recognition as well as communicate site subject-matter: <u>music-related content</u>. The TLD will be exclusive to the Community and will incorporate enhanced safeguards and Use policies to protect creators, intellectual property and rights holders.**

**Community members need to be able to distinguish themselves from illegal or unlicensed sites. Ensuring monies flow to rightful owners and the Music Community is critical to the .MUSIC Mission.**

**DotMusic will provide Premium Channels and a Song Registry where the Community and Internet users can network, share information and engage in commerce in a trusted, secure ecosystem – a safe haven for legal music consumption and song licensing ensuring monies flow to the Community not unlicensed sites.**

**.MUSIC domains can serve as trusted signals for search engines and used as filters for legal, licensed and safe music sites with relevant, quality content. .MUSIC domains will be validated to belong to Community members, who can only use the domains under Community-focused Policies. This way, Internet users will experience trusted interactions with registrants and be confident that any interaction is with legitimate Community members. (Question 18A)**

The application also has Content and Use policies that prohibit the use of parking pages:

**PARKING PAGES: DotMusic will <u>prohibit the use of parked pages</u>. .MUSIC sites will be subject to the content and use restrictions described in response to question 18b and question 20e. Parked sites can only be used as temporary pages assigned to a domain at the time of registration and stay in place until the registrant has a website developed and ready to go live in a reasonable time period. (Question 18C iii)**

The application also restricts Content and Use to legal music-related activities:

**The following use requirements apply:**

**• <u>Use only for music-related activities</u>**
**• Comply with applicable laws and regulations and not participate in, facilitate, or further illegal activities**
**• Do not post or submit content that is illegal, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, or tortious**
**• Respect the intellectual property rights of others by posting or submitting only content that is owned, licensed, or otherwise have the right to post or submit**
**• Immediately notify us if there is a security breach, other member incompliance or**

**illegal activity on .MUSIC sites**
**• Do not register a domain containing an established music brand's name in bad faith
that might be deemed confusing to Internet users and the Music Community**
**• Do not use any automated process to access or use the .MUSIC sites or any process,
whether automated or manual, to capture data or content from any service for any
reason**
**• Do not use any service or any process to damage, disable, impair, or otherwise
attack .MUSIC sites or the networks connected to .MUSIC sites (Question 20E)**

The DotMusic Content and Use policy is consistent with various EIU CPE Determinations for *Content and Use*:

> .HOTEL:[119] *The application demonstrates adherence to this requirement by specifying that each domain name <u>must display hotel community-related content relevant</u> to the domain name*
>
> .TAXI:[120] *The application demonstrates adherence to this requirement by noting four relevant rules for content and use, which include <u>restricting content to taxi-related issues</u> or indicating a strong connection to it, amongst other rules.*

The Community Priority Evaluation panel should determine that the application satisfies the condition to fulfill the requirements for Content and Use.

### 3-D Enforcement

The Panel should determine that the application meets the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB. The application provides specific enforcement measures and outlines coherent and appropriate appeals mechanisms. The application should receive a score of 1 point under criterion 3-D: Enforcement.

Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms.

The application commits to implement both proactive and reactive enforcement measures, such as proactive zone screening, Community crowdsourced enforcement (to "immediately notify [DotMusic] if there is a security breach, other member incompliance or illegal activity on .MUSIC sites") and random compliance checks, with appropriate dispute processes to fix compliance issues under its .MUSIC Policy & Copyright Infringement Dispute Resolution Process (MPCIDRP), including reasonable time to appeal (i.e. via "dispute processes") with the registry to fix compliance issues or appeal with an independent dispute resolution provider, such as the National Arbitration Forum (NAF), which already has a

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[119] http://www.icann.org/sites/default/files/tlds/hotel/hotel-cpe-1-1032-95136-en.pdf
[120] http://www.icann.org/sites/default/files/tlds/taxi/taxi-cpe-1-1025-18840-en.pdf

customized DotMusic appeals mechanism in place.[121]

According to the application:

**REGISTRY DATA VALIDATION**

**DotMusic will <u>validate</u> elements of the received WHOIS data as a requirement for domain registration, also providing access to Premium Channels, such as the registrant's:**
**- Email address through validation links**
**- Phone number through validated PIN-codes (Question 18B iv, Question 20E)**

**COMPLIANCE & ENFORCEMENT**

**DotMusic will take <u>proactive and reactive measures</u> to enforce its Policies. Proactive measures are taken at the time of registration. Reactive measures are addressed via <u>compliance and enforcement mechanisms</u> and through <u>dispute processes</u>. Allegation that a domain is not used for legitimate music purposes or otherwise infringes on Policies shall be enforced under the provisions of the <u>.MUSIC Policy & Copyright Infringement Dispute Resolution Process</u> ("MPCIDRP"); described in question 28 response. (Question 18B iv, Question 20E)**

**The MPCIDRP is not a replacement for alleged violation of the UDRP∕URS∕PDDRP∕RRDRP, which shall be enforced under the provisions contained therein. (Question 18B iv, Question 20E)**

**The DRP's are required in the registrars' registration agreements with registrants. Proceedings must be brought by interested 3rd-parties in accordance with associated policies and procedures to <u>dispute resolution providers</u>. (Question 18B iv)**

**DotMusic will conduct <u>random compliance checks</u> across all the .MUSIC Policies. Periodically a sample of .MUSIC registrations will be verified for compliance with all established Policies. (Question 18B iv, Question 20E)**

**If a registrant is found out of compliance with any of the .MUSIC Policies the registrant will be notified that the domain will be placed on <u>registry lock</u>. The <u>registrant will have a reasonable time period to fix the compliance matter or the domain will be terminated</u>. (Question 18B iv, Question 20E)**

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[121] See DotMusic MPCIDRP at <u>http://www.adrforum.com/RegistrySpec</u> and <u>http://www.adrforum.com/users/odr/resources/Music_Policy_and_Copyright_Infringement_Dispute_Resolution_Process_final%20(2).docx</u>

**The Sunrise Challenge Process solves disputes concerning domains registered under the Sunrise Policy. (Question 20E)**

**Repeat offenders of Policies will be placed on a special monitoring list that DotMusic will conduct additional compliance checks against. DotMusic holds the right to prohibit repeat offenders from registering .MUSIC domains for a period of time or indefinitely. (Question 18B iv)**

**DotMusic will review all policies and processes on a regular basis with involvement from the .MUSIC Advisory Committee and discussed publicly at Community events. (Question 18B iv, Question 20E)**

**DotMusic will also conduct registrar and registrant surveys based on the level of registrant satisfaction concerning .MUSIC usability and how to improve value proposition. (Question 20E)**

**[Registrants must] immediately notify [DotMusic] if there is a security breach, other member incompliance or illegal activity on .MUSIC sites. (Question 20E)**

**DotMusic will implement multiple dispute resolution policies to address dispute over any names not reserved by the above provisions; see response to question #20e and #28 and #29…DotMusic will ensure appropriate procedures to allow governments, public authorities or IGO's to challenge abuses of names with national or geographic significance at the second level. DotMusic will institute a provision in the registry-registrar agreements and the registrar-registrant agreements, to suspend domains names in the event of a dispute. DotMusic may exercise that right in the case of a dispute over a geographic name. (Question 22)**

**DotMusic and Afilias may also engage in proactive screening of its zone for malicious use of the domains in the TLD, and report problems to the sponsoring registrars. (Question 28)**

The DotMusic Enforcement policy is consistent with various EIU CPE Determinations for *Enforcement*:

> *.ART (Dadotart): The applicant outlines a comprehensive list of investigation procedures and circumstances in which the registry is entitled to suspend domain names. The application also outlines an appeals process, which will be managed by the registry service provider.*

> *.ECO: The applicant's registry will evaluate complaints against a registrant agreement and decide on an appropriate course of action, which may result in the case being*

*referred to a dispute resolution process. There is also an appeals mechanism, whereby a registrant has the right to seek the opinion of an <u>independent arbiter approved by the registry</u>.*

*.HOTEL: The applicant's registry will establish a process for questions and challenges that could arise from registrations and will <u>conduct random checks</u> on registered domains. There is also an <u>appeals mechanism, whereby a registrant has the right to request a review of a decision to revoke its right to hold a domain name</u>.*

*.RADIO: The enforcement program is based on <u>random checks</u>, and if the content or use of an existing domain name shows bad faith, it will be suspended. There is also an appeals mechanism, which is managed in the first instance by the registry, with appeals heard by an independent, alternative dispute resolution provider.*

*.SPA: At which time, anyone can utilize the Sunrise Challenge Process to challenge the eligibility of a Sunrise application. The <u>Sunrise Challenge Process is itself an appeal mechanism</u>.*

Consistent with other EIU CPE Determinations for *Enforcement*, the application outlines policies that include specific enforcement measures constituting a coherent set. The Panel should determine that the application satisfies both of the two conditions to fulfill the requirements for Enforcement and therefore scores 1 point.

**Criterion #4: Community Endorsement**

Support for or opposition to a CPE gTLD application may come by way of an application comment on ICANN's website, attachment to the application, or by correspondence with ICANN.

## 4-A Support

The Community Priority Evaluation panel should determine that the application fully meets the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the applicant had documented support from the recognized community institution(s)/member organization(s). The application should receive a maximum score of 2 points under criterion 4-A: Support.

To receive the maximum score for Support, the applicant is, or has documented support from, the recognized community institution(s)/member organization(s), or has otherwise documented authority to represent the community. "Recognized" means those institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community. To receive a partial score for Support, the applicant must have documented support from at least one group with relevance. "Relevance" refers to the communities explicitly and implicitly addressed.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[122] Such unparalleled global Music Community support also represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[123] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

The Community Priority Evaluation panel should determine that the applicant was not the recognized community institution(s)/member organization(s). However, the applicant possesses documented support from institutions/organizations representing a majority of the community addressed, and this documentation contained a description of the process and rationale used in arriving at the expression of support. The applicant received support from a broad range of recognized community institutions/member organizations, which represented different segments of the community as defined by the applicant. These entities represent a majority of the overall community. The Community Priority Evaluation Panel should determine that the applicant fully satisfies the requirements for Support.

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[122] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/

[123] http://music.us/supporters

**4-B Opposition**

The Community Priority Evaluation panel should determine that the application meets the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application received no relevant opposition.

According to ICANN's CPE Guidelines:

> To be taken into account as relevant opposition, such objections or comments must be of a <u>reasoned nature</u>. Sources of opposition that are <u>clearly spurious, unsubstantiated,</u> made for a purpose <u>incompatible with competition objectives, or filed for the purpose of obstruction</u> will <u>not be considered relevant</u>. [124]

The AGB and CPE Guidelines provide in pertinent part that:

> The evaluation process will respect the principles of <u>fairness</u>, transparency, <u>avoiding potential conflicts of interest</u>, and non-discrimination...[125]

To receive the maximum score for Opposition, the application must not have received any opposition of relevance. A few letters were filed for the purpose of obstruction and therefore are not considered relevant.[126] The application also received letters of opposition, which should be deemed not to be relevant, as they were either from groups of negligible size, or were from entities/communities that do not have an association with the applied for string. As these letters are neither from the recognized community institutions/member organizations, nor were they from communities/entities that have an association with the community they should not be considered relevant.

DotMusic was also alerted of upcoming obstruction orchestrated by competitors, including Donuts as a reaction to the prevailing .SPA determination. Donuts distributed a template opposition letter with instructions to obstruct DotMusic's application revealing that "if a panel decides that this applicant [DotMusic] represents the "music community", [Donuts] application…will be automatically rejected." In its obstruction letter instructions, Donuts also revealed that ".SPA was granted community priority which might have been avoided had letters of opposition been submitted." DotMusic filed a pre-emptive public comment on August 3rd, 2015 alerting ICANN and the EIU of the upcoming obstruction and spurious anti-competitive pattern by applicants such as Donuts.[127] The first obstruction public

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[124] ICANN CPE Guidelines, http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf, Pg. 20

[125] CPE Guidelines, Pg. 22

[126] The correspondence for .MUSIC includes several letters from DotMusic (See https://icann.org/en/system/files/correspondence/schaeffer-to-crocker-et-al-12aug15-en.pdf) and letters from entities related to an opposition letter. These entities not only withdrew opposition but supported DotMusic. Furthermore, some are currently on DotMusic's Board (http://music.us/board). The letter's sender also was included in correspondence which disclosed that their organization and many others were "encouraged" by DotMusic's policies.

[127] See https://gtldcomment.icann.org/applicationcomment/commentdetails/12754 and https://gtldcomment.icann.org/applicationcomment/commentdetails/12738 (August 3, 2015)

comment using Donuts' obstruction talking point template was filed on August 11th, 2015.[128] Other identical letters followed that were filed either as Public Comments[129] or as ICANN Correspondence Letters.[130]

An example to showcase the spurious nature of the template letters is the discrepancy and inconsistency illustrated in a letter,[131] which described its organization as one that was "comprised of musicians…and individuals in the music community." Despite acknowledging the existence of the "music community" in its company description, the letter later takes a different position to doubt the existence of the "music community" by incorporating Donuts' talking points which refer to a ""*music community,*" *if such a thing even exists*."

In another Donuts coordinated effort, another spurious letter by Donuts' ally, IP Justice, was also attached in Donuts obstruction letter.[132] This letter was first made public by Donuts[133] before IP Justice or ICANN posted it online. IP Justice opposed DotMusic's application on the grounds that it had "concerns…with the "community" TLD concept" and "as a free speech organization, IP Justice agrees that a term as broad and widely touching as "music" does not, and cannot, describe an exclusive "community," and believes that any attempt to utilize the term in such a fashion stifles competition and chills free expression on the Internet."

Just like ICANN states in its response[134] in Independent Review Process (IRP) proceedings filed by Donuts against the EIU Determinations for .ECO and .HOTEL, similarly IP Justice's arguments and opposition of the CPE Guidelines and DotMusic's community-based Eligibility policies (which require that Eligibility is restricted to community members) are time-barred and are not aligned with the GNSO's recommendations that clearly state that those applications "representing communities be awarded priority in string contention:"

> *Claimants' argument is* time-barred. *(Pg.15)… As detailed in the Board's Rationales for the Approval of the Launch of the New gTLD Program, issued in June 2011, the application evaluation procedures, including the CPE procedure (and the decision to grant successful community-based applications priority in cases of string contention), were adopted by the ICANN Board after years of extensive policy development and implementation that included extensive review and analysis by ICANN, as well as input and comment from legal counsel, numerous ICANN communities, Internet stakeholders, and community members from around the world, all in compliance with ICANN's Articles and Bylaws (ICANN Board Rationales at 93-105 (Cls. Ex. RM-11). (Pg.16 and 17). Despite having ample opportunity to do so, Claimants did not challenge the CPE process at the time the Guidebook was implemented. If Claimants, or anyone else for that matter, had concerns related to these issues, they were properly pursued at the time, and not years later. (Pg.18)*

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[128] https://gtldcomment.icann.org/applicationcomment/commentdetails/12780

[129] https://gtldcomment.icann.org/applicationcomment/viewcomments

[130] https://www.icann.org/resources/pages/correspondence-2012-09-24-en

[131] https://www.icann.org/en/system/files/correspondence/hutcherson-to-crocker-et-al-07aug15-en.pdf

[132] https://www.icann.org/en/system/files/correspondence/moody-to-crocker-et-al-12aug15-en.pdf, Exhibit F

[133] https://gtldcomment.icann.org/applicationcomment/commentdetails/12813 and
http://www.donuts.domains/images/pdfs/music-CPE-comment-Aug2015.pdf

[134] https://www.icann.org/en/system/files/files/icann-response-birch-mmx-irp-request-redacted-27apr15-en.pdf

*When an applicant submits a community-based application, <u>it is not</u>, as the Claimants imply, simply <u>seeking to "exploit the application process" (IRP Request ¶ 47)</u>. As set forth in the Guidebook, community-based applicants agree to operate the applied-for gTLD <u>"for the benefit of a clearly delineated community"</u> (Guidebook § 1.2.3.1, Cls. Ex. RM-5). This involves implementing "dedicated registration and use policies for registrants in [the applied-for gTLD]," (Guidebook § 1.2.3.1, Cls. Ex. RM-5) policies that <u>substantially restrict the sorts of domain name registrations a gTLD may accept and thereby might significantly limit the potential profitability of a gTLD</u>. (Pg.6)…The <u>recommendation of the GNSO that applications representing communities be awarded priority in string contention</u> (ICANN Board Rationales for the Approval of the Launch of the New gTLD Program at 94 ("ICANN Board Rationales") (Cls. Ex. RM-11)). (Pg.10)*

Inconsistently, IP Justice did <u>not</u> oppose any other Community applicants' applications. For example, IP Justice did not file opposition against Far Further's (.music LLC) community application for .MUSIC even though Far Further included eligibility policies that <u>excluded a majority of the global music community</u> (a discriminatory policy that DotMusic publicly opposed and EIU concluded excluded a majority of the music community in their EIU Determination). If IP Justice had any sincere concerns about competition then it would have opposed Far Further (and other community applicants) as well but chose to target DotMusic Limited's application instead despite DotMusic's Public Interest Commitments which re-iterate and re-affirm:

*A commitment to <u>not discriminate against any legitimate members of the global music community</u> by adhering to the DotMusic Eligibility policy of non-discrimination that restricts eligibility to Music Community members -- as explicitly stated in DotMusic's Application -- that have an active, non-tangential relationship with the applied-for string and also have the requisite awareness of the music community they identify with as part of the registration process. This public interest commitment <u>ensures the inclusion of the entire global music community that the string .MUSIC connotes;</u>[135] (Enumerated Commitment #3)*

*A commitment that the string will be launched under a multi-stakeholder governance structure of <u>representation that includes all music constituents represented by the string</u>, irrespective of type, size or locale, including commercial, non-commercial and amateur constituents, as explicitly stated in DotMusic's Application.[136] (Enumerated Commitment #5)*

In another Donuts coordinated effort, another spurious letter was filed by Rightside, Donuts co-applicant for .MUSIC, disingenuously stating that "*it is <u>preposterous</u>...to claim that there exists a "<u>music community</u>,*""[137] which is defined by DotMusic as a "delineated and organized logical alliance of music communities." Such statements are inconsistent with public marketing material for promoting the

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[135] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadpicposting/1392?t:ac=1392
[136] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadpicposting/1392?t:ac=1392 , Commitments #3 & #5
[137] https://www.icann.org/en/system/files/correspondence/hammock-to-crocker-et-al-12aug15-en.pdf

.BAND music-themed gTLD, which is operated by Donuts and Rightside. Marketing material clearly mentions promotions to "music communities" (Pg.2).[138] Another .BAND Marketing Kit also refers to the "music sector," organizing it according to delineated music community types, such as record companies, publishing, and "other music-related sectors" (Pg.6). The Kit also refers to and recognizes many music communities and organizations that have supported DotMusic e.g. BMI, ASCAP, Reverbnation, A2IM, BPI, NMPA, IFPI, Harry Fox, NARAS, PRS, RIAA, SESAC and many others (Pg. 1, 2, 3, 9, 10). The Kit also quotes the IFPI a few times as an authoritative source for their research (which further highlights the IFPI's status as an organization mainly dedicated to the Music Community), while also recognizing the existence of an organized "music industry"…"a massive engine worth more than US$130 billion globally"(Pg.3).[139] Such revealing statements highlight that any opposition letters that doubt or shun the existence of the community are spurious and filed for the purpose of obstruction.

Accordingly, the Community Priority Evaluation panel should determine that there is no relevant opposition to the application. The Community Priority Evaluation Panel should determine that the applicant satisfies the requirements for Opposition.

**Conclusion**

For the aforementioned reasons, it is respectfully submitted that the Applicant satisfies all criteria to establish Community and should prevail with a passing grade in CPE.

Transparency and accountability mechanisms, including the quality control requirement of compelling and defensible documentation, forms an integral part of ICANN's decision-making standards. The AGB and CPE Guidelines provide in pertinent part that:

> *The evaluation process will respect the principles of fairness, <u>transparency</u>, avoiding potential conflicts of interest, and non-discrimination...*[140]

> *Consistency of approach in scoring Applications will be of particular importance...*[141]

> *The EIU will work closely with ICANN when questions arise and when additional information may be required to evaluate an application…*[142]

> *The EIU will fully cooperate with ICANN's **<u>quality control</u>** process…*[143]

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[138] http://branding.rightside.co/api/download/28qb-dj9ehrud
[139] http://branding.rightside.co/api/download/28qj-3k4nlku8
[140] CPE Guidelines, Pg. 22
[141] CPE Guidelines, Pg. 22
[142] CPE Guidelines, Pg. 22 and Pg.23
[143] CPE Guidelines, Pg. 22 and Pg.23

*The panel must be able to exercise __consistent__ and somewhat subjective judgment in making its evaluations in order to reach conclusions that are compelling and defensible…[144]*

*The panel must be able to document the way in which it has done so in each case.[145]*

*All EIU evaluators undergo regular training to ensure __full understanding__ of all CPE requirements as listed in the Applicant Guidebook, as well as to ensure __consistent judgment__ (CPE Panel Process Document, Pg.2)…*

*The Panel Firm exercises __consistent judgment__ in making its evaluations in order to reach conclusions that are compelling and defensible, and documents the way in which it has done so in each case (CPE Guidelines, Pg.22 and CPE Panel Process Document, Pg. 3).[146]*

In the case of opposition letters, community applicants must be given the opportunity to provide context and a challenge to any opposition letter if deemed relevant so that the EIU have a complete understanding of the subject-matter and adequately take into consideration both perspectives (just like any fair and equitable proceeding) before reliably determining that the panel has incorporated a "consistent and somewhat subjective judgment in making its evaluations in order to reach conclusions that are compelling and defensible." The EIU "panel must be able to document the way in which it has done so in each case."[147]

DotMusic's CPE must be evaluated using the **same consistent criteria and precedents** that were established in prior EIU determinations to ensure "**consistency of approach across all applications**:"

> **"All Applications will  subsequently be  reviewed by members of  the  core project team  to verify accuracy and  compliance with the AGB, and __to ensure consistency of approach across all  applications.__"[148] (emphasis added)**

In the prevailing CPE Determinations for .RADIO, .SPA and .HOTEL, the EIU consistently referred to the community as the **"(industry) community."** as an acceptable threshold to its "Community Establishment", "Nexus" and "Support" criteria:

According to the .RADIO prevailing CPE determination:

> I**n addition, the community as defined in the application has awareness and recognition among its members. This is because the community as defined consists of**

[144] CPE Guidelines, Pg. 22
[145] CPE Guidelines, Pg. 22
[146] CPE Guidelines, Pg.22, and CPE Panel Process Document, http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf, Pg.3
[147] ICANN CPE Guidelines, Pg. 22
[148] CPE Guidelines, Pg. 22

**entities and individuals that are in the radio <u>industry</u>, and as participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community. In addition, membership in the (<u>industry</u>) community is sufficiently structured, as the requirements listed in the community definition above show.[149]**

According to the .SPA prevailing CPE determination:

**The community as defined in the application has awareness and recognition among its members. This is because the community as defined consists of entities that are in the spa industry, and as participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community. In addition, membership in the (<u>industry</u>) community is sufficiently structured, as the requirements listed in the community definition above show. Members of all three of these membership categories recognize themselves as part of the spa community as evidenced, for example, by their inclusion in industry organizations and participation in their events.[150]**

According to the .HOTEL prevailing CPE determination:

**This community definition shows a clear and straightforward membership. The community is clearly defined because membership requires entities/associations to fulfill the ISO criterion for what constitutes a hotel. Furthermore, association with the hotel sector can be <u>verified through membership lists, directories and registers</u>. In addition, the community as defined in the application has awareness and recognition among its members. This is because the community is defined in terms of its association with the hotel <u>industry</u>.[151]**

Following the rationale in the aforementioned EIU Determinations, DotMusic's community-based application would overwhelmingly exceed the minimum "(industry) community" threshold for the applied for string because its application is supported by organizations with members that **represent over 95% of global music consumed**. In fact, DotMusic's application has amassed the largest coalition of music-related organizations to support a music cause.  Just like in the CPE application cases of .RADIO, .HOTEL and .SPA, DotMusic is supported by a global "(industry) community," with members that have the requisite awareness and recognition of the community defined.

Furthermore, in the .ECO prevailing CPE Determination it was found that "involvement in…activities" and the "interdependence and active commitment to shared goals" are "indicative of the "cohesion"

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[149] https://www.icann.org/sites/default/files/tlds/radio/radio-cpe-1-1083-39123-en.pdf, Pg.2

[150] https://www.icann.org/sites/default/files/tlds/spa/spa-cpe-1-1309-81322-en.pdf, Pg.2

[151] https://www.icann.org/sites/default/files/tlds/hotel/hotel-cpe-1-1032-95136-en.pdf, Pg.2

that the AGB requires in a CPE-eligible community." The .ECO prevailing CPE determination provides in pertinent part that:

> ...Each individual or entity has a clear, public and demonstrable **involvement in environmental activities**. The **interdependence and active commitment to shared goals** among the various membership types **are indicative of the "cohesion" that the AGB requires in a CPE-eligible community**. The Panel found that entities included in the membership categories defined in the application are shown to cohere in their work towards clearly defined projects and goals that overlap among a wide array of member organizations...Furthermore, businesses that are included in the applicant's defined community have voluntarily opted to subject themselves to evaluation of their compliance with environmental standards that qualify them for the accreditations referenced in the application. As such, the defined community's membership is found to meet the AGB's standard for cohesion, required for an adequately delineated community.[152]

It follows that DotMusic's community-based application should exceed the minimum threshold for "Community Establishment" because the DotMusic application and purpose follows unified goals which the represented global "Music Community" which "encompasses global reaching commercial and non-commercial stakeholders, and amateur stakeholders" addressed subscribes to, such as:

- Creating a trusted, safe online haven for music consumption
- Establishing a safe home on the Internet for Music Community members regardless of locale or size
- Protecting intellectual property and fighting piracy
- Supporting musicians' welfare, rights & fair compensation
- Promoting music and the arts, cultural diversity and music education
- Following a multi-stakeholder approach of fair representation of all types of global music constituents, including a rotating regional advisory board working in the best interests of the Music Community

  (Mission and Purpose, Q.18 and Q.20)

DotMusic developed its Mission and Registration Policies using feedback and universal principles collected in its ongoing, extensive public global communication outreach campaign launched in 2008, which gave the Community open opportunities to engage (e.g. via events, meetings, social media, ICANN's 2012 public comment period or other correspondence). DotMusic has participated in hundreds of international music/domain events (http://music.us/events) and still continues to engage Community members. (See Question 18 and Question 20).

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[152] https://www.icann.org/sites/default/files/tlds/eco/eco-cpe-1-912-59314-en.pdf, Pg.3

Furthermore, in comparison, DotMusic's community-application has more music-tailored policies and enhanced safeguards aligned with DotMusic's community-based purpose to serve the interests of the global music community than all .MUSIC applicants combined. (See .MUSIC Applicant Comparison Chart, Appendix E)

Therefore, it is respectfully submitted that, consistent with other CPE Determinations, DotMusic satisfies all criteria to establish Community and should prevail with a passing grade in CPE.

## References

Review the DotMusic Limited application for .MUSIC with ID 1-1115-14110: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

Public Portion of the DotMusic Limited application: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadapplication/1392?t:ac=1392

DotMusic Limited support letters for 20f: https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392 and http://music.us/supporters

DotMusic Limited Public Interest Commitments (PIC): https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadpicposting/1392?t:ac=1392

Independent Expert Letters: http://music.us/expert/letters

Independent Nielsen / Harris Poll: http://music.us/nielsen-harris-poll.pdf

CPE Guidelines: http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf

DotMusic website: http://music.us

National Arbitration Forum website: http://www.adrforum.com/RegistrySpec

# ANNEX K

# Forty-Three (43) Expert Testimonies

Below are testimonies from 43 experts, including 33 Ph.Ds that provide compelling evidence and "conclusions that are compelling and defensible" [1] that conclude beyond reasonable doubt, that DotMusic's community-based application for .MUSIC exceeds all the CPE criteria and should prevail CPE:

1) Music_Expert_Letter_Dr_Argiro_Vatakis.pdf
2) Music_Expert_Letter_Dr_Askin_Noah.pdf
3) Music_Expert_Letter_Dr_Brian_E_Corner.pdf
4) Music_Expert_Letter_Dr_Chauntelle_Tibbals.pdf
5) Music_Expert_Letter_Dr_Daniel_James_Wolf.pdf
6) Music_Expert_Letter_Dr_David_Michael_Ramirez_II.pdf
7) Music_Expert_Letter_Dr_Deborah_L_Vietze.pdf
8) Music_Expert_Letter_Dr_Dimitrios_Vatakis.pdf
9) Music_Expert_Letter_Dr_Dimitris_Constantinou.pdf
10) Music_Expert_Letter_Dr_Eric_Vogt.pdf
11) Music_Expert_Letter_Dr_Graham_Sewell.pdf
12) Music_Expert_Letter_Dr_Jeremy_Silver.pdf
13) Music_Expert_Letter_Dr_Joeri_Mol.pdf
14) Music_Expert_Letter_Dr_John_Snyder.pdf
15) Music_Expert_Letter_Dr_Jordi_Bonada_Sanjaume.pdf
16) Music_Expert_Letter_Dr_Jordi_Janer.pdf
17) Music_Expert_Letter_Dr_Juan_Diego_Diaz.pdf
18) Music_Expert_Letter_Dr_Juliane_Jones.pdf
19) Music_Expert_Letter_Dr_Kathryn_Fitzgerald.pdf
20) Music_Expert_Letter_Dr_Lisa_Overholser.pdf
21) Music_Expert_Letter_Dr_Luis-Manuel_Garcia.pdf
22) Music_Expert_Letter_Dr_Manthos_Kazantzides.pdf
23) Music_Expert_Letter_Dr_Michael_Mauskapf.pdf
24) Music_Expert_Letter_Dr_Mike_Alleyne.pdf
25) Music_Expert_Letter_Dr_Nathan_Hesselink.pdf
26) Music_Expert_Letter_Dr_Paul_McMahon.pdf
27) Music_Expert_Letter_Dr_Rachel_Resop.pdf
28) Music_Expert_Letter_Dr_Shain_Shapiro.pdf
29) Music_Expert_Letter_Dr_Sharon_Chanley.pdf
30) Music_Expert_Letter_Dr_Tom_ter_Bogt.pdf
31) Music_Expert_Letter_Dr_Vassilis_Varvaresos.pdf
32) Music_Expert_Letter_Dr_Wendy_Tilton.pdf
33) Music_Expert_Letter_Dr_Wilfred_Dolfsma.pdf
34) Music_Expert_Letter_JD_Matthew_Covey_Esq.pdf
35) Music_Expert_Letter_Jonathan_Segal_MM.pdf
36) Music_Expert_Letter_Lecturer_David_Loscos.pdf
37) Music_Expert_Letter_Lecturer_David_Lowery.pdf
38) Music_Expert_Letter_Lecturer_Dean_Pierides.pdf
39) Music_Expert_Letter_Professor_Andrew_Dubber.pdf

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[1] CPE Guidelines, Pg.22, and CPE Panel Process Document, http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf, Pg.3

40) [Music_Expert_Letter_Professor_Author_Bobby_Borg.pdf](#)
41) [Music_Expert_Letter_Professor_Heidy_Vaquerano_Esq.pdf](#)
42) [Music_Expert_Letter_Professor_Jeffrey_Weber_Esq.pdf](#)
43) [Music_Expert_Letter_Stella_Black_MM.pdf](#)


Expert Letter Link: [http://music.us/expert/letters](http://music.us/expert/letters)

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application.  Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string.  DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework.  The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an international federation of national communities of a similar nature... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

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Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

[35] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

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[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises</u>.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics.html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


**B) Nexus[86]**

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,


Signature:     , Aug 3 '15    ip: 62.1.34.220


Name: Argiro Vatakis


Title: Dr.


Organization: Cognitive Systems Research Institute

# ARGIRO VATAKIS

http://www.argirovatakis.com
Contact Information Redacted

## Education:

University of Oxford, Lincoln College, UK, 2004-2007
Doctor of Philosophy (D. Phil.) in Experimental Psychology
Thesis title: *Assessing the factors modulating synchrony perception for complex audiovisual stimuli*.

California State University Long Beach, USA, 2002-03
1st year completed, Masters (M.A.) Degree in Research Psychology
Honors in *Perception (PSY631)* and *Learning (PSY632)*

California State University Long Beach, USA, 1995-2000
Bachelors (B.A.) in Psychology

## Awards & Prizes:

- Institute for Advanced Study Fellowship, Theme "Time", Durham University, UK, 2012-2013
- Post-doctoral scholarship, "Maria P. Laimou" Foundation, Greece, 2009-10
- Graduate Senior Scholarship, Lincoln College, University of Oxford, 2007
- Brain Travel Grant, Brain, 2007
- Graduate Research Fund Award, Lincoln College, University of Oxford, 2007
- Onassis Foundation Science Lecture Series (*'Brain plasticity: From molecules to behavior'*) Award, 2006
- Graduate Symposium Award, International Multisensory Research Forum (IMRF), 2006
- Neuroscience Training (NEUROTRAIN) in Europe Grant, European Commission, Research Directorate General, Marie Curie Conferences & Training Courses, Contract No. MSCF-CT-2005-029703, 2006
- Graduate Senior Scholarship, Lincoln College, University of Oxford, 2006
- European Commission Improving Human Potential Programme Fellowship, NeuralComp, 2006
- Graduate Research Fund Award, Lincoln College, University of Oxford, 2006
- Newton Abraham Studentship, Medical Sciences, University of Oxford, 2005-07
- William R. Miller Postgraduate Award, St. Edmund Hall College, University of Oxford, 2005-06
- St. Hugh's Graduate Award, St. Hugh's College, University of Oxford, 2005-07
- Grindley Grant, British Experimental Psychology Society, 2005
- Travel Award, St. Edmund Hall College, University of Oxford, 2005
- Brockhues Graduate Award, University of Oxford, 2004
- Sally Casanova California State University Pre-Doctoral Scholar Award, 2003-04
- Student Academic Travel Award, CSU Long Beach, 2003

- Psychology Department Travel Award, CSU Long Beach, 2003
- Dean's List, CSU Long Beach, 1998-99
- Student Access to Science Summer Scholarship, CSU Long Beach, 1996
- High School Honors, 4th Gymnasium of Chios, 1989-1991


**Research/Work Experience:**

*Timing & Time Perception: Reviews, Brill Publishing House & University of Groningen, NL, 2014-2017*
*Position:* Editor-in-Chief
Editor of this new and unique journal that aims to bring together all reviews on timing and time perception from different disciplines and perspectives.

*Timing & Time Perception, Brill Publishing House, NL, 2013-2017*
*Position:* Editor-in-Chief
Proposer and Editor of this new and unique journal that aims to bring together all research on timing and time perception from different disciplines and perspectives.

*University of Athens, Department of Philosophy and History of Science, Greece, 2012-2015*
*Funded by: Cognitive Mechanisms in the Perception, Representation, and Organization of Knowledge (COGMEK),* THALIS National Research Funding
*PIs*: Dr. Konstantinos Moutousis & Prof. Stella Vosniadou
*Position:* Researcher
As a researcher in COGMEK under the Group: *Spatial and Temporal Perception: General characteristics and the role of higher-level cognitive processes*, I will investigate whether or not learning and priming modulates synchrony perception and how this modulation can enhance or inhibit the peak and decline of the time-course of time perception through development. I will also co-supervise two doctoral students.

*Cognitive Systems Research Institute (CSRI)*, Athens, Greece, 2011-present
*Funded by*: Time In MEntaL activitY: theoretical, behavioral, bioimaging and clinical perspectives (TIMELY), ISCH Action TD0904, 2010-2013. COST-ESF Networking grant (http://www.timely-cost.eu) & POETICON ++, FP7-ICT-Cognitive Systems, Interaction, Robotics
*Director*: Katerina Pastra, Ph.D.
*Position*: Coordinator/Researcher
TIMELY is a networking project between scientists working on time and time perception for the exchange of expertise and establishment of new collaborations. TIMELY seeks to explore fundamental questions on TP by bringing together, for the first time, senior and junior scientists from different disciplines and perspectives. Specifically, TIMELY will focus on four main themes:
- *Conceptual analysis and measurement of time*
- *Exploring Cognitive, Linguistic, and Developmental factors associated with TP variability*
- *Extending time research to ecologically-valid stimuli*

- *Uncovering the neural correlates of TP*

POETICON++ will be a continuation of the work done in POETICON on for discovering the "languages" of sensorimotor representations and the correspondences with natural language.

*Institute for Language and Speech Processing (ILSP)*, Research Centers "Athena", Athens, Greece, 2008-2011
*Funded by*: POETICON, European Commission 7th Framework Programme, Cognitive Systems and Robotics, STREP Project ICT-215843.
*Department Head*: S. Piperidis
*Position*: Post-doctoral Researcher
The POETICON project follows an empirical approach for discovering the "languages" of sensorimotor representations and the correspondences with natural language. Guided by cognitive experiments, it employs cutting-edge equipment and established cognitive protocols for collecting face and body movement measurements, visual object information and associated linguistic descriptions from interacting human subjects, with the objective to create an extensible computational resource which associates symbolic representations with corresponding sensorimotor representations.

*Hellenic Institute of Transport (HIT)*, Center for Research and Technology Hellas (CERTH), Athens, Greece, 2007-08
*Funded by*: Center for Research and Technology Hellas (CERTH)
*Department Head*: Aggelos Bekiaris, Ph.D.
*Position*: Post-doctoral Researcher
Focusing on the study of the relationship of the driver with the vehicle and methods to increase safety while driving. Tasks included working with a driving simulator or real driving experiments. Involved in the European Union funded programs of:

- HUMABIO (Human monitoring and authentication using biodynamic indicators and behavioural analysis)
- ACTIBIO (Unobtrusive authentication using activity related and soft biometrics)
- TRAIN ALL (Integrated system for driver training and assessment using interactive education tools and new training curricula for all modes of road transport)
- DRUID (Driving under the influence of drugs, alcohol and medicines)
- SENSATION (Advanced sensor development for attention, stress, vigilance and sleep/wakefulness monitoring),
- ASK IT (Ambient intelligence system of agents for knowledge based and integrated services for mobility impaired users)
- IN SAFETY (Infrastructure and safety).

*Crossmodal Research Laboratory*, Department of Experimental Psychology, University of Oxford, UK, 2004-07
*Funded by*: Newton Abraham Studentship, Medical Sciences.
*Lab Supervisor*: Prof. Charles Spence, Ph.D.
*Position*: Doctoral Student

Focusing on the study of audiovisual temporal perception for complex stimuli using psychophysical and neuroimaging techniques.

*Department of Neurology II and Center for Advanced Imaging Medicine*, University of Magdeburg, Germany, 2006
*Funded by*: Visiting Scientist DFG Grant
*Lab Supervisor*: Toemme Noesselt, Ph.D.
*Position*: Visiting Scientist
Focusing on the study of auditory, visual, and tactile synchrony perception using psychophysical and fMRI techniques.

*Max Planck Research Institute for Biological Cybernetics*, Dr. Logothetis Department, Germany, 2004-05
*Funded by*: Max Planck Society
*Lab Supervisor*: Zoe Kourtzi, Ph.D.
*Position*: Research Scientist
Focusing on the study of visual perception using Glass Patterns using fMRI and psychophysical methods.

*Behavioral Neuroscience Laboratory*, Department of Psychology, CSU Long Beach, USA, 2003-04
*Lab Supervisor*: Diane W. Lee, Ph.D.
*Position*: Research Assistant
Focusing on understanding the processes underlying learning and memory formation, investigating the role of hippocampus in learning, and injury-induced hippocampal neurogenesis.

*Boeing Corporation*, Phantom Works, Long Beach, USA, 2003-04
*Funded by*: Boeing Corporation
*Lab Supervisor*: Jack Dwyer, Ph.D.
*Position*: Research Assistant
Focusing on the development of effective radar systems that function based on the principles of the mechanisms governing the human eye.

*Psychoacoustics Laboratory*, Dep. of Psychology, CSU Long Beach, USA, 2002-05
*Lab Supervisor*: Thomas Z. Strybel, Ph.D.
*Position*: Research Assistant
Investigation of unimodal and crossmodal (auditory and visual) perception of apparent motion.

**Event Organization/Co-organization:**
### *Conferences:*
- International Conference on Timing and Time Perception, March 31st–April 3rd, 2014, Corfu, Greece (http://www.finalconference.timely-cost.eu/).

- *4th Annual Conference of the Hellenic Cognitive Science Society*, June 6-8th, 2013, Athens, Greece (http://cogsci13.helleniccognitivesciencesociety.gr/).

## *Workshops:*
- Workshop on *Temporal Prediction*, October 18th, 2013, Granada, Spain.
- Workshop on *Development of Timing and Time Perception: A lifespan perspective*, October 16-17th, 2013, Granada, Spain.
- Workshop on the *Applying the senses in the classroom*, November 20th, 2011, Athens, Greece.
- International Workshop on the *Multidisciplinary Aspects of Time and Time Perception*, October 7th-8th, 2010, Athens, Greece (http://timely-cost.eu/1st-international-workshop-multidisciplinary-aspects-time-perception).
- ECOLIFE Festival, Agora, OAKA Olympic Sports Complex, Athens, Greece, June 2006. *The Unique Fair on Environmental Friendly Products & Services,* 3-day "Food for thought" Multisensory sensory experience exhibition. *Funded by*: British Council in Greece

## *Satellite Meetings:*
- Satellite Meeting on the *Neurobiology of Time: From Normality to Dysfunction*, September 9th, 2011, Seville, Spain (http://www.ebbs-seville2011.com/ index.php/scientific-programme/satellite).

## *Symposiums:*
- *Time to act: New perspectives on embodiment and timing* at the International Conference on Timing and Time Perception, March 31st–April 3rd, 2014, Corfu, Greece.
- 1-Day Symposium at the 4th Hellenic Cognitive Science Society Annual Conference on *Timing in Clinical Populations*, June 7th, 2013, Athens, Greece.
- 1-Day Symposium at the 13th Hellenic Conference of Psychological Research on *Timing in perception: Visual instability-temporal distortion [Ο χρόνος στην αντίληψη: Οπτική αστάθεια - χρονική διαστρέβλωση]*, May 15-19th, 2013, Alexandroupoli, Greece.
- 2-Day International Symposium on *Temporal Processing Within and Across Senses*, October 4th-5th, 2012, Tuebingen, Germany.
- 3-Day International Symposium on the *Time and the Conscious Brain*, October 31st- November 2nd, 2011, HWK, Delmenhorst, Germany.
- EuroCogSci2011 Symposium on the *Current advances on Time perception: Psychophysical, Neuronal, and Applied Perspectives*, May 21st-24th, 2011, Sofia, Bulgaria.
- Symposium at the International Neuropsychological Society (INS) meeting *Time and Cognition: From behavioral studies to brain imaging*, June 30-July 3, Krakow, Poland.

## *Training Schools:*
- 5-Day Training School on the *Imaging Time*, February 23-27th, 2013, Magdeburg, Germany.
- 5-Day Training School on the *Temporal Timing and Time Perception: Procedures, Measures, & Applications,* February 4-8, 2013, Corfu, Greece.

- 3-Day Training School on *Dynamical systems for psychological timing and timing in speech processing*, May 2$^{nd}$-4$^{th}$, 2012, Vietri sul Mare, Italy.
- 5-Day Training School on the *Temporal processing in clinical populations*, March 26$^{th}$-30$^{th}$, 2012, Thessaloniki, Greece.
- 5-Day Training School on the *Psychophysical, Computational and Neuroscience Models of Time Perception*, April 4$^{th}$-8$^{th}$, 2011, Groningen, Netherlands (http://timely-cost.eu/training-school-2).

### *Chairing:*

- Oral Session: Children's Learning & Perception in the *13th International-2nd World Conference of the Association of Psychology and Psychiatry for Adults and Children (APPAC)*, "Psychology, Neuropsychiatry & Social Work in Modern Times", May 20-23, 2008, Athens, Greece.
- Experimental Psychology Session in the *3rd Annual D. Phil. Students Meeting*, 22 June 2007, University of Oxford, Medical Sciences Division.

### *Teaching Experience:*

Lecturer:
- *Research Methods in Experimental Psychology,* Department of Philosophy and History of Science, University of Athens, Greece, 2014-15
- *Multisensory Perception and Attention,* Department of Philosophy and History of Science, University of Athens, Greece, 2009-13
- *Cognitive Psychology*, Department of Philosophy and History of Science, University of Athens, Greece, 2011-14
- *Introduction to Cognitive Psychology II*, Department of Psychology, Panteio University, Athens, Greece, 2009-10
- *Current Topics in Cognitive Psychology*, Department of Psychology, Panteio University, Athens, Greece, 2009-10
- *Introduction to Cognitive Psychology I*, Department of Psychology, Panteio University, Athens, Greece, 2008-10

Graduate Assistant, PSYCH 110, *Introduction to Behavioral Statistics*, Department of Psychology, CSU Long Beach, USA, 2002-04

Tutor (Math & Psychology), Professional Tutors of America, Brea, USA, 2002-03

Laboratory Instructor, PSYCH 310, *Intermediate Statistics*, Department of Psychology, CSU Long Beach, USA, Summer Session 2002

### *Student Supervision:*

Master thesis supervision:
- Georgia Anna Chandridi, Thesis Title: *Memory mixing in audiovisual duration judgments*, Dept. of Philosophy & History of Science, University of Athens, Current.
- Venetia Bakirtzi, Thesis Title: *Audiovisual Temporal Integration in Autism*, Dept. of Philosophy & History of Science, University of Athens, Current.

- Stella Angelaki, Thesis Title: T*he Unity Effect: Top-down or Bottom-up processes?* Dept. of Philosophy & History of Science, University of Athens, Current.
- Efthimis Tsilionis, Thesis Title: *Imaging the Unity Effect*, Dept. of Philosophy & History of Science, University of Athens, Current.
- Mary Kostaki, Thesis Title: *Continuity and Synchrony: The common link*, Dept. of Philosophy & History of Science, University of Athens, Current.
- Elpida Manoudi, Thesis Title: *Timing in Cinematography*, Dept. of Philosophy & History of Science, University of Athens, Current.
- Alexandros Rouchitsas, Thesis Title: *Explicit and Implicit Temporal Learning*, Dept. of Philosophy & History of Science, University of Athens, Current.
- Markos Sellis, Thesis Title: *Multisensory Integration: Inverse Effectiveness or Stochastic Resonance?*, Dept. of Philosophy & History of Science, University of Athens, 2015.
- Petros Papavasiliou, Thesis Title: *Emotional Responses to Musical Intervals with Specific Acoustical Properties and the Effect of the Induced Emotions in Duration Perception*, Dept. of Philosophy & History of Science, University of Athens, 2015.
- Helena Sgouramani (co-supervision with Marc Leman & Leon van Noorden), Thesis Title: *In Search of Lost Time: Does Dance Experience Enhance Time Perception?* Dept. of Philosophy & History of Science, University of Athens, 2013.
- Miketa Arvanity (co-supervision with Noam Savig), Thesis Title: *Is 'A' always red? Multisensory integration in synesthetes and non-synesthetes,* Dept. of Philosophy & History of Science, University of Athens, 2013.
- Argiro Vagia, Thesis Title: *Language and Timing: How temporal and non temporal concepts can affect duration perception,* Dept. of Philosophy & History of Science, University of Athens, 2013.
- Dionisis Koymoytsos (co-supervision with Charles Spence), Thesis Title: *Unity assumption for non-speech stimuli,* Dept. of Philosophy & History of Science, University of Athens, 2012.
- Nancy Verriopoulou (co-supervision with Simon Grondin), Thesis Title: *Using video games and brain training software to modulate human time perception,* Dept. of Philosophy & History of Science, University of Athens, 2011.
- Vassiliki Sofra (co-supervision with Stella Vosniadou), Thesis Title: *Creativity and student performance,* Dept. of Philosophy & History of Science, University of Athens, 2010.
- Daphne Roumani (co-supervision with Konstantinos Moutousis), Thesis Title: *Binocular Rivarly,* Dept. of Philosophy & History of Science, University of Athens, 2009.
- Fotis Fotiadis (co-supervision with Thanasis Protopapas), Thesis Title: *The effect of cue naming in probabilistic category learning,* Dept. of Philosophy & History of Science, University of Athens, 2009.
- Eliza Argyriou (co-supervision with Nikolaos Smyrnis), Thesis Title: *Aspects of auditory-motor synchronization with isochronous rhythmic patterns,* Dept. of Philosophy & History of Science, University of Athens, 2009.

- Dimitris Rogaris (co-supervision with Georgios Gyftodimos), Thesis Title: *Perception of simple and complex musical pieces,* Dept. of Philosophy & History of Science, University of Athens, 2009.

Bachelor's thesis supervision:
- Eleni Psarrou, Thesis Title: *Intentional binding of naturalistic stimuli*, Dept. of Psychology, Panteion University, Athens, 2014.
- Konstantina Margiotoudi, Thesis Title: *Timing and Gestures,* Dept. of Psychology, Panteion University, Athens, 2013.

## Publications

### Journal:

Vatakis, A., Van Rijn, H., & Meck, W. (Start year: 2013). Timing & Time Perception. Brill: Leiden, The Netherlands.

Meck, W., Van Rijn, H., & Vatakis, A. (Start year: 2014). Timing & Time Perception: Reviews. University of Groningen and Brill, Leiden, The Netherlands.

### Journal Special Issues:

Vatakis, A., & Ulrich, R. (2014). Temporal Processing Within and Across Senses – Part 2. *Acta Psychologica*, **149**, 129-178.

Vatakis, A., & Ulrich, R. (2014). Temporal Processing Within and Across Senses – Part 1. *Acta Psychologica,* **147**, 1-152.

### Books/Edited Books/Proceedings:

Vatakis, A., Balci, F., Correa, A., & Di Luca, M. (in preparation). Timing and time perception: Procedures, measures, and applications. Brill: Leiden, The Netherlands.

Vatakis, A., & Allman, M. (2015). Time Distortions in Mind: Temporal processing in clinical populations. Brill: Leiden, The Netherlands.

Vatakis, A. (2014). International Conference on Timing and Time Perception, 31 March-3 April 2014, Corfu, Greece. *Procedia - Social and Behavioral Sciences, Proceedings Volume 126, 1-280.*

Vatakis, A., Esposito, A., Giagkou, M., Cummins, F., & Papadelis, G. (2011). *Multidisciplinary Aspects of Time and Time Perception*. Springer LNCS/LNAI Proceedings Volume.

### Book Chapters:

Vatakis, A., & Bakou, A. E. (2015). Distorted multisensory experiences of order and simultaneity. In A. Vatakis & M. Allman (Eds.), *Time Distortions in Mind: Temporal processing in clinical populations*. Brill: Leiden, The Netherlands.

Vatakis, A. (2014). TIMELY: A network on timing and time perception. In B. Lewandowska-Tomaszczyk & K. Kosecki (Eds.), *Time and Temporality in Language and Human Experience*. Series: Lodz Studies in Language - Volume 32. Peter Lang Publishing Group.

Vatakis, A., & Papadelis, G. (2014). The research on audiovisual perception of temporal order and the processing of musical temporal patterns: Associations, pitfalls, and future directions. In D. Lloyd & V. Arstila (Eds.), *Subjective Time*. MIT Press.

Vatakis, A. (2013). Cross-modality in speech processing: Synchrony perception and the unity effect. In J. Simner & E. Hubbard (Eds.), *The Oxford Handbook of Synaesthesia*. Oxford University Press.

Vatakis, A. (2013). The role of stimulus properties and cognitive processes in the quality of the multisensory perception of synchrony. In L. Albertazzi (Ed.), *The Wiley-Blackwell Handbook of Experimental Phenomenology. Subtitle: Visual Perception of Shape, Space and Appearance*. Wiley-Blackwell.

Vatakis, A., & Papadelis, G. (2011). A Timely Endeavor: Theoretical, Behavioral, Bioimaging, and Clinical Perspectives on Time Perception. In A. Esposito, A. M. Esposito, R. Martone, V. C. Muller, and G. Scarpetta (Eds.), *Toward Autonomous, Adaptive, and Context-Aware Multimodal Interfaces: Theoretical and Practical Issues*, Springer-Verlag: Berlin Heidelberg.

Vatakis, A., & Spence, C. (2010). Audiovisual temporal integration for complex speech, object-action, animal call, and musical stimuli. In M. J. Naumer & J. Kaiser (Eds.), *Multisensory Object Perception in the Primate Brain*. Springer-Verlag: Berlin Heidelberg.

## Translated Books:

Ward, J. (2010). The Frog Who Croaked Blue (A. Vatakis & S. Samartzi, Trans.). Athens, Greece: Pedio. (Original work published 2008).

Herrmann, D. J., Yoder, C. Y., Gruneberg, M., & Payne, D. G. (2010). Applied Cognitive Psychology: A textbook (S. Samartzi & A. Vatakis, Trans.). Athens, Greece: Pedio. (Original work published 2006).

## Paper (Peer-Reviewed) Publications:

Vatakis, A., & Pastra, K. (submitted). The PLT Corpus: A multimodal database of spontaneous speech and movement production on object affordances. *Science Data*.

Vatakis, A., Pastra, K., & Dimitrakis, P. (submitted). Co-speech Exploratory Acts: The interaction of language and active touch in object knowledge acquisition. *Cognition*.

Indraccolo, A., Spence, C., Vatakis, A., & Harrar, V. (2015). Combined effects of motor response, sensory modality, and stimulus intensity on temporal reproduction. *Experimental Brain Research*

Meck, W., Vatakis, A., & van Rijn, H. (2014). Timing & Time Perception Reviews: Opening the door to theoretical discussions of consciousness, decision-making, multisensory processing, time cells and memory mapping … to name but a few issues of relevance to temporal cognition. *Time & Time Perception Reviews*, **1**, 1-4.

Vatakis, A. (2014). TIME(ly) is up! Conclusions and New Outlooks on Timing and Time Perception. *Procedia - Social and Behavioral Sciences*, **126**, 1-2.

Vatakis, A., & Ulrich, R. (2014). Temporal Processing Within and Across Senses. *Acta Psychologica*, **147**, 1.

Sgouramani, E., & Vatakis, A. (2014). "Flash" Dance: How speed modulates perceived duration in dancers and non-dancers. *Acta Psychologica*, **147**, 17-24.

Meck, W. H., Vatakis, A., & van Rijn, H. (2013). Timing & time perception enters a new dimension. *Timing & Time Perception*, **1**, 1-2.

Karambetsos, C., Kouskoukis, C., Giannakopoulos, G., Agapidaki, E., Mihas, C., Katsarou, A., Miridakis, C., Vatakis, A., & Kolaitis, G. (2013). A comparison of

mental health problems among children with alopecia areata or atopic dermatitis and their parents. *British Journal of Medicine and Medical Research*, **3(1)**, 162-172.

Vatakis, A., Maragos, P., Rodomagoulakis, I., & Spence, C. (2012). Assessing the effect of physical differences in the articulation of consonants and vowels on audiovisual temporal perception. *Frontiers of Integrative Neuroscience*, **6 (71)**, 1-18.

Esposito, A., Esposito, M., Giagkou, M., Vatakis, A., & Vinciarelli, A. (2012). On the perception of visual durational speech features: A comparison between native and non-native speakers. *CogInfoCom 2012, 3$^{rd}$ IEEE International Conference on Cognitive Inforcommunications*, Kosice, Slovakia.

Vatakis, A., & Spence, C. (2011). Enhanced audiovisual temporal sensitivity when viewing videos that appropriately depict the effect of gravity on object movement. In A.Vatakis, A. Esposito, M. Giagkou, F. Cummins, and G. Papadelis (eds.) *Multidisciplinary Aspects of Time and Time Perception*. Springer LNCS/LNAI Proceedings Volume.

Verriopoulou, D., & Vatakis, A. (2011). Using video games and brain training software to modulate human time perception. *5th European Conference on Games Based Learning*, Athens, Greece.

Wallraven, C., Schultze, M., Mohler, B., Vatakis, A., & Pastra, K. (2011). The POETICON enacted scenario corpus: A tool for human and computational experiments on action understanding. *9th IEEE Conference on Automatic Face and Gesture Recognition*, art. no. 5771446, pp. 484-491, Santa Barbara, USA.

Pastra, K., Wallraven, C., Schultze, M., Vatakis, A., & Kaulard, K. (2010). The POETICON corpus: Capturing language use and sensorimotor experience in everyday interaction. *Language Resources and Evaluation (LREC) 2010*, Malta.

Wallraven, C., Schultze, M., Mohler, B., Volkova, E., Alexandrova, I., Vatakis, A., & Pastra, K. (2010). Understanding objects and actions - A VR experiment. *Language and Speech*, 1-2.

Vatakis, A., Ghazanfar, A. A., & Spence, C. (2008). Facilitation of multisensory integration by the "unity effect" reveals that speech is special. *Journal of Vision*, **8**(9):14, 1-11.

Vatakis, A., Portouli, V., & Bekiaris, E. (2008). Investigating the effects of continuous positive airway pressure (CPAP) treatment on driving and attentional performance of patients with sleep impairments. *Proceedings of the 5$^{th}$ International Workshop on Wearable, Micro and Nano Technologies for the Personalised Health, pHealth 2008*.

Vatakis, A., & Spence, C. (2008). Investigating the effects of inversion on configural processing using an audiovisual temporal order judgment task. *Perception*, **37**, 143-160.

Vatakis, A., Navarra, J., Soto-Faraco, S., & Spence, C. (2008). Audiovisual temporal adaptation of speech: Temporal order versus simultaneity judgments. *Experimental Brain Research*, **185**, 521-529.

Vatakis, A., & Spence, C. (2008). Evaluating the influence of the 'unity assumption' on the temporal perception of realistic audiovisual stimuli. *Acta Psychologica*, **127**, 12-23.

Vatakis, A., & Spence, C. (2007). How 'special' is the human face? Evidence from an audiovisual temporal order judgment task. *Neuroreport*, **18**, 1807-1811.

Vatakis, A., & Spence, C. (2007). Crossmodal binding: Evaluating the 'unity assumption' using complex audiovisual stimuli. *Proceedings of the 19th International Congress on Acoustics (ICA)*.

Vatakis, A., & Spence, C. (2007). Crossmodal binding: Evaluating the 'unity assumption' using audiovisual speech stimuli. *Perception & Psychophysics*, **69**, 744-756.

Vatakis, A., Navarra, J., Soto-Faraco, S., & Spence, C. (2007). Temporal recalibration during asynchronous audiovisual speech perception. *Experimental Brain Research*, **181**, 173-181.

Vatakis, A., Bayliss, L., Zampini, M., & Spence, C. (2007). The influence of synchronous audiovisual distractors on audiovisual temporal order judgments. *Perception & Psychophysics*, **69**, 298-309.

Vatakis, A., & Spence, C. (2007). Investigating the factors that influence the temporal perception of complex audiovisual events. *Proceedings of the European Cognitive Science 2007 (EuroCogSci07)*, 389-394.

Vatakis, A., & Spence, C. (2006). Temporal order judgments for audiovisual targets embedded in unimodal and bimodal distractor streams. *Neuroscience Letters*, **408**, 5-9.

Vatakis, A., & Spence, C. (2006). Audiovisual synchrony perception for music, speech, and object actions. *Brain Research*, **1111**, 134-142.

Vatakis, A., & Spence, C. (2006). Evaluating the influence of frame rate on the temporal aspects of audiovisual speech perception. *Neuroscience Letters*, **405**, 132-136.

Vatakis, A., & Spence, C. (2006). Audiovisual synchrony perception for speech and music using a temporal order judgment task. *Neuroscience Letters*, **393**, 40-44.

Lyons, G., Sanabria, D., Vatakis, A., & Spence, C. (2006). The modulation of crossmodal integration by unimodal perceptual grouping: A visuo-tactile apparent motion study. *Experimental Brain Research*, **174**, 510-516.

Krekelberg, B., Vatakis, A., & Kourtzi, Z. (2005). Implied motion from form in the human visual cortex. *Journal of Neurophysiology*, **94**, 4373-4386.

Navarra, J., Vatakis, A., Zampini, M., Soto-Faraco, S., Humphreys, W., & Spence, C. (2005). Exposure to asynchronous audiovisual speech increases the temporal window for audiovisual integration of non-speech stimuli. *Cognitive Brain Research*, **25**, 499-507.

Strybel, T. Z., & Vatakis, A. (2004). A comparison of auditory and visual apparent motion presented individually and with crossmodal moving distractors. *Perception, **33**, 1033-1048.

**Abstract (Peer-Reviewed) Publications:**

Angelaki, S., & Vatakis, A. (2014). The unity effect for non-speech stimuli: A top-down or bottom-up process? *Procedia - Social and Behavioral Sciences*, **126**, 156-157.

Tsilionis, E., & Vatakis, A. (2014). Audiovisual speech integration in the brain: Semantics and temporal synchrony. *Procedia - Social and Behavioral Sciences*, **126**, 160-161.

Kostaki, M., & Vatakis, A. (2014). Crossmodal binding rivalry: An alternative hypothesis for the double flash illusion. *Procedia - Social and Behavioral Sciences*, **126**, 158-159.

Sellis, M., Maragos, P., & Vatakis, A. (2014). Synchrony perception and inverse effectiveness: Are they complementary or contrasting in audiovisual speech integration? *Procedia - Social and Behavioral Sciences*, **126**, 166-167.

Margiotoudi, K., Spencer, K., & Vatakis, A. (2014). Audiovisual temporal integration of speech and gesture. *Procedia - Social and Behavioral Sciences*, **126**, 154-155.

Bakirtzi, V., & Vatakis, A. (2014). The perception of integrated events in Autism Spectrum Disorders: The role of semantic relatedness and timing. *Procedia - Social and Behavioral Sciences*, **126**, 212-213.

Vatakis, A., Sgouramani, E., Gorea, A., Hatzitaki, V., & Pollick, F. E. (2014). Time to act: New perspectives on embodiment and timing. *Procedia - Social and Behavioral Sciences*, **126**, 16-20.

Indraccolo, A., Spence, C., Vatakis, A., & Harrar, V. (2014). The effect of motor response, sensory modality, and intensity on temporal reproduction. *Procedia - Social and Behavioral Sciences*, **126**, 226.

Rouchitsas, A., & Vatakis, A. (2014). Explicit and implicit temporal learning using an action video game. *Procedia - Social and Behavioral Sciences*, **126**, 255-256.

Bakou, A., Margiotoudi, K., Kouroupa, A., & Vatakis, A. (2014). Temporal and sensory experiences in the dreams of sighted and congenital blind individuals. *Procedia - Social and Behavioral Sciences*, **126**, 188-189.

Papavasiliou, P., & Vatakis, A. (2014). Emotional responses to musical intervals with specific acoustical properties and the effect of the induced emotions in duration perception. *Procedia - Social and Behavioral Sciences*, **126**, 237-238.

Vagia, A., Chandridi, G.-A., , Orfanidou, E., Vatakis, A. (2014). Is it possible to have a short, leftward past and face a long, rightward future? *Procedia - Social and Behavioral Sciences*, **126**, 174-175.

Sgouramani, H., Muller, C., Van Noorden, L., Leman, M., & Vatakis, A. (2013). Synchronization and continuation during a dance act. *Frontiers in Human Neurosciences*.

Sgouramani, H., Muller, C., Van Noorden, L., Leman, M., & Vatakis, A. (2013) Synchronization and continuation during a dance act. *Frontiers of Human Neuroscience*.

Sgouramani, E., & Vatakis, A. (2013). Alternating speed on dance videos influences duration judgments in dancers and non-dancers. *Multisensory Research*, **26(1)**, 103.

Vatakis, A., Pastra, K., & Dimitrakis, P. (2012). Acquiring object affordances through touch, vision, and language. *Seeing and Perceiving*, **25**, 64.

Vatakis, A., & Spence, C. (2012). Assessing audiovisual saliency and visual-information content in the articulation of consonants and vowels on audiovisual temporal perception. *Seeing and Perceiving*, **25**, 29.

Arvaniti, M., Sagiv N., Lecoutre L., & Vatakis A. (2012). Is A always red? Multisensory integration of synesthetic stimuli in synesthetes and non-synesthetes. *Seeing and Perceiving*, **25**, 83.

Sgouramani, E., Muller, C., van Noorden, L., Leman, M., & Vatakis, A. (2012). From observation to enactment: Can dance experience enhance multisensory temporal integration? *Seeing and Perceiving*, **25**, 188.

Vatakis, A. (2011). Current advances and directions on Time perception: Theoretical, Psychophysical, Neuroimaging, and Applied Perspectives. In B. Kokinov, A. Karmiloff-Smith, & N. J. Nersessian (eds.) *European Perspectives on Cognitive Science*. Bulgaria: New Bulgarian University Press.

Fotiadis, F. A., Protopapas, A., & Vatakis, A. (2011). The effect of cue naming in probabilistic category learning. In B. Kokinov, A. Karmiloff-Smith, & N. J. Nersessian (eds.) *European Perspectives on Cognitive Science*. Bulgaria: New Bulgarian University Press.

Spence, C., Navarra, J., Vatakis, A., Hartcher-O'Brien, J., & Parise, C. (2009). The multisensory perception of synchrony. *Perception*, **38** (Suppl.), 113.

Vatakis, A. (2008). Examining the possibility of an acquired deficit in audiovisual temporal perception for speech and musical events. *Annals of General Psychiatry*, **7**(Suppl 1): S137.

Vatakis, A., Krekelberg, B., & Kourtzi, Z. (2004). Processing of global motion from form cues in the human visual cortex. *Society for Neuroscience Abstracts*, Program No. 301.19, 85.

**Greek Paper Publications:**

Sgouramani, H., Vagia, A., & Vatakis, A. (2012). Ο κήπος των αισθήσεων με τα διακλαδωτά μονοπάτια: Ο πόνος ως ξεχωριστή τροπικότητα, αλληλεπιδράσεις με τις λοιπές αισθήσεις και αντιμετώπιση του; [Pain as a separate modality and its interactions with the other senses]. *Σύναψις*, **24**, 46-54.

Arvaniti, M., & Vatakis, A. (2012). Όταν ο πόνος σου γίνεται και δικός μου: Το φαινόμενο της συναισθησίας πόνου [Pain and synesthesia]. *Σύναψις*, **24**, 55-61.

Roumani, D., & Vatakis, A. (2011). Τυφλή όραση: Αντιλαμβανόμαστε πάντα αυτό που βλέπουμε; [Blind sight: Do we always perceive what we see?]. *Σύναψις*, **21**, 12-25.

Argyriou, E., Vatakis, A., Tsoukas, E., Papadelis, G., Eydokimidis, I., & Smyrnis, N. (2010). Χαρακτηριστικά του ακουστικού - κινητικού συγχρονισμού με ισόχρονα ρυθμικά σχήματα [Aspects of auditory-motor synchronization with isochronous rhythmic patterns]. *Proceedings of the Hellenic Acoustic Society*, 435-443.

Fotiadis, F., & Vatakis, A. (2010). Εξω-Σωματικές Εμπειρίες: Μια Επιστημονική Προσέγγιση στην Σωματική Συνείδηση [Out of body experiences: A scientific approach to bodily consciousness]. *Σύναψις*, **19**, 16-27.

Roumani, D., Vatakis, A., & Moutousis, K. (2010). Όταν ο εγκέφαλος προσπαθεί να βγάλει νόημα: η περίπτωση του διοφθάλμιου ανταγωνισμού [When the brain is trying to extract meaning: The case of binocular rivalry]. *Σύναψις*, **11**, 65-74.

Vatakis, A., & Kourtzi, Z. (2010). Η αντίληψη του προσώπου – Είναι γνωσιακά διαπερατή; [Face perception – Is it cognitively penetrable?]. *Νόησης*, **6**, 99-105.

Vatakis, A. (2008). Οπτικοακουστική Αντίληψη του Χρόνου [Audiovisual temporal perception]. *Σύναψις*, **4**, 65-74.

**Talks & Poster Presentations:**
*Talks:*

Vatakis, A. (2014). Time in mental activity. Invited talk at the *ESOF2014*, June 23, Copenhangen, Denmark.

Vatakis, A. (2014). Timing and the senses in complex events. Invited seminar at the *Centre for the Study of the Senses, University of London*, May 8, London, UK.

Sgouramani, E., & Vatakis, A. (2014). "While we dance…": The effects of expertise, space, speed, and prediction on duration judgments. Invited talk presented at the *International Conference on Timing and Time perception*, March 31-April 3, Corfu, Greece.

Vatakis, A. (2013). Synchronizing my lips with my voice. Invited talk at the *Speech and Time Talk Series at Aiginition Hospital*, Athens, Greece.

Vatakis, A., & Maniadakis, M. (2013). Timing in humans and robots. Invited tutorial presented at the *Joint ROBOTDOC and POETICON++ Spring School on Developmental Robotics and Cognitive* Bootstrapping, 18-20 March, Athens, Greece.

Sgouramani, E., & Vatakis, A. (2013). Alternating speed on dance videos influences duration judgments in dancers and non-dancers. Talk presented at the *14th International Multisensory Research Forum (IMRF)*, 3-6 June, Jerusalem, Israel.

Sgouramani, E., & Vatakis, A. (2013). The influence of speed on duration estimation in dancers and non-dancers. Talk included in the symposium "Time in perception: Binocular rivalry-temporal distortions", *14th Conference of the Hellenic Psychological Society*, 15-19 May 2013, Alexandroupoli, Greece.

Vatakis, A., Pastra, K., & Dimitrakis, P. (2012). Acquiring object affordances through touch, vision, and language. Talk presented at the *13th International Multisensory Research Forum*, 19-22 June, Oxford, UK.

Sgouramani, E., Muller, C., van Noorden, L., Leman, M., & Vatakis, A. (2012). In search of lost time: Does dance experience enhance time perception on audiovisual asynchronies and whole-body synchronization-continuation? Invited talk presented at the *Institute for Psychoacoustics and Electronic Music (IPEM)*, 23 February, Ghent University, Belgium.

Vatakis, A. (2012). Η χρονική αντίληψη πολυαισθητηριακών ερεθισμάτων [Time perception for multisensory stimuli]. Invited talk at the *Symposium of Science and art-Science & Art: Time as the 4$^{th}$ dimension* organized by the Hellenic Society of Physics and Charokopeio University, January 20-22, Athens, Greece.

Vatakis, A. (2011). Improving literacy by engaging the senses. Invited talk presented at the *Eugenidio Foundation,* November 19$^{th}$, Athens, Greece.

Vatakis, A. (2011). Temporal recalibration: Asynchronous audiovisual speech exposure extends the temporal window of multisensory integration. Talk presented at the EBBS2011 Satellite Meeting "Neurobiology of Time: From Normality to Dysfunction", Seville, Spain.

Vatakis, A. (2011). Οπτικοακουστική χρονική ευαισθησία και η επίδραση της βαρύτητας στις κινήσεις αντικείμενων [Audiovisual temporal sensitivity and the effect of gravity of moving objects]. Talk presented at the *13$^{th}$ Hellenic Conference of Psychological Research*, Athens, Greece.

Vatakis, A., Pastra, K., & Dimitrakis, P. (2011). Ανακαλύπτοντας τον ορισμό ενός αντικειμένου και τις δυνατότητες χρήσης του (affordances) μέσω της γλώσσας [Uncovering the definition of an object and it's affordances through language]. Talk presented at the *13$^{th}$ Hellenic Conference of Psychological Research*, Athens, Greece.

Vatakis, A. (2010). Audiovisual temporal perception and integration: Acquired deficits in audiovisual temporal perception for complex stimuli. Talk presented at the "Time and Cognition: From behavioral studies to brain imaging" Symposium at the International Neuropsychological Society (INS), June 30-July 3, Krakow, Poland.

Vatakis, A. (2010). Time in mental activity: theoretical, behavioral, bioimaging, and clinical perspectives. Invited talk presented at the *3rd COST 2102 International Training School*, 15-17 March, Caserta, Italy.

Vatakis, A. (2009). The concept of psychological time and the case of audiovisual temporal perception. Invited talk presented at the *ESF SCSS Exploratory Workshop: Qualities in Perception Science*, 2-6 November, Rovereto, Italy.

Spence, C., Navarra, J., Vatakis, A., Hartcher-O'Brien, J., & Parise, C. (2009). The multisensory perception of synchrony. Talk presented at the *Symposium: Multisensory Integration at the 32<sup>nd</sup> European Conference on Visual Perception (ECVP)*, August 24-28, Regensburg, Germany.

Vatakis, A. (2008). Asynchronous audiovisual speech exposure extends the temporal window of multisensory integration. Paper presented at the *2<sup>nd</sup> Annual Meeting of the Hellenic Society for Neuroscience,* October 16-19, Athens, Greece.

Vatakis A. (2008). Η αντίληψη του χρόνου στην πειραματική ψυχολογία [Temporal perception in Experimental Psychology: An overview]. Invited talk at the '*A symposium on Time*', September 12-14, Kozani, Greece.

Vatakis, A. (2008). Time perception: A multidisciplinary approach. Invited talk presented at the *POETICON 2nd Technical Meeting*, Collaboration Activities, July 7-8, Athens, Greece.

Vatakis, A. (2008). Investigating temporal perception in infants using complex stimuli. Paper presented at the *13th International Conference of the Association of Psychology and Psychiatry for Adults and Children (A.P.P.A.C.),* May 20-23, Athens, Greece.

Vatakis, A., & Spence, C. (2007). Investigating the factors that influence the temporal perception of complex audiovisual events. Paper presented at the *2<sup>nd</sup> European Cognitive Science 2007 Conference (EuroCogSci07), May 23-27*, Delphi, Greece.

Vatakis, A. (2006). Synchrony perception and temporal recalibration of complex audiovisual stimuli. Invited talk presented on *Oct. 31<sup>st</sup> at the Department of Biological Psychology and Neuropsychology, University of Hamburg, Research Group-Dr. Brigitte Roeder*, Hamburg, Germany.

Vatakis, A. (2006). Temporal perception of audiovisual speech stimuli. Invited talk presented on *Sept. 13<sup>th</sup> at the REVES Research Group-Dr. George Drettakis*, INRIA Sophia-Antipolis, France.

Vatakis, A., & Spence, C. (2006). Factors modulating the temporal perception of audiovisual speech stimuli. Paper presented at the *7<sup>th</sup> Annual Meeting of the International Multisensory Research Forum, June 18-21*, Dublin, Ireland.

Sanabria, D., Lyons, G., Vatakis, A., & Spence, C. (2006). Perceptual grouping and hand posture effects on crossmodal interactions. *Experimental Psychology Meeting, April 10-12,* Birmingham, UK.

Vatakis, A. (2005). Audiovisual synchrony perception for complex stimuli. Paper presented at the *2<sup>nd</sup> year Graduate Student Presentations, Department of Experimental Psychology, University of Oxford*, Oxford, UK.

Vatakis, A. (2005). Audiovisual synchrony perception for complex stimuli: How 'special' is speech? Invited talk presented on *May 25<sup>th</sup> at St. Edmund Hall College, University of Oxford, UK.*

Kourtzi, Z.,Vatakis, A., & Krekelberg, B. (2005). Global motion from form in the human visual cortex. Paper presented at the *Annual Meeting of the Vision Sciences Society*, Sarasota, Florida.

Vatakis, A., & Strybel, T.Z. (2003). Auditory and visual apparent motion with crossmodal moving distractors. Paper presented at the *Spring Meeting of the Western Psychological Association*, Vancouver, B.C.

**Posters:**

Vatakis, A., Pastra, K., & Dimitrakis, P. (2014). Exploratory Acts for the Acquisition of Object Knowledge. Poster presented at the *4th Joined IEEE International Conference on Development and Learning and on Epigenetic Robotics (IEEE ICDL-EPIROB 2014)*, 13-16 October, Genoa, IT.

Vatakis, A., Pastra, K., & Dimitrakis, P. (2014). Acquisition of object knowledge through Exploratory Acts. Poster presented at the *15th International Multisensory Research Forum (IMRF)*, 11-14 June, Amsterdam, NL.

Sellis, M., Beskow, J., Salvi, G., & Vatakis, A. (2014). Multisensory gain: A linear inverse or inverted U pattern? Poster presented at the *15th International Multisensory Research Forum (IMRF)*, 11-14 June, Amsterdam, NL.

Sgouramani, H., & Vatakis, A. (2014). Move still: A direct comparison of real and implied motion in duration perception. Poster presented at the *15th International Multisensory Research Forum (IMRF)*, 11-14 June, Amsterdam, NL.

Kostaki, M., & Vatakis, A. (2014). Could the unequal number of sensory inputs lead to a crossmodal binding rivalry? Poster presented at the *15th International Multisensory Research Forum (IMRF)*, 11-14 June, Amsterdam, NL.

Kostaki, M., & Vatakis, A. (2014). Crossmodal binding rivalry: An alternative hypothesis for the double flash illusion. Poster presented at the *International Conference on Timing and Time perception*, March 31-April 3, Corfu, Greece.

Sellis, M., Maragos, P., & Vatakis, A. (2014). Synchrony perception and inverse effectiveness: Are they complementary or contrasting in audiovisual speech integration? Poster presented at the *International Conference on Timing and Time perception*, March 31-April 3, Corfu, Greece.

Vagia, A., Chandridi, G., Orfanidou, E., & Vatakis, A. (2014). Is it possible to have a short, leftward past and face a long, rightward future? Poster presented at the *International Conference on Timing and Time perception*, March 31-April 3, Corfu, Greece.

Tsilionis, E., & Vatakis, A. (2014). Audiovisual speech integration in the brain: semantics and temporal synchrony. Poster presented at the *International Conference on Timing and Time perception*, March 31-April 3, Corfu, Greece.

Rouchitsas, A., & Vatakis, A. (2014). Explicit and implicit temporal learning using an action video game. Poster presented at the *International Conference on Timing and Time perception*, March 31-April 3, Corfu, Greece.

Papavasiliou, P., & Vatakis, A. (2014). Emotional responses to musical intervals with specific acoustical properties and the effect of the induced emotions in duration perception. Poster presented at the *International Conference on Timing and Time perception*, March 31-April 3, Corfu, Greece.

Angelaki, S., & Vatakis, A. (2014). The "unity effect" for non-speech stimuli: A top-down or bottom-up process? Poster presented at the *International Conference on Timing and Time perception*, March 31-April 3, Corfu, Greece.

Sgouramani, H., Muller, C., Van Noorden, L., Leman, M., & Vatakis, A. (2013) Synchronization and continuation during a dance act. Poster presented at the *14th Rhythm Production and Perception Workshop,* 11-13th September, Birmingham, UK.

Sgouramani, E., & Vatakis, A. (2013). Does speed modulate perceived duration in dancers and non-dancers? Poster presented at the *International Interdisciplinary Summer School Embodied Inter-subjectivity the 1st-person & the 2nd-person Perspective*, 9-15 June, Aegina, Greece.

Sgouramani, E., Muller, C., van Noorden, L., Leman, M., & Vatakis, A. (2013). Does dance experience enhance audiovisual temporal integration? Poster presented at the *4th Conference of Hellenic Cognitive Science Society*, 6-8 June, Athens, Greece.

Sgouramani, E., & Vatakis, A. (2013). The effect of fast and slow dance videos on dancers and non-dancers' time estimation. Poster presented at the *4th Conference of Hellenic Cognitive Science Society*, 6-8 June, Athens, Greece.

Arvaniti, M., Sagiv N., Lecoutre L., & Vatakis A. (2012). When a letter is a colour: Audiovisual integration of crossmodal correspondences and synesthetic grapheme-colour associations. Poster presented at *TIMELY Workshop on Temporal Processing Within and Across Senses*, 4-5 October, Tübingen, Germany.

Sgouramani, E., & Vatakis, A. (2012). Time goes fast: How speed modulates perceived duration in dancers and non-dancers. Poster presented at the TIMELY Workshop on Temporal Processing Within and Across Senses, 4-5 October, Tübingen, Germany.

Vatakis, A., & Spence, C. (2012). Assessing audiovisual saliency and visual-information content in the articulation of consonants and vowels on audiovisual temporal perception. Poster presented at the *13th International Multisensory Research Forum*, 19-22 June, Oxford, UK.

Arvaniti, M., Sagiv N., Lecoutre L., & Vatakis A. (2012). Is A always red? Multisensory integration of synesthetic stimuli in synesthetes and non-synesthetes. Poster presented at the *13th International Multisensory Research Forum*, 19-22 June, Oxford, UK.

Sgouramani, E., Muller, C., van Noorden, L., Leman, M., & Vatakis, A. (2012). From observation to enactment: Can dance experience enhance multisensory temporal integration? Poster presented at the *13th International Multisensory Research Forum (IMRF)*, 19-22 June, Oxford, UK.

Sgouramani, E., Muller, C., van Noorden, L., Leman, M., & Vatakis, A. (2012). How do dance experience and actual enactment of the stimulus affect audiovisual temporal integration? Poster presented at the *International Workshop on Joint Action, Models of Music and Movement Interactions in Time (JAMMMIT)*, 12 - 13 June, Ghent, Belgium.

Verriopoulou, D., & Vatakis, A. (2011). Using video games and brain training software to modulate human time perception. Poster presented at the *5th European Conference on Games Based Learning*, 20-21 October, Athens, Greece.

Bakou, E., Margiotoudi, K., & Vatakis, A. (2011). Μια σύγκριση της πολυαισθητηριακής γλώσσας των ονείρων από αναφορές βλεπόντων και τυφλών ατόμων [Comparing the multisensory language used in the dreams of blind and sighted individuals]. Poster presented at the *13$^{th}$ Hellenic Conference of Psychological Research*, Athens, Greece.

Margiotoudi, K., Bakou, E., & Vatakis, A. (2011). Ο χρόνος στη γλώσσα των ονείρων [Time in the language of dreams]. Poster presented at the *13$^{th}$ Hellenic Conference of Psychological Research*, Athens, Greece.

Verriopoulou, N., & Vatakis, A. (2011). Διαμόρφωση της χρονικής αντίληψης μέσα από την ενασχόληση με βιντεοπαιχνίδια και λογισμικών νοητικής άσκησης [Modulating time perception through training with video games and brain training software]. Poster presented at the *13th Hellenic Conference of Psychological Research*, Athens, Greece.

Verroiopoulou, N., & Vatakis, A. (2011). Modulating time perception through training with video games and brain training software. Poster presented at the *TIMELY Training School,* Groningen, Netherlands.

Vatakis, A. (2008). Temporal perception of audiovisual speech and non-speech stimuli. Poster presented at the PROUST, *SSA "The temporal dimension of functional genomics" (LSSG-CT-2006-037654), Conference: "GENES AT WORK ON TIME", October 15-18*, Turin, Italy.

Vatakis, A. (2008). Διερεύνηση της αντίληψης του χρόνου σε βρέφη χρησιμοποιώντας σύνθετα οπτικοακουστικά ερεθίσματα. Poster presented at the *1st National Conference of Developmental Psychology in Greece 2008, May 29-June 1*, Athens, Greece.

Vatakis, A., Portouli, V., & Bekiaris, E. (2008). Investigating the effects of continuous positive airway pressure (CPAP) treatment on driving and attentional performance of patients with sleep impairments. Poster presented at the *5th International Workshop on Wearable, Micro and Nano Technologies for the Personalised Health, pHealth 2008,"From Research into Practice", May 21-23*, Valencia, Spain.

Vatakis, A., & Spence, C. (2007). Crossmodal binding: Evaluating the 'unity assumption' using complex audiovisual stimuli. Poster presented at the *19th International Congress on Acoustics (ICA), September 2-7*, Madrid, Spain.

Vatakis, A. (2007). Examining the possibility of an acquired deficit in audiovisual temporal perception for speech and musical events. Poster presented at the *3rd International Congress on Brain and Behavior* and *16th Thessaloniki Conference of the South-East European Society for Neurology and Psychiatry*, Nov. 28-Dec.2, Thessaloniki, Greece.

Vatakis, A., & Spence, C. (2007). An assessment of the effect of physical differences in the articulation of consonants and vowels on audiovisual temporal perception. Poster presented at the *One-day meeting for young speech researchers*, University College London, London, UK.

Vatakis, A., & Spence, C. (2006). The influence of synchronous audiovisual distractors on audiovisual temporal order judgments. Poster presented at the *Annual Autumn School in Cognitive Neuroscience*, Oxford, UK.

Vatakis, A., & Spence, C. (2005). Audiovisual synchrony perception for complex stimuli: How 'special' is speech? Poster presented at the *6th Annual Meeting of the International Multisensory Research Forum*, Rovereto, Italy.

Navarra, J., Vatakis, A., Zampini, M., Soto-Faraco, S., & Spence, C. (2005). Exposure to asynchronous audiovisual speech extends the temporal window for audiovisual integration. Poster presented at the *6th Annual Meeting of the International Multisensory Research Forum*, Rovereto, Italy.

Zvyagintsev, M., Menning, H., Swirszcz, K.,Vatakis, A., Kourtzi, Z., & Mathiak, K. (2005). Audio-visual perception of self-induced apparent motion. Poster presented at the *8th Perception Meeting*, Tuebingen, Germany.

Strybel, T. Z., & Vatakis, A. (2004). Effect of crossmodal distractors on auditory and visual apparent motion presented in the periphery. Poster presented at *the 45th Annual Meeting of the Psychonomic Society*, Minneapolis, Minnesota.

Vatakis, A., Krekelberg, B., & Kourtzi, Z. (2004). Processing of global motion from form cues in the human visual cortex. Poster presented at the *Annual Meeting of the Society for Neuroscience*, San Diego, CA.

Maxfield, L., Juroe, M., Reece, N., Vatakis, A., & Wright, C. (2004). Enhancing prospective memory with enactment and social motivation. Poster presented at the *84th Annual Convention of the Western Psychological Association*, Phoenix, AZ.

Vatakis, A., & Strybel, T. Z. (2003). Auditory and visual apparent motion in the presence of moving and nonmoving cross modal distractors. Poster presented at *the 44th Annual Meeting of the Psychonomic Society*, Vancouver, B.C.

### *Clinical Setting Experience:*

*Employment Specialist*, CSU Long Beach, Center for Career Studies, USA, 2002-04

*Substance Abuse Counselor*, Southern California Alcohol & Drug Programs, Downey, USA, 2002

*Career Services Specialist*, City of Westminster, USA, 2001-02

*Summer Youth Counselor*, City of Westminster, USA, 2001

*Intern-Certified Domestic Violence Counselor*, Su Casa Family Crisis & Support Center, Long Beach, USA, 1997-99

*Volunteer Student Assistant*, Long Beach Community Hospital, Department of Mental Health, USA, 1995-96

### Relevant Work Experience:

Managing the publishing line of Experimental Psychology for the publishing house "Pedio" [www.pediobooks.gr].

Website administrator for the publishing company "Κοινός Τόπος" for the journal "Σύναψις" (Collective journal for Psychiatry-Psychology-Neuroscience-Philosophy; www.sinapsis.gr).

Graduate Student Marker for Undergraduate Psychology Admissions, University of Oxford, UK, 2004-07

Graduate Assistant, *Visual Search Practicum*, University of Oxford, UK, 2004

Graduate Student Intern, Boeing Corp., Phantom Works, Long Beach, USA, 2003-04

### Relevant Certifications, Workshops, Coursework, & Exhibitions:

Coursera Verified Certification:

- 7-week course: What a plant knows (and other things you didn't know about plants), Tel Aviv University, 2014-15 (coursera.org/verify/HXV828DDGW)

Graduate Skills Course, Medical Sciences Division's Skills Training Programme, University of Oxford, UK, January 2007
*Funded by*: Medical Sciences Division, University of Oxford
*Good practice in citation and the avoidance of plagiarism,* Certification course

UK GRAD School, Medical Sciences Division's Skills Training Programme, University of Oxford, UK, March 2006
*Personal Development for Graduates and Post-docs,* 4-day Graduate course
*Funded by*: Medical Sciences Division, University of Oxford

Interdisciplinary Center for Neural Computation (ICNC), Hebrew University of Jerusalem, Israel, February 2006
*Changing your mind about the brain,* 2-week Course & Workshop
*Funded by*: European Union Improving Human Potential Programme

Preparing Future Faculty (PFF) in Psychology Initiative, Association of American Colleges and Universities (AAC&U) & Council of Graduate Schools (CGS), September 2004
*Preparing Future Faculty in Psychology*, University of New Hampshire, GRAD980 Course
*Funded by*: American Psychological Association (APA)

## Languages:

English – native language; speak fluently and read/write with high proficiency

Greek – native language; speak fluently and read/write with high proficiency

## Peer-Reviewing:

*Advisory Committee member* for the "Archives, The International Journal of Medicine".

*Editorial Board Member* for the "The International Journal of Medicine – Greek Pages" (Ελληνικές Σελίδες Ιατρικής).

Peer-reviewing journal articles on an *ad-hoc* basis for the following journals:
*Proceedings of the Royal Society B: Biological Sciences, Journal of Cognitive Neuroscience, Perception & Psychophysics, PLoS ONE, Vision Research, Perception, Journal of Speech, Language, and Hearing Research, Experimental Brain Research, Medical Science Monitor, Proceedings of the European Cognitive Sciences 2005-08, Journal of Vision, Brain Research, Attention, Perception, & Psychophysics, Restorative Neurology and Neuroscience, Journal of Experimental Psychology: Human Perception*

*and Performance, Cognition, Cerebral Cortex, Speech Communication, PLOS Computational Biology, Acta Psychologica.*

**IT & Other Skills/Experiences:**

Certified fMRI scanner operator; Driving simulator experience, Eye-tracker systems, & PC/Mac skills.

European Computer Driving License (ECDL) Certification.

Advanced European Computer Driving License (AECDL) Certification - Advanced Presentations

Programming languages: Presentation, Visual Basic, MATLAB, OpenSesame.

MS Office-Word, Works, Excel, Visio, Power Point, Front Page, Access, Publisher, and Outlook, Smart Draw, BrainVoyager 2000, SPM, SAS, SPSS, MiniTab, 3DS MAX, Graph Pad, EndNote, Neurolucida, VSearch (Mac), I-Web (Mac), I-Maker (Mac), Adobe- Premier 6.0, Audition, After-Effects and Creative Suite, Sony Vegas, PRAAT, Transcriber, Callisto, Anvil, ELAN, Audacity.

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities</u> <u>that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and</u> <u>institutions that make possible and regulate the production, distribution and</u> <u>consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to</u> <u>common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by</u> <u>common values, cohesive norms and interconnected structures to build a</u> <u>community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical</u> <u>activities, identity and community value is created as result of infrastructure and</u> <u>a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related</u> <u>community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See  OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See
http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises.</u>

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics.html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[73] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


**B) *Nexus*[74]**

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] http://music.us/supporters
[74] See http://music.us/nexus

defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential

relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

*Noah Askin*

Signature:  <span style="color:red">Contact Information Redacted   Apr 10 '15   ip: 212.198.49.14</span>


Name:   Noah Askin Ph.D


Title:   Assistant Professor of Organizational Behavior


Organization:   INSEAD


Date:   10 April 2015

## Noah Askin Ph.D
*(updated: September 2014)*

Contact Information Redacted

mobile: Contact Information Redacted • website: noahaskin.com

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## *EMPLOYMENT*

September 2014 -      **INSEAD**                                                Fontainebleau, France
                     Assistant Professor of Organisational Behaviour

## *EDUCATION*

2008 – Present       **The University of Chicago Booth School of Business**          Chicago, IL
                     Joint Ph.D in Business (Economic Sociology) and Sociology (expected 2014)
                     M.A. in Sociology (2013)
                     M.B.A. (2014)

1998-2002            **Harvard University**                                        Cambridge, MA
                     B.A., *cum laude,* in Psychology
                     Language Citation in Spanish

2000                 **Universidad San Pablo, CEU**                                  Madrid, Spain
                     Spanish language and culture immersion

## *RESEARCH INTERESTS*

Economic sociology, social networks, production of culture, diffusion, status, authenticity, music and the music industry, social media, higher education

## *PAPERS*

### Published, In-press

Askin, Noah, Bothner, Matthew S., & Lee, Wonjae. (Forthcoming). "Emergence of Stratification in Small Groups", in *Emerging Trends in the Social and Behavioral Sciences* (eds.) Robert Scott and Stephen Kosslyn, Hoboken, NJ:  John Wiley and Sons

### Working Papers

"Status-Aspirational Pricing: The "Chivas Regal" Strategy in U.S. Higher Education, 2006-2012" (with Matthew S. Bothner). Revise and resubmit at *Administrative Science Quarterly.*

"Peer Effects in Tournaments for Status: Evidence from Rank Dynamics of U.S. Colleges and Universities" (with Matthew S. Bothner). Under review at *American Journal of Sociology.*

"Cultural Networks And Consumption Dynamics: The Billboard Hot 100 Charts" (Preparing for submission)

### Non-Refereed Publications

Askin, Noah and Greg Liegel. 2012. "A (Brief) Look at Economic Sociology Across Academic Settings." *Accounts: Economic Sociology Newsletter*. Spring, 11(2).

### Research In Progress, Ongoing

"The (Tangled) Web of Group Affiliations: The Impact of Minority Group Presence on Perceptions of Organizational Status" (In preparation)

"The impact of status on student gender distributions in US higher education" (with Matthew S. Bothner)

## HONORS, FELLOWSHIPS

2012-13   Oscar Mayer Fellowship, Booth School of Business, University of Chicago
2011-12   Katherine Dusak Miller Fellowship, Booth School of Business, University of Chicago
2009-13   Teaching assistant top evaluation, Executive MBA Program (Chicago, London and Singapore Campuses)
2009     Entrepreneurial Intern Fellowship, Polsky Center for Entrepreneurship
2002     Honors (*cum laude*) in Psychology, Harvard University


## INVITED TALKS & CONFERENCE PRESENTATIONS

Upco.     International Conference on Social Informatices (SocInfo2014), Barcelona, Spain
          *Using Big Data to Understand Consumption Dynamics in Popular Music: Evidence from the Billboard Hot 100*

2014      European School of Management and Technology (ESMT), Berlin, Germany
          *The (Tangled) Web of Group Affiliations: The Impact of Minority Group Presence on Perceptions of Organizational Status*

2014      Academy of Management, Philadelphia, PA
          *State of the Arts: New Frontiers in the Analysis of Culture and Cultural Organizations (*organizer*)*
          *Using Big Data to Explain Cultural Innovation: Evidence from Popular Music (*presenter*)*

2014      Knowledge Lab at the University of Chicago, Chicago, IL
          *A New Approach to Studying Production and Consumption Dynamics in Popular Music*

2013      Academy of Management, Orlando, FL
          *Status and Self-Presentational Pricing: The "Chivas Regal" Strategy in U.S. Higher Education, 2006-2012*

2013      European Group for Organizational Studies Colloquium, Montréal, QC
          *Status and self-presentational pricing: How status affects tuition of U.S. colleges and universities, 2006-2012*

2013      University of Chicago Social Theory & Evidence Workshop, Chicago, IL
          *Status and Self-Presentational Pricing: The "Chivas Regal" Strategy in U.S. Higher Education, 2006-2012*

2012      American Sociology Association Annual Conference, Denver, CO
          *Peer effects in tournaments for status: Evidence from dynamics in ranks of U.S. colleges and universities*

2012      Academy of Management, Boston, MA
          *Status-based Competition and Tournaments for Prestige* (Symposium)

2012      International Network of Analytical Sociologists, New York, NY
          *Peer effects in tournaments for prestige: Evidence from dynamics in ranks of U.S. colleges and universities*


## ACADEMIC AFFILIATIONS

2013 – Present     Member: European Group on Organizational Studies
2009 – Present     Member: American Sociological Association
2010 – Present     Member: Academy of Management


## SERVICE

Book Manuscript Review Board for *American Journal of Sociology*
Ad Hoc Reviewer for *American Journal of Sociology*, *Academy of Management Journal*
Reviewer for Academy of Management Annual Conference

*UNIVERSITY SERVICE AND OTHER PROFESSIONAL EXPERIENCE*

**Teaching Assistant**

2011-13    "Strategic Leadership" with Matthew Bothner. University of Chicago Booth School of Business, London and Singapore Campuses, EMBA Program

2012-13    "Designing Strategy for the Global Firm" with Ram Shivakumar. University of Chicago Booth School of Business, EMBA Program

2009-14    "Competitive Strategy" with Ram Shivakumar. University of Chicago Booth School of Business, FEMBA, MBA and EMBA Programs

2009       "Managing in Organizations" with Nick Epley. University of Chicago Booth School of Business.

**Professional Experience**

2005-07    Regional Manager and Junior Partner, Revolution Prep. Santa Monica, CA & Boston, MA

2003-05    Consultant, The Monitor Group. Santa Monica, CA

*ADDITIONAL INTERESTS*

Spanish language (conversational), international travel, acoustic guitar and piano, live music, distance running, triathlons

**Website:** http://www.insead.edu/facultyresearch/faculty/profiles/naskin/

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a* <u>*logical alliance of interdependent communities*</u> <u>*that are related to music*</u>*, which include commercial participants…and non-commercial participants…and consists of an "*<u>*ensemble of practices and*</u> <u>*institutions that make possible and regulate the production, distribution and*</u> <u>*consumption of music*</u>*"…UNESCO identifies the music community as a "*<u>*community of identity*</u>*" implying common identifiable characteristics and* <u>*cohesive*</u> *attributes such as sharing a music culture, norms and* <u>*subscribing to*</u> <u>*common ideals*</u> *related to music…The music community is not* <u>*defined*</u> *as much by demographic indicators such as race, gender, and income level, as it is* <u>*by*</u> <u>*common values, cohesive norms and interconnected structures to build a*</u> <u>*community identity*</u>*. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The* <u>*shared organisation of collective musical*</u> <u>*activities, identity and community value is created as result of infrastructure and*</u> <u>*a shared set of common values*</u>*…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a* <u>*cohesive*</u> *and* <u>*interconnected structure*</u> *of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to* <u>*common ideals*</u>*. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.*[9]

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii)  International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies.net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]

- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]

- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]

- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises.</u>

[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [71] – a majority of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

***B) Nexus***[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,




Signature: *BECorner*

Contact Information Redacted     Jun 1 '15     ip: 24.131.186.152


Name:  Brian E Corner, PhD


Title:  Digital Communications Specialist


Organization:  The Cedar Cultural Center, Minneapolis

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

>  (1) There is an awareness and recognition among its members;

>  (2) The organized and delineated logical alliance of communities exists; and

>  (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "<u>whole</u>"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009).  See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations <u>mainly</u> Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity</u> *mainly*[20] <u>dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

[21] http://www.ifacca.org/membership/current_members/

influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

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[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music"
(http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[27] http://www.culturalpolicies.net/down/albania_012011.pdf
[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[29] http://my.midem.com/en/contact-us/pavilion-representatives/

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]

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[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF
[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28
[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf
[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821
[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011
[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2
[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf
[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/
[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa,
http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with formal boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[41]

The reach of A2IM Associate[42] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[43] – iTunes accounts for 63% of global digital music market[44] - a majority – with a registered community of 800 million registered members[45] available in 119 countries who abide to strict terms of service and boundaries[46] and have downloaded over 25 billion songs[47] from iTunes' catalog of over 43 million songs[48] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[49]

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[39] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://a2im.org/about-joining/

[42] http://a2im.org/groups/tag/associate+members/

[43] http://a2im.org/groups/itunes

[44] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share

[45] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt

[46] http://www.apple.com/legal/internet-services/itunes/ww/index.html

[47] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html

[48] https://www.apple.com/itunes/features/

[49] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html

- **Pandora**[50] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[51]
- **Spotify**[52] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[53]
- **Vevo**[54] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[55]
- **Youtube**[56] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[57] of which 38.4% is music-related.[58]
- **Reverbnation**[59] – Reverbnation[60] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[61] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[62]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[63]), China (China Audio Video Association[64]) and Germany (Initiative Musik).[65] A2IM also has Affiliate[66] associations within the global music community. These include Affiliates such as MusicFirst,[67] the Copyright Alliance,[68] the Worldwide Independent Network (WIN)[69] and Merlin.[70]

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[50] http://a2im.org/groups/pandora
[51] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[52] http://a2im.org/groups/spotify
[53] https://press.spotify.com/us/information/
[54] http://a2im.org/groups/vevo/
[55] http://www.vevo.com/c/EN/US/about
[56] http://a2im.org/groups/youtube/
[57] https://www.youtube.com/yt/press/statistics html
[58] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[59] http://a2im.org/groups/reverb-nation/
[60] http://www.reverbnation.com/about
[61] http://a2im.org/groups/bmg-rights/
[62] http://www.bmg.com/category/about-us/history/
[63] http://a2im.org/groups/french-music-export-office
[64] http://a2im.org/groups/china-audio-video-association-cava
[65] http://a2im.org/groups/initiative-musik-gmbh
[66] http://a2im.org/groups/tag/associate+members/
[67] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[68] http://www.copyrightalliance.org/members
[69] http://www.winformusic.org

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[71] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises</u>.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[72] whose members[73] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[74] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[75] the world's largest music market with 30% global market share.[76] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD</u>." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

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[70] http://www.merlinnetwork.org
[71] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf
[72] http://www.ifpi.org/about.php
[73] http://www.ifpi.org/our-members.php
[74] http://www.ifpi.org/national-groups.php
[75] http://www.riaa.com/faq.php
[76] http://www.statista.com/topics/1639/music/
[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[80] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[81] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


### B)  Nexus[82]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music

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[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[81] http://music.us/supporters
[82] See http://music.us/nexus

entities to be included as part of the Community. Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[83] given the symbiotic overlapping nature of the Community as

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[83] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,



Signature:

Name: Chauntelle Tibbals, PhD

Title: Sociologist

Organization: Chauntelletibbals.com

**About Dr. Chauntelle Tibbals**

**EDUCATION**

PhD – Sociology, University of Texas at Austin (UT), 2010

M.A. – Sociology, California State University at Northridge (CSUN), 2003

B.S. – Physiological Science & Sociology, University of California at Los Angeles (UCLA), 2000

**AREAS OF SOCIOLOGICAL SPECIALIZATION**

Dr. Chauntelle Tibbals has written expository essays, research reviews, and opinion pieces published in the *Encyclopedia of Gender & Society, Gender & Society*, *Women's Studies International Forum,* and the *Los Angeles Daily Journal* (among others).

Dr. Chauntelle Tibbals is an embedded public sociologist. This means my sociology is out in the world, a product of ongoing interactions with ever-evolving communities and subcultures. (see here for more)

Gender, Sexualities, Work & Organizations, Qualitative Research Methods, Media & New Media, Popular Culture

Work and insights have been cited in and/or referred to by Slate, KPCC (NPR), NBC News, CNN, VICE, TIME, and BloombergWest (among many others).

**SELECTED SCHOLARLY PUBLICATIONS**

Tibbals, Chauntelle Anne. 2014. "Gonzo, Trannys, and Teens – Current Trends in Adult Content Production (here)." *Porn Studies* (Routledge).

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- ACJS Today
- CRAVE Online
- DrunkCastLive (podcast)
- Eddie Bravo Radio (video)
- Grantland
- Huffington Post
- Innovation Crush (podcast)
- MTV News
- NBC News (camera)
- NextShark
- On the Ground Floor
- Reddit IAmA
- Refinery29
- Rock Confidential
- Sexual Wellness News
- Shawn Alff
- Slate

- The Web Psychologist (podcast)
- VICE

## VARIOUS WRITING & OP-EDS

- AVN
- BroBible
- Dirty&Thirty
- Men's Health
- New York Post
- Playboy
- PVVOnline
- UPROXX/FilmDrunk

## SELECTED QUOTES & CITATIONS

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- Al Jazeera
- AlterNet
- AskMen.com
- BankRate
- BetaBeat
- BloombergTV
- Business Insider
- Bustle
- Chicago Tribune
- CNBC (1/21/15)
- CNBC (1/22/15)
- CNBC (1/24/15)
- CNN
- CraveOnline
- Daily Beast
- Daily Dot
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- Ekstra Bladet (Additional Sheet)
- Examiner.com
- Glammonitor
- Good Vibrations Sex Summit (video)
- HuffingtonPost
- Inside HigherEd
- Jezebel
- KHTS

- [KPCC (NPR)](#)
- [La Presse](#)
- [Las Vegas CityLife](#)
- [LiveScience](#)
- [NBC News (1/20/15)](#)
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- [NBC News (4/25/13)](#)
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- [The Atlantic](#)
- [The Debrief](#)
- [The Kernel](#)
- [TIME Magazine](#)
- [TWiB AfterDark (podcast)](#)
- [Venture Beat](#)
- [VICE News](#)
- [VICE Noisey](#)
- [VICE UK](#)
- [YourTango](#)

**WEBSITE:** [http://www.chauntelletibbals.com/about/cv](http://www.chauntelletibbals.com/about/cv)

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<center>SUMMARY</center>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

### A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

      (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an international federation of national communities of a similar nature… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2
[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf
[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/
[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)
[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c
[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23
[41] http://www.ifpi.org/about.php
[42] http://www.ifpi.org/our-members.php
[43] http://www.ifpi.org/national-groups.php
[44] http://www.riaa.com/faq.php
[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

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[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises</u>.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics.html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and
https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [77] – a majority of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by representing the international music products industry and community, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "to strengthen

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

## B) Nexus[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,




Signature:  <span style="font-size:smaller">Contact Information Redacted</span>   Aug 11 '15    ip: 92.193.40.64


Name: Daniel James Wolf


Title: PhD Ethnomusicology, Wesleyan University


Organization: Material Press, Frankfurt am Main

# Dr. Daniel James Wolf

## Education

BA (Music), UC Santa Cruz

MA (World Music)

PhD (Ethnomusicology), Wesleyan University

## Biography

Daniel James Wolf (born September 13, 1961 in Upland, California) is an American composer of serious music and a music scholar.

Wolf studied composition study with Gordon Mumma, Alvin Lucier, and La Monte Young, as well as musical tunings with Erv Wilson and Douglas Leedy and ethnomusicology. BA University of California Santa Cruz, MA, PhD, Wesleyan University. Important contacts with Lou Harrison, John Cage, Walter Zimmermann. Managing Editor of Xenharmonikon, 1985-89. Based in Europe from 1989, he is known as a member of the "Material" group of composers, along with Hauke Harder, Markus Trunk.

Wolf's compositions apply an experimental approach to musical materials, with a special interest in intonation, yet often display a surface that playfully - if accidentally - recalls historical musics. Major works include The White Canoe, an opera seria for handpuppets to the libretto by Edward Gorey and four string quartets.

Three distinct streams combine to form Wolf's oeuvre. Wolf makes sound installations, experimental concert works based on sound structures mostly free from historical associations, and experimental concert works based on reifying the tradition of European art music (or other world musics, particular Javanese gamelan) and then performing operations on its internal principles. The following remarks pertain to this last body of work.

Composer Wolf identifies with the experimental music tradition--especially its American West Coast manifestation-- spiritually, intellectually and personally. Nevertheless, in that portion of his work where his choice of musical materials and forms derive from common practice harmony and counterpoint, he might, to some, suggest a conservative neoclassicist. Where neoclassicism means pursuing classical ideals with novel sonic resources, Wolf's actually employs the reverse tactic -- he virtuosically explores reasonably familiar classical or neoclassical materials with no a priori commitment to received ideals.

He jokingly calls his method "dysfunctional harmony." A metaphor might help explain his meaning. Imagine the principles of common practice music as carried by some genetic code subject to mutations. Either intuitively or methodically, Wolf mutates certain genes and produces harmony or counterpoint that systematically engages our historical understanding but still undermines our expectations. In the long run biological mutations either prove

adaptive (and proliferate) or maladaptive (and disappear), but when the sport first appears, it holds only its strangeness, orthogonal to any world of value.

In this respect Wolf has deeply internalized the experimental ethos. Typical composers employ trial and error as they search for some effect, while strict aleatoric composers, after Cage, perform trials and simply accept the effect. Wolf performs Cageian experiments, mostly in his head, with or without the aid of chance procedures, but in doing so nevertheless engages musical functionality though without making a fetish of it.

While Wolf's tendency towards small forms and quiescent gestures often tickles a listener's notions of the musically elegant, his mutated materials make for music that must fall just shy of received standards of elegance. Much of the power of his music derives from a tension that dwells in the negative space between the forms Wolf actually achieves and the engaged listener's induced desire for a perfectly elegant idealization.

Rather than a post-modernist's theatrical pastiche and cold irony, Wolf's detente with the great tradition has a tragic aspect. One might compare Wolf's engagement with the past to that of the uncompromising realist in literature, drama or the visual arts, one who takes on the practices of the great tradition but rejects the hegeomonic repression encoded in naive heroicism and idealization.

He has written extensively about modern and experimental music, systematic musicology, and speculative music theory. Extensive critical and theoretical writings on musical intonation and speculative music theory, especially the interaction between tuning systems and tonal musics, 20th century and American experimental music, ancient Greek and Hellenistic music, mannerism, Viennese classicism, Southeast Asian musics. Organology. Ethnomusicological fieldwork in central Mexico, Ireland, Suriname, central Java, Germany and southern California.

**Other Experience**

Member of the Gravity Resistors' Pension Fund Orchestra, 1980-present.

Editor, XENHARMONIKON (a journal of new music and intonation sytems), 1985-89.

Curator, Folk Music Center Museum, Claremont (1979-89)

Music Curator, Real Art Ways, Hartford, CT (1985-86)

Guest Curator, Ontario (California) Museum of History and Art (1989).

Research Assistant to Prof. John Hajdu (J.-B. Lully: Sacred Motets).

Teaching Assistant to Profs. Linda Burman-Hall (theory and musicianship), Neely Bruce (music history survey), and David McAllester (ethnomusicology).

Studied Gamelan with Undang Sumarna, Sumarsam, I.M. Harjito, Ki Suhardi, Heri Djajasumadi, and Oemartopo. Instructor, Javanese Gamelan, Museum für Volkerkunde,

Frankfurt. Member, Gamelan Orchestras WACANA BUDAYA, Frankfurt, and TOPANG BANG, Budapest.

**Websites:**

https://en.wikipedia.org/wiki/Daniel_James_Wolf

http://home.snafu.de/djwolf/vitae.htm#Vitae

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

### A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants...and non-commercial participants...and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"...UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music...The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>...Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions...subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See  OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an international federation of national communities of a similar nature… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries.  In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2
[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf
[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/
[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)
[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c
[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23
[41] http://www.ifpi.org/about.php
[42] http://www.ifpi.org/our-members.php
[43] http://www.ifpi.org/national-groups.php
[44] http://www.riaa.com/faq.php
[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

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[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises</u>.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics.html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

### B) Nexus[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,



David Michael Ramirez II, Ph.D.
Contact Information Redacted    Aug 10 '15    ip: 24.18.238.102

Signature:


Name: Dr. David Michael Ramirez II


Title: Ph.D.


Organization: Independent Researcher

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD</u>." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

*B)  Nexus*[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or
>
> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,




Signature: *Deborah L. Vietze, Ph.D.*
Contact Information Redacted    Jun 2 '15    ip: 74.102.35.40


Name:  Deborah L. Vietze, Ph.D.


Title:  Professor of Psychology


Organization:  City University of New York, New York City

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.


*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an international federation of national communities of a similar nature… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries.  The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus  (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

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Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies.net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises.</u>

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


## B)  Nexus[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,


Signature: *Dimitrios Vatakis*

Name:   Dimitrios Vatakis PhD


Title: Assistant Professor


Organization: David Geffen School, UCLA

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

SUMMARY

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

> (2) The organized and delineated logical alliance of communities exists; and

> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See
http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations <u>mainly</u> Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity</u> *mainly*[20] <u>dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

[21] http://www.ifacca.org/membership/current_members/

influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

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[22] http://www.ifacca.org/strategic_partners/

[23] http://www.ifacca.org/strategic_partners/

[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html

[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html

[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies.net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]

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[30] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries.  In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with formal boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[41]

The reach of A2IM Associate[42] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[43]  – iTunes accounts for 63% of global digital music market[44] - a majority – with a registered community of 800 million registered members[45] available in 119 countries who abide to strict terms of service and boundaries[46] and have downloaded over 25 billion songs[47] from iTunes' catalog of over 43 million songs[48] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[49]

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[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://a2im.org/about-joining/

[42] http://a2im.org/groups/tag/associate+members/

[43] http://a2im.org/groups/itunes

[44] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share

[45] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt

[46] http://www.apple.com/legal/internet-services/itunes/ww/index.html

[47] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html

[48] https://www.apple.com/itunes/features/

[49] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html

- **Pandora**[50] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[51]
- **Spotify**[52] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[53]
- **Vevo**[54] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[55]
- **Youtube**[56] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[57] of which 38.4% is music-related.[58]
- **Reverbnation**[59] – Reverbnation[60] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[61] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[62]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[63]), China (China Audio Video Association[64]) and Germany (Initiative Musik).[65] A2IM also has Affiliate[66] associations within the global music community. These include Affiliates such as MusicFirst,[67] the Copyright Alliance,[68] the Worldwide Independent Network (WIN)[69] and Merlin.[70]

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[50] http://a2im.org/groups/pandora
[51] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[52] http://a2im.org/groups/spotify
[53] https://press.spotify.com/us/information/
[54] http://a2im.org/groups/vevo/
[55] http://www.vevo.com/c/EN/US/about
[56] http://a2im.org/groups/youtube/
[57] https://www.youtube.com/yt/press/statistics.html
[58] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[59] http://a2im.org/groups/reverb-nation/
[60] http://www.reverbnation.com/about
[61] http://a2im.org/groups/bmg-rights/
[62] http://www.bmg.com/category/about-us/history/
[63] http://a2im.org/groups/french-music-export-office
[64] http://a2im.org/groups/china-audio-video-association-cava
[65] http://a2im.org/groups/initiative-musik-gmbh
[66] http://a2im.org/groups/tag/associate+members/
[67] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[68] http://www.copyrightalliance.org/members
[69] http://www.winformusic.org

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[71] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[72] whose members[73] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[74] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[75] the world's largest music market with 30% global market share.[76] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [77] – a majority of global music.[78]

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[70] http://www.merlinnetwork.org
[71] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf
[72] http://www.ifpi.org/about.php
[73] http://www.ifpi.org/our-members.php
[74] http://www.ifpi.org/national-groups.php
[75] http://www.riaa.com/faq.php
[76] http://www.statista.com/topics/1639/music/
[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[80] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[81] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

## B) *Nexus*[82]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music

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[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[81] http://music.us/supporters
[82] See http://music.us/nexus

entities to be included as part of the Community. Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[83] given the symbiotic overlapping nature of the Community as

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[83] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,


*Dr. D. Constantinou*

Contact Information Redacted    Jul 22 '15    ip: 100.39.2.83

Signature:


Name:  Dr. Dimitris Constantinou


Title:  Entrepreneur


Organization:  Easy Group LLC

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

**A) *Music Community Definition, Establishment & Community Endorsement*[4]**

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

(1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music communities</u> that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.


*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an international federation of national communities of a similar nature... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [77] – a majority of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by representing the international music products industry and community, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "to strengthen

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


### B)  Nexus[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature:    Aug 10 '15    ip: 174.21.169.174

Name: Dr. Eric W. Vogt

Title: Professor

Organization: Seattle Pacific University

# Dr. Eric William Vogt

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Date of hire: September, 2001. Hired at Associate rank (six years at rank)
Tenured: February, 2006. Promoted to Professor rank: September, 2008

## Education

1988 University of Missouri, PhD, Romance Languages (Golden Age Spanish literature, Baroque Art and Latin)
   Dissertation: A Critical Edition of Antonio Hurtado de Mendoza's *Ni callarlo ni decirlo*.
1983 University of Missouri, MA, Spanish Literature (with specialization in Literary Translation)
1977 University of Hawaii, BA, Spanish
1973 Punahou Academy, Honolulu, Hawaii

## Certifications

1997 ACTFL Oral Proficiency Rating (OPI) in Spanish: Superior.
1993 American Translators Association. Certified technical translator, English-to-Spanish
1991 *Diploma del Español como Lengua Extranjera*, Nivel Superior

## Academic Employment

| | |
|---|---|
| 2008-present | Full Professor of Spanish, Seattle Pacific University, Seattle, Washington |
| 2001-2008 | Associate Professor of Spanish, Medieval, Renaissance and Golden Age Literature, Seattle Pacific University, Seattle, Washington |
| 1996-2001 | Assistant Professor of Spanish, Thunderbird, The American Graduate School of International Management, Glendale, Arizona |
| 1995-1996 | Visiting Assistant Professor, University of North Dakota, Grand Forks, North Dakota |
| 1992-1995 | Teacher, *Bienvenidos* Program for gifted Elementary-Secondary Immigrants, Arlington, Virginia (part-time volunteer, mentor) |
| 1989-1993 | Assistant Professor of Spanish, Howard University, Washington, DC |
| 1981-1988 | Graduate Teaching Assistant, University of Missouri, Columbia, Missouri |
| 1987-1988 | Lecturer, Stephens College, Columbia, Missouri |

## Teaching Experience & Curricular Design (SPU & elsewhere)

Spanish/English Subject Matter Expert (SME) with TST™ for Training, Testing & Certification of Analytic Linguists, to be employed in Investigative Surveillance Operations: monitoring, transcription and translation of oral intercepted communications. (Being reviewed by the Council on Standards Development, of the International Association for Continuing Education and Training, for accreditation at the Master's degree level). Includes, among providing niche-specific skills, linguistic analysis of nearly 24 subdialects of New World Spanish (morphological, syntactical, phonological and lexical) as training for recognition purposes.
All levels of language (SPN 1101-1103, 2000-level and various 3000-level courses)
Spanish for Special Purposes: Nursing and International Business Communication.
Golden Age and Medieval Age Spanish literature courses (SPN 3105 & 3106)
Latin American Literature Capstone: *Cien años de soledad* and other themes (SPN 4899)
Translation (EUR 4254). Principles and Practices; workshop format.
UCOR 1000: General Education course involving Art History.

## Publications: Books, Print and Online

*The Complete Poetry of Saint Teresa of Avila*. Edition and Translation. New Orleans: University Press of the South, 2nd Edition, 2015. Expanded and updated select bibliography, additional introductory section, updated preface.

*McGraw-Hill's 500 Spanish Questions: Ace Your College Exams*. McGraw-Hill Tradebook Division, 2012.
*Practice Makes Perfect: Spanish Spanish Problem Solver Up Close.* McGraw-Hill Tradebook Divison, 2012.
*Practice Makes Perfect: Spanish Irregular Verbs Up Close.* McGraw-Hill Tradebook Divison, 2010.
*Perfect Phrases in Spanish for Confident Travel to Mexico: The No Faux-Pas Phrasebook for the Perfect Trip.*
        McGraw-Hill Tradebook Division, 2009.
*Practice Makes Perfect: The Spanish Subjunctive Up Close.* McGraw-Hill Tradebook Divison, 2008.
*Practice Makes Perfect: Spanish Pronouns Up Close.* McGraw-Hill Tradebook Divison, 2008.
*Practice Makes Perfect: Spanish Past-Tense Verbs Up Close.* McGraw-Hill Tradebooks, 2008.
*Obras Completas de Cristóbal Galán, Vols. VII-XI.* Baron, John H. & Eric W. Vogt, eds. Ottawa: The Institute of
        Mediaeval Music, 2002-2007.
*La fábula de Polifemo y Galatea*, by Góngora y Argote, Luis. Original calligraphy; *online* edition, with notes,
        sound files, art; grammar and other exercises, a guide for teachers and students of language and literature,
        and links to related sites. With technical collaboration of, and scholarly input from, Fred Jehle,
        Purdue University, Lafayette, IN, 1997, at: www.ipfw.edu/cm1/jehle/web/poesía/polifemo.htm
*The Complete Poetry of Saint Teresa of Avila.* Edition and Translation. New Orleans: University Press of the
        South, 1996 (proposal to Dr. Alain Saint-Saëns, editor of this academic press, accepted in 1995). Forward
        by H.E. Cardinal Jaime L. Sin, Republic of Philippines.
*Ni callarlo ni decirlo*, by Hurtado de Mendoza, Don Antonio. Critical edition. Ciudad Juárez: Universidad
        Autónoma de Ciudad Juárez, 1992 (invited to submit proposal by UACJ's board; only author granted a
        sole volume in this Mexican, four-volume series celebrating the "Quincentennial of the Encounter of
        Two Worlds"). This scholarly work involved a complete reworking of the thesis and was done in Spanish.
*College-at-Home Spanish.* 2 Vols. Columbia, Missouri: University of Missouri, 1985. Co-authors: Victor Durán
        and Jill Briseño (invited by MU's Continuing Education to create the materials for this course).

## Publications: Articles, Print and Online

"Hablemos de modelos sociales.", Online, in *Especiales > Comentarios* (i.e., "op-ed"), *Radio Habana Cuba*
        (RHC), official radio station, founded April 16, 1961 as the official radio voice of the Partido Comunista
        de Cuba. Reviewed by Pedro Otero, Station editor-in-chief and uploaded February 20, 2015.*
"Vínculos bíblicos herméticos: *Cien años de soledad* y el "'Real Arte'." *La Revista de Estudios Colombianos*.
        July, 2007, Vol. 31, pp. 7-23.*
Three entries in the *Encyclopedia of Christian Literature*: Ramón Llull, Marcilio Ficino and Giovanni Pico de
        Mirandola (scheduled for publication in 2007 by Hendrickson.) Invited publication.
"Diego Hurtado de Mendoza." *Dictionary of Literary Biography: Sixteenth-Century Spanish Writers*. Gregory B.
        Kaplan, ed. Columbia, SC: Bruccoli Clark Layman, Vol. 318, 2006. Invited publication.
"John Wesley's Sephardic *Portion*: Psalm 63." *Methodist History*, July 2005.*
"After me cometh a builder": Kipling's Masonic *Ludibrium* in *The Palace* (1902). *The Kipling Journal*,
        London, Vol. 78, No. 311, September, 2004.*
"The Curious Case of Hermetic Graffiti in Valladolid Cathedral ms. 40/8." *Esoterica* Vol. V. E. Lansing:
        Michigan State University, 2003 (Online at: www.esoteric.msu.edu).*
 "A Fast Track to Cultural Understanding: Literature in Translation." *The Journal of Language for International
        Business*. Glendale, AZ: Thunderbird, The American Graduate School of International Management,
        Vol. 9, no.1, 1998, 10-27.*
"Desire and Decorum in the Twentieth Century Colombian Novel." *Hispanic Issues*. Minneapolis: University of
        Minnesota, 1992 (invited publication, in collaboration with Eduardo Jaramillo-Zuloaga of Denison
        University).
"Intérpretes dentro del texto en la dramaturgia de Lope de Vega y Shakespeare" *Lienzo*, Vol. XII, 1991, 95-104.
        Lima, Peru: Universidad de Lima.*
* refereed

## Publications: Reviews

"Fact or Fiction." A book review of Dan Brown's *The Da Vinci Code* for *Response*, Seattle Pacific University,
        2004 (http://www.spu.edu/depts/uc/response/spring2k4/bookfilm/expanded.html).
Samuelsson-Brown, Geoffrey. *A Practical Guide for Translators.* 3rd. rev. ed.
        Clevedon, England: Multilingual Matters, 1998. *Modern Language Journal*, 2000 (invited).

O'Hagan, Minako. The Coming Industry of Teletranslation. Clevedon, England: Multilingual Matters, 1996. *The Journal of Language for International Business*, 8, 2, 1997 (invited).

## Publications: Creative Writing

"New and Improved or Authentic?" *Potomac Review*. Vol. 2, no. 3. Potomac Review: Washington, DC, 1995, 50-54.

"Get a Profession!" *Potomac Review*. Vol. 2, no. 2. Potomac Review: Washington, DC, 1995 3-7.

"'Minor' Arts?" *Potomac Review*. Vol. 2, no. 1. Potomac Review: Washington, DC, 1995, 18-25.

"Time, Poetry, Painting, Space and Sculpture." *Potomac Review*. Vol. 1, no. 4. Potomac Review: Washington, DC, 1994, 75-80.

"The Emperor's New Clothes, or 'What is Poetry Anyway?'" *Potomac Review*. Vol. 1, no. 3. Potomac Review: Washington, DC, 1994, 3-11.

"To Christopher Columbus." Translation of a poem by Neo-Latin Renaissance poet Janus Vitalis Panormitanus (1485-1560), *Order of the Sons of Italy News*: Worchester, MA, 1989.

"'To Get a Good Job, Get a Good Education'." Poem, *American Poetry Anthology*, Vol. IX, no. 4, 131, 1989.

"Fat, Dumb and Happy." Poem, *American Poetry Anthology*, Vol. IX, no. 4, 131, 1989.

"Lemon Road." Poem, *American Poetry Anthology*, Vol. IX, no. 5, 127, 1990.

"Corporate Spectacles." Poem, *American Poetry Anthology*, Vol. IX, no. 5, 127, 1990.

"Christmas Shopping." Poem, *Waif's Messenger*, a newsletter of the Mercy Boy's Home: Chicago, 1988.

## Papers and Presentations

"Ruins as Metaphors of Time: Christian Neo-Stoicism in Sonnets by Quevedo, Góngora and Du Bellay", NACFLA annual meeting held at Point Loma Nazarene, March, 2009.

"Wesley's Sephardic 'Portion': Psalm 63", NACFLA annual meeting held at Trinity Christian College, April 2005.*

"Juan Ruiz, el Arçipreste de Hita's *El libro de buen amor*." *The First Annual Medieval Studies Symposium of the Puget Sound Roundtable*, Seattle Pacific University, January 2004.

"The *Vanitas* Theme: Teaching for Devotion, Using Golden Age Spanish Sonnets and Scripture-Inspired Art." NACFLA annual meeting held at Azusa Pacific University, April 2003.

"Awakening Motivation through Organization: A Model for an Upper-Level Business Spanish Course." Thunderbird-Eastern Michigan University Annual Conference on Language, Communication and Global Management, Scottsdale, Arizona, April 6, 2000.*

"Translation: The Lifeblood of Technology Transfer." AATSP annual meeting, Denver, CO, August 2, 1999.*

"TurboVerb™: Jet Fuel for Conjugating Spanish Verbs." Southwest Conference on Language Teaching (SWCOLT) annual meeting, Tempe, AZ, April 23, 1998.

"Unraveling the Subjunctive in Spanish." SWCOLT annual meeting, Tempe, AZ, April 23, 1998.

"The Formal and Informal Education of a Technical Translator." Eastern Michigan University Annual Conference on Language for International Business, April 17, 1997.*

"'Now we see through a glass, darkly': Translating the Mystical Poetry of St Teresa of Avila,." Linguistic Circle of Manitoba & North Dakota annual meeting, Minot, North Dakota, 1995.*

"Meeting the Translation Needs of Bloodbanking: The Computer Solution." *American Association of Blood Banks* annual meeting, Miami, Florida, 1993.*

"The Use of Translation in the Teaching of Language and Literature and as a Scholarly Pursuit", Foreign Language Teaching Symposium, Howard University, Washington, DC, 1989.

"El papel de las Estefanías en *La discreta enamorada* de Lope de Vega," G*olden Age Spanish Drama Symposium* annual meeting, El Paso, Texas, 1984.*

* Refereed

## Professional Conferences Attended

2009      The Spanish Subjunctive: A Truly Classical Approach, Reborn." Washington Association of Foreign Language Teachers (WAFLT), Oct. 8-10, Spokane, WA.

2007      ATA Annual Conference, Oct. 31-Nov. 3, 2007, San Francisco.

| 2007 | Three-day ATA-sponsored Translation Workshop, Beaverton, Oregon, July 2007. |
| 2007 | *Translation Principles and Practice*, ATA-sponsored 18-hour workshop, Tigard, Oregon, July 10-12. |

## Other Scholarly Activity

| 2009 | Selected by the Editorial Board of *Presses Universitaires Internationales* to be a Series Editor for Spanish Studies. |
| 2003 | Refereed article for *Esoterica*, Michigan State University's online peer-reviewed journal. |
| 2003 | Provided expertise regarding an article by Kenneth Kinkor, director of the *Expedition Whydah Sea-Lab & Learning Center* (Provincetown, MA), whose explorations and discoveries of pirate wrecks have been featured on *Discovery Channel* and in *National Geographic (May, 1988)*. |
| 1998-2001 | Editor, *The Journal of Language for International Business*, Thunderbird, The American Graduate School of International Management (AGSIM). |
| 1994 | Graduate level seminar on Technical Writing and Translation for corporate and federal organizations, George Washington University, Washington, DC. |
| 1993-1994 | United Nations North American Task Force. Participated in annual conferences in DC and NY about management of technical lexicons in high-volume electronic databases. |
| 1992-1995 | Seminars, in the United States and Puerto Rico, on editorial processes and the use of cutting-edge translation software for lexical database management (*Globalink, Inc.*). |

## Service: University (SPU & elsewhere)

| 2015 - present | Serving on Faculty Affairs Council, Seattle Pacific University |
| 2003-2010 | Provided access to scholarhip funds to SPU students, resulting in tens-of-thousands of dollars of financial aid (not loans - gifts) over those years. |
| 2006-2009 | Served on Faculty Status Committee, Seattle Pacific University |
| 2006 | Helped secure a $5,000 annual Fellowship for the Graduate Program in Organizational Psychology, Seattle Pacific University. Discontinued after 2010. |
| 2005 | Presented "Anecdotes About and (Mis) Adventures in Apprenticeship from the Middle Ages Through Colonial America" at the Alumni retreat at Camp Casey. |
| 2005 | Served as committee member for doctoral dissertation, "Time Perspective, Acculturation, and Psychological Well-being in Mexican Americans," Heather Romero, School of Psychology, Family & Community, Seattle Pacific University |
| 2005 | Mentored male student as part of Campus Ministries program. |
| 2005 | Faculty sponsor of Spanish Club. |
| 2005 | Organized, in collaboration with Dr. Patrick McDonald, *The Second Annual Medieval Studies Symposium of the Puget Sound Roundtable*, held in January, 2004 at Seattle Pacific University, adding Cappella Romana to the list of events for an evening concert at First Free Methodist Church. |
| 2004 | Organized, in collaboration with Drs. Owen Ewald and Patrick McDonald, *The First Annual Medieval Studies Symposium of the Puget Sound Roundtable*, held in January, 2004 at Seattle Pacific University. |
| 2004 | Panel member in discussion of Dan Brown's *The Da Vinci Code*, at Seattle Pacific University, with Drs. Rob Wall, Alberto Ferreiro and Randy Maddox. |
| 2003-2006 | Elected to three-year term on the Undergraduate Policies and Evaluation Committee (UPEC), Seattle Pacific University. |
| 2003 | Guest lecture about the Crusades and the Military-Religious Orders in Doug Durasoff's Christianity and World Politics class. |
| 2002-2007 | Humanities Award Coordinator, Seattle Pacific University |
| 2002-2010 | Regularly assisted in Premiere, now Early Registration, for incoming students. |
| 2002-2005 | Participated in one interview committee for faculty candidate and regularly for Pre-med students. |
| 2002 | Led devotional for faculty senate and presented at Faculty Retreat. |
| 2000-2001 | Web designer for Thunderbird Language Institute |
| 1999-2000 | Faculty Senator-at-Large, AGSIM. |
| 1997-2001 | Advisor, instructor, Tai Chi Club, AGSIM. |

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|---|---|
| 1996-1997 | Member, Career Services Internship, Scholarship, Curricular Initiative Committees, AGSIM. |
| 1997 | Director of Spanish Language Program, AGSIM Guadalajara Program in Jalisco, Mexico. |

## Service: Departmental

| | |
|---|---|
| 2015 | Working with Dr. Robert Baah on proposal for an M.A. in Spanish Literature program. |
| 2015 | Working with Dr. Robert Baah to create course, Spanish for Medical Professionals. |
| 2003-2010 | Coordinated Oral Proficiency Interviews with the American Council of Teachers of Foreign Languages. |
| 2001-2010 | Participated in European Symposia. |
| 2004 | Assisted in revision of Placement Exam, Seattle Pacific University |
| 1998 | Coordinator, Level III Language classes, AGSIM. |
| 1990-1991 | Director, Undergraduate Language Courses, Howard University (HU), responsible also for design of Advanced Placement Spanish courses for high schools and honors program for college junior and seniors majoring in Romance Languages. |
| 1990-1991 | Chairman or Member: Undergraduate Studies, Curricular Development, Study Abroad, and Library Acquisitions committees, HU. |
| 1985 | Assisted course directors with administrative details of Romance Languages courses, University of Missouri-Columbia Summer School. |

## Service: Extra-Institutional

| | |
|---|---|
| 2010 - present | Content Matter Expert (SME) for ProTrans, a private company specializing in elite translation and translation training for public and private sector. Accredited in 2015 by IACET (International Association for Continuing Education and Training). |
| 2009 | Editorial consultant in an ITT bid to supply COMINT expertise and support to a Latin American country. |
| 2006 | Panel member in discussion of Dan Brown's *The Da Vinci Code*, at Bellevue Presbyterian Church. |
| 2003 | Served as consultant to State of Washington Professional Educator Standards Board regarding ETS test for Spanish teachers, recommended by Frank Kline, School of Education, Seattle Pacific University. |
| 2001-2006 | Member, Editorial Board of *The Journal of Language for International Business* (JOLIB), published by The American Graduate School of International Business (Thunderbird), Glendale, AZ. |
| 1999 | Served on Board of Reviewers for New Visions in Foreign Language Resource Center, Iowa State University, Ames, Iowa. |
| 1998 | Executive Board Member, the Arizona Language Association. Represented Maricopa County. |
| 1991-2 | Designed, taught courses for medical, fire and rescue, police and others. Howard University adult programs. |

## Community Involvement

| | |
|---|---|
| 2013 | Joined St. Anne Parish, Queen Anne, to endeavor to prepare daughter for First Communion. Also attend other parishes in region (Spanish-speaking). |
| 2001-2012 | Fundraising for Queen Anne Help Line, help supply balls for local youth sports teams. |
| 1993 | Guest lecturer, Gonzaga High School, Washington, D.C., on Dante Alighieri and Petrarch. |
| 1993 | Special Olympics, Washington, DC. Donated time to the event and private Spanish lessons |

## Professional Affiliations -- Current

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|---|---|
| 1993-Present | American Translators Association (Active Associate Member). |

## Honors, Awards and Distinctions

| | |
|---|---|
| 1995 | Recognized by Elizabeth Dole for Best Ideas and Practices Program, The American National Red Cross, National Headquarters, Washington, DC |
| 1994 | Named by Elizabeth Dole as one of the Top Ten Employees in the Nation, The American National Red Cross, National Headquarters, Washington, DC - for development and administration of Blood Services in-house translation operations. |
| 1986 | Eta Sigma Phi, *National Classical Honor Society* |
| 1982 | Chancellor's Award for Excellence In Teaching, University of Missouri-Columbia |
| 1976 | Sigma Delta Pi, *National Spanish Honor Society*. University of Hawai'i-Manoa; President of Beta Chapter, University of Missouri-Columbia, 1984-1986 |

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

SUMMARY

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A)  *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community particularities" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide. According to DotMusic, the Music Community members must have an active, non-tangential relationship with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

DotMusic's Community definition matches the applied-for string because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination/exclusion. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of cohesion than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html

[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[26] http://www.culturalpolicies net/down/albania_012011.pdf

[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[28] http://my.midem.com/en/contact-us/pavilion-representatives/

[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with formal boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for 63% of global digital music market[43] - a majority – with a registered community of 800 million registered members[44] available in 119 countries who abide to strict terms of service and boundaries[45] and have downloaded over 25 billion songs[46] from iTunes' catalog of over 43 million songs[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of over 250 million registered members.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

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[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics.html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and
https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [71] – a majority of global music.[72]

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[73] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


**B) Nexus**[74]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] http://music.us/supporters
[74] See http://music.us/nexus

defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential

relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

*Graham Sewell*

Signature:　　Contact Information Redacted　　Apr 20 '15　　ip: 128.250.0.96


Name:　　Graham Sewell


Title:　　Professor


Organization:　　University of Melbourne


Date:　　21 April 2015

## About Dr. Graham Sewell

*Professor in the Department of Management and Marketing*

*Melbourne University*

*PH.D from the University of Wales*

## Research Interests

- Business agility
- Business ethics
- Evolutionary psychology
- Organisation & management theory
- Qualitative research methods
- Strategy development processes
- Teamwork
- Workplace surveillance

## Professional Memberships

Academy of Management

## Publications

### Journal Articles

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**Website(s)**

http://findanexpert.unimelb.edu.au/display/person2287
http://fbe.unimelb.edu.au/managementmarketing/staff/academic/579

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "<u>whole</u>"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See
http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html

[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[26] http://www.culturalpolicies net/down/albania_012011.pdf

[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[28] http://my.midem.com/en/contact-us/pavilion-representatives/

[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]

- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]

- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]

- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with formal boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for 63% of global digital music market[43] - a majority – with a registered community of 800 million registered members[44] available in 119 countries who abide to strict terms of service and boundaries[45] and have downloaded over 25 billion songs[46] from iTunes' catalog of over 43 million songs[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of over 250 million registered members.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

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[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics.html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD."</u> The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

**B) Nexus**[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,



Signature: *Jeremy Silver*

Contact Information Redacted          May 27 '15    ip: 151.230.66.113



Name:  Jeremy Silver



Title:  Dr



Organization:  Mediaclarity Digital Limited

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

To ICANN and the Economist Intelligence Unit ("EIU"):

Please accept this letter as an indication of my professional opinion that there is compelling evidence for DotMusic's application to convincingly meet the full criteria under Community Priority Evaluation on the following points: (1) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing the global Music Community addressed and defined.

Please also find below the analysis of the DotMusic application pertaining to the Community Priority Evaluation criteria, and on which my assessment is based. The analysis is consistent with key findings in my research field of organization studies that focus specifically on matters relating to community (see for example: Glynn, 2008;[2] Marquis, Glynn & Davis, 2007;[3] Marquis, Lounsbury & Grenwood, 2011;[4] Schneiberg & Lounsbury. 2008;[5] Thornton, Ocasio & Lounsbury, 2012).[6] My credentials are attached below this analysis to identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

[2] Glynn, M. A. (2008). Configuring the Field of Play: How Hosting the Olympic Games Impacts Civic Community. *Journal of Management Studies*, 45(6), 1117-1146

[3] Marquis, C., Glynn, M. A., & Davis, G. F. (2007). Community Isomorphism and Corporate Social Action. *The Academy of Management Review*, 32(3), 925-945

[4] Marquis, C., Lounsbury, M., & Greenwood, R. (2011). Introduction: Community as an Institutional Order and a Type of Organizing. *Research in the Sociology of Organizations, 33*, ix-xxvii.

[5] Schneiberg, M., & Lounsbury, M. (2008). Social movements and institutional analysis. In R. Greenwood, C. Oliver, R. Suddaby & K. Sahlin (Eds.), *The SAGE Handbook of Organizational Institutionalism* (pp. 650-672). Los Angeles: SAGE.

[6] Thornton, P. H., Ocasio, W., & Lounsbury, M. (2012). *The institutional logics perspective: A New Approach to Culture, Structure and Process*. Oxford: Oxford University Press.

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**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

# SUMMARY

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency, overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for the protection of the "Music Community" member rights with relation to their copyrighted music works</u> around the world;

4) The "Music" Community -- as defined by DotMusic -- has <u>at least one entity dedicated to the community</u> supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a <u>majority</u> of the Community with <u>considerable</u> millions of members worldwide.[7]

5) The *Nexus* of the "music" Community <u>matches</u> the "music" applied-for string because it represents the <u>entire</u> global Music Community – a community that pre-existed 2007 with a size in the <u>considerable millions</u> of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of

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**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
**T:** +61 3 8344 4481 **F:** +61 3 9349 4293
**E:** Enquiries-Mgmt-Mktg@unimelb.edu.au **W:** www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[8] from institutions/organizations representing this Community.

There is substantive evidence that DotMusic fulfils the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

## ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

### A) *Music Community Definition, Establishment & Community Endorsement*[9]

DotMusic's definition of the "Music Community" as a "strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*
The "Music Community" definition covers the regulated, interdependent and cohesive nature of the music sector

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[8] http://music.us/supporters
[9] See http://music.us/establishment

that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[10]

As a result, the Music Community as defined is "closely united" (As per the definition of "cohesion" according to Merriam-Webster dictionary[11]) or "united or form a whole" (As per the definition of the word "cohesion" according to Oxford Dictionaries[12]).

The "Music Community" as defined (a "strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[13]

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[10] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3

[11] http://www.merriam-webster.com/dictionary/cohesion

[12] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

[13] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study

Music community is defined as a _logical alliance of interdependent communities that are related to music_, which include commercial participants...and non-commercial participants...and consists of an "_ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music_"...UNESCO identifies the music community as a "_community of identity_" implying common identifiable characteristics and _cohesive_ attributes such as sharing a music culture, norms and _subscribing to common ideals_ related to music...The music community is not _defined_ as much by demographic indicators such as race, gender, and income level, as it is _by common values, cohesive norms and interconnected structures to build a community identity_. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The _shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values_...Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a _cohesive_ and _interconnected structure_ of artistic expression, with diverse subcultures and socio-economic interactions...subscribing to _common ideals_. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[14]

ii) _An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:_
DotMusic's definition of the Community covers _all_ Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, _all_ Music Community members _must identify their music-related community_ in order _to_

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conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[14] Music Community. In _Wikipedia_. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

demonstrate their requisite awareness of the defined Community as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents (Application Answer to Question 20a). According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community particularities" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide. According to DotMusic, the Music Community members must have an active, non-tangential relationship with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

DotMusic's Community definition matches the applied-for string because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination/exclusion. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of cohesion than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works around the world.[15]

The Berne Convention for the Protection of Literary and Artistic Works[16] provides that each of the 168 contracting

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[15] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[16] http://www.wipo.int/treaties/en/text.jsp?file_id=283698

parties [17] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[18] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN, [19] ISRC, [20] ISWC, [21] ISNI. [22] (Application Answer to

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[17]

http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

[18] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[19] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[20] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[21] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO

Department of Management & Marketing
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

Dr. Joeri Mol, Senior Lecturer in Organisation Studies,
Contact Information Redacted

unimelb.edu.au

Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[23]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[24]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such,*

(International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[22] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[23] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

[24] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

provided the requisite awareness and recognition of the community is at hand among the members." (AGB, 4-12). The community as defined in the DotMusic application has at least one entity mainly dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[25] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[26] The UNESCO strategic partnership[27] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million

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[25] http://www.ifacca.org/membership/current_members/
[26] http://www.ifacca.org/strategic_partners/
[27] http://www.ifacca.org/strategic_partners/

music constituents from over 150 countries and over 1000 organizations globally.[28]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[29]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[30] Other small government Ministries of Culture, such as Albania,[31] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[32] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded

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[28] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[29] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[30] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[31] http://www.culturalpolicies.net/down/albania_012011.pdf
[32] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

country-based pavilion initiatives at Midem, the world's largest music conference.[33]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[34]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[35]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[36] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[37]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at

[33] http://my.midem.com/en/contact-us/pavilion-representatives/
[34] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF
[35] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28
[36] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf
[37] http://www.pch.gc.ca/eng/1294862453819/1294862453821

Department of Management & Marketing
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481   F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au   W: www.managementmarketing.unimelb.edu.au

Dr. Joeri Mol, Senior Lecturer in Organisation Studies,
Contact Information Redacted

unimelb.edu.au

significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[38]

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[39] and has a strong focus on music as outlined in its Strategic Plan[40] with Congress requested to provide $154,465,000 for fiscal year 2014.[41]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[42]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[43]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[44]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[38] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[39] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[40] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[41] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[42] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[43] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[44] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilast otiedote+1+12+.pdf, Page 1 and Page 23

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481   F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au   W: www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with formal boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[45]

The reach of A2IM Associate[46] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[47] – iTunes accounts for 63% of global digital music market[48] - a majority – with a registered community of 800 million registered members [49] available in 119 countries who abide to strict terms of service and boundaries[50] and have downloaded over 25 billion songs[51] from iTunes' catalog of over 43 million songs [52] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[53]

[45] http://a2im.org/about-joining/

[46] http://a2im.org/groups/tag/associate+members/

[47] http://a2im.org/groups/itunes

[48] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share

[49] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt

[50] http://www.apple.com/legal/internet-services/itunes/ww/index.html

[51] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html

[52] https://www.apple.com/itunes/features/

[53] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
**T:** +61 3 8344 4481 **F:** +61 3 9349 4293
**E:** Enquiries-Mgmt-Mktg@unimelb.edu.au **W:** www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

- **Pandora**[54] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[55]
- **Spotify**[56] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[57]
- **Vevo**[58] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[59]
- **Youtube**[60] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[61] of which 38.4% is music-related.[62]
- **Reverbnation**[63] – Reverbnation[64] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.

[54] http://a2im.org/groups/pandora

[55] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHIwZT0z&t=1, Pg.9

[56] http://a2im.org/groups/spotify

[57] https://press.spotify.com/us/information/

[58] http://a2im.org/groups/vevo/

[59] http://www.vevo.com/c/EN/US/about

[60] http://a2im.org/groups/youtube/

[61] https://www.youtube.com/yt/press/statistics.html

[62] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and

[63] http://a2im.org/groups/reverb-nation/

[64] http://www.reverbnation.com/about

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

- **BMG**[65] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[66]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport [67]), China (China Audio Video Association[68]) and Germany (Initiative Musik).[69] A2IM also has Affiliate [70] associations within the global music community. These include Affiliates such as MusicFirst,[71] the Copyright Alliance,[72] the Worldwide Independent Network (WIN)[73] and Merlin.[74]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[75] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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65 http://a2im.org/groups/bmg-rights/

66 http://www.bmg.com/category/about-us/history/

67 http://a2im.org/groups/french-music-export-office

68 http://a2im.org/groups/china-audio-video-association-cava

69 http://a2im.org/groups/initiative-musik-gmbh

70 http://a2im.org/groups/tag/associate+members/

71 http://musicfirstcoalition.org/coalition, **The musicFIRST Coalition**, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.

72 http://www.copyrightalliance.org/members

73 http://www.winformusic.org

74 http://www.merlinnetwork.org

75 https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

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Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [76] – a majority of global music. [77]

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support [78] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfils the criteria for Community Establishment and Community Endorsement from the majority of the global Music Community as defined.

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[76] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[78] http://music.us/supporters

## B) Nexus[79]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or
>
> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and

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[79] See http://music.us/nexus

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfils the criteria for *Nexus*.

Respectfully Submitted,

Signature: _____

Date& Place:    Melbourne, April 20th, 2015

Department of Management & Marketing
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

Dr. Joeri Mol, Senior Lecturer in Organisation Studies,
Contact Information Redacted

unimelb.edu.au

## Relevant expertise for .MUSIC

I have written a peer-reviewed publications as well as a PhD on the workings of the popular music industry, focusing on how value is created, attributed and appropriated. My research has been used to examine (potential) forms of market abuse in the field of popular music. Funded by the US Social Science Research Council, I have teamed up with advocacy groups such as the Future of Music Coalition in an attempt to devise a research instrument that could help curb corruption in the music industry by identifying distinct diffusion patterns that indicated bribery (together with my colleagues Gabriel Rossman at UCLA and Ming Ming Chiu at Perdue University). This study appeared in *Sociological Methodology*. In another instance, UC Berkeley Professor David Teece, the pioneering scholar behind the influential *Dynamic Capabilities Approach*, used my study as an expert account on the functioning of the music industry in the ground-breaking trial on copyright and the Internet (among the litigants were *Napster, MTV, Apple, RIAA, Yahoo!, Sony, AOL*, and others). This trial redefined the regulation of online markets and the boundaries of copyright. This study that appeared in the *Journal of Management Studies*.

See: http://www.loc.gov/crb/proceedings/2006-3/riaa-ex-o-103-dp.pdf

I am currently researching the history of electronic music on grant that I received from Konrad Boehmer, former Chairman of BUMA/STEMRA, the Dutch music copyright association.

I have convened numerous academic workshops and colloquia on the workings of markets at the major international conferences in the field of management and organization studies.

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
**T:** +61 3 8344 4481 **F:** +61 3 9349 4293
**E:** Enquiries-Mgmt-Mktg@unimelb.edu.au **W:** www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

# Abridged Resume - Joeri Merijn Mol

## Academic Qualifications

| | |
|---|---|
| 2006 | Ph.D. in Management Science, Groningen University, the Netherlands. *'Non-Random Exchange; Value, Uncertainty and Strategy in the Market for Popular Music'* 1st prize in 'Best PhD-Paper Competition', SOM Research School, Groningen University |
| 1999-2001 | Postgraduate Academic Exchange Program, Hitotsubashi University, Tokyo |
| 1998 | MSc. in Economics (with Distinction), Erasmus University, the Netherlands |

## Academic Affiliations

| | |
|---|---|
| 2012-present | Senior Lecturer, Department of Management, University of Melbourne |
| 2005-2012 | Lecturer, Department of Management, University of Melbourne |
| 2005-present | Visiting Scholar, Department of Management, Groningen University |
| 2005 | Visiting Scholar, Sol. C. Snider Entrepreneurial Research Center, the Wharton School |
| 2003 | Visiting Scholar, Institute of Innovation Research, Hitotsubashi University |
| 2001-2005 | Sessional Lecturer, Department of Management, Groningen University |
| 1999-2001 | Visiting Researcher, Institute of Innovation Research, Hitotsubashi University |

## Professional Leadership

| | |
|---|---|
| 2013-present | Co-director, Centre for the study of Organization Society and Markets (COSM) |
| 2011-present | Editorial Board, *Journal of Management Studies (Financial Times 45 Journal)* |
| 2013-present | Editorial Board, *Organization Studies (Financial Times 45 Journal)* |
| 2011-present | Editorial Board, *European Management Review* |
| 2011-present | Steering Committee, *Charisma* (http://www.charisma-network.net) |

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

Dr. Joeri Mol, Senior Lecturer in Organisation Studies,
Contact Information Redacted

unimelb.edu.au

**2015.** Convenor, Space: valuation, and evaluation, ordering, and pricing in organizations, societies and markets, Asian Pacific Group for Organization Studies (APROS) in collaboration with Nick de Weydenthal, Robin Canniford and Marc Lenglet (EBS Paris).

**2013.** Convenor, Track "Cultural Economies and Economic Cultures in the Organization of Markets", European Group for Organization Studies (EGOS) held in Montreal, July 2013, in collaboration with Liz McFall (Open U) and Steven Kahl (U Chicago)

**2012.** Convenor, Track "Markets in the Making: Observing, Measuring and Performing Economic Exchange", European Group for Organization Studies (EGOS) held in Helsinki, July 2012, in collaboration with Liz McFall (Open U) and Steven Kahl (U Chicago)

**2011.** Convenor, Track "Constructing Categories: Meaning and Framing in Organizational Fields", European Group for Organization Studies (EGOS) held in Gothenburg, July 2011, in collaboration with Peer Fiss (UC Davis) and Mark Kennedy (UC Davis)

**2010.** Chair, Understanding Interorganizational Learning, OMT–Division Session, Academy of Management (AOM), Atlanta.

**2009.** Convenor, Track "From Market to Industry Categories: The Institutionalization of Competitive Arenas", European Group for Organization Studies (EGOS), Barcelona, July 2009, in collaboration with Hans Pennings (Wharton) and Filippo Wezel (Lugano)

**2008.** Convenor, Track "Classifying Organizational Variation", European Group for Organization Studies (EGOS) Amsterdam, July 2008, in collaboration with Hans Pennings (Wharton) and Filippo Wezel (Lugano)

2007. Organizer, Symposium "Classifying Organizational Variation", in collaboration Filippo Wezel (Lugano), OMT/BPS/TIM Divisions, Academy of Management (AOM) Conference, Philadelphia.

**2006.** Chair, Understanding What Makes Organizations Legitimate, OMT–Division Session, Academy of Management (AOM), Atlanta.

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

Dr. Joeri Mol, Senior Lecturer in Organisation Studies,
Contact Information Redacted

unimelb.edu.au

## Publications

### Peer-Reviewed Publications

**2014.** *Hill, Tim, Caniford, Robin, & Mol, Joeri, Non-Representational Marketing Theory.* Marketing Theory. 14(4): 377-394

**2013.** *Quintane, Eric, Pattison, Philippa, Robins, Garry, & Mol, Joeri. Short-Term and Long-Term Stability in Organizational Networks: Temporal Structures of Project Teams.* Social Networks. Vol 35(4): 528-540.

**2013.** *Quintane, Eric, Pattison, Philippa, Robins, Garry, & Mol, Joeri. Short-term and long-term stability in electronic communication networks.* Academy of Management Best Papers Proceedings.
- AOM 2103 Runner-up Best Paper Award (OCIS Division)

**2012.** Mol, J.M., Chiu, M.M., & Wijnberg, N.M. Love Me Tender: New Entry in Popular Music. Journal of Organizational Change Management. Vol. 25 (1):88 – 120.

**2011.** Mol, J.M. & Wijnberg, N.M. From Resources to Value and Back: Competition between and within Organizations. British Journal of Management. 22 (1):77-95.

**2008.** Rossman, G., Chiu, M.M., Mol, J.M. Modeling Diffusion of Multiple Innovations via Multilevel Diffusion Curves: Payola in Pop Music Radio. Sociological Methodology, 38 (1): 201-230.

**2007.** Mol, J.M. & Wijnberg, N.M. Competition, Selection and Authenticity; Payola and the Advent of Rock and Roll. Journal of Economic Issues, 61, 3, 1-14.

**2005.** Mol, J.M., Wijnberg, N.M. & Carroll, Charles. Value Chain Envy: Explaining New Entry and Vertical Integration in Popular Music. Journal of Management Studies, 42 (2): 251-276.

### Book

**2006.** Mol, J.M. Non-Random Exchange; Value, Uncertainty and Strategy in the Market for Popular Music. Ridderkerk: Labyrinth Publishers.

## Book Chapters

**2003.** Mol, J.M. Prior Research on Small Firm Networks. In Toshihiro Nishiguchi (Ed.) Small-Firm Networks; Rent Analysis and International Comparison (Chushokigyonettowaku): 25-59. Tokyo: Yuhikaku.

**2003.** Mol, J.M. Think Small First; The UK Industrial Policy on Small Business Support Systems. In Toshihiro Nishiguchi (Ed.) Small-Firm Networks; Rent Analysis and International Comparison (Chushokigyonettowaku): 223-240. Tokyo: Yuhikaku.

**2003.** Mol, J.M. Venturing Scholarly Knowledge; The Case of the Oxfordshire BioBusiness Centre. In Toshihiro Nishiguchi (Ed.) Small-Firm Networks; Rent Analysis and International Comparison (Chushokigyonettowaku): 265-278. Tokyo: Yuhikaku.

**2003.** Mol, J.M. Venturing Complementary Knowledge; Rejuvenating Twente's Old Industrial Structures. In Toshihiro Nishiguchi (Ed.) Small-Firm Networks; Rent Analysis and International Comparison (Chushokigyonettowaku): 279-291. Tokyo: Yuhikaku.

## Case Studies

**2015.** Mol, Joeri & Quintane, Eric. The Final Count Down: Sony BPE'S Organisational Restructuring In Times of Europe's Economic Integration. In McShane, Olekalns, Newman and Travaglione Organisational Behaviour. North Ryde: McGraw-Hill.

**2012.** Mol, Joeri & Quintane, Eric. Payola Scandal at Sony Music. In Steven McShane, Mara Olekans & Tony Travaglione. Organizational Behavior: Emerging Knowledge. Global Insights: 32. North Ryde: McGraw-Hill.

**2012.** Quintane, Eric & Mol, Joeri Sony's Move into Music. In Steven McShane, Mara Olekans & Tony Travaglione. Organizational Behavior: Emerging Knowledge. Global Insights: 504-505. North Ryde: McGraw-Hill.

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
T: +61 3 8344 4481  F: +61 3 9349 4293
E: Enquiries-Mgmt-Mktg@unimelb.edu.au  W: www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

**2012.** Ashkanasy, Shawn, Mol, Joeri & Quintane, Eric. Innovating Sony's Killzone: Respawning or Missing in Action. In Steven McShane, Mara Olekans & Tony Travaglione. Organizational Behavior: Emerging Knowledge. Global Insights: 237-238. North Ryde: McGraw-Hill.

**2012.** Mol, J.M. & Quintane, Eric. The Creation of Sony. In Steven McShane, Mara Olekans & Tony Travaglione. Organizational Behavior: Emerging Knowledge. Global Insights: 408. North Ryde: McGraw-Hill.

**Department of Management & Marketing**
The University of Melbourne - Victoria 3010 Australia
**T:** +61 3 8344 4481  **F:** +61 3 9349 4293
**E:** Enquiries-Mgmt-Mktg@unimelb.edu.au  **W:** www.managementmarketing.unimelb.edu.au

**Dr. Joeri Mol, Senior Lecturer in Organisation Studies,**
Contact Information Redacted

unimelb.edu.au

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

## SUMMARY

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and recognition of the <u>interdependency, overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

3) The "Music Community" functions in a regulated sector with global copyright protections – it is clear that the "community," as defined, implies "more of cohesion than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a globally-recognized set of standards for the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus, Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that

[2] http: music.us supporters
[3] http: music.us supporters

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).[9]

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a logical alliance of interdependent communities that are related to music, which include commercial participants...and non-commercial participants...and consists of an "ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music"...UNESCO identifies the music community as a "community of identity" implying common identifiable characteristics and cohesive attributes such as sharing a music culture, norms and subscribing to common ideals related to music...The music community is not defined as much by demographic indicators such as race, gender, and income level, as it is by common values, cohesive norms and interconnected structures to build a community identity. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values...Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a cohesive and interconnected structure of artistic expression, with diverse subcultures and socio-economic interactions...subscribing to common ideals. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii)  An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

DotMusic's definition of the Community covers all Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, all Music Community members must identify their music-related community in order to demonstrate their requisite awareness of the defined Community as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community particularities" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide. According to DotMusic, the Music Community members must have an active, non-tangential relationship with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

DotMusic's Community definition matches the applied-for string because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination/exclusion. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of cohesion than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

"Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

## ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

### A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

#### i) *An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the regulated, interdependent and cohesive nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "closely united" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "united or form a whole" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music") establishes that:

(1) There is an awareness and recognition among its members;

(2) The organized and delineated logical alliance of communities exists; and

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music communities</u> that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community,</u> includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-10-2012-02-25-en

IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's

[21] http://www.ifacca.org/strategic_partners
[22] http://www.ifacca.org/strategic_partners
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies.net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives

membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]

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[29] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF
[30] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf. Page 28
[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95E4-
1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf
[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821
[33] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011
[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf. Page 2
[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf
[36] http://www.itacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014
[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa,
http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF download. Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs.

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[19] https: newgtlds.icann.org en applicants agb guidebook-full-11jan12-en.pdf
[20] http: www.ifacca.org membership current_members

- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] –.iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]

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[38] Singapore Arts Council, http: www.nac.gov.sg/media-centre/news-releases/news-detail?id=e2db15e2-e319-10ec-939c-d58735d0a91c

[39] http: www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[40] http: a2im.org/about-joining

[41] http: a2im.org/groups/tag/associate-members

[42] http: a2im.org/groups/itunes

[43] http: appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share

[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt

[45] http: www.apple.com/legal/internet-services/itunes/ww/index.html

[46] http:/ www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html

[47] https: www.apple.com/itunes/features

[48] https: www.apple.com/itunes/working-itunes/sell-content/music-faq.html

[49] http: a2im.org/groups/pandora

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music"[71] – a majority of global music.[72]

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[73] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug11-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1

[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A

[73] http://music.us/supporters

- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]
- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users and http://phx.corporate-ir.net/External.File?item_UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information
[53] http://a2im.org/groups/vevo
[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube
[56] https://www.youtube.com/yt/press/statistics.html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights
[61] http://www.bmg.com/category/about-us/history
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate-members
[66] http://musicfirstcoalition.org/coalition. The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org

## B) Nexus[74]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must _match_ the name of the community or be a well-known short-form or abbreviation of the community name.

The _Nexus_ of the "Music Community" entirely _matches_ the applied-for "music" string because it represents the _entire_ global Music Community as commonly-known and perceived by the general public. This definition allows for _all_ constituents with a requisite awareness of the Community defined to register a .MUSIC domain _without any conflicts of interests, over-reaching or discrimination_. The definition of the Community requires that members have an _active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process_. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The _nexus_ of the applied-for string ensures _inclusion of the entire global community that the string represents_ while _excluding unrelated-entities not associated with the string_. This way there is a _clear match and alignment between the "music" sting and the Community defined_.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the _considerable_ millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are _only_ music-related and associated with the string. This is because the string identifies _all_ constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the _nexus_ between the string and Community defined. According to DotMusic, the Community _definition, eligibility_ criteria and _content and use_ requirements ensure that _peripheral industries_

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[74] See http: music.us nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: _____

Date:  April 14, 2015

Name:  John Snyder

Title:  Chair, Department of Music Industry Studies

Organization:  Loyola University New Orleans

**About the Expert:  See attached CV and Biography**

## John Snyder

John Snyder grew up playing piano and trumpet and attended the University of North Carolina at Greensboro on several music scholarships. In college he booked his band on a Caribbean, North Atlantic, European, North African tour one summer and a tour of Japan, Taiwan, the Philippines, and the Pacific Islands the next.

As a music and video producer Snyder has produced hundreds of recordings and CD reissues and compilations. Recordings he has produced have received 32 Grammy nominations and 5 Grammys. In addition, Snyder has held positions at the upper levels of many major recording companies. As the assistant to the president of CTI Records, Creed Taylor, Snyder oversaw legal and business affairs, publishing, manufacturing, distribution, and artists and repertoire operations.

Under the tutelage of Herb Alpert, he served as director of Horizon Jazz Series for A&M Records. Snyder later served as director of jazz production for Atlantic Records under the guidance of Ahmet and Nesuhi Ertegun; his responsibilities included production, manufacturing, promotion, publicity, and marketing. Snyder opened his own record company, Artists House, in 1977, releasing recordings by Ornette Coleman, Gil Evans, Chet Baker, Andrew Hill, Thad Jones & Mel Lewis, and Paul Desmond, among others.

Snyder has degrees in music education and law from the University of North Carolina, and is currently a member of the New York Bar. As a member of the New York Chapter of The National Academy of Recording Arts and Sciences (NARAS), he served on the Board of Governors, the Education Committee, the Jazz Committee, and the Grammy in the Schools Committee, among others.

As an artist manager, Snyder managed Chet Baker, Gerry Mulligan, Jim Hall, Gil Evans, Ornette Coleman, and Art Pepper, among others. As a music producer Snyder produced records with Etta James, Dave Brubeck, Count Basie Orchestra, George Shearing, Sun Ra, Cecil Taylor, Gerry Mulligan, Chet Baker, Dizzy Gillespie, Art Blakey, Derek Trucks, Mavis Staples, James Cotton, Junior Wells, the Muddy Waters Band, Charles Brown, Honeyboy Edwards, Robert Lockwood, Jr., and Gatemouth Brown, among others. He also recorded Eric Clapton, Paul Simon, Shirley Caesar, Buddy Guy, Santana, Bonnie Raitt, Bobby Womack, Dr. John, Wynona Judd, Stevie Wonder, Gregg Allman, and Isaac Hayes.

Snyder has been on the faculty of the Loyola University New Orleans College of Music and Fine Arts faculty since 2004 where he is the Conrad N. Hilton Eminent Scholar in Music Industry Studies and Chair of the Department of Music Industry Studies. He is also Project Director for the Center of Music and Arts Entrepreneurship (www.cfmae.org) and co-founder of the artist health and wellness initiative, Athletes and the Arts (www.athletesandthearts.com).

Snyder is also President of Artists House Foundation (http://www.artistshousemusic.org) that was funded by Herb Alpert (1.6 million dollars) to help musicians and music entrepreneurs create sustainable careers.

Snyder was appointed to the New Mexico Music Commission, for which he wrote the enabling legislation, by Governor Bill Richardson and appointed to the Louisiana Music Commission by Governor Kathleen Blanco and Governor Bobby Jindal.

## WORK EXPERIENCE

**2004-2014**    **Loyola University, New Orleans, Louisiana**
*Conrad N. Hilton Eminent Scholar in Music Industry Studies*

Professor, Chair of the Department of Music Industry Studies
Director of the Center for Music and Arts Entrepreneurship

- Responsible for 300 students and 15 faculty, including curriculum development, expanding production facilities, and expanding the nature and reach of the Department.

- Created student company program – The Entrepreneurial Unit (EU) Program (six student-run, for-profit companies).

- Administered several federal grants, supervised a staff of 5, supervised the expenditure of almost 1.5 million dollars to train students, create "content", build websites, and broadcast programming (www.cfmae.org).

- Founded the campus-wide initiative, The Year of the Writer (www.yearofthewriter.com); published a book of faculty and student essays, "Secret Trespasses".

- Founded the health and wellness national initiative, Athletes and the Arts and built a website for it (www.athletesandthearts in conjunction with the Performing Arts Medical Association and the American College of Sports Medicine, among others. Conducted a pain/exercise survey for all instrumental students in the College of Music & Fine Arts, fall 2014.

- Responsible for the production and webcasting of various campus productions and events, including those from the Walker Percy Center for Writing and Publishing, The Center for the Study of New Orleans, and various concerts, operas and other productions from the College of Music and Fine Arts.

- Responsible for establishing a relationship between the College of Music and Fine Arts and the Louisiana State Museum, New Orleans in respect of internships and performance opportunities.

- Wrote and built a website to brand Loyola University (http://thecreativeuniversity.us/), summer 2013.

- Responsible for developing new, interdisciplinary degrees in Filmmaking and Popular and Commercial music (summer 2014) and for redeveloping the curriculum for Music Industry degrees (http://loyolamediaarts.info/).

- Responsible for building and producing the content for a new website for the Department of Film and Music Industry Studies (http://creativeprofessions.org/)

**2002-2014**    **Artists House Foundation, New Orleans, Louisiana**
*President (501 (c) 3 educational foundation)*

- Produced the NYU Jazz Master Class Series (Cecil Taylor, Barry Harris, Hank Jones, Clark Terry, Jimmy Heath, Percy Heath, Benny Golson, Teo Macero, Kenny Werner, Phil Woods, Toots Thielemans) – raised over $500,000 to do this. Produced a trumpet instructional DVD at Juilliard with Warren Vache, "The Art of the Trumpet".

- Created the website www.artistshousemusic.org and produced thousands of hours of interview and seminar content concerning the business, legal, pedagogical and technological aspects of the music world. This site is visited by more than 50,000 people a month, has over 150,000 monthly viewers on its YouTube channel, and over 58,000 Twitter followers.

- Began the master class series, "Louisiana Masters" (Clarence "Gatemouth" Brown) at Loyola in 2005.

- CD and DVD Producer of legendary artists Gerry Mulligan, Bob Brookmeyer, among others.

- Built and wrote a free online course for musicians and music entrepreneurs (summer 2013); currently has over 3600 students (https://www.udemy.com/bandasbusiness/).

**2001-2002**    **Fairfield University, Fairfield, Connecticut**
*Adjunct Instructor*

- Taught a three hour, once a week course to over a hundred students, "The Music Business".

**2002-2003**    **University of North Carolina, Greensboro, North Carolina**
*Visiting Instructor*

- Taught two courses: "Music Production" and "Careers in Music"

**1987-2014**    **John Snyder Productions, New York, New York; Norwalk, Connecticut; New Orleans, Louisiana**
*Independent Music Producer, Member of New York Bar*

- Produced over 300 recordings for A&M Records, Island Records, Music Masters, PolyGram, Telarc International, RCA Records, Private Music, Columbia Records, Landside Records, Concord Records, Verve, GRP Records, Island Records, Novus Records, House of Blues, V-2 Records, Evidence Records, Rounder Records, Surrounded By Entertainment, King Records, among others. I continue to produce music in the local community and occasionally on the national level. List attached.

- Produced thirty-two Grammy nominated recordings, five of which won Grammys.

- Produced over 400 reissue recordings and compilations on CD for GRP Records, A&M Records, RCA Records, Concord Records, Sony Music, Columbia Records, among others.

- Artist Management - Hiram Bullock, Gerry Mulligan, Jim Hall, Chet Baker.

- Publishing – President of Saben Music; managed Mulligan Publishing.

- NARAS Board of Governors, NYC Education Committee, NYU Grammy in the Schools Committee, Jazz Selection Committee.

- DVD Producer (Bobby Short, Etta James, Bob Brookmeyer, Warren Vache, Gerry Mulligan).

- Audio Book Producer for the John Templeton Foundation.

**1985-1987**    **Atlantic Records, New York, New York**
*Director of Jazz Production*

- Production/Packaging - produced new recordings and reissues, including preparation of the 12 volume, "Atlantic Jazz"; supervised all album packaging.

- Grammy nominee.

- Director of the Jazz Department - responsible for promotion, publicity, and marketing efforts; managed staff of four.

**1977-1983**    **Artists House Recording Company, New York, New York**
*Owner/President*

- Production/Packaging - produced new recordings, supervised album packaging, developed label image.

- Grammy nominee, winner of various jazz polls, New York Art Directors Club winner.

- Sales/Marketing - established network of U.S. distributors and international licensees; direct-mail marketing.

- Artist Management - Gil Evans, Jim Hall, Art Pepper, Chet Baker, Ornette Coleman; produced tours of U.S., Europe, and Japan.

- Legal/Business Affairs - arranged for capitalization and international licensing agreements; managed staff of ten; NARAS Board of Governors.

**1975-1977**    **A&M Records, New York, New York**
*Founder/Director of Horizon Jazz Series*

- Production/Packaging - produced new recordings, supervised album packaging, developed label image.

- Grammy nominee, Grammy winner, winner of various jazz polls, New York Art Directors Club winner.

- Legal/Business Affairs - responsible for contract negotiations, supervised international licensees for Horizon; managed staff of four.

**1973-1975**      **CTI Records, New York, New York**
*Assistant to President (Creed Taylor)*

- Artists and Repertoire - planned recording projects; co-produced concert tours of U.S. and Japan.

- Manufacturing/Distribution - supervised manufacturing operations; supplied product to U.S. distributors and international licensees.

- Publishing - administered publishing subsidiaries; editor, Don Sebesky's textbook "The Recording Arranger".

- Legal/Business Affairs - in-house counsel; managed all contract negotiations and recording commitments.

**1963-1973**      **Professional Musician**
*Trumpet*

- Organized and led entertainment troupes for successful tours of the Caribbean, Newfoundland, Iceland, the United Kingdom, Europe, North Africa, Japan, Taiwan, the Philippines, Guam, Midway, Okinawa, Hawaii (during summers and holidays in college).

- Organized and managed band as college sophomore to play weekend engagements in the local area.

- Performed in touring shows, circuses, hockey games, night-club acts, churches, etc.

## EDUCATION

**1970-1973**      **University of North Carolina, School of Law, Chapel Hill**
*Juris Doctor*

**1966-1970**      **University of North Carolina, School of Music, Greensboro**
*Bachelor of Music Education, Magna Cum Laude*

- Cone Music Scholarship, School of Music Scholarship, University Honors Scholarship.

- Member of School of Music Curriculum Committee (only student member).

- President of University Concert Band and Symphony Orchestra.

- Leader of music group, "The Eleventh Hour", including local tours, backing up national touring acts, and tours of Europe, Northern Africa, and the Far East during the summers while attending UNC-G.

## PRODUCTIONS

**1975-2014**      See attached

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] <u>https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392</u>

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music communities</u> that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity</u> *mainly*[20] <u>dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


### B) *Nexus*[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: *Jordi Bonada Sanjaume*
Contact Information Redacted    Aug 5 '15    ip: 81.154.234.25

Name:  Jordi Bonada Sanjaume

Title:  PhD

Organization: Music Technology Group, Universitat Pompeu Fabra

**Dr Jordi Bonada Sanjaume**
Music Technology Group
Departament de Tecnologies de la Informació i les Comunicacions
Universitat Pompeu Fabra
Roc Boronat, 138
08018 Barcelona
Contact Information
Redacted

## ACADEMIC BACKGROUND

| | |
|---|---|
| 2009 | **PhD in Computer Science and Digital Communication,** Universitat Pompeu Fabra. **European Doctorate**. Title: "*Voice Processing and Synthesis by Performance Sampling and Spectral Models*". Supervisor: Dr. Xavier Serra. |
| 2002 | **Master in Computer Science and Digital Communication**, Universitat Pompeu Fabra. Title: "*Audio Time-Scale Modification in the Context of Professional Post-Production*". Supervisor: Dr. Xavier Serra. |
| 1997 | **Telecommunication Engineering,** Universitat Politècnica de Catalunya. Final Engineering Project: "*Desenvolupament d`un entorn gràfic per a l`anàlisi, transformació i síntesi de sons mitjançant models espectrals*", Supervisors: Dr. Climent Nadeu, Dr., Xavier Serra. |
| 1981-1997 | **Music studies** in the Conservatorio Isaac Albéniz, Girona. Composition studies in Alois Haba School, Barcelona. |

## PROFESSIONAL EXPERIENCE

| | |
|---|---|
| Since 1998 | Researcher and project manager in the Music Technology Group, Universitat Pompeu Fabra, Barcelona. |
| Since 2011 | Cofounder of Voctro Labs, S.L., Spin-Off of the Universitat Pompeu Fabra, Barcelona. |
| 2010 | Visiting researcher, Centre for Interdisciplinary Research on Music Media and Technology (CIRMMT), McGill University, Montreal, Canada, from May to August, under the supervision of Dr. Catherine Guastavino. |
| 2003 | Visiting researcher, Royal Institute of Technology (KTH), Stockholm, from June to August, funded by MOSART EU project IST-215244, under the supervision of Dr. Johan Sundberg. |
| 2001 | Software License Agreement of a polyphonic audio time-scaling software to the Universitat Pompeu Fabra, with the obligation to sublicense it to Yamaha Corporation. |

## TEACHING EXPERIENCE

| | |
|---|---|
| 2010-2011 | Universitat Pompeu Fabra, Department of Information and Communication Technologies, Associated Professor, *Digital Speech Processing* course, Audiovisual Systems Engineering. |
| 2011 | Teacher of the program *Introduction to research: Estades d'Estiu de Ciència*, Science for young people (Joves i Ciència) E2C3, Caixa Catalunya. |
| 2009 | Positive evaluation as a PhD Professor (*Professor Lector*), Agency for the Quality of the University System in Catalonia (AQU). |
| 2009 | Teacher of the program *Introduction to research: Estades d'Estiu de Ciència*, Science for young people (Joves i Ciència) E2C3, Caixa Catalunya. |
| 1999-2001 | Universitat Pompeu Fabra, Department of Information and Communication Technologies, Associated Professor, *Audio Signal Processing* course, Computer Science Engineering. |
| 1996-1998 | Secondary education teacher at the *Escola de Formació Professional d'Imatge i So*, Barcelona. |

PhD Thesis Supervised

- Musevic, S., September 2013. "*Non-Stationary and High-Resolution Sinusoidal Analysis*". PhD program in Information, Communication and Audiovisuals Technologies, DTIC, Universitat Pompeu Fabra, Barcelona.

PhD Thesis under Supervision

- Umbert, M., expected defense in 2015. "*Expressive Control of Singing Voice Synthesis*". PhD program in Information, Communication and Audiovisuals Technologies, DTIC, Universitat Pompeu Fabra, Barcelona.

- Coleman, G., expected defense in 2015. "*Audio Transformation by Descriptors*". PhD program in Information, Communication and Audiovisuals Technologies, DTIC, Universitat Pompeu Fabra, Barcelona.

Final Project and Master Thesis Supervised

- Floría, H., 2013, "*Expressive speech synthesis for a Radio DJ using Vocaloid and HMMs*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Jewalikar, V., 2013, "*Improving automatic phonetic segmentation for creating singing voice synthesizer corpora*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Aldana, L., 2012, "*Speaking Nature: Strategies for Generating Credible Utterances of Nature Elements or Phenomena*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Freixes, M., 2012, "*Rapaloid: Adapting an Existing Framework for Emotional Speech Prosody Generation*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Bucci, A., 2011, "*Digital Equalization of the Electric Violin: Method for Obtaining Acoustic Violin Body Frequency Response based on Machine Bowing*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Roig, C., 2011, "*Vocal Riffs Library for Vocaloid 3*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Umbert, M., 2010, "*Emotional Speech Synthesis for a Radio DJ: Corpus Design and Expression Modeling*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Comajuncosas, J.M, 2010, "*Expressive Breath Modeling*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Musevic, S., 2009, "*Non-Stationary Sinusoidal Analysis*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Pantazis, V., 2009, "*Extraction and Processing of Auditory Streams as Tracks from a Stereo Mix*", Master Thesis TICMA, Universitat Pompeu Fabra, Barcelona.
- Stamatopoulos, C., 2009, "*Harmonic Audio Object Processing in Time Domain*", Master Thesis SMC-DTIC, Universitat Pompeu Fabra, Barcelona.
- Huber, S., 2009, "*Harmonic Audio Object Processing in Frequency Domain*", Master Thesis SMC- DTIC, Universitat Pompeu Fabra, Barcelona.
- Caverivière, B., "*Audio Content Retrieval Using a Query-by-Imitation System*", Master S&T – mention Informatique, École Doctorale de Mathemátiques et Informatique, Bordeaux, France.
- Nieto, O., 2008, "*Voice Transformation for Extreme Vocal Effects*", Master Thesis TICMA, Universitat Pompeu Fabra, Barcelona.
- Merchán, F. , 2008, "Expressive *Characterization of Flamenco Singing*", Master Thesis TICMA, Universitat Pompeu Fabra, Barcelona.
- Pretel, C., 2006, "*Diagnóstico GRBAS a partir de una señal de voz*", Final Engineering Project, Universitat Pompeu Fabra, Barcelona.
- Vinyes, M., 2005, "*Auditory Stream Separation in Commercial Music Productions: Implementation of a Real-Time Method based on Pan Location*", Final Engineering Project, Telecommunication Engineering and Mathematics, Universitat Politècnica de Catalunya, Barcelona.
- Alonso, M., 2004, "*Model d'Expressivitat Emocional per a un Sintetizador de Veu Cantada*", Final Engineering Project, Computer Science, Universitat Pompeu Fabra, Barcelona.

Member of the following PhD Juries

- Van der Schaar, M., 2010, "*An Acoustic Bio-Metric for Sperm Whales*", PhD Thesis, Automàtica, Robòtica i Visió Program, Universitat Politècnica de Catalunya.

**GRANTS AND PRIZES**

June 2013   National Commendation for Invention award given by the *Japan Institute of Invention and Innovation (JIII)* for the invention of original and natural singing voice synthesis technology disclosed in the patent No.4153220.

Sept. 2012   *Premi del Consell social de la Universitat Pompeu Fabra a la transferència del Coneixement*. Prize awarded by the Social Council of the Universitat Pompeu Fabra to the excellent track-record in technology transfer.

April 2011   Second prize of the VALORTEC contest on Business Initiatives organized by ACC1Ó (www.acc10.cat) to the *Voctro Labs* Spin-Off Company Initiative.

April 2011   Prize awarded by the *Centre International de Negocis de* Catalunya (CINC) to the *Voctro Labs* Spin-Off Company Initiative.

| | | |
|---|---|---|
| Sept. 2010 | *Premi del Consell social de la Universitat Pompeu Fabra a la transferència del Coneixement.* Prize awarded by the Social Council of the Universitat Pompeu Fabra in the category of PhD thesis with big knowledge transfer potential. | |
| June 2007 | Rosina Ribalta Prize, by EPSON Foundation, to the best PhD Project on Information Technology and Communications. The EPSON foundation awards the quality and methodology of the projects, their social and scientific interest and the merits of the candidate. | |
| 5-8/2003 | Research grant at Royal Institute of Technology (KTH), granted by MOSART EU Project, IST-215244. | |
| 1997-1998 | Student grant for the project "Audio Morphing", granted by Duy SA. | |

## FINANCED PROJECTS

| DATES | TITLE AND ROLE IN THE PROJECT | FINANCING ENTITY |
|---|---|---|
| 4/2007-3/2014 | *Singing Voice Synthesis* (seven one-year projects) Researcher and team manager | Yamaha Corp, Japan |
| 4/2010-9/2012 | *Monet* Researcher and team manager | Yamaha Corp, Japan |
| 4/2009-3/2010 | *MinusOne* Researcher and team manager | Yamaha Corp, Japan |
| 01/2008-12/2010 | SAME (*Sound And Music For Everyone Everyday Everywhere Everyway*) IST-FP7-ICT-39221 Research and development | European Commission |
| 01/2008-12/2010 | SALERO (*Semantic AudiovisuaL Entertainment Reusable Objects*) IST-FP6-027122 Research and development | European Commission |
| 2009-2010 | *Vericast Optimization* Research and development | BMAT Licensing, Spain |
| 1/2009-6/2009 | Exposition installation*: "La Veu dels Neanderthals"* Researcher and team manager | Fundació La Caixa - CosmoCaixa, Spain |
| 2009 | KaleiVoiceCope voice transformation installation for the exposition "*Les Veus de la Mediterrània*" Development | Can Quintana Museu de la Mediterrània, Spain |
| 1/2008-7/2008 | *Skore - A Singing Voice Performance Rating System* Researcher and team manager | BMAT Licensing, Spain |
| 4/2006-3/2008 | *Violin Performer* Researcher and team manager | Yamaha Corp, Japan |
| 2006-2007 | *Playable Audio* Researcher | Yamaha Corp, Japan |
| 2007 | Voice transformation installation for the exposition*: "Números!"* Development and team manager | Fundació La Caixa - CosmoCaixa, Spain |
| 2005-2006 | *ComboVox - Voice Processing plug-in* Research and development | Pinnacle Systems, USA |
| 12/2003-12/2006 | Semantic-HIFI IST-2003-507913 Research and development | European Commission |

| | | |
|---|---|---|
| 1999-2006 | *Daisy - A Singing Voice Synthesizer*<br>(seven one-year projects)<br>Researcher and team manager | Yamaha Corp, Japan |
| 2003-2004 | (*Enhanced Singing Performance Rating + Enhanced Sound Shift Operator*)<br>Researcher and team manager | Yamaha Corp, Japan |
| 2002-2004 | *VoiceFX - A Singing Voice Processor*<br>Researcher and team manager | Yamaha Corp, Japan |
| 28/12/2000-27/12/2003 | TABASCO (*Content based Audio Transformations*). TIC 2000-1904- C02<br>Research and development | Spanish Ministry of Science and Technology |
| 01/11/2001-31/10/2003 | Open Drama. IST-2000-28197<br>Research and development | European Commission |
| 2001-2002 | *Time Machine - High Quality Time-Scaling of Polyphonic Audio*<br>Researcher and team manager | Yamaha Corp, Japan |
| 01/02/2000-31/10/2001 | RAA (*Recognition and Analysis of Audio*). IST-1999-12585<br>Research and development | European Commission |
| 1997-1999 | *Voice Morphing System for Impersonating in Karaoke*<br>Researcher and team manager | Yamaha Corp, Japan |

## PATENTS

| PRIORITY DATE AND NUMBER | INVENTORS, TITLE, PATENT NUMBER AND DESIGNATED STATES | APPLICANT |
|---|---|---|
| 15/4/2013<br>JP2013000084579 | Keijiro, S., Bonada, J.<br>*Singing Synthesizing Database Generation Device, and Pitch Curve Generation Device*<br>Patent pending<br>JP | Yamaha Corp |
| 10/1/2013<br>JP2013164584 | Janer, J., Marxer, R., Bonada, J., Kazunobu, K.<br>*Acoustic Processor*<br>Patent pending<br>JP | Yamaha Corp |
| 21/6/2012<br>JP2012-139455<br>US20140006018 | Bonada, J., Merlijn Blaauw, Yuji Hisaminato<br>*Voice Synthesis Apparatus: Voice Quality Modification by Spectral Morphing*<br>Patent pending<br>JP, US | Yamaha Corp |
| 7/6/2012<br>JP2012-129798 | Bonada, J., Merlijn Blaauw, Makoto Tachibana<br>*Voice Synthesis Apparatus: Phase Model*<br>Patent pending<br>JP | Yamaha Corp |
| 18/5/2012<br>JP2012-115065<br>US20130311189 | Bonada, J., Villavicencio, F.<br>*Voice Synthesis Apparatus: Spectral Transformation Compensation for Probabilistic Envelope Conversion*<br>Patent pending<br>JP, US | Yamaha Corp |
| 14/5/2012 | Bonada, J., Merlijn Blaauw, Makoto Tachibana | Yamaha Corp |

| | | |
|---|---|---|
| JP2012-110359<br>EP2530671 | *Voice Synthesis Apparatus: Unit Interpolation*<br>Patent pending<br>JP, Europe | |
| 28/10/2010 | Bonada, J., Janer, J., Marxer, R., Umeyama, Y., Kondo, K., Garcia, F.<br>*Technique for Estimating Particular Audio Component*<br>Patent pending<br>JP, US, AL, AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB,<br>GR, HR, HU, IE, IS, IT, LI, LT, LU, LV, MC, MK, MT, NL, NO, PL,<br>PT, RO, RS, SE, SI, SK, SM, TR | Yamaha Corp |
| 02/07/2009<br>JP20090157527 | Keijiro, S., Bonada, J.<br>*Apparatus and method for creating singing synthesizing database, and pitch curve generation apparatus and method*<br>Patent pending<br>JP, US | Yamaha Corp |
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- Bonada, J., "*Vocaloid: A Success Story?*", 9th Pan-European Voice Conference (PEVOC9), Marseille, France, September, 2011.
- Bonada, J.., "*Aplicaciones Informáticas para la música: Sistemas de recomendación musical y*
- Bonada, J. and Gómez, E., "*Aplicaciones Informáticas para la música: Sistemas de recomendación musical y procesado de voz cantada*", V Jornadas Imaginática, Computer Science Engineering School, University of Seville, March, 2009.
- Bonada, J., "*Análisis y Procesado de Canto*", II Seminario de Ciencia Computacional y Flamenco, Escuela Superior de Ingenieros, Sevilla, April, 2008.
- Bonada, J., "*Singing Voice Analysis, Processing and Synthesis*", Research Seminar, La Salle, Universitat Ramon Llull, April, 2006.
- Bonada, J., Loscos, A., Jordà, S., "*Música i Tecnologia*", Cicle de Conferències del Cosmocaixa, Barcelona, December, 2004.
- Bonada, J., "*Canvi de Tempo i Síntesi de veu*", Sonology Seminar, Escola Superior de Música de Catalunya, ESMUC, April, 2005.
- Bonada, J., "*Singing Voice Synthesis*", Audio Days Seminar organized by the AES Finnish Section, Helsinki, May, 2004.
- Several seminars in different European and Asiatic institutions: AIST (*Advanced Industrial Science and Technology, Japan*), Yamaha Corporation (*Hamamatsu, Japan*), Helsinki University of Technology TKK (*Department of Electrical and Communications Engineering Laboratory of Acoustics and Audio Signal Processing, Espoo, Finland*), Tampere University of Technology (*Institute of Signal Processing, Tampere, Finland*), KTH (*Royal Institute of Technology, Stockholm, Sweden*), OFAI (*Austrian Research Institute for Artificial Intelligence, Vienna, Austria*).

## OTHER RELEVANT SCIENTIFIC COLLABORATIONS

The multidisciplinary aspect of Dr. Bonada's research has been emphasized with several collaborations with researchers of different fields:
− Dr. Henkan Honing, University of Amsterdam, on rhythm perception, providing time-scale modifications of audio excerpts.
− Dr. Pascal Belin, McGill University, on gender perception, providing morph between voice recordings.
− Dr. Michel André, Universitat Politècnica de Catalunya, on the analysis of sperm whale sounds, developing algorithms and tools to assist the analysis.
− Dr. Paul Vershure and Dr. Jonatas Manzolli, Universitat Pompeu Fabra, on music therapy research, designing and providing a vowel synthesizer.
− Dr. Catherine Guastavino, McGill University, on melodic similarity perception, providing tools for melodic transcription and synthesis.

It is also worth to highlight the collaboration with the Sant Pau Hospital in Barcelona supervising a Master Thesis that focused on the GRBAS diagnosis from voice signals.

## SCIENTIFIC SERVICES

− Member of the Evaluation Committee of the European Course for Musical Composition and Technologies (ECMCT), Leonardo da Vinci Programme, European Commission, October 2006 – June 2007
− Reviewer of International Journals: *IEEE Signal Processing Magazine (IEEE-SPM), IEEE Transactions on Audio, Speech and Language Processing (IEEE-TASLP), Computer Music Journal (CMJ), Journal of Interdisciplinay Music Studies (JIMS)*
− Reviewer for Conferences in Sound and Music Computing: *International Computer Music Conference (ICMC), Digital Audio Effects (DAFX), Audio Engineering Society (AES)*
− Member of the program committee of the *12th International Digital Audio Effects Conference (DAFx-2009)*
− Session chair in *MAVEBA-03 (Firenze)* and *AES-05 (Barcelona)* international conferences

## DISSEMINATION IN MEDIA

Dr. Bonada's research and its application have appeared in different media along the past years (see *mtg.upf.edu/news/media* for more details).
− Newspaper articles on *The New York Times, El Periódico, La Vanguardia, El País, El Punt, El Mercantil Valenciano, Gaceta Universitaria*.
− TV news on US (*ABC*) and Spain (*TVE, TVE2, TV3, Tele5, Antena 3*).
− TV programs (*Redes* on TVE2, *Punt Omega* and *QueQuiCom* on TV3).
− Spanish TV show *Operación Triunfo*, a singing contest where the participants used a software tool to display in real-time relevant parameters of their performance.
− Moto GP broadcasting, where a signal analysis algorithm was used to estimate and display in real-time the engines' rpm.
− Radio interviews in *Catalunya Radio, Catalunya Cultura, Cadena Ser, iCat FM.*
− Magazines: *Electronic Musician, Producción Áudio, Teclado Total, TimeOut, Expansión.*

It is worth to highlight the celebration and appearance on several media of the ten-year anniversary celebration of the collaboration between the Music Technology Group (MTG) of the Universitat Pompeu Fabra (UPF) and the Japanese company Yamaha Corp., with the presence of the rector of the UPF and the general director of Yamaha Corp.

## MISCELLANEOUS

− Languages: Spanish, Catalan (mother tongue), fluent English
− Hobbies: music (piano player), nature, hiking, swimming
− Co-founder of the spin-off company *Barcelona Music and Audio Technologies, S.L.* (BMAT)
− Married, two sons born in 2007 and 2011
− Born on 25/03/1973

## REFEREES

− Dr. Xavier Serra, Professor and head of the Music Technology Group from the Departament de Tecnologies de la Informació i les Comunicacions of the Universitat Pompeu Fabra, Barcelona, Spain, *xavier.serra@upf.edu*
− Dr. Udo Zölzer, Professor and head of the Department of Signal Processing and Communications at the Helmut Schmidt University - University of the Federal Armed Forces in Hamburg, Germany, *udo.zoelzer@hsu-hamburg.de*

- Dr. Vesa Valimaki, Professor at the Department of Signal Processing and Acoustics, in the School of Electrical Engineering of the Aalto University, Espoo, Finland, *vesa.valimaki@tkk.fi*
- Hideki Kenmochi, Corporate Research & Development Center, Yamaha Corporation, Japan, *kenmochi@beat.yamaha.co.jp*
- Dr. Johan Sundberg, emeritus Professor at the Royal Institute of Technology, Stockholm, Sweden, *jsu@csc.kth.se*
- Dr. Climent Nadeu, Professor at the Signal Processing and Communications Department of the Universitat Politècnica de Catalunya, Barcelona, Spain, *climent.nadeu@upc.edu*

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

SUMMARY

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

**A)** *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

      (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music communities</u> that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009).  See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an international federation of national communities of a similar nature… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries.  In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics.html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


**B) Nexus[86]**

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,


Signature: *Jordi Janer*

Name:  Jordi Janer, Ph.D


Title:  Cofounder


Organization: Voctro Labs (Barcelona)

**Jordi Janer, PhD**

Jordi Janer is an audio technologist who works as Senior Researcher at the Music Technology Group of the Universitat Pompeu Fabra (MTG-UPF) in Barcelona.

Graduated in Electronic Engineering (2000), he worked as DSP engineer at Creamware GmbH, (Germany, 2000-2003), designing and developing audio effects and virtual synthesizers. He joined later the MTG-UPF, where he obtained the PhD degree in 2008 on voice interaction. His academic experience includes visiting research stays at McGill University (Canada, 2005) and at Northwestern University (USA, 2009).

His activity as a researcher and project manager involved various publicly-funded research projects (2004-2013), and industrial joint-research collaborations with Yamaha Corp. (Japan). He is coauthor of 11 patents and more than 30 scientific publications. In 2011 he cofounded Voctro Labs (See http://www.voctrolabs.com), a spin-off company specialized on voice processing solutions for the audiovisual media industry.

## Education

Ph.D, Computer Science and Digital Communication (2002-2008)
Universitat Pompeu Fabra

## Publications

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For more publications, see http://mtg.upf.edu/biblio/author/Janer

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

SUMMARY

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community particularities" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide. According to DotMusic, the Music Community members must have an active, non-tangential relationship with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

DotMusic's Community definition matches the applied-for string because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination/exclusion. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of cohesion than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "<u>whole</u>"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See
http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies.net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28
[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf
[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821
[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011
[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2
[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf
[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/
[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)
[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c
[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with formal boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for 63% of global digital music market[43] - a majority – with a registered community of 800 million registered members[44] available in 119 countries who abide to strict terms of service and boundaries[45] and have downloaded over 25 billion songs[46] from iTunes' catalog of over 43 million songs[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of over 250 million registered members.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [71] – a majority of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

***B)  Nexus***[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,



Signature: *Juan Diego Diaz M.*

Name:  Juan Diego Diaz


Title:   PhD

**Dr. Juan Diego Díaz Meneses**

*Phd in Ethnomusicology*

## EDUCATION

| | | |
|---|---|---|
| 2014 | **University of British Columbia** | **Ph.D. (Ethnomusicology)** |

Dissertation: "Orkestra Rumpilezz: Musical Constructions of Afro-Bahian Identities." Available at http://hdl.handle.net/2429/46805
Supervisor: Dr. Michael Tenzer

| | | |
|---|---|---|
| 2003-2008 | **Polytechnic University of Nicaragua** | **B.Mus** |

Program interrupted to begin graduate studies at the University of British Columbia

| | | |
|---|---|---|
| 1998 | **National University of Colombia** | **B.ASc. (Civil Engineering)** |

## RESIDENCIES

| | |
|---|---|
| 2012-2013 | **University of Oslo** |

Exchange Student and Visiting Scholar at the Department of Musicology

## PUBLICATIONS

"Listening with the body: an aesthetics of ritual possession outside of the terreiro." *Ethnomusicology.* Accepted on Feb. 26, 2015, pending minor revisions.

"Colombia: Music in history, culture, and geography." *SAGE Encyclopedia of Ethnomusicology.* Submitted on Jan. 19, 2015.

2012 "Orkestra Rumpilezz: Reinventing the Bahian Percussion Universe." *ICTUS, Journal of the School of Music of the Federal University of Bahia* 13 (1): 6-40.

2007 "Notación y Transcripción para el Berimbau Usado en Capoeira" (Notation and Musical Transcription for the Brazilian Berimbau as used in Capoeira). *Revista Ensayos* 13: 157-178. [National University of Colombia]

2006 "An Analysis of and Proposed Organization of the Capoeira Song Repertoire." *Revista Ensayos* 11: 145-170. [National University of Colombia]

## PRESENTATIONS

2015    "A Colombian Ethnomusicology: Issues, opportunities and challenges of musical research in Colombia."
Paper presented at the meeting of the Society for Ethnomusicology, North West Chapter, Seattle, WA, 28 Feb.

2014    "Orkestra Rumpilezz: The Politics and Pleasures of Music Reception in Bahia."
Paper presented at the meeting of the Society for Ethnomusicology, North West Chapter, Vancouver, BC, 1 May.

2014    "Orkestra Rumpilezz: Big band grooves performing Africanness in Bahia, Brazil."
Paper presented at the Colloquium Series, School of Music, University of British Columbia, Vancouver, BC, 21, Mar

2013    "The Pleasure of Politics and the Politics of Pleasure: An Afro-diasporic Aesthetico-Political Regime."
Paper co-presented with Kjetil Klette Bøhler at the conference "Music around the Atlantic Rim," organized by the British Forum for Ethnomusicology and the AHRC Research Networking Project "Atlantic Sounds: Ships and Sailortowns," Cardiff, Wales, 19 Oct.

2013    "Discourses of Musical Africanness in Salvador, Brazil."
Paper presented at the Social-Academic Forum, Department of Musicology, University of Oslo, Oslo, Norway, 28 Feb.

2009    "Periodic Structures in Capoeira Angola Music: Setting the Scene for the *Roda.*"
Paper presented at the 54th annual meeting of the Society for Ethnomusicology, Mexico City, Mexico, 19-22 Nov.


## RESEARCH ASSISTANSHIPS

2008-2009, 2013        Project "Periodicity in Music."
Research Assistant. School of Music, University of British Columbia.


## SCHOLARSHIPS AND AWARDS

2010-2012    Killam Doctoral Scholarship
Killam Trusts - University of British Columbia

2010-2013    Joseph-Armand Bombardier Canada Graduate Scholarships Program (Doctoral Award)
Social Sciences and Humanities Research Council

| 2010-2014 | Four Year Doctoral Fellowship |
| | University of British Columbia |

| 2011 | UBC Student Outstanding Leader Recognition |
| | University of British Columbia |

| 2009-2010 | Joseph-Armand Bombardier Canada Graduate Scholarships Program (Masters Award) |
| | Social Sciences and Humanities Research Council. |

| 2009-2010 | University Graduate Fellowship (Masters Award) |
| | University of British Columbia |

| 2008-2009 | Entrance Scholarship |
| | University of British Columbia |

## COMPOSITIONS AND PERFORMANCES

| 2011 | "Se Fué Mendoza." |
| | Composer. A piece for string orchestra, oboe, and clarinet inspired by Colombian *cumbia* and *gaita* music. |
| | Performed on November 21$^{st}$, 2014 at the Telus Studio Theatre in Vancouver by the UBC Chamber Strings. Available at: |
| | https://www.youtube.com/watch?v=mErTr_W3YuA |

| 2010-2011 | "Suite Afro-Brasileira." |
| | Composer. A five-movement suite for jazz big band and Afro-Brazilian percussion inspired by *capoeira angola*, *candomble*, *samba-reggae* and funk. |
| | Co-conductor. Performed by the UBC jazz ensemble, the UBC Capoeira Angola ensemble, and Sambata at the University of British Columbia on April 5, 2011. Available at: |
| | https://www.youtube.com/watch?v=5aQrwEKfjjw |
| | https://www.youtube.com/watch?v=LbglARfcgnc |
| | https://www.youtube.com/watch?v=6HFjcBmaeJw |
| | https://www.youtube.com/watch?v=PWHZ3ZZh4Fg |
| | https://www.youtube.com/watch?v=LjzHvRcIHMg |

## LANGUAGES

Spanish (native speaker)
English (fluent)
Portuguese (fluent)
French (read and aural comprehension)

## TEACHING EXPERIENCE

2014 MUSC 529 Introduction of Ethnomusicology (Graduate Seminar)
Guest Lecturer. University of British Columbia.

2013 MUS 2500/4500 *Aktuell Musikkvitenskap* (Latin American Music, Interdisciplinary Music Research).
Co-instructor. University of Oslo.
Co-conceived and co-designed the syllabus.

2011 MUSC 128  Musical Rhythm and Human Experience
Teaching Assistant. University of British Columbia.

2009 MUSC 3106 World Music 1
Guest Lecturer. Vancouver Community College.

## ENSEMBLE DIRECTING

2009-2011 UBC Capoeira Angola Ensemble
Instructor. University of British Columbia.
Founded and led a Capoeira Angola ensemble at UBC.

2009 UBC Berimbau Ensemble
Instructor. University of British Columbia.

2001-2008 Capoeira Angola Ensembles
Founded, led, and taught Capoeira Angola groups in Managua (Nicaragua) and San José (Costa Rica).

## PROFESSIONAL SERVICE

2008-2009 Ethnomusicology search committee, School of Music, University of British Columbia

## PROFESSIONAL DEVELOPMENT

2014-15 Workshops taken at the University of British Columbia, Faculty of Graduate Studies.
PhD Connections: Effective Supervisory Relationships
Getting the Word Out: Writing your Research for the Public Sphere
Foundations of Project Management 1
Leading with Emotional Intelligence
Managing Effective Collaborative Research Teams
Introduction to Interacting with the Media

## OTHER RELEVANT EXPERIENCE

2009-2010   Simon K. Y. Lee Global Lounge & Resource Centre, Vancouver, BC
            Administrative Assistant
                    Organized film/lecture series, music performances, fundraisers, and
                    gala events
                    Coordinated and managed the administrative and resource support to
                    over 20 diverse student groups and organizations

2007        Casa Canadiense (Canadian NGO based in Managua, Nicaragua)
            Coordinator
                    Managed and coordinated all daily operations of the organization,
                    including fiduciary oversight.
                    Coordinated a global education program through collaborations with
                    Canadian high school groups and local Nicaraguan counterparts.

## WEBSITES

http://ubc.academia.edu/JuanDiegoDiazMeneses/CurriculumVitae
https://www.grad.ubc.ca/campus-community/meet-our-students/diaz-meneses-juan-diego

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string.   DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework.  The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "<u>whole</u>"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies.net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]

- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]

- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]

- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

***B) Nexus***[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,




Signature: Contact Information Redacted     Apr 24 '15     ip: 166.171.59.54


Name: Juliane Jones


Title: Juliane Jones, PhD


Organization: The University of British Columbia

## About Dr. Juliane Jones

*Singer-Songwriter*

*Ethnomusicologist*

*PH.D in Ethnomusicology*
*University of British Columbia*

## Profile

Singer-songwriter and ethnomusicologist Juliane Jones finds harmony in what seems like self-identity dissonance. "I occupy a middle space – my world is about intersections," the New York-based songstress explains. Juliane's father is Welsh, and her mother is from LA. She has lived internationally in five different places and speaks fluent Chinese and French. She is an ethnomusicologist, producer, and songwriter.

Juliane's new experimental Chinese songwriting project integrates traditional Chinese music genres of *guqin*, *pipa* and *xiao* music, Chinese opera, and Buddhist chant into Western popular music idioms. It pushes the boundaries of performance by blending languages, timbres, and concepts in a way that is conscious of the stakes of translation and appropriation. Based on research begun during a Fulbright fellowship in China, Juliane's songs and instrumental tracks are a celebration of cultural understanding.

Juliane performs and records music for the screen with leading Chinese instrumentalists around the world. Recent recordings feature pipa virtuoso Zhou Yi, bamboo flute master Miao Yimin, and the acclaimed Chinese opera (*kunqu*) artist Qian Yi.

## Education

**University of British Columbia** Sept 2009-Nov 2014
Ph.D. (Ethnomusicology) November 2014

**Royal Holloway University of London** Sept 2008-Aug 2009
Mmus Advanced Musical Studies (Composition)

**National Taiwan University**, ICLP, Taipei, Taiwan June 2008-Aug 2008

**The Shanghai Conservatory of Music** Aug 2005-July 2006
Advanced Non-degree Student (*Jinxiusheng*)

**The University of Chicago** Sept 2001-Aug 2005
B.A., East Asian Studies, Minor: Music

**Princeton in Beijing**, Beijing, China June 2002-Aug 2002

**The Taft School**, Watertown, Connecticut Diploma, June 2001

**L'Ecole Americaine**, Rennes, France Sept 1999-June 2000

## Dissertation Topic

Contemporary *Kunqu* Composition
Advisor: Dr. Michael Tenzer
Committee members: Dr. Joseph Lam, Dr. Nathan Hesselink,
1) Explores a new subfield of ethnomusicology, the application of ethnography to composition.
2) Investigates the contemporary form of a vitally important historical, operatic musical tradition inscribed on the UNESCO list of intangible heritage in 2001.
3) Is based on two years of fieldwork in Shanghai, China (2005-2007) and follow up trips in 2011 and 2013. Primary research techniques include:
a) Composition lessons with composers in Shanghai and Nanjing.
b) Interviews, both formal and informal.
c) Translation of Chinese composition treatises dating to the sixteenth century and contemporary composition treatises.
d) Analysis of musical scores, live performances, and sound recordings.

## Prepared To Teach

**The Singer-songwriter** (Extensive experience as a producer and performer,
General examination field in popular music studies)

**Genre and Popular Music** (General examination field)

**Music in Twentieth Century China** (Dissertation specialization)

**Rhythm and Human Experience** (Teaching assistant under Dr. Michael Tenzer)
Conducted two sections. Prepared class assignments and some course examinations.
Lectured on groove guitar, jazz diffusion, and the origin of music.

**Cross-cultural Guitar Studies** (General examination field)

## Honors and Grants

Vanier Canada Graduate Scholarship Sept 2010-Sept 2013. Recipient for 3 years ($50,000 per year)

University of British Columbia Graduate fellowship ($16,000) Sept 2009-Sept 2010

Royal Holloway International Excellence Scholarship September 2008

IIE Fulbright Fellowship, Shanghai, China Aug 2006-June 2007

Asada Eiji BA Thesis Prize, best BA Thesis in East Asian Studies June 2005

University of Chicago Dean's List, 2001-2005

## Paper Presentations

**"Play the Bluebird": Open Mics and Writers' Nights** June 2014
**in Nashville, Tennessee**
American Musicological Society Junior Faculty Symposium

**Ethnography and Aesthetic Experience in Contemporary** July 2013
**Kun Opera Composition**
42nd International Council For Traditional Music (UNESCO)
The Shanghai Conservatory, Shanghai, China

**Contemporary Kun Opera Composition** May 2011
University of Toronto, Music Department

## Discography

*Peony Dream* (Forthcoming, May 2015) Original hybrid pop songs based on *kun* opera melodies. Performed with Ba Ban Chinese Music Society.

*The Space Between The Telephone Lines* (SoulRxSound, April 2014)
Original songs (Chinese and English versions), co-produced in Nashville, TN.

*We Love We Live* (SoulRxSound, 2011)
Original songs, co-produced in Nashville, TN.

## Upcoming & Recent Performances

**SyncSummit,** London, England Apr 2015

**Joe's Pub,** NYC Mar 2015

**Queens Library**, Flushing, NYC Sept 2014

**Canadian Music Week,** Toronto, CA May 2014

**Pianos**, East Village, NYC (Recurring Performances) Sept 2012-Present

**696 Livehouse**, Shanghai, China July 2013

**Markham Theater**, Toronto, Canada May 2013
Nationally Televised on Fairchild TV, Canada

## Papers

*"Play the Bluebird": Open Mics and Writers' Nights in Nashville, Tennessee* in *The Singer-Songwriter*

*Handbook* (Bloomsbury Academic, accepted and forthcoming)

*Kunqu Melody: Speech-tone, Melisma Shapes, and Vocal Gestures*

"Musical Chinoiserie: *Turandot* and the Assertion of Ambiguity" (awarded best thesis in East Asian Studies at The University of Chicago)

**Skills**

**Languages**: Fluent English, French, Mandarin Chinese; Reading knowledge of German and Classical Chinese; Limited proficiency of Japanese

**Music Software**: Sibelius, Finale, Logic, and Pro Tools

**Instruments:** Guitar, Piano, Guqin

**Website(s)**

www.julianejonesmusic.com
https://www.grad.ubc.ca/campus-community/meet-our-students/jones-juliane

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See
http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consit of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]

- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]

- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]

- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with formal boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for 63% of global digital music market[43] - a majority – with a registered community of 800 million registered members[44] available in 119 countries who abide to strict terms of service and boundaries[45] and have downloaded over 25 billion songs[46] from iTunes' catalog of over 43 million songs[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of over 250 million registered members.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a _majority_ of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license _over 80% of the world's music_" [71] – a _majority_ of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "_support [for] the .MUSIC community applications_ because respecting and _protecting music rights serves the global music community_ and the public interest."

Collectively, the DotMusic application received support from the _largest coalition of music community member organizations ever assembled to support a cause_. Such unparalleled global Music Community support represents an overwhelming _majority_ of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would _not_ be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for _Community Establishment_ and Community _Endorsement_ from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

***B) Nexus***[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,




Signature: Contact Information Redacted     Jun 2 '15     ip: 24.230.47.120


Name:  Kathryn Fitzgerald, Ph.D.


Title:  Customer Insight and Marketing Strategy Consultant


Organization:  Met4Marketing

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

SUMMARY

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii)  An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See  OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html

[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[26] http://www.culturalpolicies net/down/albania_012011.pdf

[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[28] http://my.midem.com/en/contact-us/pavilion-representatives/

[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]

- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]

- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]

- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises.</u>

54 http://www.vevo.com/c/EN/US/about
55 http://a2im.org/groups/youtube/
56 https://www.youtube.com/yt/press/statistics html
57 http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
58 http://a2im.org/groups/reverb-nation/
59 http://www.reverbnation.com/about
60 http://a2im.org/groups/bmg-rights/
61 http://www.bmg.com/category/about-us/history/
62 http://a2im.org/groups/french-music-export-office
63 http://a2im.org/groups/china-audio-video-association-cava
64 http://a2im.org/groups/initiative-musik-gmbh
65 http://a2im.org/groups/tag/associate+members/
66 http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
67 http://www.copyrightalliance.org/members
68 http://www.winformusic.org
69 http://www.merlinnetwork.org
70 https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and
https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [71] – a majority of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

***B) Nexus***[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or
>
> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>
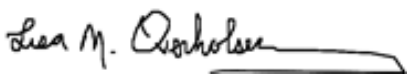
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[75] See http://music.us/nexus

and entities not related to music are excluded so that <u>the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,




Signature: *Lisa M. Overholser*
Contact Information Redacted          Jun 3 '15     ip: 24.171.98.96


Name:  Dr. Lisa M. Overholser


Title:  Urban Region Community Arts Specialist


Organization:  University of Missouri Extension

**Background**

Urban Region Community Arts Specialist and Director of the St. Louis Storytelling Festival
University of Missouri Extension
December 2014 – Present (7 months) St. Louis, Missouri

Adjunct Instructor
Empire State College
August 2010 – Present (4 years 11 months)

Adjunct Instructor
Albany College
August 2010 – December 2014 (4 years 5 months)

Director of Programs
New York Folklore Society
November 2008 – December 2014 (6 years 2 months) Schenectady, NY


**Education**

Doctor of Philosophy (PhD), Folklore/Ethnomusicology (major); Musicology (minor)
Indiana University Bloomington

MM, Piano Performance and Music History
The University of Kansas

BM, Piano Performance
University of Missouri-Kansas City


**Website**(s)

https://www.linkedin.com/pub/lisa-overholser/3b/738/9aa and
http://extension.missouri.edu/Website/DisplayCountyStaff.aspx?C=86818&WID=101

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

### A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

### ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations <u>mainly</u> Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity</u> *mainly*[20] <u>dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).
[21] http://www.ifacca.org/membership/current_members/

influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

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[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music"
(http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[27] http://www.culturalpolicies net/down/albania_012011.pdf
[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[29] http://my.midem.com/en/contact-us/pavilion-representatives/

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF
[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28
[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf
[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821
[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011
[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2
[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf
[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/
[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[41]

The reach of A2IM Associate[42] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[43] – iTunes accounts for <u>63% of global digital music market</u>[44] - a <u>majority</u> – with a registered community of 800 million registered members[45] available in <u>119 countries</u> who abide to strict terms of service and boundaries[46] and have <u>downloaded over 25 billion songs</u>[47] from iTunes' catalog of over <u>43 million songs</u>[48] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[49]

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[39] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c
[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23
[41] http://a2im.org/about-joining/
[42] http://a2im.org/groups/tag/associate+members/
[43] http://a2im.org/groups/itunes
[44] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[45] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[46] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[47] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[48] https://www.apple.com/itunes/features/
[49] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html

- **Pandora**[50] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[51]
- **Spotify**[52] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[53]
- **Vevo**[54] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[55]
- **Youtube**[56] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[57] of which 38.4% is music-related.[58]
- **Reverbnation**[59] – Reverbnation[60] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[61] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[62]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[63]), China (China Audio Video Association[64]) and Germany (Initiative Musik).[65] A2IM also has Affiliate[66] associations within the global music community. These include Affiliates such as MusicFirst,[67] the Copyright Alliance,[68] the Worldwide Independent Network (WIN)[69] and Merlin.[70]

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[50] http://a2im.org/groups/pandora
[51] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[52] http://a2im.org/groups/spotify
[53] https://press.spotify.com/us/information/
[54] http://a2im.org/groups/vevo/
[55] http://www.vevo.com/c/EN/US/about
[56] http://a2im.org/groups/youtube/
[57] https://www.youtube.com/yt/press/statistics.html
[58] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[59] http://a2im.org/groups/reverb-nation/
[60] http://www.reverbnation.com/about
[61] http://a2im.org/groups/bmg-rights/
[62] http://www.bmg.com/category/about-us/history/
[63] http://a2im.org/groups/french-music-export-office
[64] http://a2im.org/groups/china-audio-video-association-cava
[65] http://a2im.org/groups/initiative-musik-gmbh
[66] http://a2im.org/groups/tag/associate+members/
[67] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[68] http://www.copyrightalliance.org/members
[69] http://www.winformusic.org

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[71] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[72] whose members[73] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[74] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[75] the world's largest music market with 30% global market share.[76] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [77] – a majority of global music.[78]

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[70] http://www.merlinnetwork.org
[71] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf
[72] http://www.ifpi.org/about.php
[73] http://www.ifpi.org/our-members.php
[74] http://www.ifpi.org/national-groups.php
[75] http://www.riaa.com/faq.php
[76] http://www.statista.com/topics/1639/music/
[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[80] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[81] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


*B) Nexus*[82]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music

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[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[81] http://music.us/supporters
[82] See http://music.us/nexus

entities to be included as part of the Community. Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[83] given the symbiotic overlapping nature of the Community as

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[83] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,


Signature: <span>Contact Information Redacted</span>   Jul 16 '15   ip: 91.65.185.168


Name:  Luis-Manuel Garcia


Title:  Lecturer /Assistant Professor


Organization:  University of Groningen

Curriculum Vitae
# LUIS-MANUEL GARCIA

## ADDRESSES
**Home:**                                                    **Work:**
[available upon request]                          Dept. of Arts, Culture and Media (KCM)
University of Groningen
Oude Boteringestraat 34
9712 GK Groningen
Netherlands

**Email:** [available upon request]
**Websites:**
http://www.rug.nl/staff/l.m.garcia/
http://lmgmblog.wordpress.com
http://www.theluisgarcia.com

## EDUCATION
University of Chicago, Chicago, Illinois
2011            Doctor of Philosophy in Music (Ethnomusicology)
- *Conferral*: August 2011
- *Dissertation:* "'Can You Feel it Too?': Intimacy and Affect at Electronic Dance Music Events in Paris, Chicago, and Berlin."
- *Committee:* Travis A. Jackson (supervisor), Steven Rings, Lauren Berlant, Kaley Mason

University of Toronto, Toronto, Ontario, Canada
2004            Master of Arts in Music (Musicology)
- *Master's Thesis:* "The Soft Pink Meaning: A Case Study of Close Reading in Electronic Dance Music."
2002            Bachelor of Music (Music History & Culture)

## EMPLOYMENT
University of Groningen, Groningen, Netherlands
2014–Present  Assistant Professor of Music, Department of Arts, Culture, and Media
- "Music in Practice: Music Festivals"
- "Popular Music History and Analysis"
- "The Study of Popular Music: Analytical and Theoretical Approaches"
- MA Seminar, "Music and Globalization"

Max Planck Institute for Human Development, Berlin, Germany
2013–2014    Postdoctoral Research Fellow
- *Research Group*: "Felt Communities? Emotions in Europe's Musical Life"

- *Projects*: Book: *Together, Somehow: Intimacy, Music, and Affect on the Dance Floor.* // Further ethnographic fieldwork for "The Techno Jetset: Mobility, Tourism, and Class in Berlin's Electronic Dance Music Scenes"

University of Groningen, Groningen, Netherlands
2012–2013     Substitute Lecturer for Prof. Kristin McGee (Music)
- "The Study of Popular Music: Analytical and Theoretical Approaches":
  - May 24, 2013: "Disco and Sexuality"
  - March 27, 2013: "Place and Race in Colombian Popular Music"
- MA Seminar: "Globalization and Music":
  - September 14, 2012: "Cities, Clubs and Party Tourism"
  - September 9, 2012: "Dance Music and Electronica"

Freie Universität, Berlin, Germany
2011–2012     Postdoctoral Research Fellow
- Berlin Program for Advanced German and European Studies
- *Project*: Ethnographic fieldwork for "The Techno Jetset: Mobility, Tourism, and Class in Berlin's Electronic Dance Music Scenes"

University of Chicago, Department of Music, Chicago, Illinois
2009–2010     Lecturer
- "Nightlives: Music and Nighttime" (MUSI 23910), a self-designed course with the Whiting Teaching Fellowship
- "Music in Western Civilization I" (MUSI 121)

2008          Lecturer
- Co-Lecturer, MA-level "Theories of Gender and Sexuality" (GNDR 314) with Lauren Berlant
- "Music in Western Civilization I & II" (MUSI 121-2)
- "Introduction to World Music" (MUSI 102)

2006          Course Assistant

University of Toronto, Department of Music, Toronto, Ontario, Canada
2002–2004     Teaching Assistant

**ADDITIONAL EMPLOYMENT**
Ecole nationale des chartes, Paris, France
2008–2009     Enseignant de langue (Language Instructor)
- Taught advanced English to undergraduate and graduate students, with emphasis on academic speaking and writing.

**PROFESSIONAL DEVELOPMENT**

2011          SEM-NEH Summer Institute, "Ethnomusicology and Global Culture",
              June 20–July 1
- Society for Ethnomusicology and National Endowment for the Humanities
- For the development of classroom pedagogy and projects concerning "global culture."

**HONORS AND AWARDS**

2011          Lise Waxer Student Paper Prize (Popular Music Section),
              Society for Ethnomusicology (Los Angeles, 2010)

2011–2012     Postdoctoral Fellowship, Berlin Program for Advanced German and
              European Studies, Freie Universität, Berlin.

2010–2011     James C. Hormel Dissertation Fellowship in Lesbian and Gay Studies
              The Center for Gender Studies, University of Chicago.

2010          Wadmond Research Fund, University of Chicago.

2009          Whiting Teaching Fellowship, University of Chicago.

2008–2009     Assistanceship for Alternative Learning Technologies in Paris
              University of Chicago, College I.T. and Study Abroad Program.

2008          Wadmond Research Fund, University of Chicago.

2006–2007     Assistanceship for Alternative Learning Technologies in Paris
              University of Chicago, College I.T. and Study Abroad Program.

2006          Cathy Heifetz Memorial Award, University of Chicago.

2004–2009     Five-year Century Fellowship, University of Chicago.

2003–2004     Ontario Graduate Scholarship, Ontario Ministry of Training.

2003–2004     Canada Graduate Scholarship, Social Sciences and Humanities Research
              Council, Canada.

2003–2004     Gordon Cressey Student Leadership Award, University of Toronto.

**PROFESSIONAL ACTIVITIES AND SERVICE**

2015          Stream Organizer, with Dorina M. Buda. Conference: "Affect Theory:
              Worldings, Tensions, Futures," at Millersville University, Lancaster, PA,

October 14–17.
http://www.affecttheorymu.com/

2014–Present    Secretary. *Opleidingcommissie* (program committee), University of Groningen.

2013    Conference Organizer and Host. "Resonances: Music, Affect, and the City," at the Max Planck Institute for Human Development, Berlin, November 7-8.
https://www.mpib-berlin.mpg.de/en/news/events/resonances-music-affect-and-the-city

2012–Present    Foreign Languages Editor. *Dancecult: Journal of Electronic Music Culture*.

2010–2011    Production Assistant and Reader. *Dancecult: Journal of Electronic Dance Music Culture*.

2006–2011    Founding Member and Co-Coordinator. Affective Publics Workshop, University of Chicago.

2010–2011    Program Committee. For the 2011 Meeting of the US chapter of the International Association for the Study of Popular Music (IASPM-US), Cincinnati, Ohio.

2010    Session Chair. "Scenes and Communities." Meeting of the US chapter of the International Association for the Study of Popular Music (IASPM-US), New Orleans, Louisiana, April 10.

2010    Session Chair. "The Aesthetic Edge." Meeting of the US chapter of the International Association for the Study of Popular Music (IASPM-US), New Orleans, Louisiana, April 9.

2007–2009    Student Seat Officer. US chapter of the International Association for the Study of Popular Music (IASPM-US).

2007–2008    President. Graduate Music Society, University of Chicago.

2003–2004    Co-President. Music Graduate Students Association, University of Toronto.

2003–2004    Search Committee. Dean of the Faculty of Music, University of Toronto.

2002–2003    Representative (Music). Graduate Student Union, University of Toronto.

2001–2002    Search Committee. Ethnomusicology, Faculty of Music, University of Toronto.

## PERFORMANCE/CREATIVE ACTIVITIES

2012–Present  Co-founder, magazine editor, performer, and essayist. *La Mission* artist collective / record label. www.joinlamission.com

2005–2007    Founder and director. Georgian Vocal Ensemble, University of Chicago.

2004–2006    Vocalist. Early Music Ensemble, University of Chicago.

## MEMBERSHIPS

American Anthropological Association
American Musicological Society
British Forum for Ethnomusicology
International Association for the Study of Popular Music
International Society for Research on Emotion
Society for Ethnomusicology
Society for Music Theory

## SCHOLARLY PUBLICATIONS

(submitted)    "BerMuDa in Berlin: Techno-Tourism, Music Scenes, and the Scale of Nightlife during the Berlin Music Days Weekend." *Journal of Popular Music Studies*.

(in press)     "Beats, Flesh, and Grain: Sonic Tactility and Affect in Electronic Dance Music." *Sound Studies* 1. Projected publication date: **2015**.

(in press)     "Techno-Tourism and Postindustrial Neo-Romanticism in Berlin's Electronic Dance Music Scenes." *Tourist Studies*. Projected publication date: **fall 2015/winter 2016**.

(in press)     with D.M. Buda and A. Martini: "Qualitative Tourism Research." In *The SAGE International Encyclopedia of Travel & Tourism*. SAGE Reference.

(in press)     "Whose Refuge, This House?: The Estrangement of Queers of Color in Electronic Dance Music." In *The Oxford Handbook of Queerness and Music*, edited by Fred Maus and Sheila Whiteley. Oxford: Oxford University Press.

2015          "At Home, I'm a Tourist: Musical Migration and Affective Citizenship in Berlin." *Journal of Urban Cultural Studies* 2 (1+2).

2013      Guest Editor. "Doing Nightlife and EDMC Fieldwork," Special Issue. *Dancecult: Journal of Electronic Dance Music Culture* 5 (1). http://dj.dancecult.net/index.php/journal/issue/view/8/showToc.

2013      "Editor's Introduction: Doing Nightlife and EDMC Fieldwork," in "Doing Nightlife and EDMC Fieldwork," Special Issue. *Dancecult: Journal of Electronic Dance Music Culture* 5 (1): 3-17. http://dj.dancecult.net/index.php/journal/article/view/169/186.

2013      "Crowd Solidarity on the Dancefloor in Paris and Berlin," in *Musical Performance and the Changing City: Postindustrial Contexts in Europe and the United States,* edited by Carsten Wergin and Fabian Holt, 227-255. New York/London: Routledge.

2012      *Intense Encounters: Young Men and Trans-Women in Music Videos*, *Pop Papers*. New York: Feedback Press.

2012      "Intense Encounters: Young Men and Trans-Women in Music Videos." *IASPM-US Blog (International Association for the Study of Popular Music, US Chapter)* Feb 20–22. 3 parts. http://iaspm-us.net/?p=1660 ; http://iaspm-us.net/?p=1663 ; http://iaspm-us.net/?p=1666.

2011      "Pathological Crowds: Affect and Danger in Responses to the Love Parade Disaster at Duisburg." Special issue on Germany's Love Parade, *Dancecult: Journal of Electronic Dance Music Culture* 2 (1). http://dj.dancecult.net/index.php/journal/article/view/66/102.

2010      In *The New Grove Dictionary of American Music*, 2nd ed. (Oxford: Oxford University Press):
         "Benitez, John 'Jellybean' "
         "Sanchez, Roger"

2005      "On and On: Repetition as Process and Pleasure in Electronic Dance Music." *Music Theory Online* 11 (4). http://www.mtosmt.org/issues/mto.05.11.4/mto.05.11.4.garcia.html.

**TRANSLATIONS**

2015      Anne Petiau. "Free Parties and Teknivals: Gift-Exchange and Participation on the Margins of the Market and the State." *Dancecult: Journal of Electronic Dance Music Culture* 7 (1): 116–128. Translation from French by Luis-Manuel Garcia. https://dj.dancecult.net/index.php/dancecult/article/view/676

2013            Jan-Michael Kühn. "Making A Living In The Berlin House and Techno Scenes." *DJ-Techtools*, May 28. Translation from German by Luis-Manuel Garcia. http://www.djtechtools.com/?p=30557.

2013            Jan-Michael Kühn. "Focused Ethnography as Research Method: A Case Study of Techno Music Producers in Home-Recording Studios," in "Doing Nightlife and EDMC Fieldwork," Special Issue. *Dancecult: Journal of Electronic Dance Music Culture* 5 (1). Translation from German by Luis-Manuel Garcia. http://dj.dancecult.net/index.php/journal/article/view/161.

2011            St. John, Graham. "Party, Love and Profit: The Rhythms of the Love Parade (Interview with Wolfgang Sterneck)." *Dancecult: Journal of Electronic Dance Music Culture* 2 (1). Translation from German by Luis-Manuel Garcia. http://dj.dancecult.net/index.php/journal/article/view/75/101.

**REVIEWS**

2015            *DJ Culture in the Mix: Power, Technology, and Social Change in Electronic Dance Music* by Bernardo Attias, Anna Gavanas, and Hillegonda Rietveld (New York: Bloomsbury). *World of Music (new series)* 3(2) 151–155.

2011            *Rave Culture: The Alteration and Decline of a Philadelphia Music Scene* by Tammy L. Anderson (Philadelphia: Temple University Press, 2009). *The Society for American Music Bulletin* XXXVII (3). http://american-music.org/publications/bulletin/VolXXXVII3-Fall2011.php.

2007            *Unplayed Melodies: Javanese Gamelan and the Genesis of Music Theory* by Marc Perlman (Berkeley: University of California Press, 2004). *Music Theory Spectrum* 29.2: 247–253.

2003            *Music, Body and Desire in Medieval Culture: Hildegard von Bingen to Chaucer* by Bruce W. Holsinger (Stanford: Stanford University Press, 2001). *Discourses in Music* 4 (2).

**PUBLIC OUTREACH / KNOWLEDGE TRANSLATION**

2015            Podcast interview: "RA Exchange: EX.236 Luis-Manuel Garcia." *Resident Advisor*, February 5. http://www.residentadvisor.net/podcast-episode.aspx?exchange=236.

2015            "Beats, Flesh, and Grain: Sonic Tactility and Affect in Electronic Dance Music." Presentation at the "CTM Education Networking Day," part of the *Club TransMediale* festival, Berlin, Germany, January 30. http://www.ctm-festival.de/festival-2015/transfer/education-networking-day/.

2014      "A pre-history of the electronic music festival." *Resident Advisor*, July 14, http://www.residentadvisor.net/feature.aspx?2104.

2014      "An alternate history of sexuality in club culture." *Resident Advisor*, January 28, http://www.residentadvisor.net/feature.aspx?1927.

2013      "GEMA and the threat to German nightlife." *Resident Advisor*, April 24, http://www.residentadvisor.net/feature.aspx?1757.

2012      "As The World Turns: Time In Electronic Dance Music." *Little White Earbuds*, March 28, http://www.littlewhiteearbuds.com/?p=29612.

2012      "Doing Nightlife Research." *IASPM-US Blog (International Association for the Study of Popular Music, US Chapter)* Feb 1–3. 3 parts. http://iaspm-us.net/?p=1476 ; http://iaspm-us.net/?p=1487 ; http://iaspm-us.net/?p=1491.

2011      "Clubbing in Chicago." *Resident Advisor*, November 15, http://www.residentadvisor.net/feature.aspx?1457.

2010      "Showdown in Spreepark: Minimoo, Bar 25, and the Story Behind Luna Land (Berlin)." *Resident Advisor*, November 26. http://www.residentadvisor.net/feature.aspx?1272.

## INVITED PRESENTATIONS

2015      "Fieldwork Fragments." Lecture-Discussion at workshop, "All Eyes on Method," Institute of Experimental Design and Media Cultures, Basel, Switzerland, June 4. http://www.ixdm.ch/all-eyes-on-method/.

2014      "An/Aesthetics." Lecture-Performance co-curated with Brandon LaBelle, for "A Matter Theater," closing conference of "The Anthropocene Project," Haus der Kulturen der Welt, Berlin, Germany, October 16. http://www.hkw.de/en/programm/projekte/2014/anthropozaenprojekt_ein_bericht/a_matter_theater_1/start_a_matter_theater.php.

2014      "Affect Theory." Lecture given at the Summer School, "Concepts, Language and Beyond: Emotions Between Values and Bodies," International Max Planck Research School, "Moral Economies of Modern Societies," Max Planck Institute for Human Development, Berlin, Germany, September 26. https://www.mpib-berlin.mpg.de/de/aktuelles/veranstaltungen/concepts-language-and-beyond-emotions-between-values-and-bodies-summer-school.

2014        "Liquidarity: Fluid Solidarities in Nightlife Scenes." Keynote Lecture, public event for *Valuing Electronic Music* project, Open University and King's College London, UK, June 6. http://valuingelectronicmusic.org/2014/11/05/liquidarity-luis-manuel-garcia/.

2014        "At Home I'm a Tourist: Musical Migration and Affective Citizenship in Berlin." Paper read for "Music Matters Study Day," Rijksuniversiteit Groningen, Netherlands, May 30.

2013        "Feeling Utopian on the Dance Floor: A Very Short History." Lecture, "Seminar in Musicology," University College Dublin, Ireland, October 17.

2011        "Doing Fieldwork in Electronic Dance Music and Other Nightlife Music Scenes." Lecture, "Ethnomusicology Seminar," Prof. Kristin McGee, Rijksuniversiteit Groningen, Groningen, Netherlands, December 9.

2011        "Rave comme mouvement sociale; recherches actuelles sur la musique électronique." Lecture, "Music Sociology Seminar," Prof. Jonathan Roberge, Université de Québec à Montréal, Canada, November 21.

## PRESENTATIONS

2015        "Belonging in Feeling: Musical Migration and Affective Citizenship in Berlin's Electronic Dance Music Scenes." Paper read at the conference, "Dreams of Germany – Music and (Trans)national Imaginaries in the Modern Era," held at the German Historical Institute London, UK, Feb 5. http://www.ghil.ac.uk/dreams_of_germany.html.

2014        "Anonym, verkörpert, anders. Queere Angelegenheiten bei der Feldforschung in Techno-Szenen." Paper read at the "Techno Studies" conference held at the Universität der Künste, Berlin, Germany, December 13.

2014        "The Creative Hustle: Surviving Precarity in Berlin's Electronic Dance Music Scenes." Paper read at the meeting of the Society for Ethnomusicology (SEM), Pittsburgh, Pennsylvania, November 13.

2014        "Bloch and the Musical Aesthetics of Utopia." Paper read at the conference, "Music, Marxism, and the Frankfurt School," held at University College Dublin, Ireland, July 4.

2014        "At Home I'm a Tourist: Musical Migration and Affective Citizenship in Berlin." Paper read at the "Urban Soundscapes & Critical Citizenship" conference at the University of Limerick, Ireland, March 27.

2014        "The Costs of Being Fluid: Popular Music and the Lubrication of Social Frictions." Paper read at the meeting of the US chapter of the International Association for the Study of Popular Music (IASPM-US), Chapel Hill, North Carolina, March 14.

2013        " 'Fairytales need Cash, too': Utopian Futurities and the Struggle for Urban Space in Berlin." Paper read at the meeting of the American Anthropological Association (AAA), Chicago, Illinois, November 23.

2013        "Consuming Atmospheres and Social Worlds: 'Techno-Tourismus' and Post-Tourist Tourism in Berlin's Electronic Dance Music Scenes." Paper read at the Touring Consumption conference at Karlshochschule International University, Karlsruhe, Germany, October 26.

2013        "Doing Nightlife and EDM Fieldwork." Paper read at the Nights2013 conference at the University of Padua, Italy, September 26.

2013        "BerMuDa in Berlin: Techno-Tourism, Music Scenes, and the Scale of Nightlife during the Berlin Music Days." Paper read at the meeting of the International Association for the Study of Popular Music (IASPM-Intl), Gijón, Spain, June 27.

2013        "Liquidarity: Fluid Solidarities in Nightlife Scenes." Paper read at the Liquidity ADRI Practice Research Symposium at Middlesex University, London, UK, June 14.

2013        "Embedded Diversity: Discrimination, Door Policies, and the Management of Difference at Berlin Nightclubs." Paper read at "New Post-Migrant Socialities: Rethinking Urban Leisure Publics in the Context of Diversity and Dominance," the closing conference of the *ERC Project: Migrant Socialities* at Goethe Universität, Frankfurt am Main, Germany, January 26.

2012        "Feeling at Home Abroad: The Affective Shape of Expatriate Belonging in the Electronic Dance Music Scenes of Berlin." Paper read at the meeting of the American Anthropological Association (AAA), San Francisco, California, November 18.

2012        "Consuming Atmospheres and Social Worlds: 'Techno-Tourismus' and Post-Tourist Tourism in Berlin's Electronic Dance Music Scenes." Paper read at the meeting of the Society for Ethnomusicology (SEM), New Orleans, Louisiana, November 3.

2012        "The Other Side of the Turntables: Revisiting Performer-Audience Interaction at Electronic Dance Music Events." Paper read at the meeting of the British Forum for Ethnomusicology (BFE), Durham, UK, March 31.

| 2012 | "BerMuDa in Berlin: Techno-Tourism, Music Scenes, and the Scale of Nightlife during the Berlin Music Days Weekend." Paper read at the meeting of the US chapter of the International Association for the Study of Popular Music (IASPM-US), New York, New York, March 24. |
|------|---|
| 2011 | "Bouncers and Multiculturalism: Unintegrated Difference and the Political Stakes of Nightlife in Berlin and Paris." Paper read at the meeting of Benelux chapter of the International Association for the Study of Popular Music (IASPM-BENELUX), Groningen, Netherlands, December 9. |
| 2011 | "Bouncers and Multiculturalism: Unintegrated Difference and the Political Stakes of Nightlife in Berlin and Paris." Paper read at the meeting of the American Anthropological Association (AAA), Montréal, Canada, November 16. |
| 2011 | With Gregory C. Mitchell. "Sex on Several Levels: An Affective Mapping of Queer Heterotopias in Rio de Janeiro and Berlin." Paper read at the meeting of the Cultural Studies Association, Chicago, Illinois, March 26. |
| 2010 | "What Happened to the Sex? Thinking Intimacy and Sexuality in Crowds." Paper read at the meeting of the Gender and Sexualities Studies Workshop of the University of Chicago, Chicago, Illinois, November 30. |
| 2010 | "Liquid Solidarities: Vague Belonging at Electronic Dance Music Events in Paris, Chicago, and Berlin." Paper read at the Meeting of the Society for Ethnomusicology (SEM), Los Angeles, California, November 14. (Awarded the **Lise Waxer Student Paper Prize** by the Popular Music Section of SEM in 2011.) |
| 2010 | "Homo-something: Men Touching Men and Vague Pleasure in Paris Nightclubs." Paper read at the Meeting of Performance Studies international (PSi), Toronto, Canada, June 9-13. |
| 2010 | "Dreams of a Gentle Rebirth: Intense Experience and Coming Undone at EDM events in Paris, Berlin, and Chicago." Paper read at the Meeting of the US chapter of the International Association for the Study of Popular Music (IASPM-US), New Orleans, Louisiana, April 8-11. |
| 2010 | "Hardening Something: Music, Affect, and the Sense of the Social." Paper read at the meeting of the New Media Workshop of the University of Chicago, Chicago, Illinois, April 2. |
| 2010 | "Smooth Experience, Rough Experience." Paper read at the Joint Meeting of the EthNoise!, Theater and Performance Studies, and Gender and |

Sexualities Workshops of the University of Chicago, Chicago, Illinois, February 8.

2008    "You, Me and Vocoder Makes Three: Distortion and Digital Intimacy." Paper read at the Meeting of the US branch of the International Association for the Study of Popular Music (IASPM-US), Iowa City, Iowa, April 24-27.

2007    "Intimacy at the Sonic Surface." Paper read at the EthNoise! Workshop of the University of Chicago, Chicago, Illinois, November 15.

2006    "Vazaleen, Affect and Utopia: Sliding Public Spheres into Private Places." Paper read at the Meeting of the Society for Ethnomusicology (SEM), Honolulu, Hawaii, November 16-19.

2005    "The soft pink meaning(s): multiple readings and the Soft Pink Truth." Paper read at the Meeting of the International Association for the Study of Popular Music (IASPM-Intl), Rome, Italy, July 25-30.

2004    "On and On: Repetition as Process and Pleasure in Electronic Dance Music." Paper read at the Joint Meeting of the Society for Music Theory (SMT) and the American Musicological Society (AMS), Seattle, Washington, November 13.

2004    "Dancing with the Wrong Crowd: Identity and Genre Politics among Electronic Dance Musics." Paper read at the Meeting of the Society for Ethnomusicology (SEM), Tucson, Arizona, November 5.

2003    "Future Music: Discourses of Modernism, Futurism and Intellectualism in Techno." Paper read at the Music Graduate Students' Association Conference, at University of Toronto, Canada, April 12.

**LANGUAGES**
Fluent:
    French
    Spanish
Advanced:
    German
Moderate:
    Italian
Reading Only / Basic:
    Latin
    Georgian

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

### i) An Organized, Cohesive, Interdependent Logically-Allied Community:

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

      (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See  OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii)  An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music communities</u> that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.


*iii) International Federations and Organizations <u>mainly</u> Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity</u> *mainly*[20] <u>dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music"
(http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

[35] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u>[51] who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

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[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises</u>.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and
https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [77] – a majority of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by representing the international music products industry and community, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "to strengthen

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


### B) Nexus[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about

[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/

[85] http://music.us/supporters

[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: *M.Kazantzidis*

Aug 6 '15    ip: 85.74.206.189

Name: `Dr. Manthos Kazantzidis`

Title: `Computer Science Ph.D. Research and Development`

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

SUMMARY

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities</u> <u>that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and</u> <u>institutions that make possible and regulate the production, distribution and</u> <u>consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to</u> <u>common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by</u> <u>common values, cohesive norms and interconnected structures to build a</u> <u>community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical</u> <u>activities, identity and community value is created as result of infrastructure and</u> <u>a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related</u> <u>community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See  OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See
http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries.  The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects.  Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus  (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[73] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

## B) *Nexus*[74]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] http://music.us/supporters
[74] See http://music.us/nexus

defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential

relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: Contact Information Redacted          Apr 15 '15    ip: 165.124.145.150

Name:    Michael Mauskapf

Title:    Researcher

Organization:    Kellogg School of Management, Northwestern University

Date:    April 15, 2015

## About Dr. Michael Mauskapf

*Professor, Department of Management and Organizations*
*Kellog School of Management*
*Northwestern University*

*University of Michigan, Ann Arbor*
Ph.D. in Musicology (2012)
M.A. in Historical Musicology (2009)

*University of Pennsylvania*
B.A. in Music, Magna Cum Laude (2007)

*Northwestern University, Kellogg School of Management*
Ph.D. in Management and Organizations (expected  2017)
Research Associate, Northwestern Institute on Complex Systems (NICO)

## RESEARCH INTERESTS

Organization theory; cultural innovation, production, and consumption; institutional logics, complexity, and contradiction; nonprofit governance and strategy, esp. in the performing arts

## PUBLICATIONS

### Refereed Articles, Conference Proceedings, & Book Chapters

Noah Askin and Michael Mauskapf. (2014). "Cultural Attributes and Their Influence on Consumption Patterns in Popular Music." *Lecture Notes in Computer Science (LNCS)*, 8851: 508–530.

Michael Mauskapf and Paul Hirsch. (Forthcoming). "Ups and Downs: The Deployment and Reception of Qualitative Research Methods Over Time." In *The Handbook of Innovative Qualitative Research Methods: Pathways to Cool Ideas and Interesting Papers*, K.D. Elsbach and R.M. Kramer (eds.). New York: Routledge.

### Under Review

William Ocasio, Michael Mauskapf, and Christopher Steele. "History, Society, and Institutions: The Role of Collective Memory in the Formation of Societal Logics" (R&R at *AMR*)

Michael Mauskapf, William Ocasio, and Edward Zajac. "Dissonance as a Source of Change at the New York Philharmonic, 1842–1928" (under review at *AJS*)

## Working Papers & Research in Progress

Noah Askin and Michael Mauskapf. "Attribute-based Cultural Networks and their Role in Shaping the Evaluation of Popular Music" (Target: *Sociological Science*)

Rachel Ruttan, Michael Mauskapf, and Loran Nordgren. "The Double-Edged Sword of Institutional Complexity and its Effects on Individual Agency" (Target: *AMJ*)

"Using Big Data to Study the Dynamics of Innovation, Collaboration, and Competition in Popular  Music" (with Noah Askin, Brian Uzzi, Agnes Horvat, and Klaus Weber)

"The Role of Philanthropy in the Professionalization of the Nonprofit Sector" (with Vontrese Deeds)

"Media, Technology, and Conflict in the Performing Arts" (with Daniel Gruber)

## Cases

Michael Mauskapf, Loran Nordgren, Brian Uzzi, and Jay Uparna. 2014. "Flat Panel Display Corporation." Kellogg Case Collection.

## Other Publications (Musicology)

Michael Mauskapf. (2014). "Review of *The Great Orchestrator: Arthur Judson and American Arts Management*, by James Doering." *Notes: Quarterly Journal of the Music Library Association* 70(3): 477–480.

Michael Mauskapf. (2013). "Review of *The Perilous Life of Symphony Orchestras*, by Robert J. Flanagan." *MLA Notes* 69(3):559-563.

Michael Mauskapf. (2011). "Collective Virtuosity in Bartók's Concerto for Orchestra." *Journal of Musicological Research* 30(4): 267–296.

Michael Mauskapf. (2010). "The Liability of Being Elite: American Orchestras in the Twentieth Century." *Music Research Forum* 25: 35–60.

Claire Rice, Michael Mauskapf, Charles Hack, and Forest Juziuk. (2010). "The "Why" of Arts Organizations in the DIY Era: Institutional Support for the Do-It-Yourself Artistic Generation." In *20Under40: Re-Inventing the Arts and Arts Education for the 21st Century*, edited by E. Clapp. Pp. 170–186. Bloomington, IN: Author House.

Michael Mauskapf and Mark Clague. (2010). "Partners in Practice." *Symphony Magazine*: 66–70. Michael Mauskapf. (2009). "Trouble in Paradise?: Musical Interactions and Detroit's Orchestra Hall." *voiceXchange* 3(1): 38–59.

Michael Mauskapf. (2009). "The American Orchestra as Patron and Presenter, 1945–Present: A Selective Discography." *MLA Notes* 66(2): 381–393.

Michael Mauskapf. (2009). "Review of *Maestros in America: Conductors in the 21st Century*, by Roderick L. Sharpe and Jeanne Koekkoek Stierman." *MLA Notes* 65(3): 491–493.

Commissioned entries on ~20 conductors, administrators, and musical organizations, *The Grove Dictionary of American Music*, Second Edition. New York: Oxford University Press. Program notes for the Detroit Symphony Orchestra and other performing arts organizations

## CONFERENCE PRESENTATIONS

"Cultural Attributes and their Influence on Consumption Patterns in Popular Music," SocInfo2014,

Barcelona [November 2014] *Winner of the 2014 Best Presentation Award; Best Paper Award Runner-Up*

"Using Big Data to Understand Consumption Dynamics in Popular Music: Evidence from the *Billboard Hot 100*," Annual Meeting of the Academy of Management (AOM), Philadelphia, PA [August 2014]

Co-Organizer, Symposium on "State of the Arts: New Frontiers in the Analysis of Culture and Cultural Organizations," AOM, Philadelphia, PA [August 2014]

"The Effects of Institutional Complexity on Individual Agency," AOM, Philadelphia, PA [August 2014]

"History, Society, and Institutions: The Role of Collective Memory in the Formation of Societal Logics," European Group on Organizational Studies (EGOS), Rotterdam [July 2014]

"The Emergence and Persistence of Institutional Dissonance at the New York Philharmonic, 1842–1928," AOM, Orlando, FL [August 2013]

"The Effects of Institutional Complexity on Creative Cognition," AOM, Orlando, FL [August 2013]

"The Generation and Diffusion of Innovation in Cultural Networks," EGOS, Montreal [July 2013]

"The Effects of Institutional Complexity on Creative Cognition," EGOS, Montreal [July 2013]

"The Evolution of Philanthropy and the Generation and Allocation of Resources," *The Inaugural Paul R. Lawrence Conference: Connecting Rigor and Relevance in Institutional Analysis,* Harvard Business School [June 2013]

"Harmony and Disharmony Within and Between Logics: Evidence from the New York Philharmonic, 1902–12," conference on *Organizing Institutions: Creating, Enacting and Reacting to Institutional Logics*, Banff, Canada [June 2012]

"New York Goes Corporate: The Philharmonic's Shift to a Nonprofit Operating Model," Annual Meeting of the American Musicological Society, San Francisco [November 2011] *Covered by the San Francisco Examiner*

"Music for Whose Good?: El Sistema in America," GAMMA-UT Conference on Music of the Americas, University of Texas at Austin [March 2011]

"'Fighting the Good Fight': Robert Whitney, Charles Farnsley, and the Louisville Orchestra New Music Project," AMS Midwest Chapter, Chicago [October 2010] *Winner of the 2011 Best Student Paper Award*

"What Inhibits Organizational Change?: The Study of an Orchestra on the Brink," Annual Meeting of the Academy of Management, Montreal [August 2010]

"An American Experiment: The Louisville New Music Project," Conference on *The Symphony Orchestra as Cultural Phenomenon*, Institute for Musical Research, London [July 2010]

"The Liability of Being Elite: American Orchestras in the 20th Century," Annual Meeting of the Society for American Music, Ottawa [March 2010]

"Bartók's Concerto for Orchestra and the Rise of Collective Virtuosity," Annual Meeting of the Society for American Music, Denver, CO [March 2009]


**INVITED TALKS & WORKSHOP**

"A New Approach to Studying Production and Consumption Dynamics in Popular Music," The Echo Nest & Spotify Headquarters, Boston, MA [November 2014]; also presented at Northwestern Institute on Complex Systems (NICO) Brownbag, Northwestern University [October 2014]; Culture Workshop, Northwestern University Sociology Dept. [October 2014]; Knowledge Lab, University of Chicago Sociology Dept. [July 2014]

"American Symphony Orchestras: Past, Present, and Future," MIT Music Dept., Boston, MA [November 2014]; also presented at Oberlin College Musicology Dept., Oberlin, OH [April 2013]; Chicago College of Performing Arts (CCPA), Roosevelt University, Chicago, IL [December 2011]

"Untangling the Symphony Orchestra: An Organizational Perspective," Michigan Interdisciplinary Music Forum, Ann Arbor, MI [April 2011]

"ReImagining Engagement in the Performing Arts: A Case Study," Arts of Citizenship Forum, University of Michigan, Ann Arbor [November 2010]

Moderator and panelist for *American Orchestras Summit: Creating Partnerships in Research and Performance*, University of Michigan, Ann Arbor [January 2010]

"Orchestras as Organizations," Interdisciplinary Committee on Organizational Studies (ICOS) Lecture Series, Ross School of Business, University of Michigan, Ann Arbor, MI [Jan. 22, 2010]

Pre-concert lectures for performances by the New York Philharmonic, Chicago Symphony Orchestra and other performing arts organizations, [2008–present]

## HONORS, AWARDS, & GRANTS

Best Presentation Award, SocInfo 2014

Best Paper Award, SocInfo 2014 (Runner-up)

Conference Travel Grant, The Graduate School, Northwestern University (2014, 2013)

Catalyst Grant, The Graduate School, Northwestern University (2013)

Finalist, Wiley Housewright Dissertation Award, Society for American Music (2012)

Rackham Humanities Candidacy Research Fellowship, University of Michigan (2011)

Rackham International Research Award, University of Michigan (2011; declined)

A-R Editions Award for Best Student Paper given at AMS Midwest (2010–11)

Arts of Citizenship Public Scholarship Fellow, University of Michigan (2010)

Glenn McGeoch Departmental Teaching Award, University of Michigan (2009–10)

Louise E. Cuyler Prize in Musicology, University of Michigan (2009–10)

Interdisciplinary Committee on Organizational Studies (ICOS) Conference Grant (Winter 2010)
Cuyler Travel Award, University of Michigan (2010)

Michigan Student Leadership Award (honorable mention 2009, 2010)

Rackham Summer Research Grant, University of Michigan (2008, 2010)


## TEACHING EXPERIENCE

### Northwestern University

*Teaching Assistant, Management and Organizations (MORS) Department*

Power in Organizations (Full and Part-Time MBA, Prof. William Ocasio) (2015, 2014, 2013)
Leadership in Organizations (Full and Part-Time MBA, Prof. Loran Nordgren) (2014, 2013)
Leading the Strategic Change Process (Executive MBA, Prof. Paul Hirsch) (2014, 2013)
Negotiations (Part-Time MBA, Prof. Nicole Stephens) (2014)

### University of Michigan

Graduate Teaching Certificate, Center for Research on Learning and Teaching (2011)

*Lecturer, Residential College*
Classical Music in America (2010, 4.9/5.0)
*Teaching Assistant, Musicology Department*

Music Appreciation for non-music majors (2010, 4.8/5.0)
Popular Music survey for non-music majors (2009, 5.0/5.0)
American Music survey for music majors (2009, 5.0/5.0)
World Music survey for music majors (2008, 4.7/5.0)
Western Classical Music survey for music majors (2008, 4.8/5.0)


## WORK EXPERIENCE

**Symphony Bros., LLC** (www.symphonybros.com)
Co-Founder and Managing Partner (2010–present)

**University of Michigan, School of Music, Theatre & Dance,** Ann Arbor, MI
Ed. Assistant to Jane Fulcher, *Oxford Handbook to the New Cultural History of Music* (2009–2011)
Ed. Assistant to Charles Garrett,*The Grove Dictionary of American Music*, 2nd Edition (2007–2010)

**University Musical Society (UMS)**, Ann Arbor, MI
Audience Development Intern, Education Department (2009–2011)

**Relâche Ensemble**, Philadelphia, PA
Intern and Interim Executive Director (2006–2007)

**University of Pennsylvania, Department of Music**, Philadelphia, PA
Manager, College House Music Program (2004–2007)
Manager, Librarian, and Program annotator, University of Pennsylvania ensembles (2004–2007)


## PROFESSIONAL SERVICE

**The Academy**
Member, Communications Committee, OMT Division (2013–present)
Co-Organizer & Contributor, The ASQ Blog (ASQblog.com) (2013-present)
Ad Hoc Reviewer, *Organization Science* and *Organizational Studies* (2012–present)

**Northwestern University**
Co-Organizer, SION Interdisciplinary Graduate Student Workshop (2012–present)
Chair, PhD Student Advisory Committee, MORS Dept. (2014–2015)
Member, PhD Student Admissions Committee, MORS Dept. (2013-2014)
Chair, PhD Student Social Committee, MORS Dept. (2012–2013)

**University of Michigan**
Executive Director and President, Arts Enterprise @ UM (2008–2010)
President, Michigan Interdisciplinary Music Society (2009–2010)

**Other (Community, Arts and Culture)**

Mentor, Minds Matter (http://mindsmatterchicago.org/) (2013–present)
Member, Board of Directors, Lake Shore Symphony Orchestra (2013-2015)

Member, Board of Directors, Arts Enterprise (www.artsenterprise.com) (2010–2012)
Occasional source for *Bloomberg News* and *The Tennessean* (2011–present)
Inaugural EmcArts Blogging Fellow (2011)
Member, Cultural Leaders Forum, Ann Arbor Arts Alliance (2008)

## PROFESSIONAL MEMBERSHIPS

American Sociological Association (since 2014)
European Group on Organizational Studies (since 2013)
Academy of Management (since 2010)
American Musicological Society (since 2007)
League of American Orchestras (since 2007)
Society for American Music (since 2007)

## WEBSITE(S)

http://www.kellogg.northwestern.edu/faculty/mauskapf/index.htm
CV: http://www.kellogg.northwestern.edu/faculty/mauskapf/CV2014.pdf

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter to verify the following facts: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to music.

<div align="center">SUMMARY</div>

Based upon my knowledge of music, the music community and DotMusic's public statements concerning their .MUSIC community application, DotMusic has established the following facts:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the defined and recognized Community.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string.   DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework.   The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

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[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics.html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and
https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community. Cumulatively, DotMusic possesses documented support[73] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


## B) *Nexus*[74]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] http://music.us/supporters
[74] See http://music.us/nexus

defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential

relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: *Mike Alleyne*

Name:  Mike Alleyne

Title:  Professor

Organization:  Middle Tennessee State University

Date:  7th April, 2015

<u>**About Dr. Mike Alleyne**</u>

*Professor in the Department of Recording Industry*

*Middle Tennessee State University*

Mike Alleyne is a tenured full Professor in the Department of Recording Industry at Middle Tennessee State University (MTSU). He is the author of The Encyclopedia of Reggae: The Golden Age of Roots Reggae (Sterling Publishing, 2012) and contributing editor of Rhythm Revolution (Cognella Academic Publishing, 2013 & 2014). His popular music writings have been published in peer-reviewed journals such as Popular Music History, the Canadian Journal of Latin American and Caribbean Studies, Rock Music Studies, Popular Music & Society, and the Journal on the Art of Record Production.

Professor Alleyne was also a consultant for the Estate of Marvin Gaye in the 2015 copyright infringement trial involving the 2013 hit song "Blurred Lines." His report as admitted into evidence in the case. His book chapter contributions appear in Rihanna: Barbados World-Gurl in Global Popular Culture (2015), Sound and Music in Film and Visual Media: An Overview (2009), Globalization, Diaspora & Caribbean Popular Culture (2005), Bob Marley: The Man & His Music (2003), and Culture and Mass Communication in the Caribbean (2001). Prof. Alleyne has also contributed several entries to the award-winning Grove Dictionary of American Music (2013), and has also been published in Billboard, the internationally-recognized weekly magazine on the music industry.

Dr. Alleyne's work has led to guest lectures in Jamaica, Barbados, England, Sweden and Germany, and the presentation of conference papers across the globe. In 2012, he was the guest speaker at the annual Bob Marley Lecture in Kingston, Jamaica, presenting "For The Record: Bob Marley's Island Albums and the 40th Anniversary of Catch a Fire." Professor Alleyne has served as the Distinguished Cultural Studies Lecturer & Scholar-in-Residence at the University of the West Indies, Trinidad, and has been a doctoral thesis examiner for that institution's other campuses.. Prof. Alleyne has also been a guest lecturer in the Music Management program at Linnaeus University in Sweden in 2004 & 2007 (formerly the University of Kalmar) and at the Pop Akademie in Germany (2010-2015).

He has presented numerous conference papers on popular music across Europe, Latin America and Africa. Beyond Caribbean popular music, his academic work also encompasses from the history of album cover art. Professor Alleyne's involvement with popular music also includes his roles as a writer member of ASCAP (American Society of Composers, Authors & Publishers) and PRS (Performing Right Society).

Professor Alleyne is also an Editorial Board member for the journal Popular Music & Society, and a member of the International Association for the Study of Popular Music (IASPM) and the Caribbean Studies Association (CSA).

**Popular Music Specialist/Author**

BOOKS:

*2014*

Rhythm Revolution: A Chronological Anthology of American Popular Music (Ed.) Revised Edition.
San Diego: Cognella Academic Publishing.

*2013*

Rhythm Revolution: A Chronological Anthology of American Popular Music (Ed.).
San Diego: Cognella Academic Publishing.

*2012*

The Encyclopedia of Reggae: The Golden Age of Roots Reggae. New York: Sterling
Publishing.

RECENT JOURNAL, DICTIONARY AND BOOK REVIEW PUBLICATIONS:

*2014*

"After the Storm: Hipgnosis, Storm Thorgerson & the Rock Album Cover." Rock Music Studies, Vol. 1,
Issue 3: 251-267.

*2013*

Book Review. Archipelagos of Sound. Canadian Journal of Latin American and Caribbean Studies. Vol.
38, No. 74.

"Quincy Jones," "Bob Marley," "Reggae," and "Nile Rodgers." The Grove Dictionary of American
Music, Second Edition. (Ed. C. H. Garrett). New York: Oxford University Press.

*2011*

"Rihanna & The Barbados Music Industry." Caribbean Creatives 1.2 : 5.

*2009*

"Globalisation and Commercialisation of Caribbean Music." Popular Music History
3.3 : 247-273.

"Sounds Reel: Tracking The Cultural History of Film Sound Technology." Sound and Music in Film and Visual Media: An Overview. (Ed. Graeme Harper). Continuum Press : 15-41.

"Facing The Music." Billboard, 21 March, 2009 : 4.

## Conference Presentations

Recent journal, dictionary and book review publications:

*2014*

"After the Storm: Hipgnosis, Storm Thorgerson & the Rock Album Cover." Rock Music Studies, Vol. 1, Issue 3: 251-267.

"Cover Stories: The Reggae Album Cover Art of Tony Wright." 39th AnnuaL Caribbean Studies Association Conference, Merida, Mexico.

*2013*

Book Review. Archipelagos of Sound. Canadian Journal of Latin American and Caribbean Studies. Vol. 38, No. 74.

"Quincy Jones," "Bob Marley," "Reggae," and "Nile Rodgers." The Grove Dictionary of American Music, Second Edition. (Ed. C. H. Garrett). New York: Oxford University Press.

"Visual Roots: Reggae Album Cover Images." Jamaica Music Museum, Institute of Jamaica.

"Reggae in the Material World: The Police Revisited." International Reggae Conference, Kingston, Jamaica.

*2012*

"For The Record: Bob Marley's Island Albums and the 40th Anniversary of Catch a Fire." The Annual Bob Marley Lecture, University of the West Indies, Kingston, Jamaica.

*2011*

"Rihanna & The Barbados Music Industry." Caribbean Creatives 1.2 : 5.

*2009*

"Globalisation and Commercialisation of Caribbean Music." Popular Music History
3.3 : 247-273.

"Sounds Reel: Tracking The Cultural History of Film Sound Technology." Sound and
Music in Film and Visual Media: An Overview. (Ed. Graeme Harper). Continuum
Press : 15-41.

"Facing The Music." Billboard, 21 March, 2009 : 4.

**Portfolio**

Rhythm Revolution:

> The essay collection Rhythm Revolution provides a compact but detailed analysis of significant genres, artists, and trends characterizing popular music's evolution after World War II. It addresses the creative, economic, social, and political contexts of key developments in the music itself, and the recording industry.

> The book's chronological structure shows interconnections between different developments. Beginning with British rock and pop from the 1950s through the 1970s, the text then pairs the 1960s with soul music, and the 1970s with the rise of fusion and funk. There is a chapter devoted to the roots of reggae, and coverage of the 1980s addresses the expanding role of televised music. In addition, the material provides a wealth of detail on topics not typically covered, including the history of the album cover, and the formation and impact of specific record labels.

> Rhythm Revolution is ideal for teachers who want to engage their students in a detailed examination of pivotal eras and turning points. It can be used as a stand-alone text, or as a supplemental reader to standard textbooks on popular music history.

The Encyclopedia of Reggae: The Golden Age of Roots Reggae:

> This heavily illustrated guide to reggae is a colorful, herbally endowed, and sunsplashed history of one of the world's most popular musical styles. Reggae was born in 1960s Jamaica, a potent mix of such indigenous genres as ska and rocksteady plus R&B, jazz, and traditional African rhythms. Before long, it had conquered the globe, influencing musicians from Britain to Brazil. The Encyclopedia of Reggae focuses on the music's golden age, from the late 1960s to the mid-1980s heyday of dancehall, and features more than 500 images, including rare album art and ephemera. Written by one of the foremost experts on the subject, this amazing resource profiles more than 200 key performers, impresarios, and producers from reggae's history.

**Websites:**

http://rim.mtsu.edu/faculty_display.php?faculty=malleyne
http://mikealleyneprojects.com/

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string.   DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework.   The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

(1) There is an awareness and recognition among its members;

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music"
(http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics.html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

*B) Nexus*[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

   1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

   2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,



*Nathan Hesselink*

Signature: <span style="color:gray">Contact Information Redacted</span>   <span style="color:red">Apr 24 '15    ip: 137.82.250.164</span>

Name: Nathan Hesselink

Title: .rofessor of Music

Organization: University of British Columbia

## About Dr. Nathan Hesselink

*Professor, Ethnomusicology*
*University of British Columbia*

*PhD in Ethnomusicology (University of London)*
*MA (Mich.),*
*BMus (Northwestern),*

## Biography

Nathan Hesselink's research broadly encompasses the topic of rhythmic play and social meaning, firstly in South Korean traditional percussion genres and more recently in British rock music. He received his Ph.D. in ethnomusicology from the University of London, SOAS, and was a postdoctoral research fellow in Korean studies at the University of California, Berkeley. In addition to visiting posts at the University of Chicago and the Academy of Korean Studies, in 2012 he was Trinity Term Visiting Research Associate, St John's College, University of Oxford.

Select publications include *P'ungmul: South Korean Drumming and Dance* (University of Chicago, 2006, winner of the 2008 Lee Hye-Gu Award by the Korean Musicological Society), *SamulNori: Contemporary Korean Drumming and the Rebirth of Itinerant Performance Culture* (University of Chicago, 2012), and "Radiohead's 'Pyramid Song': Ambiguity, Rhythm, and Participation," *Music Theory Online* (19.1.3, 2013). He is currently Professor of Ethnomusicology at the University of British Columbia and a Research Associate of the Centre for Korean Research.

## Education

Interlochen Arts Academy, high school diploma cello performance, 1984

Northwestern University, BM cello performance, 1988

University of Michigan-Ann Arbor, MA ethnomusicology, 1992

University of London-School of Oriental and African Studies, PhD ethnomusicology, 1998

## Posts

Instructor of Performance Studies (Korean Percussion), University of London-SOAS, 1996-97

Postdoctoral Research Fellow in Korean Studies, University of California-Berkeley, 1998-99

Assistant Professor of Ethnomusicology, Illinois State University, 1999-2005

Visiting Assistant Professor of Ethnomusicology, University of Chicago, 2003

Professor of Ethnomusicology, University of British Columbia, 2005-present

    [2005-2007: Assistant Professor, 2007-2013: Associate Professor]

Advanced Research Fellow in Korean Studies, Academy of Korean Studies (South Korea), 2006

Trinity Term Visiting Research Associate, St John's College, University of Oxford, 2012

    [2011-12: Visiting Scholar, Faculty of Music, University of Oxford]


## Publications

### Books

*SamulNori: Contemporary Korean Drumming and the Rebirth of Itinerant Performance Culture*. Chicago Series in Ethnomusicology. Chicago: University of Chicago Press, 2012. (201 pp.)

> • reviewed in *Ethnomusicology* (57.2, 2013), *Ethnomusicology Forum* (22.1, 2013), *The Journal of Asian Studies* (72.1, 2013), *Journal of Folklore Research* (2013), New Books in East Asian Studies (2013), *Bulletin of the School of Oriental and African Studies* (76.1, 2013), *Anthropos* (108.1, 2013), *Notes* (June, 2014)

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> • reviewed in *Korean Quarterly* (13.3, 2010), *Journal of the Royal Anthropological Institute* (15.1, 2009), *Western Folklore* (68.2/3, 2009), *World of Music* (50.2, 2008), *Journal of Asian Studies* (67.4, 2008), *Asian Ethnology* (67.1, 2008), *Ethnomusicology* (52.1, 2008), *American Anthropologist* (109.2, 2007), *Ethnomusicology Forum* (16.1, 2007), *Yearbook for Traditional Music* (39, 2007), *Han'guk ŭmaksa hakpo* (39, 2007)

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"Coming to the City: SamulNori and 1970s' Korean Music Culture." In *Mandang Yi Hyegu paksa paeksu songch'uk nonmunjip* (Essays on Music Offered to Dr. Lee Hye-ku in Honor of His Hundredth Birthday), ed. Hwang Junyeon *et al*, 661-91. Seoul: Minsogwŏn, 2008.

"Pungmul and Samulnori." In *Music of Korea*, ed. Byong Won Lee and Yongshik Lee, 93-104. Korean Musicology Series 1. Seoul: National Center for Korean Traditional Performing Arts, 2007.

"On the Road with 'Och'ae Chilgut': Stages in the Development of Korean Percussion Band Music and Dance." In *Contemporary Directions: Korean Folk Music Engaging the Twentieth Century and Beyond*, ed. Nathan Hesselink, 54-75. Berkeley: University of California Press, 2001.

## Journal Articles

"The Ethnomusicologist as Composer." *Music and Culture* 31: 31-44 (2014)

"Rhythmic Play, Compositional Intent, and Communication in Rock Music." *Popular Music* 33.1: 69-90 (2014)

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Hesselink, Nathan and Jonathan C. Petty. "Landscape and Soundscape: Geomantic Spatial Mapping in Korean Traditional Music." *Journal of Musicological Research* 23.3/4:265-88 (2004) (Hesselink = 50%)

"*Kil kunak ch'ilch'ae* (Seven-Stroke Road Military Music) Rhythmic Pattern: *P'ungmul* and the Bridging of the North-South Divide." *Tongyang ŭmak* [*Asian Music*] 25:111-27 (2003)

"Modernization, Urbanization, and the Re-emergence of the Professional Korean Folk Musician." *Han'guk ŭmaksa hakpo* [*Journal of the Society for Korean Historico-Musicology*] 29:519-49 (2002)

"'*P'ungmul* is Played with Your Heel!': Dance as a Determinant of Rhythmic Construct in Korean Percussion Band Music/Dance." *Music and Culture* 4:99-110 (2001)

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"*Changdan* Revisited: Korean Rhythmic Patterns in Theory and Contemporary Performance Practice." *Han'guk ŭmak yŏn'gu* [*Studies in Korean Music*] 24:143-55 (1996)

"Geisha, Kouta, and Karaoke." *Kyoto Journal* 32:18-23 (1996)

"Kouta and Karaoke in Modern Japan: A Blurring of the Distinction between *Umgangsmusik* and *Darbietungsmusik*." *British Journal of Ethnomusicology* 3:49-61 (1994)

**Website(s)**

http://music.ubc.ca/person/nathan-hesselink/
https://sites.google.com/site/nathanhesselink/home
https://sites.google.com/site/nathanhesselink/home/resume

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string.  DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework.  The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
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> (2) The organized and delineated logical alliance of communities exists; and
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> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii)  International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries.  In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

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[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [71] – a majority of global music.[72]

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[73] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


*B) Nexus*[74]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] http://music.us/supporters
[74] See http://music.us/nexus

defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential

relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature:     Contact Information Redacted     Apr 14 '15     ip: 150.203.62.73

Name:    Paul McMahon

Title:    Dr

Organization:    School of Music, Australian National University

Date:    15 April 2015

## About Dr. Paul McMahon

*Lecturer in Music,*
*Performance Convenor*
*College of Arts and Social Sciences*
*Australian National University*

### Education

B. Cr. Arts (Music) (University of Southern Queensland),
Grad. Dip. Mus. (Queensland Conservatorium Griffith University),
M. Mus. (Perf.) (University of Sydney),
PhD (Queensland Conservatorium Griffith University)

### Research interests

- Historical performance practice
- Vocal performance and the pedagogy of singing
- Music performance research

### Biography

Performing regularly as a soloist with symphony orchestras, chamber music groups & choirs throughout Australia, New Zealand & Asia, tenor Paul McMahon is one of Australia's leading exponents of Baroque repertoire, particularly the Evangelist role in the *Passions* of J. S. Bach. Career highlights include Bach's *Matthäus-Passion* under Roy Goodman; Haydn's *Die Schöpfung* under the late Richard Hickox, and Mozart's *Great Mass in C Minor* under Masaaki Suzuki. Paul's recent collaborations include recitals with the renowned pianists Bengt Forsberg and Kathryn Stott & the Australia Ensemble.

He has appeared as soloist in the festivals of Sydney, Melbourne & Brisbane & has broadcast extensively on ABC Classic FM. He was a member of The Song Company from 1997 to 2001, touring regularly throughout Australia, Asia & Europe. Paul's discography includes the solo album of lute songs entitled *A Painted Tale*; a CD & DVD recording of Handel's *Messiah*; Monteverdi's *L'Orfeo*; Mozart's *Requiem & Idomeneo*. He is featured on the *Swoon* series; various Christmas cds & the soundtrack to feature film *The Bank*. This season, Paul appears as soloist in Handel's *Messiah* (MSO, QSO & the Consort of St George's Cathedral, Perth).

Other solo appearances include Handel's *Theodora* (Canberra Choral Society), Haydn's *Theresienmesse* (MSO), Mozart's *Requiem* (Auckland Philharmonia), Orff's *Carmina Burana* (Sydney Symphony), & Beethoven's *Symphony 9* (Adelaide Symphony Orchestra). Paul holds a PhD & Graduate Diploma of Music (Queensland Conservatorium Griffith University), Master of Music (Performance) (Sydney Conservatorium of Music), & Bachelor of Creative Arts (University of Southern Queensland). In 2002, he was awarded a Churchill Fellowship for intensive study of Baroque repertoire under Marius van Altena at the Royal Conservatoire in The Hague.

**Publications**

**Book and book chapters**

- McMahon, Paul G. (2014). "Handel and the voice practitioner: Perspectives on performance practice and higher education pedagogy" in *Teaching singing in the 21ˢᵗ century.* Scott D. Harrison & Jessica O'Bryan (eds). Dordrecht: Springer, pp. 263–286.
- McMahon, Paul G. (2010). "Classical voice pedagogy in Greater Newcastle: The singing teacher's perspective." In *Perspectives on teaching singing: Australian vocal pedagogues sing their voices*, Scott D. Harrison (ed.). pp. 66–82. Brisbane: Australian Academic Press.
- McMahon, Paul G. (2009). *George Frideric Handel and Giovanni Battista Draghi: Two contrasting approaches to text setting in John Dryden's A Song for St Cecilia's Day, 1687.* Köln: Lambert Academic Publishing.

**Conference Publications (Peer-reviewed)**

- McMahon, Paul G. (2013). *Dialogue and collective interaction: Informants upon the collaborative interpretation of Baroque performance practice.* Proceedings of the International Symposium on Performance Science, Vienna (August, 2013).
- McMahon, Paul G. (2013). *Practitioner reflections on higher education pedagogy: Performance practice and the music of Handel.* Proceedings of the 8ᵗʰ International Conference of Voice Teachers, pp. 147–156, Brisbane (July, 2013). ISBN 978-0-9922713-0-5.

**Journal articles (Refereed)**

- McMahon, Paul G. (In press). Tudor and Jacobean England: Observations on secular and sacred vocal music. *Musicology Australia.* Abingdon: Taylor and Francis.
- McMahon, Paul G. (2006). Draghi and Handel: Two contrasting approaches to John Dryden's Song for St Cecilia's Day, 1687. *Australian Voice*, Vol. 12, Journal of the Australian National Association of Teachers of Singing, pp. 32–38.

**Conference Presentations**

- McMahon, Paul G. (2015). *The dialogue of friendship: Musical discourse and character relationships in Handel's Jephtha.* 38ᵗʰ National Conference of the Musicological Society of Australia, Sydney (October 2015).
- McMahon, Paul G. (2015). *Darkness to light: Reflections upon Handel's rhetorical vocal writing in the English oratorio Samson.* Australian and New Zealand Association for Medieval and Early Modern Studies 10ᵗʰ Biennial International Conference, Brisbane (July 2015).
- McMahon, Paul G. (2014). *Rhetorical devices in sacred and secular realms: The musico-dramatic structures of Bach and Handel.* The Voice and the History of Emotions Performance Collaboratory, Sydney (October 2014).
- McMahon, Paul G. (2014). *The premiere of Alexander's Feast and Cecilia, volgi un sguardo: Handel's vocal writing for tenors John Beard and Carlo Arrigoni in 1736.* 16ᵗʰ International Conference on Baroque Music, Salzburg (July, 2014).

- McMahon, Paul G. (2013). *Dialogue and collective interaction: Informants upon the collaborative interpretation of Baroque performance practice.* International Symposium on Performance Science, Vienna (August, 2013).
- McMahon, Paul G. (2013). *Practitioner reflections on higher education pedagogy: Performance practice and the music of Handel.* 8th International Conference of Voice Teachers, Brisbane (July, 2013).
- McMahon, Paul G. (2012). *Baroque performance practice: Methodologies in conservatoire pedagogy.* 3rd International Reflective Conservatoire Conference, London (March, 2012). Conference Reader ISBN: 978–0–9571888–1–5. http://rcconference2012.org.uk/attachments/papers/PaulMcMahon.pdf

**Excellence in Research Australia research portfolio**

- McMahon, Paul G. (2011). *Affect: Emotive text and musical expression in the 'live' performance of eighteenth-century vocal music.* FoR code: 190407.

**CD recordings (featured soloist)**

- McMahon, Paul G. (2009). *David and Jonathan.* Sydney: ABC Classics (476 3691).
- McMahon, Paul G. (2009). *The First Nowell.* Sydney: ABC Classics (476 3682).
- McMahon, Paul G. (2008). *Exaltate Dominum.* Sydney: ABC Classics (476 6290).
- McMahon, Paul G. (2008). *Handel – Top 40.* Sydney: ABC Classics (476 3335).
- McMahon, Paul G. (2007). *Idomeneo.* Sydney: ABC Classics (476 6350).
- McMahon, Paul G. (2007). *Angels ever bright.* Sydney: ABC Classics (442 9812).
- McMahon, Paul G. (2006). *Danny Boy.* Sydney: ABC Classics (476 9238).
- McMahon, Paul G. (2006). *Ye Banks and Braes.* Sydney: ABC Classics (476 8035).
- McMahon, Paul G. (2006). *Pepusch Cantatas.* Sydney: Salut Baroque (SAL004).
- McMahon, Paul G. (2006). *Fairest Isle – The timeless music of Henry Purcell.* Sydney: ABC Classics (476 5329).
- McMahon, Paul G. (2006). *Eternity.* Sydney: ABC Classics (476 160-7).
- McMahon, Paul G. (2005). *Swoon Gold.* Sydney: ABC Classics (476 7925).
- McMahon, Paul G. (2005). *L'Orfeo.* Sydney: ABC Classics (476 8030).
- McMahon, Paul G. (2005). *Choral Spectacular.* Sydney: ABC Classics (476 5706).
- McMahon, Paul G. (2005). *Praise II.* Sydney: ABC Classics (476 284-1).
- McMahon, Paul G. (2005). *A Painted Tale.* Sydney: ABC Classics (476 192-9).
- McMahon, Paul G. (2004). *The Fairy Queen.* Sydney: ABC Classics (476 2879)
- McMahon, Paul G. (2004). *An Introduction to Handel's Messiah.* Sydney: ABC Classics (476 289-0).
- McMahon, Paul G. (2004). *Felix and Me.* Sydney: ABC Classics (476 176-2).
- McMahon, Paul G. (2004). *Silent Night.* Sydney: ABC Classics (476 291-6).
- McMahon, Paul G. (2003). *Classic.* Sydney: ABC Classics (476 155-8).
- McMahon, Paul G. (2003). *Semele.* Sydney: ABC Classics (980 047-0).
- McMahon, Paul G. (2003). *The Rise and Rise of Australian Rugby.* Sydney: ABC Classics (476 122-9).
- McMahon, Paul G. (2002). *Messiah.* Sydney: ABC Classics (472601-2).
- McMahon, Paul G. (2002). *Carmina Burana.* Sydney: ABC Classics (472 481-2).
- McMahon, Paul G. (2002). *Prayer for Peace.* Sydney: ABC Classics (465 824-2).
- McMahon, Paul G. (2002). *Glorious Night.* Sydney: ABC Classics (472 600-2).
- McMahon, Paul G. (2001). *Perfect Day.* Sydney: ABC Classics (472 044-2).
- McMahon, Paul G. (2001). *The Bank* (Soundtrack). Sydney: ABC Classics (465 703-2).

- McMahon, Paul G. (2001). *La Naissance de Venus.* Sydney: ABC Classics (472 045-2).

**DVD recordings (featured soloist)**

- McMahon, Paul G. (2003). *Swoon—A Visual and Musical Odyssey.* Sydney: ABC Classics (DVD 980047-6).
- McMahon, Paul G. (2002). *Messiah.* Sydney: ABC Classics (DVD 472 604-9).

**Selected performances (2005 – 2015)**

- McMahon, Paul G. (2015). Bach *St John Passion*, Sydney Philharmonia Choirs.
- McMahon, Paul G. (2015). Bach *Coffee Cantata*, Canberra International Music Festival.
- McMahon, Paul G. (2014). Bach *St John Passion*, Trinity College, Melbourne. (#)
- McMahon, Paul G. (2014). Bach *St Matthew Passion*, St George's Cathedral, Perth. (R)
- McMahon, Paul G. (2014). Handel: *Messiah*, New Zealand Symphony Orchestra.
- McMahon, Paul G. (2014). *Dr Who Symphonic Spectacular*, Melbourne Symphony Orchestra.
- McMahon, Paul G. (2014). *Carmina Burana*, Adelaide Symphony Orchestra. (R)
- McMahon, Paul G. (2013). Beethoven *Ninth Symphony*, Adelaide Symphony Orchestra. (# R)
- McMahon, Paul G. (2013). Handel *Messiah*, Melbourne Symphony Orchestra.
- McMahon, Paul G. (2013). Handel *Messiah,* Queensland Symphony Orchestra.
- McMahon, Paul G. (2013). Handel *Messiah*, St George's Cathedral, Perth. (R)
- McMahon, Paul G. (2013). Handel *Messiah*, Newcastle University Choir.
- McMahon, Paul G. (2013). Handel *Theodora*, Canberra Choral Society. (^ R)
- McMahon, Paul G. (2013). Haydn *Theresienmesse*, Melbourne Symphony Orchestra. (^ R)
- McMahon, Paul G. (2013). Mozart Requiem. Auckland Philharmonic Orchestra. (^ R)
- McMahon, Paul G. (2013). Orff *Carmina Burana*, Sydney Symphony. R
- McMahon, Paul G. (2012). Mozart *Requiem*, Adelaide Symphony Orchestra (* R).
- McMahon, Paul G. (2012). Mozart *Great Mass in C Minor*, Auckland Choral.
- McMahon, Paul G. (2012). Bach *Magnificat*, St George's Cathedral, Perth.
- McMahon, Paul G. (2012). Glanville-Hicks *Profiles from China*, Australia Ensemble, Sydney. (* # R)
- McMahon, Paul G. (2012). Mozart *Requiem*, Sydney Symphony. (* # R)
- McMahon, Paul G. (2012). Bach *Johannes-Passion*, Melbourne Bach Choir.
- McMahon, Paul G. (2012). Handel *Messiah*, St George's Cathedral, Perth. (R)
- McMahon, Paul G. (2011). Handel *Messiah*, Hobart Baroque. (R)
- McMahon, Paul G. (2011). Bach *Christmas Oratorio*, St George's Cathedral, Perth. (R)
- McMahon, Paul G. (2011). Mozart *Great Mass in C Minor*, West Australian Symphony Orchestra, Perth. (* # R)
- McMahon, Paul G. (2011). Mozart *Great Mass in C Minor*, Melbourne Symphony Orchestra. (* #)
- McMahon, Paul G. (2011). Bach *Mass in B Minor*, Sydney Philharmonia Choirs. (* ^ R)
- McMahon, Paul G. (2011) de Lalande *De Profundis Clamavi*, Sydney Philharmonia Choirs.
- McMahon, Paul G. (2011). Orff *Carmina Burana*, Melbourne Symphony Orchestra. (* # R)
- McMahon, Paul G. (2011). Handel *Messiah*, St George's Cathedral, Perth. (R)
- McMahon, Paul G. (2011). Bach *Magnificat*, Adelaide Symphony Orchestra. (* #)
- McMahon, Paul G. (2011). Bach *Johannes-Passion*, Sydney Philharmonia Choirs. (R)
- McMahon, Paul G. (2011). Bach *Johannes-Passion*, St George's Cathedral, Perth. (R)
- McMahon, Paul G. (2011). Bach *Matthäus-Passion*, Orpheus Choir, Wellington. (R)
- McMahon, Paul G. (2010). Handel *Messiah*, Auckland Choral. (R)

- McMahon, Paul G. (2010). Mozart *Requiem*, St George's Cathedral, Perth. (R)
- McMahon, Paul G. (2010). Mozart *Great Mass in C Minor*, St George's Cathedral, Perth. (R)
- McMahon, Paul G. (2010). Monteverdi *Vespro della Beata Vergine*, Sydney Philharmonia Choirs. (R)
- McMahon, Paul G. (2010). Purcell *King Arthur*, Sydney Philharmonia Choirs. (R)
- McMahon, Paul G. (2010). Bach *Matthäus-Passion*, Auckland Philharmonia Orchestra. (* ^ R)
- McMahon, Paul G. (2010). Bach *Mass in B Minor*, Orpheus Choir, Wellington. (* ^ R)
- McMahon, Paul G. (2010). Bach *Johannes-Passion*, City of Dunedin Choir. (R)
- McMahon, Paul G. (2010). Monteverdi *Vespro della Beata Vergine*, Christ Church St Laurence, Sydney.
- McMahon, Paul G. (2010). Bach *Matthäus-Passion*, Melbourne Bach Choir.
- McMahon, Paul G. (2009). Handel *Messiah*, Melbourne Symphony Orchestra. (* # R)
- McMahon, Paul G. (2009). Spiers *A Slender Strand of Memories*. (* +) World premiere performance of a commissioned work marking the sesquicentenary of local government in Newcastle.
- McMahon, Paul G. (2009). Haydn *Creation*, Auckland Philharmonic Orchestra. (* ^ R)
- McMahon, Paul G. (2009) Handel *Messiah*, Adelaide Symphony Orchestra. (* # R)
- McMahon, Paul G. (2009). Dean *Winter Songs*. Australia Ensemble, Sydney. (* # R)
- McMahon, Paul G. (2008). Charpentier *David and Jonathan*, Pinchgut Opera, Sydney. (* # R)
- McMahon, Paul G. (2008). Bach *Mass in B Minor*, Sydney Philharmonia Choirs. (* ^ R)
- McMahon, Paul G. (2007). Britten *Canticle II*, Australian Festival of Chamber Music, Townsville. (* #)
- McMahon, Paul G. (2007). Vaughan Williams *On Wenlock Edge*, Australian Festival of Chamber Music, Townsville. (* #)
- McMahon, Paul G. (2006). Mozart *Idomeneo* (Arbace), Pinchgut Opera, Sydney. (* # R)
- McMahon, Paul G. (2006). Bach *Matthäus-Passion*, Sydney Chamber Choir. (* # R)
- McMahon, Paul G. (2005). Bach cantatas BWV 79, 80, 140, Sydney Philharmonia Choirs. (* # R)
- McMahon, Paul G. (2005). Bach cantatas BWV 19, 130, 149, Sydney Philharmonia Choirs. (* #)
- McMahon, Paul G. (2005). Bach cantatas BWV 27, 46, 78, 105, Sydney Philharmonia Choirs. (* # R)
- McMahon, Paul G. (2005). Stradella cantatas and serenatas, University of Newcastle. (* +)
- McMahon, Paul G. (2005). Bach cantatas BWV 7, 9, 30, Sydney Philharmonia Choirs. (* # R)

**\*Key:**

ERA FoR Code: 190407

# recorded by ABC Classic FM

^ archival recording

R review/s published

**Website(s)**

https://researchers.anu.edu.au/researchers/mcmahon-p

http://www.paulmcmahon.com.au

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A)  *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music communities</u> that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an international federation of national communities of a similar nature... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

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Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


## B)  Nexus[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: Aug 5 '15     ip: 149.142.103.112

Name:  Rachel Resop

Title:  PhD

Organization: University of California, Los Angeles

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii)  An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See  OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries.  In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

***B) Nexus***[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: Contact Information Redacted     May 29 '15    ip: 146.200.68.77

Name: Dr. Shain Shapiro

Title: Managing Director

Organization: Sound Diplomacy

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants...and non-commercial participants...and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"...UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music...The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>...Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions...subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "<u>whole</u>"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009).  See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See
http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations <u>mainly</u> Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity</u> *mainly*[20] <u>dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

[21] http://www.ifacca.org/membership/current_members/

influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

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[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music"
(http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[27] http://www.culturalpolicies.net/down/albania_012011.pdf
[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[29] http://my.midem.com/en/contact-us/pavilion-representatives/

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects.  Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF
[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28
[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf
[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821
[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011
[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2
[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf
[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/
[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa,
http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[41]

The reach of A2IM Associate[42] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[43] – iTunes accounts for <u>63% of global digital music market</u>[44] - a <u>majority</u> – with a registered community of 800 million registered members[45] available in <u>119 countries</u> who abide to strict terms of service and boundaries[46] and have <u>downloaded over 25 billion songs</u>[47] from iTunes' catalog of over <u>43 million songs</u>[48] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[49]

[39] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://a2im.org/about-joining/

[42] http://a2im.org/groups/tag/associate+members/

[43] http://a2im.org/groups/itunes

[44] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share

[45] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt

[46] http://www.apple.com/legal/internet-services/itunes/ww/index.html

[47] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html

[48] https://www.apple.com/itunes/features/

[49] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html

- **Pandora**[50] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[51]
- **Spotify**[52] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[53]
- **Vevo**[54] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[55]
- **Youtube**[56] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[57] of which 38.4% is music-related.[58]
- **Reverbnation**[59] – Reverbnation[60] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[61] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[62]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[63]), China (China Audio Video Association[64]) and Germany (Initiative Musik).[65] A2IM also has Affiliate[66] associations within the global music community. These include Affiliates such as MusicFirst,[67] the Copyright Alliance,[68] the Worldwide Independent Network (WIN)[69] and Merlin.[70]

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[50] http://a2im.org/groups/pandora
[51] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[52] http://a2im.org/groups/spotify
[53] https://press.spotify.com/us/information/
[54] http://a2im.org/groups/vevo/
[55] http://www.vevo.com/c/EN/US/about
[56] http://a2im.org/groups/youtube/
[57] https://www.youtube.com/yt/press/statistics html
[58] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[59] http://a2im.org/groups/reverb-nation/
[60] http://www.reverbnation.com/about
[61] http://a2im.org/groups/bmg-rights/
[62] http://www.bmg.com/category/about-us/history/
[63] http://a2im.org/groups/french-music-export-office
[64] http://a2im.org/groups/china-audio-video-association-cava
[65] http://a2im.org/groups/initiative-musik-gmbh
[66] http://a2im.org/groups/tag/associate+members/
[67] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[68] http://www.copyrightalliance.org/members
[69] http://www.winformusic.org

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[71] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[72] whose members[73] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[74] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[75] the world's largest music market with 30% global market share.[76] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music"[77] – a majority of global music.[78]

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[70] http://www.merlinnetwork.org
[71] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf
[72] http://www.ifpi.org/about.php
[73] http://www.ifpi.org/our-members.php
[74] http://www.ifpi.org/national-groups.php
[75] http://www.riaa.com/faq.php
[76] http://www.statista.com/topics/1639/music/
[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[80] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[81] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


## B)  Nexus[82]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music

[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[81] http://music.us/supporters
[82] See http://music.us/nexus

entities to be included as part of the Community. Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[83] given the symbiotic overlapping nature of the Community as

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[83] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

*Sharon A Chanley, PhD*

Aug 1 '15     ip: 174.126.129.147

Signature:

Name:  Sharon Chanley

Title:  Instructor

Organization:  AZ State University

**SHARON ANNE CHANLEY**

Show Low, AZ
Contact Information Redacted

## EDUCATION

**Ph.D., Public Administration**
Arizona State University, School of Public Affairs.  Tempe, AZ.  December 2001.  Dissertation "Domestic Violence, Welfare, and Welfare Reform: The Family Violence Option in Arizona."

**Master of Public Administration**
Arizona State University, School of Public Affairs, Tempe, AZ. August, 1996.

Southwest Texas State University, Political Science Department; Master of Public Administration program with concentration in Legal and Judicial Administration.  15 hours completed.

**Bachelor of Liberal Studies**
St. Edward's University, New College, Austin, Texas.  May 1981.  Concentration: Management of Non-Profit Organizations.  Graduated Summa Cum Laude.

Austin Community College, Austin, Texas, Fall 1973 – Summer 1980 and University of Texas, Austin, Texas, Summer 1973

## ACADEMIC POSITIONS

**AZ State University**
College of Letters and Sciences, Interdisciplinary and Liberal Studies
Faculty Associate
Spring 2015 – Current

Developing and teaching undergraduate online courses in Liberal Studies.

**Upper Iowa University**
Online
Master of Public Administration and Online Undergraduate Programs
Online Instructor, Assessment Consultant, and Member, MPA Faculty Advisory Committee
Summer 2008 – Current

Developing and teaching graduate and undergraduate online courses in the area of public policy and in the MPA program core including in the nonprofit management emphasis area, and for program's capstone course.  Developing and analyzing program assessment materials including student writing and critical thinking assessments, NASPPA Accreditation Self-Study materials, faculty development information.

Active member of the MPA Faculty Advisory Committee providing guidance to the MPA Program Coordinator on program policies and other governance issues.

Consultant to assist MPA Program Coordinator in development of materials for NASPPA accreditation and program assessment tools and analyses.


**Thomas Edison State College**
Online Mentor
Summer 2009 - Current

Teaching undergraduate online course in career exploration and personal development.


**South University**
Master of Public Administration program
Subject Matter Expert
Online Faculty
Summer 2008 – 2013

Provided consultation services to director of online and blended programs regarding curriculum for master in public administration program.   Online course developer for *grant writing and contract administration* and *foundations to public administration*.

Teaching in the online MPA program including courses in the public administration core and in the nonprofit concentration.


**Western Illinois University**
Macomb IL
Political Science Department
Visiting Instructor
Fall 2008 – May 15, 2009

Taught undergraduate courses in the area of public policy and political science including Introduction to Public Policy, State Government and Politics, and Environmental Politics.


**Norwich University**
Northfield VT
Master of Public Administration & Justice Administration programs
Senior Instructor and Online Course Developer
Fall 2007 – Fall 2008

Taught the online Capstone course and seminars in Justice Policy for the Masters in Justice Administration program and to begin teaching seminars in the Masters in Public Administration program. Developed online course in nonprofit management and designed the curriculum for the public works administration concentration for graduate students.


**Bucknell University**
Lewisburg PA
Women's and Gender Studies Visiting Assistant Professor
Teaching Fellow Social Justice College

January – December 2006

Taught undergraduate core courses including Introduction in Feminist Thought and Introduction to Women's and Gender Studies as well as special topics, Women and Public Policy. In addition, taught first year residential student Foundation Seminar for students in the Social Justice College.


**University Of Illinois At Springfield**
Springfield IL
Liberal Studies/Individual Option Programs
Assistant Professor
2000 – 2005

Taught core courses at the undergraduate and graduate levels including introductory courses in which students design their degree programs and closure courses. Teach undergraduate and graduate courses in my discipline. Advise students on course selection and other issues. Serve as committee chair for Individual Option committees. Serve as member of Master's thesis committees from other program. Conduct scholarly activities including publications in peer-reviewed journals. Participate in governance activities at program, college, and university levels.

Credit For Prior Learning Program
Director
2001 – 2005

Taught core course related to experiential learning and to assist students develop portfolio-based requests for credit. Promote Credit for Prior Learning throughout university. Administer the program including planning, policy, and budget.

**Arizona State University**
Tempe AZ
Women's Studies Program
Instructor
1998 - 2000

Taught first year, sophomore, and junior levels of women's studies core and elective courses. Coordinated the women's studies senior internship program and taught related course.


*OTHER INSTITUTIONS*

    As my schedule has allowed, I have taught and developed courses, on-contract, for other institutions including: Mississippi University for Women (2011), Ashford University (2010-2011), New England College (2009), and Empire State College (2007). Courses included undergraduate and graduate courses in state and local government, public budgeting, budgeting and finance, economic analysis, poverty and race policy, American public policy, and American government.

## MANAGEMENT & ADMINISTRATIVE PROFESSIONAL EXPERIENCE

**ARIZONA COALITION AGAINST DOMESTIC VIOLENCE**
Phoenix, AZ
Executive Director
1993-1995
Consulting Finance Officer
1997

Chief Executive Officer for statewide non-profit organization with annual budget of $125,000, fifteen member Board of Directors and 3 full-time employees.

Fund Raising and Community Affairs: Increased annual agency budget by $35,000. Doubled membership including increased participation to 90% of state shelter programs. Increased agency community visibility and impact through membership on other statewide organizations addressing issues of domestic violence. Reestablished positive working relationships with regional domestic violence task forces and other key community groups. Established first battered women's and first women of color advisory committees. Established legislative alert network and conducted lobbying activities at the state and national level related to domestic violence laws and funding of related programs and services. Significantly increased agency and issue visibility through speaking engagements and statewide media interviews.

Program Management: Established first program for the Coalition to address technical assistance needs of shelter programs. Coordinated first statewide conference, held in three cities, on domestic violence. Doubled referrals provided to victims of domestic violence. Established resource library on domestic violence issues.

Administration and Management: Redesigned organization structure from general membership organization to one that operates primarily through standing and advisory committees with a Board of Directors to provide more internal oversight of agency activities and to ensure representation of diverse groups and organizations including battered women and women of color. Renegotiated improved contracts with AZ Department of Health Services and AZ Department of Economic Security. Redesigned agency budgeting and financial reporting systems.

Consulting Finance Officer: Responsible for entry and reconciliation of accounting data and information for 14 month period covering portions of two previous fiscal years. Preparation of financial reports for Board of Directors, funding sources and other regulatory agencies and for independent audit. Assisted new Executive Director with the development of funding applications and budgets during transition period from the previous interim director.

**ARIZONA FAMILY PLANNING COUNCIL**
Phoenix, AZ
Grants Administrator
1990-1993

Grants Administrator responsible for administration of $2 million Title X statewide family planning grant and contracts with delegate agencies including program and fiscal evaluations, contract development and review of compliance with federal, state and Council regulations and policies.

Service Management: Provided direct consultation to delegate agencies and other family planning providers regarding service delivery and program management. Maintained and developed systematic procedures for distribution of up-to-date information regarding family planning and related services, unmet need, policies, programs and developments in the field. Revised format and prepared for publication an annual statistical report on family planning services provided throughout Arizona.

Financial and Administration: Revised delegate agency peer review process and evaluation document. Revised grant application format and delegate reporting requirements and system. Responsible for increasing funding to Council during 1992 by $10,710 through contracts from the U.S. Department of Health & Human Services Region IX Office of Family Planning and the Arizona Department of Health Services, Division of Maternal and Child Health.

**LAPIS CONSULTING SERVICE**
Austin, TX
Owner/Consultant
1980-1990

Consultant and trainer for non-profit organizations in fund raising, personnel management, program evaluation, planning, budgeting, and Board development. Consultant under contract with U.S. Department of Health and Human Services in program, service and grant management evaluations.

Consultant to private businesses in office organization, record-keeping systems, personnel management, and design/implementation of accounting and financial management systems.

Training of personnel in computer applications including word processing, database, accounting, and spread sheet programs.

Direct fund raising for non-profit organizations, political candidates, and individuals including paid fundraiser for successful Austin City Council campaign for George Humphrey and for child custody legal case for lesbian friend being challenged for custody based on her sexual preference.

**AUSTIN WOMEN'S CENTER**
Austin, TX
Executive Director
1985-1987

Chief Executive Officer for non-profit organization with annual budget of $450,000, 15 member Board of Directors, 15 paid employees and 45 volunteers.

Service Management: Implemented program expansion including a demonstration project for employment services to AFDC mothers (Project Self Sufficiency). Reorganized service delivery model and personnel/management structure. Increased client recruitment activities, expanded existing programs to include broader scope of services, and increased access for clients, particularly minority group men and women.

Financial & Administration: Developed and revised administrative systems; budget and financial management procedures; and, personnel and Board policies.

**PLANNED PARENTHOOD OF AUSTIN**
Austin, TX
Executive Director
1980-1985
Acting Executive Director
1980
Director of Support Services
1976-1980)

Chief Executive Officer of non-profit organization with annual budget of $1,000,000; 35 member Board of Directors; 28 paid employees; and, 65 volunteers.

Service Management: Expanded government subsidized family planning services. Secured funding for and opened two additional self-supporting centers. Doubled client medical services. Established tubal ligation service program coordinating government funding, private foundation support, and low-cost physician and hospital services.

Fund Raising & Community Affairs: Developed fund raising program that increased private funding from $12,000 in 1980 to, in 1984, $110,000 for operations, $16,000 for special programs, and $100,000 for a building fund. Public speaking before community groups, media interviews, news conferences and presented testimony before funding sources and Texas Legislative sub-committees.

Financial & Administration: Increased annual operating budget from its 1980 level of $400,000 to its 1984/85 total of just over $1,000,000. Designed planning process including documents and monitoring and reporting systems utilized as models by the Planned Parenthood Federation of America--Southern Regional office and the Travis County Department of Human Services.

**GRANTS**

Welfare reform and battered women in Arizona. Center for Urban Studies, College of Public Programs, Arizona State University, 1998.

A variety of public and private grants and contracts awarded to organizations for which I worked including programs for family planning, domestic violence, and job training (1975-1995).

**OTHER EXPERIENCE**

ARIZONA STATE UNIVERSITY
Tempe, AZ
Dean's Office 1995-1998
College Of Public Programs
Student Academic Specialist (1997-1998)
Graduate Associate (1996-1997)
Graduate Assistant (1994-1996)

UNIVERSITY OF TEXAS
Austin, TX
LBJ School Of Public Affairs And Government Department 1989-1993
SOUTHWEST TEXAS STATE UNIVERSITY San Marcos, TX
Political Science Department 1989-1993
Research Assistant

Landon Curry, Ph.D.

UNIVERSITY OF TEXAS
Austin, TX
Government Department 1989
Research Assistant
Henry Dietz, Ph.D.

SOUTHWEST TEXAS STATE UNIVERSITY
San Marcos, TX
Political Science Department 1989-1990
Research Assistant
Ray Leal, Ph.D.

AUSTIN-TRAVIS COUNTY HEALTH DEPARTMENT
Accountant Clerk 1970-1976

## PUBLICATIONS

Chanley, Sharon A., Chanley, Jesse J. Jr., and Heather E. Campbell.  (2001).  Providing refuge: The value of domestic violence shelter services.  *American Review of Public Administration, 31*(4).

Chanley, Sharon A. and Alozie, Nick.  (2001)  Policy for the 'deserving' but politically weak: The 1996 Welfare Reform Act and battered women.  *Policy Studies Review*, *18*(1).

Chanley, Sharon A.  Essay on domestic violence and welfare in the American Society of Public Administrators, Women in Public Administration Section's newsletter, 1997.

## HONORS and AWARDS

Nominated for Arizona State University's College of Liberal Arts and Sciences "Distinguished Teaching Award," 2000

Who's Who in American Education, nominated by students, 1999, 2004, 2005

Outstanding DPA Graduate Paper, Spring, 1999, for paper entitled "Cost/Benefit Analysis of a Domestic Violence Shelter in a Rural Community" co-authored with Jesse J. Chanley, Jr. Carried $1,000 stipend.

Recipient of national 1999 P.E.O. Scholars Award for 1999 – 2000.

Outstanding DPA Graduate Paper, Spring, 1998, for paper entitled: "Welfare Reform and Battered Women: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996" Carried $1,000 stipend.

Preparing Future Faculty Fellow, Fall, 1998.

Regents' Scholar for academic years 1996-97, 1997-98, and 1999-2000.

Pi Alpha Alpha National Public Administration Honorary Society, 1997

Outstanding MPA Graduate Paper, April 1996, for research design entitled: "Employee Burnout in Domestic Violence Shelter Workers." Carried $500 stipend.


**CONFERENCE PRESENTATIONS and PARTICIPATION**

Midwest Political Science Association, Annual Meeting, Chicago, April 3-6, 2008.
Panel: Motherhood and Politics. Discussant
Panel: Theory and Practice Of Service Learning, Discussant

Midwest Political Science Association, Annual Meeting, Chicago, April 17-18, 2004.
Round Table: Work, Welfare, and Consequences. Paper: Battered Women's Shelter
Staff and Welfare Reform.

Midwest Political Science Association, Annual Meeting, Chicago, April 25-28, 2002. Panel: The Politics of Income (Re)Distribution: National, State, and Local Politics and Policy. Paper: "Welfare Reform: Issue Context and Policy Design."

"Trapped by Poverty, Trapped by Abuse" biannual national conference through the Project for Research on Welfare, Work, and Domestic Violence sponsored by the Center for Impact Research and the University of Michigan School of Social Work Center on Poverty, Risk, and Mental Health. Ann Arbor, MI, October 26-28, 2001. Paper: "Implementation of the Family Violence Option in Arizona: Empty Promises."

Midwest Political Science Association, Annual Meeting, Chicago, April 19-22, 2001. Panel: Welfare Policy: Images And Public Opinion. Paper: "Degenerative Pluralism and Welfare Policy for Battered Women."

Western Political Science Association, Annual Meeting, Seattle, March 25-27, 1999. Panel: Women Interests: Political and Institutional Responses. Paper: "Cost/Benefit Analysis of a Domestic Violence Shelter" with co-author, Jesse J. Chanley, Jr.

Western Political Science Association, Annual Meeting, Seattle, March 25-27, 1999. Panel: Women Interests: Social Construction. Paper: "Policy for the 'Deserving' but Politically Weak: The 1996 Welfare Reform Act and Battered Women." Co-author, Nicholas Alozie, Arizona State University.

Society for the Study of Social Problems, Annual Meeting, San Francisco, CA, August 1998. Panel: The Effects of Welfare Reform on Women and Children. Paper: "Welfare Reform and Battered Women: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996."

Society for the Study of Social Problems, Annual Meeting, San Francisco, CA, August 20-23, 1998. Chanley, Sharon A and Kathleen Joan Ferraro "Women, Violence and Welfare Reform in Arizona: A Collaborative Feminist Action Research Project," with the students of WST 498.

Southwestern Social Science Association, Annual Meeting, Dallas, TX, March 1989. Paper: "Measure of Legislative Professionalism." Co-author: Landon Curry, Southwest Texas State University.


Revised March 26, 2015

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

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[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises.</u>

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [71] – a majority of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

*B) Nexus*[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature:  Contact Information Redacted ,  Apr 22 '15   ip: 84.83.185.7

Name:  Tom ter Bogt

Title:  prof. dr.

Organization:  Utrecht University

## About Professor Dr. Tom ter Bogt

*Chair*
*Popular Music and Youth Culture*

*Professor in Social Sciences*
*Professor in Cultural Diversity & Youth*
*Social and Behavioral Sciences*
*Utrecht University*

### Profile

Tom ter Bogt (1956), cultural psychologist; professor Popular Music and Youth Culture, first at the University of Amsterdam, and since September 2006 at Utrecht University.

He obtained his PhD with a thesis on the history of protestant work ethic in the Netherlands and work ethic among present-day adolescents. He is author of two books on youth and youth culture, and has written a television series on youth culture and pop music. Research interests: pop music, youth culture, adolescent problem behavior and substance use.

Ter Bogt's research interests relate to pop music's artists and audiences, and adolescent risk behavior. His research focuses on (1) the role of music in the development of children and adolescents, (2) music as an agent of consolation, (3) adolescent risk behavior, and (4) the role of media in the development of adolescent sexual identity.

He is part of the Dutch Health Behaviour in School-aged Children (HBSC) research team. The HBSC-project runs in more than 40 European and North-American countries and aims at assessing physical and mental health, and wellbeing in school children.

### Strategic themes / Focus areas

Dynamics of Youth (strategic theme)

### Involved in the following study programme(s)

Interdisciplinary Social Science

### All publications

#### 2015 - Scholarly publications

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Madkour, Aubrey Spriggs, De Looze, Margaretha, Ma, Ping, Halpern, Carolyn Tucker, Farhat, Tilda, Ter Bogt, Tom F M, Ehlinger, Virginie, Nic Gabhainn, Saoirse, Currie, Candace & Godeau, Emmanuelle (01.01.2014). Macro-level age norms for the timing of

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de Looze, Margreet, van Dorsselaer, Saskia, de Roos, Simone, Verdurmen, Jacqueline, Stevens, Gonneke, Gommans, Rob, van Bon-Martens, Marja, ter Bogt, Tom & Vollebergh, Wilma (2014). *Gezondheid, welzijn en opvoeding van jongeren in Nederland*. Utrecht University, HBSC 2013.

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## Website(s)

http://www.uu.nl/staff/TFMterBogt/0

http://nl.wikipedia.org/wiki/Tom_ter_Bogt

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter to verify the following facts: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to music.

<div align="center">SUMMARY</div>

Based upon my knowledge of music, the music community and DotMusic's public statements concerning their .MUSIC community application, DotMusic has established the following facts:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the defined and recognized Community.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

(1) There is an awareness and recognition among its members;

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics.html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music"[71] – a majority of global music.[72]

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community. Cumulatively, DotMusic possesses documented support[73] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


*B) Nexus*[74]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community

[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] http://music.us/supporters
[74] See http://music.us/nexus

defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential

relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: <span style="font-size:small">Contact Information Redacted</span>     <span style="color:red">Apr 6 '15    ip: 176.183.93.227</span>

Name: Dr. Vassilis Varvaresos

Title: Pianist

Expertise: Doctorate in Piano Performance

Date: 6/4/2015

**About Dr. Vassilis Varvaresos**

*Doctorate in Piano Performance*
*Juilliard School*

Born in Thessaloniki, Greece in 1983, Dr. Varvaresos started studying music at the age of five, and received a scholarship to the Conservatory of Nothern Greece. He continued his studies at the Conservatory with Milena Mollova. He won First Prize in the 1995 Petar Konjovic International Competition in Belgrade, the 1996 Pan-Hellenic Young Artist Competition in Athens, and was chosen as one of eleven young musicians from around the world to perform in Monte Carlo in a special "little Mozarts" concert organized by Italy's RAI TV. Dr. Varvaresos holds a bachelor of music degree and a master of music degree from the Juilliard School, where he studied with Jerome Lowenthal. His paper on Claude Debussy, which won the Scholastic Distinction Award from the The Juiliard School, was published in Greece by Kodikas Publications. In May 2011 Dr. Varvaresos received his Doctorate in Piano Performance from the Juilliard School.[1] He was a student of Jerome Lowenthal, Yoheved Kaplinsky, and Robert MacDonald.

Dr. Varvaresos made his sensational New York orchestra debut in 2007 at Lincoln Center performing Lowell Liebermann's Piano Concerto No. 2 with the Juilliard Orchestra under the baton of Andreas Delfs. In October 2010, as a special guest of the Archbishop of the Greek-Orthodox Church of America, Dr. Varvaresos appeared with the Manhattan Symphony Orchestra in Chopin's Piano Concerto in e minor at Alice Tully Hall, while in the winter of 2008 he was asked to be the soloist with the Athens State Symphony Orchestra, representing Greece on a two-week tour of China, on the occasion of the 2008 Bejing Olympic Games. Dr. Varvaresos , on this occasion, performed in front of a total of 6000 people. Dr. Varvaresos ' made his recital debut in Athens, Greece appearing at the 2010 Athens Festival. During the same summer he has appeared in recital and chamber music concerts in Mykonos, Greece and in Constantinople and Cyprus.

Dr. Varvaresos previous seasons included concerts in Vienna's legendary Musikverein, performances of Chopin 's Piano Concerto No. 1 with the Cyprus Symphony Orchestra in Leukosia and Lemesos under the baton of Spiros Pisinos, recitals in Mykonos, Greece and a featured concert at the International Piano Festival of Gijón, Spain.

Since then, he has performed in numerous occasions both in the U. S. and abroad. Highlight performances include an appearance with the Westmoreland Symphony Orchestra, where Dr. Varvaresos performed Rachmaninov' s Rhapsody on a Theme by Paganini and Gerswhin' s Rhapsody in Blue in a double-bill special event as well as concerto and recital appearances in the U.S. and his native Greece.

As a soloist with orchestra in the United States, Dr. Varvaresos has performed Grieg's Piano Concerto with the Victoria Symphony in Texas, Tchaikovsky's Concerto No. 1 with the Westmoreland Symphony (PA), Chopin's Concerto No. 2 with the Dearborn (MI) Orchestra Society, Haydn's Concerto in D Major

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[1] The Juilliard School is globally recognized as the top music school in the world (See http://www.hollywoodreporter.com/news/hollywood-reporter-unveils-top-25-745732 and http://www.world-top-10.com/list/World-Top-Music-School/19).

with the Hartford Symphony, Mozart's Concerto No. 5 with the Modesto (CA) Symphony, Mozart's Concerto no. 20 with the Altoona (PA) Symphony, Rachmaninov 's Concerto no. 1 with the JCC of Greater Washington, and Beethoven' s Concerto no.3 with the Sacramento Youth Symphony.

Dr. Varvaresos ' performances in his native Greece include the Tchaikovsky Piano Concerto at the Megaron Hall with the Athens State Symphony Orchestra, Solon Michailides's Piano Concerto and the Grieg Piano Concerto in the Megaron Hall of Athens, Rachmaninov's Concerto no. 2, Mozart 's Concerto no. 20 and Beethoven' s Concerto No. 3, with the Orchestra of Thessaloniki. He has performed numerous times on Greek State Television, as well as on television in Italy, Yugoslavia and Bulgaria. Dr. Varvaresos has represented Greece in a special "EuroConcert" at the Museum of Modern Art in Helsinki, at the Greek Embassy in Milan, and for the U.S. Ambassador to Greece. He has also performed as a recitalist in Austria, Germany, France, Italy, The Czech Republic, Bulgaria, and Yugoslavia.

Dr. Varvaresos  is a founding member of Fourtissimo!, a group of four award-winning pianists whose goal is to reinvent the concert going experience through tasteful and uncompromising experimentation: unorthodox choice of repertoire, questions and choices concerning the form of the piano recital, and original compositions/transcriptions that test the limitations of the instrument and point the way towards a new type of instrumental virtuosity and inventiveness . The group's debut at Carnegie's Zankel Hall in October 2010 received immediate audience and critical acclaim.

Dr. Varvaresos  is also active as a composer. His dance composition Three Etudes was chosen to represent the Juilliard School in a Dance Forum hosted by the Pallucca Schüle in Dresden, Germany in October of 2007. He has written ten film scores, including "Ellsworth Kelly: Fragments" and "Sir John Soane: An English Architect, an American Legacy" produced by the Checkerboard Film Foundation. He has also composed the score for the short film "Hardwood".

Dr. Varvaresos  is currently pursuing the prestigious Diplôme d' Artiste-Interpète degree at the Conservatoire Nationale et Superieur de Musique et de Danse in Paris, France. He studies with Michel Dalberto.

Dr. Varvaresos  is recipient of Musical Studies Grants from the Bagby Foundation and the George and Marie Vergottis Foundation. Since 2008, he has also been the recipient of the Gina Bachauer Foundation Grant for Outstanding Talent in Music and Onassis Foundation Grant.

Website: http://www.varvaresos.com/

**Press Reviews**

…Varvaresos playing was effervescent…"
The Hartford Courant

"Tout aussi investi, Vassilis Varvaresos lui donne la réplique pianistique avec un égal feu intérieur, dans un jeu concentré qui exclut toute virtuosité "
http://www.concertclassic.com/article/winterreise-par-dimitris-tiliakos-et-vassilis-varvaresos-leclat-de-deux-jeunes-interpretes#sthash.IPOVYqDa.dpuf

"Τηλιακός και Βαρβαρέσος τόλμησαν να πάρουν ρίσκα σε διάφορα επίπεδα και να καταθέσουν τη δική τους πρόταση: σύγχρονη, μουσικά ενδιαφέρουσα και πνευματικά διεγερτική." Kathimerini, 1.2.2015
http://www.kathimerini.gr/801408/article/politismos/moysikh/ena-3exwristo-xeimwniatiko-ta3idi

"Μια βραδιά που πρόσφερε τροφή στην ψυχή.", efsyn, 20.1.2015
 http://www.efsyn.gr/arthro/heimoniatiko-taxidi-san-na-itan-gia-proti-fora

"Ήταν ένα απ' αυτά τα ρεσιτάλ που όσοι το παρακολούθησαν ένιωσαν πως είχαν κερδίσει ένα από εκείνα τα σπάνια διαμαντάκια που μοιράζει κατά καιρούς το Μέγαρο στο κοινό του." Protagon, 17.1.2015
http://www.protagon.gr/?i=protagon.el.politismos&id=38927

"The score is for Vassilis a good opportunity to recreate the world we live in. A modern remake of the romantic concerto. How? By imposing an extremely diverse sound, a turmoil at times hard to contain – but with braveness in reaching the octaves, by the pervasiveness of his personality which superimposes an almost cinematic vision on Tchaikovsky's music."
http://www.festivalenescu.ro/en/news/346

"En totale communion avec le public, il a parachevé sa "conquête"  avec un Fantaisie-Impromptu de Chopin d'une parfaite fluidité et musicalité avant de "porter l'estocade" avec une improvisation fougueuse, brillante et délirante, mêlant intelligemment des thèmes aussi variés que Summertime de Gershwin, la Vè Symphonie et la Lettre à Elise de Beethoven, la 2è Rhapsodie hongroise de Liszt…Jeune, très jeune, mais déjà très grand musicien qui sait rendre son public heureux, nous espérons le revoir très vite à Nohant!"
https://www.facebook.com/notes/nohant-festival-chopin/concert-de-vassilis-varvaresos-dimanche-22-juin-2014/251101535082771?fref=nf

A Paris, le festival Chopin souffle ses trente bougies. "De son côté, Vassilis Varvaresos a su emporter l'adhésion du public avec une interprétation magistrale de l'ouverture de Tannhäuser de Wagner transcrite par Liszt. Une partition aux proportions dantesques dont il a su restituer tout le souffle épique et tragique, avec une virtuosité confondante."
**La Lettre du musicien**

"First up was Mozart's elegant Sonata in B flat major. Inui and Varvaresos captured Mozart's musical dialogues, between themes, performing forces and movements. Theirs was lucid, transparent playing entirely in tune with Mozartean ideals."
**AL.com**

"Υπάρχουν κάποιοι άνθρωποι που, όταν τους γνωρίσεις, καταλαβαίνεις πως έχουν γεννηθεί με ένα ιδιαίτερο ταλέντο και ωριμάζουν για να μεγαλουργήσουν." **Protagon**

"...Και πιστεύω πως αυτός ο σολίστας θα γίνει ο εκφραστής μιας νέας σεμνής, δημιουργικής και βαθιά συναισθηματικής και ανθρώπινης Ελλάδας, που θα λάμψει στα επόμενα χρόνια στο μουσικό στερέωμα."
**Protagon**

"Following this great program greatly played, Vassilis Varvaresos played a spicy Greek dance with all the exuberance and heartiness of a soul in love with life**.**"
**The New York Concert Review**
Varvaresos at **Carnegie Hall**

"On March 19, 2012, the world-renowned Greek pianist Vassilis Varvaresos performed at a benefit piano recital at Carnegie Hall to thunderous applause."
**Cyprus Federation Org**

"So impressive, in fact, that I had no desire to hear any encores. Vassilis Varvaresos had demonstrated what he already has shown through Europe. For he is that rare young performer who, with a mere two hands, can tell the most gorgeous tales"
Harry Rolnick at Concertonet.com

"… Varvaresos played with rhythmic energy, sincerity, and contagious passion**.** This is a pianist that truly possesses everything..."
**La Voz de Asturias**

"Young Master on the Rise."
**The Washington Post**

"…Varvaresos engaged his audience for a performance that sizzled from start to finish. I felt as though I was hearing this piece for the first time and now I 'm a believer. Vassilis Varvaresos not only has a natural yet finely honed technique, it springs as one with the wide scope of profound musicianship. The Liszt was delivered in an astonishingly powerful and poetic trajectory. The audience was stunned. I remembered to stand up and shout – if ever there was a reason to yell Bravo, this was it."
**New York Concert Review**

"…Dr. Varvaresos  first offered No. 9, "Vertige," in a rendition so dizzying that one needed to clutch one's seat…"
**New York Concert Review**

Varvaresos managed to control perfectly the robust Steinway – he was able to create a clean, tight sound that served perfectly the aesthetics of the time. His phrasing was elegant, flexible, […] with well-crafted commas and periods. He delivered an outstanding "Allegretto e innocente…"
**Eleutherotypia (Greece)**

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii)  An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music communities</u> that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an international federation of national communities of a similar nature… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries.  In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic.[80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


## B) *Nexus*[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: Contact Information Redacted ug 7 '15    ip: 72.9.31.159

Name: Wendy A TILTON, PhD, EdD

Title: CONSULTANT

Organization: TALENT COACH BY KALMAR COUNTY MUSIC FOUNDATION

# Professor Wendy Tilton, Ph.D

## Education

*Kennedy Western University*
Doctorate, Philosophy; Education, Ph.D
2004

*U.S. Department of State Bureau of Educational and Cultural Affairs*
*Fulbright Scholar Program*
Core Fulbright U.S. Scholar Program
2012 – 2013

*Fielding Graduate University*
EdD, Education, Leadership & Change
2005 – 2011

*New York University*
MS, Real Estate Investment & Development
1994 – 1995

*University of Kentucky*
Baccalaureate, Science
1993 – 1994

*Mercer County Community College*
Associate of Science, Humanities & Social Science
1990 – 1996

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

SUMMARY

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4)  The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string.  DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework.  The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "<u>whole</u>"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii)  International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html

[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[26] http://www.culturalpolicies net/down/albania_012011.pdf

[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[28] http://my.midem.com/en/contact-us/pavilion-representatives/

[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

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[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Another letter[73] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause.</u> Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[74] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[73] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[74] http://music.us/supporters

***B)  Nexus***[75]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community defined to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>. The definition of the Community requires that members have an <u>active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process</u>.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries</u>

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[75] See http://music.us/nexus

and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: Contact Information Redacted , Apr 22 '15   ip: 129.125.9.47

Name: Wilfred Dolfsma

Title: Professor of Business Administration

Organization: University of Groningen, Netherlands

# About Professor Dr. Wilfred Dolfsma

*Professor of Innovation*
*School of Economics and Business*
*University of Gronigen*

*Founding Director*
*SOM research programme Innovation & Organization*
*University of Groningen*

*Professorial Fellow*
*United Nations University – MERIT*

*Editor in Chief*
*Review of Social Economy*

*Associate Editor*
*Innovation: Management, Policy, Practice*

*PH.D in Economics*
*Erasmus University Rotterdam*

## Biography

Trained as both an economist and philosopher, Wilfred Dolfsma (1970) holds a PhD in the former from Erasmus University. He is professor of innovation at the University of Groningen School of Economics and Business, and is corresponding editor for the Review of Social Economy. Dolfsma's main research focus is the different aspects of cooperation in processes of innovation.

During previous affiliations he has been imbued with Economics of Innovation (Delft University of Technology), Innovation Management (RSM Erasmus University), Economic Geography (Rheinischen Friedrich-Wilhelms-Universität Bonn), Philosophy of Science and Technology (Twente University of Technology), Economics of Organisation (Utrecht School of Economics), and innovation and development at UNU MERIT.

He has authored Institutional Economics and the Formation of Preferences (2004), Knowledge Economies (2008), and Institutions, Communication and Values (forthcoming). The former monograph won him EAEPE's Gunnar Myrdal Prize in 2006. He co-edited Understanding the Dynamics of the Knowledge Economy (with Luc Soete, 2006), Globalization, Social Capital and Inequality (with Charlie Dannreuther, 2003), Ethics and the Market (with Deb Figart and Jane Clary, 2006) and Media & Economie: Markten in Beweging en een Overheid die stuurt zonder Kompas. Preadviezen van de Koninklijke Vereniging voor de Staatshuishoudkunde (with Richard Nahuis, 2005). Articles have featured in, a.o., the Journal of Economics Issues, American Journal of Economics and Sociology, Journal of Evolutionary Economics, Journal of Economic and Social Geography, Journal of Business Ethics, The Information Society, International Journal of Innovation Management, and Research Policy.

**Teaching in following courses:**

- Organisation and Environment
- Cooperation for Innovation (SIM MScBA)
- Capturing Value from Innovation (SIM MScBA)
- Inter-firm Collaboration for Innovation (Research Master, Innovation & Organization profile)
- Strategy and Organisation Practice (Accountancy master, Univ of Curacao)
- Master theses

**Job title**

Professor of Innovation; director SOM research programme Innovation and Organization

**Other positions**

Editor-in-Chief, Review of Social Economy

Associate Editor, Innovation: Management, Policy, Practice
Additional activities: member of the executive board, Association for Social Economics.

**Field/Discipline**

Innovation & Technology Management
Business
Management
Strategic Management

**Expertise:**

Innovation
Cooperation
Appropriability issues

**Profile**

Wilfred Dolfsma is based at the School of Economics and Business of the University of Groningen, The Netherlands, in addition to UNU-MERIT. He is also Visiting Scholar at the University of Aberdeen Business School. His main interests are the issues of innovation and industry dynamics, and mainly at micro and meso levels. How is existing knowledge exchanged within and between firms, how does new knowledge emerge, and how does this contribute to innovation?

He is also interested in: Consumption, consumption theory; Law & Economics (IPR); Evolutionary, Institutional & Social Economics; Economic History & Methodology; Media / Entertainment Industries.

He is corresponding editor ('editor-in-chief') of the Review of Social Economy, and recently received the Myrdal prize for best monograph, awarded by EAEPE (2006).

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**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

>    (1) There is an awareness and recognition among its members;
>
>    (2) The organized and delineated logical alliance of communities exists; and
>
>    (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants...and non-commercial participants...and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"...UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music...The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>...Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions...subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii)  An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See  OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "<u>whole</u>"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See
http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations <u>mainly</u> Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity *mainly*[20] dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

[21] http://www.ifacca.org/membership/current_members/

influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

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[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[27] http://www.culturalpolicies.net/down/albania_012011.pdf
[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[29] http://my.midem.com/en/contact-us/pavilion-representatives/

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects.  Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]

[30] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[41]

The reach of A2IM Associate[42] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[43] – iTunes accounts for <u>63% of global digital music market</u>[44] - a <u>majority</u> – with a registered community of 800 million registered members[45] available in <u>119 countries</u> who abide to strict terms of service and boundaries[46] and have <u>downloaded over 25 billion songs</u>[47] from iTunes' catalog of over <u>43 million songs</u>[48] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[49]

[39] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://a2im.org/about-joining/

[42] http://a2im.org/groups/tag/associate+members/

[43] http://a2im.org/groups/itunes

[44] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share

[45] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt

[46] http://www.apple.com/legal/internet-services/itunes/ww/index.html

[47] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html

[48] https://www.apple.com/itunes/features/

[49] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html

- **Pandora**[50] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[51]
- **Spotify**[52] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[53]
- **Vevo**[54] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[55]
- **Youtube**[56] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[57] of which 38.4% is music-related.[58]
- **Reverbnation**[59] – Reverbnation[60] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[61] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[62]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[63]), China (China Audio Video Association[64]) and Germany (Initiative Musik).[65] A2IM also has Affiliate[66] associations within the global music community. These include Affiliates such as MusicFirst,[67] the Copyright Alliance,[68] the Worldwide Independent Network (WIN)[69] and Merlin.[70]

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[50] http://a2im.org/groups/pandora
[51] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[52] http://a2im.org/groups/spotify
[53] https://press.spotify.com/us/information/
[54] http://a2im.org/groups/vevo/
[55] http://www.vevo.com/c/EN/US/about
[56] http://a2im.org/groups/youtube/
[57] https://www.youtube.com/yt/press/statistics.html
[58] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[59] http://a2im.org/groups/reverb-nation/
[60] http://www.reverbnation.com/about
[61] http://a2im.org/groups/bmg-rights/
[62] http://www.bmg.com/category/about-us/history/
[63] http://a2im.org/groups/french-music-export-office
[64] http://a2im.org/groups/china-audio-video-association-cava
[65] http://a2im.org/groups/initiative-musik-gmbh
[66] http://a2im.org/groups/tag/associate+members/
[67] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[68] http://www.copyrightalliance.org/members
[69] http://www.winformusic.org

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[71] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises</u>.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[72] whose members[73] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[74] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[75] the world's largest music market with 30% global market share.[76] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

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[70] http://www.merlinnetwork.org
[71] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf
[72] http://www.ifpi.org/about.php
[73] http://www.ifpi.org/our-members.php
[74] http://www.ifpi.org/national-groups.php
[75] http://www.riaa.com/faq.php
[76] http://www.statista.com/topics/1639/music/
[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[80] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[81] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


## B) *Nexus*[82]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music

[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[81] http://music.us/supporters
[82] See http://music.us/nexus

entities to be included as part of the Community. Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.
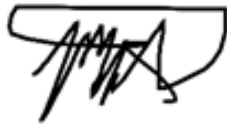
Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[83] given the symbiotic overlapping nature of the Community as

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[83] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: Contact Information Redacted    Aug 2 '15     ip: 67.163.202.251

Name:  Matthew Covey

Title:  Director

Organization:  Tamizdat

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

**A) *Music Community Definition, Establishment & Community Endorsement*[4]**

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an international federation of national communities of a similar nature… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus  (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries.  In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2
[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf
[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/
[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)
[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c
[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23
[41] http://www.ifpi.org/about.php
[42] http://www.ifpi.org/our-members.php
[43] http://www.ifpi.org/national-groups.php
[44] http://www.riaa.com/faq.php
[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

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[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


## B) Nexus[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.
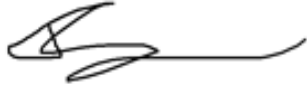
While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature:  Aug 11 '15    ip: 46.230.186.46

Name:  Jonathan Segel

Title:  composer

Organization:  self

# Jonathan Segal MM

## Education

*Mills College*
Masters in Music Composition

## Credits:

| Year | Album | Artist | Credits |
|------|-------|--------|---------|
| 2014 | El Camino Real | Camper Van Beethoven | Composer, Guitar, Keyboards, Mandolin, Violin, Vocals (Background) |
| 2013 | La Costa Perdida | Camper Van Beethoven | Guitar, Mandolin, Organ, Violin, Vocals (Background) |
| 2012 | All Attractions/Apricot Jam | Jonathan Segel | Composer, Guitar, Keyboards, Primary Artist, Synthesizer, Theremin, Violin, Vocals |
| 2009 | Sonic Demons | Lucio Menegon | Improvisation |
| 2009 | The Full Sun | Scott Pinkmountain | Violin |
| 2009 | Time for Leaving | McCabe & Mrs. Miller | Violin |
| 2008 | Hieronymus Firebrain | Jonathan Segel | Composer, Primary Artist |
| 2008 | Live | Keller Williams | Composer |
| 2008 | Popular Songs of Great Enduring Strength and Beauty | Camper Van Beethoven | Group Member, Guitar, Keyboards, Mandolin, Violin, Vocals |
| 2007 | Amnesia Glass Box | Jonathan Segel | Primary Artist |
| 2007 | First Annual Camp Out Live | Camper Van Beethoven | Performer, Producer |

| | | | |
|---|---|---|---|
| 2007 | Honey | Jonathan Segel | Composer, Engineer, Guitar, Keyboards, Mixing, Primary Artist, Violin, Vocals |
| 2007 | Rauk | Jonathan Segel | Primary Artist |
| 2007 | Summerleaf | Jonathan Segel | Primary Artist |
| 2007 | The Sugar Factory | Evelyn Glennie | Reconstruction |
| 2007 | Underwater Tigers | Jonathan Segel | Primary Artist |
| 2006 | An Inescapable Siren Within Earshot Distance Therein and Other Whereabouts | Moe! Staiano's MOE!KESTRA! | Producer, Violin |
| 2006 | Greenland | Cracker | Photography |
| 2006 | Music + One | Myles Boisen | Primary Artist, Violin |
| 2006 | New Ways of Letting Go | Michael Zapruder | Violin |
| 2006 | The Way You Shine | The Shimmers | Violin |
| 2005 | Chris Brown: Rogue Wave | Chris Brown | Computers |
| 2005 | Cost | Patrick Phelan | Main Personnel, Violin |
| 2005 | Live at the World Cafe, Vol. 20 | | Composer |
| 2005 | Look at All the Love We Found: A Tribute to Sublime | Sublime | Computers, Powerbook, Violin |
| 2005 | Tragic Realism | LD & the New Criticism | Violin |
| 2004 | Connections 2: In Benefit Of KRCB-FM | | Composer |
| 2004 | Left of the Dial: Dispatches from the '80s | | Violin, Vocals |

| | | | |
|---|---|---|---|
| | [Underground](#) | | |
| 2004 | [New Roman Times](#) | [Camper Van Beethoven](#) | Composer, Engineer, Group Member, Guitar, Mixing, Synthesizer, Violin, Vocals |
| 2003 | [Bass U.S.A., Vol. 1](#) | | Composer |
| 2003 | [Compositions for Guitars](#) | [Taku Sugimoto](#) | Guitar |
| 2003 | [Edgy Not Antsy](#) | [Jonathan Segel](#) | Announcer, Bass (Electric), Cello, Charango, Dan Bau, Digital Editing, Drum Programming, Fender Rhodes, Guitar, Guitar (Rickenbacker), Organ, Piano, Primary Artist, Sound Editing, Violin |
| 2003 | [Gen](#) | [Shoko Hikage](#) | Composer, Main Personnel, Primary Artist, Violin |
| 2003 | [Horror, Pt. 7: The Post Day of the Dead Ritual](#) | [Eugene Chadbourne](#) | Mandolin, Violin (Electric) |
| 2003 | [Latino St. Dance Mix](#) | | Composer |
| 2003 | [Lipstick Traces: Secret History of Manic](#) | [Manic Street Preachers](#) | Composer |
| 2003 | [Non-Linear Accelerator](#) | [Jonathan Segel](#) | Primary Artist |
| 2003 | [Psychadelidoowop](#) | [Camper Van Chadbourne](#) | Box, Dan Bau, Dan Nhi, Dan Tranh, Delay, DJ, Engineer, Field Recording, Mandolin, Microcassette, Violin, Vocal Recording, Vocals |
| 2003 | [Rough Trade Shops: Country](#) | | Composer |
| 2003 | [Tempted to Smile](#) | [Fred Frith](#) | Composer, Guitar, Main Personnel, Photography, Primary Artist, Violin |
| 2003 | [Two Forms of Multitudes: Conducted Improvisations](#) | [Moe! Staiano's MOE!KESTRA!](#) | Bass (Electric) |

| | | | |
|---|---|---|---|
| 2002 | Cigarettes & Carrot Juice: The Santa Cruz Years | Camper Van Beethoven | Bass, Casio, Composer, Guitar, Guitar (Electric), Instrumentation, Keyboards, Mandolin, Noise, Sitar, Tape, Viola, Violin, Vocals |
| 2002 | Driving in the Rain 3 Am: Songs to Get Lost With | | Composer |
| 2002 | Tusk | Camper Van Beethoven | Editing, Engineer, Guitar, Keyboards, Noise, Photography, Remixing, Tapes, Violin, Vocals |
| 2001 | Blues & Soul, Vol. 8: 1982-1983 | | Composer |
| 2001 | Digital Bass 2002 | Bass 305 | Composer |
| 2000 | Camper Van Beethoven Is Dead: Long Live Camper Van Beethoven | Camper Van Beethoven | Composer, Musician |
| 2000 | Fireflies | Mike Levy | Cello, Viola, Violin |
| 2000 | I Talked to Death in Stereo | Eugene Chadbourne | Mandolin, Toy Instruments |
| 2000 | Scissors and Paper | Jonathan Segel | Composer, Primary Artist |
| 1999 | Jimi | Eugene Chadbourne | Mandolin, Violin |
| 1999 | Revenge of Camper Van Chadbourne | Camper Van Chadbourne | Fiddle, Guitar, Mandolin, Mixing, Vocals |
| 1999 | Shark Bait | Magnet | Fiddle, Guest Artist, Violin, Vocals (Background) |
| 1999 | Used Record Pile | Camper Van Chadbourne | Mandolin, Violin |
| 1998 | Days for Days | Loud Family | Bouzouki, Cittern, Slide Guitar, Violin |
| 1998 | Greatest Hits & Test Tones | Big City Orchestra | String Section |

| 1998 | Hits from the Underground: The 80's | | Composer |
|---|---|---|---|
| 1998 | The Fog Show | Alison Faith Levy | Editing, Sequencing |
| 1998 | This Is Acid Jazz, Vol. 6: Golden Age of Groove | | Composer |
| 1998 | To Phil | Eugene Chadbourne | Mandolin, Violin, Vocals |
| 1997 | Before X | | Composer |
| 1997 | Fancy Birdhouse | Jack & Jill | Guitar, Mixing, Vocals |
| 1997 | Sleeping Car (Schlafwagen) | Granfaloon Bus | Cello, Guest Artist, Trumpet |
| 1997 | Ssssh/Cricklewood Green | Ten Years After | Composer |
| 1996 | Bio-Dome | | Composer |
| 1996 | Chadbourne Barber Shop | Eugene Chadbourne | Guest Artist, Organ |
| 1996 | Coctails | The Coctails | Composer |
| 1996 | Jesse Helms Busted With Pornography | Eugene Chadbourne | Fiddle, Primary Artist, Vocals |
| 1996 | Toast | Electric Chairmen | Guitar, Harmonium, Mixing, Organ, Violin, Vocals |
| 1995 | C is for Cookie | Sesame Street | Composer |
| 1995 | Chill and Shrill | Jack & Jill | Composer, Guitar, Harmonium, Producer, Vocals |
| 1995 | Circles | Fi'ness | Composer |
| 1995 | Out in the Heat | Victor Krummenacher | Harmonium, Photography |
| 1995 | People's Fuzz | Flowerhead | Composer |

| 1995 | Who Killed Acid Jazz? | Bass Buddah Heads | Composer |
|------|----------------------|-------------------|----------|
| 1994 | Here | Hieronymus Firebrain | Accordion, Composer, Guitar, Mixing, Violin, Vocals |
| 1994 | Love Like a Man | Ten Years After | Composer |
| 1994 | Pushing the Norton | | Composer, Guitar, Vocals |
| 1994 | There | Hieronymus Firebrain | Accordion, Composer, Engineer, Guitar, Mandolin, Mixing, Primary Artist, Violin, Vocals |
| 1994 | Virgin Years | Camper Van Beethoven | Composer |
| 1993 | Camper Vantiquities | Camper Van Beethoven | Composer, Guitar, Keyboards, Mixing, Violin, Vocals, Vocals (Background) |
| 1992 | A Love Restrained | Granfaloon Bus | Guest Artist, Piano, Violin |
| 1992 | Get-A-Way | Dee Dee Wilde | Composer |
| 1992 | Her Greatest Hits | Belinda Carlisle | Composer |
| 1992 | Overwhelming Colorfast | Overwhelming Colorfast | Violin |
| 1991 | Circles | Kiss Amc | Composer |
| 1991 | Inside Out | D.A.M. | Composer |
| 1991 | MTV: Best of 120 Minutes, Vol. 1 | | Composer |
| 1991 | Meridian | Monks of Doom | Photography, Portrait Photography |
| 1990 | Acoustic Music Project | | Composer, Performer, Primary Artist, Violin, Vocals |
| 1990 | Eddie Chatterbox Double Trio Jazz Album | Eugene Chadbourne | Mandolin, Violin |
| 1990 | Nijmegen Hassen Hunt | Eugene | Violin |

| | | Chadbourne | |
|------|------|------|------|
| 1989 | Eugene Von Beethoven's 69th Sin Funny | Camper Van Chadbourne | Guitar, Violin |
| 1989 | Key Lime Pie | Camper Van Beethoven | Composer |
| 1988 | Our Beloved Revolutionary Sweetheart | Camper Van Beethoven | Casio, Cittern, Composer, Group Member, Guitar, Keyboards, Mandolin, Photo Courtesy, Piano, Strings, Unknown Contributor Role |
| 1988 | Storytelling | Jonathan Segel | Guitar, Primary Artist, Vocals |
| 1988 | The Ancient and the Infant | Ron Cooley | Composer |
| 1988 | The Eddie Chatterbox Double Trio Love Album | Eugene Chadbourne | Keyboards, Mandolin, Violin |
| 1988 | Third Album/Vampire Can Mating Oven | Camper Van Beethoven | Bass, Coloring, Composer, Guitar, Keyboards, Printer, Violin, Vocals |
| 1988 | This World Owes Me a Buzz | Spot 1019 | Violin |
| 1987 | Camper Van Chadbourne | Camper Van Chadbourne | Fiddle, Keyboards, Mandolin, Piano, Sitar |
| 1987 | The Men Who Loved Music | The Young Fresh Fellows | Violin |
| 1987 | Vampire Can Mating Oven | Camper Van Beethoven | Composer |
| 1986 | Camper Van Beethoven | Camper Van Beethoven | Banjo, Bass, Coloring, Composer, Drums, Guitar, Instrumentation, Multi Instruments, Printer, Violin |
| 1986 | II & III | Camper Van Beethoven | Casio, Composer, Guitar (Electric), Mandolin, Noise, Sangbe Drum, Sitar, Viola, Violin |
| 1986 | Take the Skinheads | Camper Van | Composer |

| | Bowling EP | Beethoven | |
|---|---|---|---|
| 1985 | Telephone Free Landslide Victory | Camper Van Beethoven | Composer, Group Member, Keyboards, Mandolin, Musician, Noise, Violin, Vocals |
| 1982 | Blaze of Glory | Game Theory | Project Assistant |
| 1975 | Rufus Featuring Chaka Khan | Rufus & Chaka Khan | Composer |
| | Emergency Rental | Rent Romus | Violin |
| | From Lo-Fi to Disco! | Woog Riots | Composer |
| | I Had Something to Prove | Eugene Chadbourne | Mandolin |
| | It Was Like That When We Got Here | Camper Van Beethoven | Composer |

**Websites:**

http://www.jonathansegel.com/#!about/cadp
http://music.jsegel.com
http://www.allmusic.com/artist/jonathan-segel-mn0000263541/credits
https://en.wikipedia.org/wiki/Jonathan_Segel

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<center>SUMMARY</center>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

       (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See  OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music communities</u> that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations <u>mainly</u> Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity</u> *mainly*[20] <u>dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus  (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

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Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

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[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics.html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


## B) Nexus[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,


Signature:

Name:  David Loscos

Title:  Director of the Postgraduate Degree in Global Music Business & Lecturer

Organization:  University Pompeu Fabra

# David Loscos

*Highlights:*

- Produced the strategic internationalization plan for Uruguayan music; endorsed by the Creative Industries Department of the Ministry of Culture of the Government of Uruguay.

- Produced the strategic internationalization plan for Chilean music; endorsed by the National Music Council of the Ministry of Culture of the Government of Chile.

- As CEO and founder of Tenzing Media produced and worked on the White Book 2013 for music in Spain (endorsed by Promusicae, the Spanish music recording association); and the Legal and Financial Guide for Music in Spain (endorsed by Instituto Autor).

- Former International and local product manager for BMG Music Spain.

- Former Label and Division manager for PRISA media group.

- MBA in Music Industries, Institute of Popular Music at the University of Liverpool.

- Executive director of the postgraduate degree in music industry management at Pompeu Fabra University in Barcelona.

- Lecturer, Global Entertainment and Music Business (http://valencia.berklee.edu/faculty/david-loscos/)

David's professional background and vision has always had music at its core.

He started at BMG Music Spain at the end of 1997 where he worked as international and local Product manager. In 2000 he joined Eresmas Interactiva - Wanadoo as World Music Channel Manager. From 2001 until 2003 he worked at MUXXIC Records within the PRISA Media Group, first as Label Manager and then as Director of the Roots and World Music Division. In 2003 he founded and managed Fireyellow, his own music company.

His experience in the educational field has focused on the several sides of the music business. Since 2003, he is the Director of the Music Industry Management Course at the University Pompeu Fabra Institute of Continuing Education in Barcelona. In 2006 he joined ESMUC (Escola Superior de Música de Catalunya) as Professor of Music Publishing and Record Production. One year later, he co-founded Seminarios de la Música, a company specialised on providing intense and continuing training to music industry professionals.

As a consultant he was the co-founder and CEO of Tenzing Media, a business advisory and consulting firm for the music and creative industries that provided internationalization services to music projects and organizations in Spain and Latin America

David has a degree in Business Management from the University of Barcelona and an MBA in Music Industries from the Institute of Popular Music at the University of Liverpool.

*Specialities:* Global Music Business, Internationalization, Latin Markets, Global Audiences

**Education**

*University of Liverpool*
MBA, Music Industries
1999 – 2000

*University of Gothenburg*
Economics
1995 – 1996

*Universitat de Barcelona*
Graduate, Business Management
1990 – 1995

*Universitat Pompeu Fabra*
Executive Programme, Consultant


**Experience**

Director of the Postgraduate Degree in Global Music Business
idEC / UPF
2004 – Present (11 years), Barcelona

The first music business postgraduate degree in Spanish worldwide currently reaches its 11th edition. The programme proposes the integrated learning of the music business. Starting from the creation, the contents are structured horizontally so that, besides the format, the areas of management, production and marketing of any music project are perfectly defined.

Faculty Member
Berklee College of Music
January 2012 – Present (3 years 8 months)Valencia Campus

Courses taught:

Principles of Marketing - Study Abroad
International Marketing and Branding - Master in Global Entertainment and Music Business
Online and Social Media Management - Master in Global Entertainment and Music Business

Founder and CEO
Fireyellow
2003 – Present (12 years)
Barcelona

"Devoted to music related projects and organizations"
Fireyellow provides four different kind of services:

a) Training
b) Consulting

c) Joint ventures and partnerships
d) Label and digital distribution

Acts and releases: Maria del Mar Bonet, Toti Soler, Gallygows, Auxiliar, El Tercer Hombre
Music soundtracks: Porca Miseria (TVC, 52 chapter series, 4 seasons)
Joint ventures: Collita Pròpia (Sony Music)

Co-Founder and CEO
Tenzing Media
2008 – 2014 (6 years)

Creative industries consulting agency specialised on music projects and organizations.

Clients: Cluster de Música de Uruguay, Consejo de Música Nacional de Chile, Festival Cine
Documental Musical In-Edit, Advanced Music, Universitat Pompeu Fabra, ICEX, Aie,
Fundación Autor

Director División Otras Músicas
Muxxic Records
October 2001 – December 2002 (1 year 3 months)

Local Product Manager
BMG Music Spain (SONY Music)
March 2001 – October 2001 (8 months)

Jefe de Canal
Eresmas Interactiva (Wanadoo)
September 2000 – March 2001 (7 months)

International Product Manager
BMG Music Spain
December 1997 – September 1999 (1 year 10 months)


Website: https://www.linkedin.com/in/davidloscos

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

SUMMARY

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

>   (1) There is an awareness and recognition among its members;

>   (2) The organized and delineated logical alliance of communities exists; and

>   (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "<u>whole</u>"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173
[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292
[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations <u>mainly</u> Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity</u> *mainly*[20] <u>dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added).  The degree of power and

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

[21] http://www.ifacca.org/membership/current_members/

influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

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[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music"
(http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[27] http://www.culturalpolicies.net/down/albania_012011.pdf
[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[29] http://my.midem.com/en/contact-us/pavilion-representatives/

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]

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[30] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[41]

The reach of A2IM Associate[42] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[43] – iTunes accounts for <u>63% of global digital music market</u>[44] - a <u>majority</u> – with a registered community of 800 million registered members[45] available in <u>119 countries</u> who abide to strict terms of service and boundaries[46] and have <u>downloaded over 25 billion songs</u>[47] from iTunes' catalog of over <u>43 million songs</u>[48] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[49]

[39] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://a2im.org/about-joining/

[42] http://a2im.org/groups/tag/associate+members/

[43] http://a2im.org/groups/itunes

[44] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share

[45] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt

[46] http://www.apple.com/legal/internet-services/itunes/ww/index.html

[47] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html

[48] https://www.apple.com/itunes/features/

[49] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html

- **Pandora**[50] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members.</u>[51]
- **Spotify**[52] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[53]
- **Vevo**[54] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[55]
- **Youtube**[56] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[57] of which 38.4% is music-related.[58]
- **Reverbnation**[59] – Reverbnation[60] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[61] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[62]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[63]), China (China Audio Video Association[64]) and Germany (Initiative Musik).[65] A2IM also has Affiliate[66] associations within the global music community. These include Affiliates such as MusicFirst,[67] the Copyright Alliance,[68] the Worldwide Independent Network (WIN)[69] and Merlin.[70]

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[50] http://a2im.org/groups/pandora
[51] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[52] http://a2im.org/groups/spotify
[53] https://press.spotify.com/us/information/
[54] http://a2im.org/groups/vevo/
[55] http://www.vevo.com/c/EN/US/about
[56] http://a2im.org/groups/youtube/
[57] https://www.youtube.com/yt/press/statistics.html
[58] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[59] http://a2im.org/groups/reverb-nation/
[60] http://www.reverbnation.com/about
[61] http://a2im.org/groups/bmg-rights/
[62] http://www.bmg.com/category/about-us/history/
[63] http://a2im.org/groups/french-music-export-office
[64] http://a2im.org/groups/china-audio-video-association-cava
[65] http://a2im.org/groups/initiative-musik-gmbh
[66] http://a2im.org/groups/tag/associate+members/
[67] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[68] http://www.copyrightalliance.org/members
[69] http://www.winformusic.org

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[71] The A2IM Coalition includes Merlin, a global rights agency for the <u>independent label sector</u>, representing <u>over 20,000 labels from 39 countries</u>, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over <u>4,000 independent music companies and national associations</u> across Europe, <u>representing 99% of music actors in Europe which are micro, small and medium sized enterprises</u>.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[72] whose members[73] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[74] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[75] the world's largest music market with 30% global market share.[76] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

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[70] http://www.merlinnetwork.org
[71] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf
[72] http://www.ifpi.org/about.php
[73] http://www.ifpi.org/our-members.php
[74] http://www.ifpi.org/national-groups.php
[75] http://www.riaa.com/faq.php
[76] http://www.statista.com/topics/1639/music/
[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[80] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[81] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


B)  *Nexus*[82]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music

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[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[81] http://music.us/supporters
[82] See http://music.us/nexus

entities to be included as part of the Community. Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.
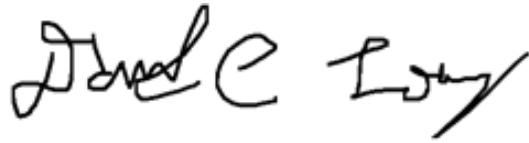
Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[83] given the symbiotic overlapping nature of the Community as

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[83] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature:  <span style="color:red">Contact Information Redacted</span> ,  <span style="color:red">Jul 22 '15      ip: 166.171.56.93</span>

Name:  David Lowery

Title:  Lecturer/EDD Candidate

Organization:  University of Georgia

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

To ICANN and the Economist Intelligence Unit ("EIU"):

Please accept this letter as an indication of my professional opinion that there is compelling evidence for DotMusic's application to convincingly meet the full criteria under Community Priority Evaluation on the following points: (1) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing the global Music Community addressed and defined.

Please also find below the analysis of the DotMusic application pertaining to the Community Priority Evaluation criteria, and on which my assessment is based. The analysis is consistent with key findings in my research field of organization studies where the focus is specifically on matters relating to community (see for example: Glynn, 2008;[2] Marquis, Glynn & Davis, 2007;[3] Marquis, Lounsbury & Grenwood, 2011;[4] Schneiberg & Lounsbury. 2008;[5] Thornton, Ocasio & Lounsbury, 2012).[6] My credentials are attached below this analysis to identify my level of expertise and specialized knowledge with respect to the expert opinion expressed above.

## SUMMARY

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These

[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

[2] Glynn, M. A. (2008). Configuring the Field of Play: How Hosting the Olympic Games Impacts Civic Community. *Journal of Management Studies, 45*(6), 1117-1146.

[3] Marquis, C., Glynn, M. A., & Davis, G. F. (2007). Community Isomorphism and Corporate Social Action. *The Academy of Management Review, 32*(3), 925-945.

[4] Marquis, C., Lounsbury, M., & Greenwood, R. (2011). Introduction: Community as an Institutional Order and a Type of Organizing. *Research in the Sociology of Organizations, 33*, ix-xxvii.

[5] Schneiberg, M., & Lounsbury, M. (2008). Social movements and institutional analysis. In R. Greenwood, C. Oliver, R. Suddaby & K. Sahlin (Eds.), *The SAGE handbook of organizational institutionalism* (pp. 650-672). Los Angeles: SAGE.

[6] Thornton, P. H., Ocasio, W., & Lounsbury, M. (2012). *The institutional logics perspective: A new approach to culture, structure and process*. Oxford: Oxford University Press.

organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for the protection of the "Music Community" member rights with relation to their copyrighted music works</u> around the world;

4) The "Music" Community -- as defined by DotMusic -- has <u>at least one entity dedicated to the community</u> supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a <u>majority</u> of the Community with <u>considerable</u> millions of members worldwide.[7]

5) The *Nexus* of the "music" Community <u>matches</u> the "music" applied-for string because it represents the <u>entire</u> global Music Community – a community that pre-existed 2007 with a size in the <u>considerable millions</u> of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a <u>closely united</u> Community definition that is "<u>organized</u>" and "<u>delineated</u>" -- ensures that <u>all</u> of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination</u>.

6) DotMusic has received support from the <u>largest coalition of Music Community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community as defined.

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[7] http://music.us/supporters

Cumulatively, DotMusic possesses documented support[8] from institutions/organizations representing this Community.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would <u>not</u> function as it does today without the participation of all music constituent types that interconnect to <u>match the "music" string with the "music" Community definition</u>.

## ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

### A) *Music Community Definition, Establishment & Community Endorsement*[9]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[10]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[11]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[12]).

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[8] http://music.us/supporters
[9] See http://music.us/establishment
[10] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[11] http://www.merriam-webster.com/dictionary/cohesion
[12] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

The "Music Community" as defined (a "strictly delineated and organized community of individuals, organizations and business, a logical alliance of communities of similar nature that relate to music") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[13]

> *Music community is defined as a logical alliance of interdependent communities that are related to music, which include commercial participants…and non-commercial participants…and consists of an "ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music"…UNESCO identifies the music community as a "community of identity" implying common identifiable characteristics and cohesive attributes such as sharing a music culture, norms and subscribing to common ideals related to music…The music community is not defined as much by demographic indicators such as race, gender, and income level, as it is by common values, cohesive norms and interconnected structures to build a community identity. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a cohesive and interconnected structure of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to common ideals. Under such*

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[13] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

> *structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.*[14]

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[15]

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[14] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from
https://en.wikipedia.org/wiki/Music_community
[15] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html

The Berne Convention for the Protection of Literary and Artistic Works[16] provides that each of the 168 contracting parties[17] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[18] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[19] ISRC,[20] ISWC,[21] ISNI.[22] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to

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[16] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[17] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[18] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention
[19] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics.htm?csnumber=43173
[20] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401
[21] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq.html and http://www.iso.org/iso/catalogue_detail?csnumber=28780
[22] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[23]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[24]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[25] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

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[23] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en
[24] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[25] http://www.ifacca.org/membership/current_members/

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[26] The UNESCO strategic partnership[27] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[28]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[29]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[30] Other small government Ministries of Culture, such as Albania,[31] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[32] all provide critical support and substantial advocacy for music. Other examples include

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[26] http://www.ifacca.org/strategic_partners/
[27] http://www.ifacca.org/strategic_partners/
[28] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[29] U.S Copyright Office, http://www.copyright.gov/carp/m200a html
[30] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[31] http://www.culturalpolicies net/down/albania_012011.pdf
[32] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[33]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[34]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[35]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[36] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[37]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[38]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[39] and has a strong focus on music as outlined in its Strategic Plan[40] with Congress requested to provide $154,465,000 for fiscal year 2014.[41]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[42]

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[33] http://my midem.com/en/contact-us/pavilion-representatives/

[34] 2011 Annual Report from New Zealand Ministry of Culture: http://www mch.govt nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[35] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[36] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[37] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[38] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[39] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[40] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[41] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[43]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[44]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with formal boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[45]

The reach of A2IM Associate[46] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

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[42] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)
[43] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c
[44] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23
[45] http://a2im.org/about-joining/
[46] http://a2im.org/groups/tag/associate+members/

- **Apple iTunes**[47] – iTunes accounts for <u>63% of global digital music market</u>[48] - a <u>majority</u> – with a registered community of 800 million registered members[49] available in <u>119 countries</u> who abide to strict terms of service and boundaries[50] and have <u>downloaded over 25 billion songs</u>[51] from iTunes' catalog of over <u>43 million songs</u>[52] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[53]
- **Pandora**[54] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[55]
- **Spotify**[56] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[57]
- **Vevo**[58] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[59]
- **Youtube**[60] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[61] of which 38.4% is music-related.[62]
- **Reverbnation**[63] – Reverbnation[64] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.

[47] http://a2im.org/groups/itunes
[48] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[49] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[50] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[51] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[52] https://www.apple.com/itunes/features/
[53] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[54] http://a2im.org/groups/pandora
[55] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[56] http://a2im.org/groups/spotify
[57] https://press.spotify.com/us/information/
[58] http://a2im.org/groups/vevo/
[59] http://www.vevo.com/c/EN/US/about
[60] http://a2im.org/groups/youtube/
[61] https://www.youtube.com/yt/press/statistics.html
[62] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[63] http://a2im.org/groups/reverb-nation/
[64] http://www.reverbnation.com/about

- **BMG**[65] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[66]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[67]), China (China Audio Video Association[68]) and Germany (Initiative Musik).[69] A2IM also has Affiliate[70] associations within the global music community. These include Affiliates such as MusicFirst,[71] the Copyright Alliance,[72] the Worldwide Independent Network (WIN)[73] and Merlin.[74]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[75] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

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[65] http://a2im.org/groups/bmg-rights/
[66] http://www.bmg.com/category/about-us/history/
[67] http://a2im.org/groups/french-music-export-office
[68] http://a2im.org/groups/china-audio-video-association-cava
[69] http://a2im.org/groups/initiative-musik-gmbh
[70] http://a2im.org/groups/tag/associate+members/
[71] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[72] http://www.copyrightalliance.org/members
[73] http://www.winformusic.org
[74] http://www.merlinnetwork.org
[75] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music"[76] – a majority of global music.[77]

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community. Cumulatively, DotMusic possesses documented support[78] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


**B) Nexus**[79]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

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[76] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[78] http://music.us/supporters
[79] See http://music.us/nexus

Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or
>
> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,


Date: Friday, April 24, 2015


Dean Pierides

Lecturer in Organisations and Society
Manchester Business School
The University of Manchester


**About Dean Pierides**
*Qualifications*

BA, University of Pennsylvania
Major: Biology
Concentration: Molecular
Minors: Chemistry, Folklore and Folklife

DipEd, University of Melbourne
Awards: Dean's Honours List
Areas: Science, Biology, Environmental Science

MEd, University of Melbourne
Degree: Coursework and Major Thesis
Awards: First Class Honours (Unpublished)

*Awards*

Research Fellowship in Organisation, Society and Markets (2013)
Postdoctoral fellowship at the *Centre for Organisation, Society and Markets* (COSM)

The Konrad Boehmer Fellowship (2012)
Postdoctoral fellowship for research on market power and economic value in the music industry

Australian Postgraduate Award (2008-2012)
Australian Federal Government

Special Postgraduate Studentship (2008-2012)
Graduate School of Business and Economics, University of Melbourne

Teaching and Innovation Grant (2007)
Teaching and Learning Unit, Faculty of Economics and Commerce, University of Melbourne

Teaching Excellence Award (2006)
Faculty of Education, University of Melbourne

Fulbright Scholarship Program (1997-2001)
The Fulbright Commission

*Memberships*

International Sociological Association (ISA)
RC17: Sociology of Organizations
(Board Member)

European Group for Organizational Studies (EGOS)
(Member and past convener of sub-themes)

International Centre for Research in Organizational Discourse, Strategy & Change
(Member)

Charisma - Consumer Market Studies
(Member and Contributor)

Meridian 180
(Member and Contributor)

*Current teaching*

Subject BMAN20920: Critical management and organisation studies (2014-2015)
BSc Management and Management (specialisms), BSc International Management, BSc
International Management with American Business Studies

Course Unit BMAN20600 - International business strategy: Contexts, concepts and skills (2015)
BA (Econ) Business Studies Specialists, BA International Business, Finance and Economics,
BSc International Management, BSc Management (International Studies) Specialism, BSc
Management (International Business Economics) Specialism and BSc International Management
with American Business Studies

*Previous Positions*

University of Melbourne
Research Fellow in Organisation, Society and Markets
Department of Management and Marketing
Organisation Studies

Copenhagen Business School
Visiting scholar
Department of Organization (IOA)

*Responsibilities*

Ad hoc reviewer: Journal of Management
Ad hoc reviewer: Academy of Management Review
Ad hoc reviewer: Human Relations
Ad hoc reviewer: Management Learning
Ad hoc reviewer: Culture and Organization
Ad hoc reviewer: The Australian Sociological Association
Ad hoc reviewer: The Academy of Management (OMT Division)
Ad hoc reviewer: The Academy of Management (CMS Division)
Ad hoc reviewer: Australasian Journal of Marketing

President of the University of Pennsylvania Australian Alumni Club (2003-2013)
Co-chair of the Penn Alumni Secondary School Committee in Australia (2011-2013)
Volunteer for the Penn Alumni Secondary School Committee (2003-2011)
Department of Management & Marketing PhD student representative (2009-2011)
Department of Management & Marketing Research Committee (2010)

*Select journal articles*

Pierides, D. (2013). Political economies of security for some time to come. *Journal of Cultural Economy*, 7(3), 371-377.

Pierides, D., & Woodman, D. (2012). Object-oriented sociology and organizing in the face of emergency: Bruno Latour, Graham Harman and the material turn. *The British Journal of Sociology*, 63(4), 662-679.

Pierides, D. (2010). Multi-sited ethnography and the field of educational research. *Critical Studies in Education*, 51(2), 179-195.

Pierides, D. (2006). Teacher education and its policies in Australia: Making space for a new Urban Education project. *Penn GSE Perspectives on Urban Education*.

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is not mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an international federation of national communities of a similar nature... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


**B) Nexus**[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature:Contact Information Redacted    Aug 6 '15    ip: 31.208.7.24

Name:  Andrew Dubber

Title:  Professor of Music Industry Innovation

Organization:  Birmingham City University

# Professor Andrew Dubber

Andrew Dubber (or just "Dubber" as he is more usually known) is Professor of Music Industries Innovation, and the Award Leader for the MA in Music Industries and the MA in Music Radio at the Birmingham School of Media. He is a researcher on the Humanities in the European Research Area (HERA)-funded Rhythm Changes project.

Dubber moved to the UK from New Zealand in 2004 where, amongst many other things, he was the Degree Leader in Radio at Auckland University of Technology and the host of a jazz radio programme on George FM. He is internationally recognised as a leading consultant and academic in new strategies and technologies for the radio and the music industries.

Dubber is the author of Music in the Digital Age; editor of 'The 360 Deal: a collection of genuinely helpful advice for people starting out in the music industry'; co-author of Understanding the Music Industries (Sage, 2012); and has recently completed his new book, Radio in the Digital Age (Polity Books, forthcoming 2013). He also is the co-author of a book about new technologies for broadcasters in developing nations, commissioned by UNESCO, and has been a member of the steering committee for the Radio Studies Network and the board of Un-Convention.

He has also written for Computer Music Magazine, authored sections on blogging and podcasting for the Alternative Media Handbook (Routledge, 2008), and travels extensively to present to academic and industry conferences in this field.

Andrew Dubber is the director of Music Tech Fest, an advisor to Bandcamp, Stromatolite and Sonaris and is the founder of New Music Strategies, a pan-European digital music strategy think tank and consultancy group. He is the author of Music In The Digital Age (2012), Radio in the Digital Age (2013), Understanding the Music Industries (2012), The 20 Things You Must Know About Music Online (2007), and is the editor of The 360 Deal (2013), which features the advice of 360 top music business professionals for young people just starting out in the music industries.

He is a frequent keynote speaker at music industry events worldwide; his blogs and podcasts reach audiences numbering in the hundreds of thousands; and is followed by over 11,000 people on Twitter, where he posts about music industry innovation, popular music culture and digital media.

Dubber is Professor of Music Industry Innovation at Birmingham City University where he runs an MA in Music Industries, supervises PhD projects in music, media and culture and leads research projects within the Interactive Cultures unit at the Birmingham Centre for Media and Cultural Research (BCMCR). His research interests include digital media cultures, media and music innovation, online music enterprise, radio in the digital age, music as a tool for social change, and music as culture. He teaches about radio broadcasting, the music industries, music hacking and the online environment.

As an academic, Dubber is extensively published and frequently cited. However, his background is primarily as a practitioner in the media industries as a radio producer and presenter, label owner and record producer.

## Education

*University of Liverpool*
MBA, Music Industries
1999 – 2000

*University of Gothenburg*
Economics
1995 – 1996

*Universitat de Barcelona*
Graduate, Business Management
1990 – 1995

*Universitat Pompeu Fabra*
Executive Programme, Consultant


## Research

Research themes include:

- Music Innovation

- Music as a Tool for Social Change

- Radio

- Music Industries

- Music and Digital Culture

- Jazz and European Identity


## Publications

Anderton C., Dubber A. & James M. 2012 *'Understanding the Music Industries'*, Sage Publications.

Dubber A. 2013 (forthcoming) - *'Radio in the Digital Age'*, Polity Press.

Dubber, A. *'Keep Up With The Changes: Online strategies for national jazz agencies'*, Jazz Research Journal 6/1, 2012.

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Dubber A. 2011 *'Monkey On The Roof: Researching creative practice, music consumption, social change and the online environment*' Creative Industries Journal, 4:1 (pp. 19-31), Intellect.

Wall T. and Dubber A. (2010) *'Experimenting with fandom, live music, and the internet: applying insights from music fan culture to new media production'*, New Music Research Journal, Special Issue on Investigating Audience Experiences, 39 (2): pp. 159-169.

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Journal articles

Dubber, A. *'Keep Up With The Changes: Online strategies for national jazz agencies'*, Jazz Research Journal 6/1, 2012.

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Dubber, A. *'The radio interview as teaching'* The Radio Journal 2/2 2004

Book chapters & contributions

Long, P. & Wall, T. (eds) *Media Studies* [contributing author] Pearson 2009

Dubber, A. 'Podcasting' (chapter) in *The Alternative Media Handbook*, Coyer, K., Downmunt, T. & Fountain A., Routledge 2007

Dubber, A. 'Blogging' (chapter) in *The Alternative Media Handbook*, Coyer, K., Downmunt, T. & Fountain A., Routledge 2007

Dubber, A. & Wall, T. *'New broadcast technologies'* UNESCO 2006 (handbook commissioned by UNESCO to be printed and distributed to community and public broadcasters in developing nations)

Dubber, A. 'The Digitalisation of Radio in New Zealand' in *The Great New Zealand Radio Experiment*, Neill, K. & Shanahan, M. (Eds), Thomson Dunmore Press 2005

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## Research Reports

Dubber, A. & Wall T. *BBC Specialist Music Audiences Online* 2008, BBC/AHRC – published online at http://interactivecultures.org and printed for circulation amongst BBC staff and management.

Wall, T., Carter, O. & Dubber, A. *Regional Music Economies* 2006 Birmingham: Digital Central – 500 copies printed and given free to creative enterprises and music businesses within the West Midlands region.

Wall, T., Dubber, A. & Debenham, J. *Online music enterprise: new technologies of music distribution and consumption*, 2006 Birmingham: LSC – Report submitted to the Learning and Skills Council and circulated electronically to members of the local music industries through the Birmingham Music Network.

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## Magazine articles

Dubber, A., *DIY PR*, Computer Music Magazine, Special Edition Vol. 28 2008

Dubber, A., *Making Money in the New Music Business*, Computer Music Magazine, Special Edition Vol. 28 2008

Dubber, A., *Cashing In: What to do when you want to make real money from your musical enterprises*, Computer Music Magazine, Special Edition Vol. 28 2008

Dubber, A., *12 Top Tips for Online Success*, Computer Music Magazine, Special Edition Vol. 28 2008

## **Conferences**

'Shift Left 95: From Cultural Cringe to the New Aesthetic in Aotearoa New Zealand', Global Jazz Conference, Musee du Quai Branly, Paris, June 2013.

'Online Knowledge Exchange for the Humanities', HERA JRP Final Conference, Kings College London, May 2013.

'Shift Left 95: From Cultural Cringe to the New Aesthetic in Aotearoa New Zealand', Rethinking Jazz Cultures, University of Salford, April 2013.

'This one time, at Bandcamp: Behavioural skeuomorphism and online independent music retail', Severn Pop Network inaugural conference: The small economies of the 'new' music industry, University of Bristol, March 2013.

'Radio in the Digital Age', Media Research Seminar, University of Sunderland, October 2012.

'Monkey on the Roof: Online music innovation and social change in the lives of Delhi street children', Subcultures, Popular Music and Social Change Conference, London Metropolitan University, September 2012.

'Music as Culture in the Digital Age', Música Independiente no Contexto Pós-Crise, Universidade do Estado do Rio de Janeiro, October 2011.

'Music, Local Identity and Commercial Radio', Cyfrwng: Media and Culture in Small Nations Conference, University of Glamorgan, June 2011.

'Online mediation of jazz performance, its context and its audiences', Watching Jazz Conference, University of Glasgow, February 2011.

'Unpicking the myths and misunderstandings of radio in the digital age', Keynote speech, The Radio Conference: A Transnational Forum, Auckland University of Technology, January 2011.

'Aftershock: Mediating Live Music Events Online', ECREA 3rd European Communication Conference, University of Hamburg, October 2010.

'Rhythm Changes: Jazz cultures and European identities (Jazz online)', 9th Nordic Jazz Conference, Helsinki, August 2010.

'Aftershock: live music performance and digital narrative', MeCCSA Annual Conference, London School of Economics, January 2010.

'Mediating live jazz festivals online', Mediating Jazz Conference, University of Salford, November 2009.

'Online on-air: BBC Radio 1's Zane Lowe - Live and Interactive', The Radio Conference: A Transnational Forum, York University Toronto, July 2009.

'Music As Culture: Digital Archives and Popular Music' [panel discussion] Unlocking Audio Conference, British Library Sound Archives, London, March 2009.

'BBC Jazz Radio Listeners Online', Leeds International Jazz Conference, University of Leeds, March 2009.

'Jazz Music Consumption Online&', Leeds International Jazz Conference, Leeds College of Music, March 2008.

'Online Music Enterprise', IASPM Conference, University of Otago Dunedin, New Zealand, December 2008.

New Radio Strategies: Reconfiguring Radio in the New Media Environment July 2007.

Online music enterprise: new technologies of music distribution and consumption [co-author] LSC 2006.

'New Zealand On Air', Sounding Out Conference, Sunderland, September 2006.

'Jazz, Radio and National Identity in New Zealand', Leeds International Jazz Conference, Leeds College of Music, March 2006.

'Online Music Enterprise', MeCCSA/AMPE Conference, University of Leeds, January 2006.

'There is no 'We' in iPod', The First European Communication Conference, University of Amsterdam, November 2005.

'Radio, Digitalisation and the Laws of Media', Radio Studies Network Conference, Birmingham City University, April 2005.

'Radio Question Time'; panel, MeCCSA/AMPE conference, Lincoln, January 2005.

'There's no such thing as Internet Radio', The Radio Conference: A Transnational Forum, University of Wisconsin Madison, WI, August 2003.

'Radio and the Internet', Between Empires Conference, Auckland University of Technology, Auckland, February 2003.

**Websites**

http://www.bcu.ac.uk/media/applying-to-us/our-staff/andrew-dubber
http://andrewdubber.com/books
http://bcu.academia.edu/dubber

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**


Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

      (1) There is an awareness and recognition among its members;

      (2) The organized and delineated logical alliance of communities exists; and

      (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and
http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and
http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See
http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and
http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations <u>mainly</u> Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity</u> *mainly*[20] <u>dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).
[21] http://www.ifacca.org/membership/current_members/

influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries.  The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

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[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music"
(http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus  (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[27] http://www.culturalpolicies.net/down/albania_012011.pdf
[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture.nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[29] http://my.midem.com/en/contact-us/pavilion-representatives/

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]

[30] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF
[31] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28
[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf
[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821
[34] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011
[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2
[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf
[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/
[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with formal boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[41]

The reach of A2IM Associate[42] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of all recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of considerable size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[43] – iTunes accounts for 63% of global digital music market[44] - a majority – with a registered community of 800 million registered members[45] available in 119 countries who abide to strict terms of service and boundaries[46] and have downloaded over 25 billion songs[47] from iTunes' catalog of over 43 million songs[48] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[49]

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[39] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://a2im.org/about-joining/

[42] http://a2im.org/groups/tag/associate+members/

[43] http://a2im.org/groups/itunes

[44] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share

[45] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt

[46] http://www.apple.com/legal/internet-services/itunes/ww/index.html

[47] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html

[48] https://www.apple.com/itunes/features/

[49] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html

- **Pandora**[50] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[51]
- **Spotify**[52] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[53]
- **Vevo**[54] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[55]
- **Youtube**[56] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[57] of which 38.4% is music-related.[58]
- **Reverbnation**[59] – Reverbnation[60] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[61] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[62]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[63]), China (China Audio Video Association[64]) and Germany (Initiative Musik).[65] A2IM also has Affiliate[66] associations within the global music community. These include Affiliates such as MusicFirst,[67] the Copyright Alliance,[68] the Worldwide Independent Network (WIN)[69] and Merlin.[70]

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[50] http://a2im.org/groups/pandora
[51] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[52] http://a2im.org/groups/spotify
[53] https://press.spotify.com/us/information/
[54] http://a2im.org/groups/vevo/
[55] http://www.vevo.com/c/EN/US/about
[56] http://a2im.org/groups/youtube/
[57] https://www.youtube.com/yt/press/statistics html
[58] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[59] http://a2im.org/groups/reverb-nation/
[60] http://www.reverbnation.com/about
[61] http://a2im.org/groups/bmg-rights/
[62] http://www.bmg.com/category/about-us/history/
[63] http://a2im.org/groups/french-music-export-office
[64] http://a2im.org/groups/china-audio-video-association-cava
[65] http://a2im.org/groups/initiative-musik-gmbh
[66] http://a2im.org/groups/tag/associate+members/
[67] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[68] http://www.copyrightalliance.org/members
[69] http://www.winformusic.org

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[71] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a majority of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that represents the interests of the recording industry worldwide. It is the "voice of the recording industry worldwide"[72] whose members[73] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[74] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[75] the world's largest music market with 30% global market share.[76] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several measures to deter and address copyright infringement within that TLD." The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license over 80% of the world's music" [77] – a majority of global music.[78]

[70] http://www.merlinnetwork.org
[71] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf
[72] http://www.ifpi.org/about.php
[73] http://www.ifpi.org/our-members.php
[74] http://www.ifpi.org/national-groups.php
[75] http://www.riaa.com/faq.php
[76] http://www.statista.com/topics/1639/music/
[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "support [for] the .MUSIC community applications because respecting and protecting music rights serves the global music community and the public interest."

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[80] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[81] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


B) *Nexus*[82]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music

[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[81] http://music.us/supporters
[82] See http://music.us/nexus

entities to be included as part of the Community. Community members may register a .MUSIC by either:

> 1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

> 2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of <u>communities</u> of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures <u>inclusion of the entire global community that the string represents</u> while <u>excluding unrelated-entities not associated with the string</u>. This way there is a <u>clear match and alignment between the "music" sting and the Community defined</u>.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the <u>considerable</u> millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are <u>only</u> music-related and associated with the string. This is because the string identifies <u>all</u> constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that <u>peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner</u> consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.
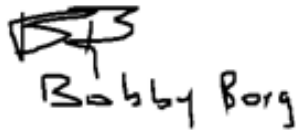
Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates <u>uniqueness</u> because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is <u>not</u> regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[83] given the symbiotic overlapping nature of the Community as

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[83] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.


Respectfully Submitted,



Signature: <span style="font-size:smaller">Contact Information Redacted</span>   <span style="color:red">Jul 16 '15    ip: 162.195.62.104</span>


Name:  `Bobby Borg`


Title:   `Adjunt Professor of Music Business and Marketing, Author, Musician`


Organization:  `Bobby Borg Consulting Group`

## About Bobby Borg

Bobby Borg is a former Major label, independent, and DIY recording/touring artist with over 25 years experience. A graduate of Berklee College of Music with a BA in Professional Music, and UCLA Extension with a certificate in Marketing Management and Project Management, he serves as a music business educator at Musician's Institute in Hollywood and at the University of Los Angeles in California, and he also arranges educational programs with institutions overseas. As a music business and A&R consultant to managers, labels, and supervisors, Borg is also a prominent guest speaker at music industry events and a regular contributor to international music business publications. He is the author of Billboard Books best-seller *The Musician's Handbook: A Practical Guide To Understanding The Music Business* and *Music Marketing For The DIY Musician*. Borg was elected Vice President of Special Events For The American Marketing Association in Los Angeles and was awarded the Volunteer of the Year.

*Academic*

Borg earned a B.A in Professional Music at Berklee College of Music in Boston—special awards and honors Include: Outstanding Participation in The Berklee Concert Series. Borg also received a certificate in Instructor Development at UCLA Extension (focusing on curriculum development, leadership, and management), Music Marketing (focusing on research, planning, and strategizing), and Project Management (focusing on schedules, budgets, and quality).

*Author*

Borg's book *The Musician's Handbook: A Practical Approach To Understand The Music Business* (Billboard Books) has been used in educational institutions and songwriters' groups globally. He is also the author of *Music Marketing For The DIY Musician:* Creating and Executing A Plan of Attack on a Low Budget. Attorney Peter Peterno (representing Dr. Dre), Don Gorder (Chairman of music business at Berklee College of Music), and Steve Vai (noted guitarist) endorse Borg's works. He is the author of seven other music instructional books including *Rudimental Combinations.*

*Educator*

Borg is currently an instructor at Musician's Institute and UCLA Extension where he teaches music business classes including: *Intro To Music Publishing, Independent Music Marketing, The Business of Working Musicians, From the Streets To Success, Doing Business as a Band, and Music Business for Degree Students*. He arranges educational opportunities for institutions around the world, such as Russia and Japan, and travels overseas to lecture on the U.S industry. Borg also teaches drum and percussion classes.

*Recording Artist*

Borg was part of the multi-platinum rock group [Warrant](#) where he helped write and record two albums, *Belly To Belly* and *Warrant Live* (released by CMC/BMG). The band toured extensively throughout the United States, Japan, Canada, and Mexico playing large clubs and amphitheatres—both as a headliner and a supporting act to artists like Alice Cooper and Vince Neil.

Borg was also part of the rock group [Beggars & Thieves](#) where he recorded *Beggars & Thieves* on Atlantic Records. The band was managed by Q-Prime Management (managers of Metallica and Smashing Pumpkins), produced by Steve Thompson and Michael Barbiero, and assisted by Desmond Childs (songwriter for Aerosmith, KISS, and many others).

Borg formed the alternative rock band [Left for Dead](#) where he released *Beatings from Orlando* (licensed by Alfa Music Japan). LFD embraced the independent and DIY work ethic and toured the United States in small vans. Pearl, Rhythm-Tech, Sabian, and other major equipment manufacturers sponsored him, and still do today.

*Moderator/Panelist/Key Note Speaker*

As a moderator, panelist, and key note speaker, Borg contributes to major industry panels for The California Lawyers For The Arts, SXSW, Taxi Road Rally, Berklee College of Music, and the University of Miami, and he sits beside noted guests like Todd Brabeck (ASCAP), Joe DiMona (BMI), and Dina LaPolt (LaPolt Law). He also speaks to a series of songwriter groups like Songsalive, Songnet, and Just Plain Folks. Borg is noted for his energy, clarity, organization, and real-word experiences.

*Journalist*

Borg writes for a number of international publications such as Modern Drummer, Music Connection, Berklee Today, Performer, and Singer Magazine. Additionally, he is a contributor to a number of websites including Get Signed.com, Music Dish, and Indie-Music.com.

*Consultant*

As a music business consultant, Borg meets privately with managers, producers, production companies, independent and DIY artists, songwriters, and anyone else needing advice in business, presentation, and career strategy. Both one-on-one (nation-wide, seasonally) and phone consultations are available.

Bobby Borg's Website: [http://www.bobbyborg.com/about/bio](http://www.bobbyborg.com/about/bio)

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

<div align="center">SUMMARY</div>

DotMusic has established the following:

> 1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;
>
> 2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;
>
> 3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application.  Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string.  DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework.  The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

      (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en, Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).

[9] Music Community. In *Wikipedia*. Retrieved July 6, 2015, from https://en.wikipedia.org/wiki/Music_community

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii)  International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an international federation of national communities of a similar nature… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music,  music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf

[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

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[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq.html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics.html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


**B) Nexus**[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

*Heidy Vaquerano*

Signature:   Aug 3 '15    ip: 64.239.143.192

Name:  Heidy Vaquerano

Title:  Professor & Attorney

Organization: California State University & Vaquerano Law, PC

## About Heidy Vaquerano

Heidy Vaquerano launched her own firm in April 2013. Previous to that she worked at LaPolt Law, P.C. for eleven years where she became experienced in drafting and negotiating agreements relating to the Entertainment Industry including recording agreements, producer agreements, various work for hire agreements, management agreements, licensing agreements for film, TV and video games, original web TV and mechanical licensing.

Her practice focuses on transactional Entertainment Law matters and represents various clients in the music business, film and TV industry, merchandising, book publishing and mobile applications.

Heidy has lectured at various entertainment industry events and including, MIDEM in Cannes, France on behalf of the International Association of Entertainment Lawyers. Most recently she began teaching the Graduate Business Course entitled, "Introduction to the Business of Music" at California State University, Los Angeles.

### Published Works

*The Future Generation of TV: Creating and Monetizing Original Web Content, published by the International Association of Entertainment Lawyers' book entitled "The New Economics of the Entertainment Industry."*

*Talent Agents in the United States: Navigating Today's Complex Entertainment Industry, published by the International Association of Entertainment Lawyers' book entitled "Building the Artist's Brand of Business."*

*Secondary Ticketing in the United States, published by the International Association of Entertainment Lawyers' book entitled "Live Entertainment."*

### Website

http://www.hvlawpc.com

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter that indicates that there is substantive and compelling evidence that the DotMusic application convincingly meets the full criteria under Community Priority Evaluation on the following points: (i) the Music Community's *Establishment* as defined by DotMusic; (ii) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (iii) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to the music community's organization and delineation.

SUMMARY

DotMusic has established the following:

1) Its Community definition recognizes the <u>cohesive, symbiotic and overlapping nature of the global Music Community</u>. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the <u>requisite awareness</u> and <u>recognition</u> of the <u>interdependency</u>, <u>overlapping</u> and <u>cohesive nature</u> of each "organized community of similar nature that relates to music." These organized and aligned communities are <u>closely united</u> and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a <u>regulated</u> sector with global copyright protections – it is clear that the "community," as defined, implies "more of <u>cohesion</u> than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a <u>globally-recognized set of standards for</u>

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity *mainly* dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the Community as defined and recognized in the DotMusic application.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application Answer to Question 20a) is factually accurate and representative of the "Music Community." Community characteristics include:

*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector. "Music" is a regulated sector comprised of a logical alliance of interdependent communities relating to music with organized practices and institutions that enable and regulate the production, distribution and consumption of music that was publicly recognized by both ICANN and the Government Advisory Committee[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

DotMusic's application follows unified principles that the entire Community subscribes to, such as: creating a trusted identifier and safe haven for music consumption, protecting musicians' rights and intellectual property, fighting copyright infringement/piracy, supporting fair compensation and music education, and following a multi-stakeholder approach of representation of all types of global music constituents without discrimination (See Application Answers to 18).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

(2) The organized and delineated logical alliance of communities exists; and

(3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and institutions that make possible and regulate the production, distribution and consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by common values, cohesive norms and interconnected structures to build a community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical activities, identity and community value is created as result of infrastructure and a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

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*ii)  An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15

countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are clearly aware of the collective Community's rights, which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were not coherent or enforced then music would not be able to exist in its current form and the industry component of the Music Community sector would not exist. As such, the Community's *Establishment* and definition is "cohesive" and hence cannot be construed since the Community is a logical alliance of music communities that establish a clearly delineated and organized Community structure that is "closely united" and functions as a "whole"

Further evidence to substantiate the cohesive, symbiotic and overlapping nature of the Community, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

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[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would not be able to create, market and distribute their music. By the same token, fans would not be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent without these organized and delineated elements that commonly define the Community.

*iii) International Federations and Organizations mainly Dedicated to the Community:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of...a logical alliance of communities (for example, an international federation of national communities of a similar nature... viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has at least one entity *mainly*[20] dedicated to the community which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the only international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the only international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] Per the Oxford and Merriam Webster dictionaries, the word "mainly" is defined as "*more than anything else*" (See http://www.oxforddictionaries.com/definition/english/mainly and http://www.merriam-webster.com/dictionary/mainly respectively). According to DotMusic, the string .MUSIC relates to the Community "by representing all constituents involved in music creation, production and distribution" (Application Answer to Question 20d). Supporting organizations related to that string that are "mainly" dedicated to the Community and its activities, include the International Federation of Arts Councils and Culture Agencies (IFACCA) representing government culture ministries and arts councils, the International Federation of Musicians (FIM) representing musicians globally, the International Federation of Phonographic Industry (IFPI) representing the recording industry worldwide, the International Confederation of Music Publishers (ICPM) representing the voice of global music publishing, the International Association of Music Information Centres (IAMIC, the American Association of Independent Music (A2IM), whose associate members represent a majority of music consumed, the Independent Music Worldwide Independent Network (WIN) representing independent music worldwide, the International Society for Music Education (ISME) the premiere international organization representing music education, and many others (See support at http://music.us/supporters and https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392).

role with respect to music.[21] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "considerable size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music surpasses any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[22] The UNESCO strategic partnership[23] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[24]

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[25]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[26] Other small government Ministries of Culture, such as Albania,[27] or government

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[21] http://www.ifacca.org/membership/current_members/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.ifacca.org/strategic_partners/
[24] http://www.imc-cim.org/about-imc-separator/who-we-are.html
[25] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[26] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www.moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6),

Ministries of Culture and Arts Councils from countries with larger populations, such as India,[28] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[29]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[30]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[31]
- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[32] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[33]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[34]

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Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)

[27] http://www.culturalpolicies net/down/albania_012011.pdf

[28] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf

[29] http://my.midem.com/en/contact-us/pavilion-representatives/

[30] 2011 Annual Report from New Zealand Ministry of Culture:
http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

[31] 2011 Annual Report for the Australia Council for the Arts,
http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[32] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[33] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[34] Department for Culture, The Importance of Music, A National Plan for Music Education,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[35] and has a strong focus on music as outlined in its Strategic Plan[36] with Congress requested to provide $154,465,000 for fiscal year 2014.[37]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[38]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[39]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[40]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

The IFPI is another entity *mainly* dedicated to the Community. The IFPI is the only organization that <u>represents the interests of the recording industry worldwide</u>. It is the "<u>voice of the recording industry worldwide</u>"[41] whose members[42] – major and independent companies -- represent a majority of all commercial music consumed globally. For example, the RIAA, an IFPI national group member,[43] represents "approximately 85% of all legitimate recorded music produced and sold in the United States,"[44] the world's largest music market with 30% global market share.[45] Formed in 1933, the IFPI's mission was to "represent the interests of the recording industry worldwide in all fora."

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[35] 2011 Annual report for the National Endowment of the Arts, http://www nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[36] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[37] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[38] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[39] Singapore Arts Council, http://www nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[40] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

[41] http://www.ifpi.org/about.php

[42] http://www.ifpi.org/our-members.php

[43] http://www.ifpi.org/national-groups.php

[44] http://www.riaa.com/faq.php

[45] http://www.statista.com/topics/1639/music/

Another clear example of an "entity *mainly* dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[46]

The reach of A2IM Associate[47] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[48] – iTunes accounts for <u>63% of global digital music market</u>[49] - a <u>majority</u> – with a registered community of 800 million registered members[50] available in <u>119 countries</u> who abide to strict terms of service and boundaries[51] and have <u>downloaded over 25 billion songs</u>[52] from iTunes' catalog of over <u>43 million songs</u>[53] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[54]
- **Pandora**[55] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[56]
- **Spotify**[57] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[58]
- **Vevo**[59] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[60]

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[46] http://a2im.org/about-joining/
[47] http://a2im.org/groups/tag/associate+members/
[48] http://a2im.org/groups/itunes
[49] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[50] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[51] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[52] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[53] https://www.apple.com/itunes/features/
[54] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[55] http://a2im.org/groups/pandora
[56] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[57] http://a2im.org/groups/spotify
[58] https://press.spotify.com/us/information/
[59] http://a2im.org/groups/vevo/

- **Youtube**[61] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[62] of which 38.4% is music-related.[63]
- **Reverbnation**[64] – Reverbnation[65] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[66] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[67]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[68]), China (China Audio Video Association[69]) and Germany (Initiative Musik).[70] A2IM also has Affiliate[71] associations within the global music community. These include Affiliates such as MusicFirst,[72] the Copyright Alliance,[73] the Worldwide Independent Network (WIN)[74] and Merlin.[75]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[76] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

[60] http://www.vevo.com/c/EN/US/about
[61] http://a2im.org/groups/youtube/
[62] https://www.youtube.com/yt/press/statistics html
[63] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[64] http://a2im.org/groups/reverb-nation/
[65] http://www.reverbnation.com/about
[66] http://a2im.org/groups/bmg-rights/
[67] http://www.bmg.com/category/about-us/history/
[68] http://a2im.org/groups/french-music-export-office
[69] http://a2im.org/groups/china-audio-video-association-cava
[70] http://a2im.org/groups/initiative-musik-gmbh
[71] http://a2im.org/groups/tag/associate+members/
[72] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[73] http://www.copyrightalliance.org/members
[74] http://www.winformusic.org
[75] http://www.merlinnetwork.org
[76] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [77] – a <u>majority</u> of global music.[78]

Another letter[79] sent to ICANN (on April 14th, 2015) by Danielle Aguirre from the NMPA and on behalf of a music publisher and songwriter community coalition representing a majority of the global music publishing community, also expressed "<u>support [for] the .MUSIC community applications</u> because respecting and <u>protecting music rights serves the global music community</u> and the public interest."

The International Music Products Association, NAMM, is another globally-recognized and relevant group of non-negligible size that has supported DotMusic. [80] NAMM, formed in 1901, is *mainly* dedicated to the global music community by <u>representing the international music products industry and community</u>, with globally-recognized members and exhibitors that include Yamaha, Roland, Sennheiser, Sony, Fender, Harman, Kawai, Shure, Steinway, Audio-Technica, AKAI, Gibson, Peavey, Korg, AKG, Selmer, JBL, Alesis, Ibanex, AVID, Casio, DW, Sabian, Pearl, Zildjian, Martin, Ludwig, Marshall and others.[81] [82] Every amateur and professional musician worldwide uses music products manufactured and distributed by NAMM's members. Without these musical instruments and products, music as we know it today would not be created or produced. NAMM and its trade shows power the $17 billion global music products industry serving as a hub for the global music community wanting to seek out the newest innovations in musical products, recording technology, sound and lighting. NAMM's mission is "<u>to strengthen</u>

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[77] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1
[78] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A
[79] https://www.icann.org/en/system/files/correspondence/aguirre-to-icann-board-eiu-14apr15-en.pdf
[80] http://music.us/letters/NAMM_International_Music_Products_Association.pdf
[81] https://www.namm.org/files/showdir/ExhibitorList_WN15.xls
[82] http://www.musictrades.com/global.html

the music products industry and promote the pleasures and benefits of making music."[83] NAMM also hosts the NAMM Show, the world's largest event for the music products industry.

Collectively, the DotMusic application received support from the largest coalition of music community member organizations ever assembled to support a cause representing over 95% of music consumed globally.[84] Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community as defined. Cumulatively, DotMusic possesses documented support[85] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would not be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


## B)  *Nexus*[86]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must match the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely matches the applied-for "music" string because it represents the entire global Music Community as commonly-known and perceived by the general public. This definition allows for all constituents with a requisite awareness of the Community defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process.  It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community. Community members may register a .MUSIC by either:

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[83] https://www.namm.org/about
[84] See http://music.us/supporters, https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/142588?t:ac=1392, Bloomberg BNA at http://music.us/RIAA_Backs_DotMusic.pdf Pg.1, and http://diffuser.fm/will-dot-music-domains-make-the-internet-better/
[85] http://music.us/supporters
[86] See http://music.us/nexus

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential relationships with the defined "music" Community and applied-for "music" string would not constitute a qualifying Community membership and would be ineligible for registration. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework[87] given the symbiotic overlapping nature of the Community as defined and structured. Music would not function as it does today without the participation of all music constituent types which cumulatively match the string with the Community definition.

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[87] ICANN has disclosed that the string .MUSIC is a sensitive string operating in a regulated sector. ICANN also accepted Government Advisory Committee (GAC) advice for safeguards to protect the Music Community and the public interest (See https://icann.org/en/system/files/correspondence/crocker-to-dryden-3-29oct13-en.pdf Pg.7)

In conclusion, there is substantive and compelling evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

Signature: *Jeffrey Weber*
Contact Information Redacted , Aug 9 '15 ip: 24.120.55.70

Name: Jeffrey Weber

Title: CEO

Organization: Stark Raving Records

# Professor Jeffrey Weber Esq.

Jeffrey Weber has been a widely recognized music industry professional for over thirty years. He has produced over 180 CDs with releases on just about every major label as well as a host of independent labels. Along the way, his projects have yielded two Grammys, seven Grammy nominations, at least seventeen top ten albums, two number one albums and an assortment of other honors.

His book, "You've Got A Deal! The Biggest Lies of the Music Business" will be published by Headline Books in January of 2012. "Over 100 people turned up, and I was truly shocked and gratified. Took me over two hours to sign all the books for everyone. One guy drove down from Oregon and another flew in from North Carolina for this signing in Los Angeles. The publisher flew in from West Virginia. When does a publisher attend a book signing!!? Wild... The publisher who flew from West Virginia said that I had more people and sold more books at one signing than any of her other writers in her twenty-five year history. I wonder if that's a good thing or a bad thing….," says Weber.

During his thirty plus year career, he has founded, ran or participated in various label capacities from A&R, Music Supervision for film and TV, Production, Interactive Programming, Marketing, Sales, International Relations, Business Affairs and Art Director for independent labels such as Penny's Gang, 44-4 Records, Discwasher Records, Prima Records, Beach Jazz, Agenda Records, Denon Records, Handshake Records, Audio Source Records, Voss Records, Video Arts, Clear Audio, Pony Canyon, P.C.H. Records, En Pointe Records, Cameron Records as well as his own labels, Weberworks and Stark Raving Records.

His productions have also appeared on every major label including MCA, Warner Bros., Atlantic, BMG, Columbia, A&M, Elektra as well as such labels as GRP, Hip-O, Sheffield, Concord, Bainbridge, Silver Eagle, Zebra, among countless others.

Among the many artists that have fallen under the banner of "Produced by..." include: Nancy Wilson, David Benoit, Steve Lukather, the Utah Symphony, Jackson Browne, Marcus Miller, Michael McDonald, Bill Champlin, Gerald Albright, Tom Scott, Chick Corea, Stanley Clark, Etta James, Linda Hopkins, Kenny Burrell, McCoy Tyner, Jackie McLean, Billy Sheehan (Mr. Big), Cozzy Powell, the Count Basie Orchestra, John Sebastian, Ronnie Dio, Ritchie Blackmore, Pat Boone, Buddy Miles, Billy Preston, MC Lyte, Kenny Rankin, Diane Reeves, Diane Schuur, Rita Coolidge, Luther Vandross, David Crosby, Simon Phillips, Jeff Porcaro, Patrice Rushen, Toni Tennille, among many others.

Jeff has been a concert and event producer for over ten years with extensive experience in concert management and production, staging, lighting, and sound from the smallest of venues to large stadium shows. He has produced shows for the Atlantis Resort, NASCAR, the Breeder's Cup, Chicago White Sox, Cystic Fibrosis, Fallsview Casino and Resort, Ford, Harry Caray's, KTLA, Loehmann's Department Store, Lupus L.A., NAMM, National Cable

and Telecommunications Association, Netflix, Orange County Flyers, Pebble Beach Pro-Am, AT&T, Dockers, Shore Club-South Beach, Taste Of Chicago, USAA, American Idol, The Tonight Show, among many others.

In 2009, Weber finalized his, from the ground up, re-definition of the business model for a record label that he firmly believes will be the architecture for all labels in the future. Weber's model has embraced a complete slate of innovative concepts and procedures, ranging from the manner in which artist contracts are conceived and implemented to recording procedures, to innovations in sales, marketing and promotion. Designed to re-invent and re-energize the relationships between the artist and the label and the artist and the consumer, the model establishes format-breaking levels of transparency and unique partnerships in all label/artist/fan relationships.

His innovative concepts were the operational foundations for two independent labels distributed by Fontana (Universal). At the time, he was named President of both labels. In addition, Weber's dynamic business model innovations for record labels are now being taught at UCLA and the University of Texas, Austin. He has also been an educator at both UCLA (for about 22 years) and the University of Texas, Austin (for about 6 years).

Jeff is well known for his involvement in high technology recording techniques, especially live two track recording, live multi-track and digital recording. Because of their sonic excellence, his recordings have been repeatedly selected by major hardware manufacturers to demonstrate their product lines.

Jeff is very active as a music supervisor for film, television and cable. He specializes in cost effective synchronization and master use license acquisition strategies as well as production based music options.

Jeff co-founded and programmed Studio M, a nationwide broadcast television network that utilized their growing 28,000 music video library to broadcast multiple genre based music video shows. It was on the air seven days a week, for five hours a day to an estimated audience of thirty million homes.

In addition to music production, Jeff has spent over twenty years behind the microphone as a voice-over talent for commercials, cartoons, industrial films, infomercials, live web broadcasting, and television. He has done voice work for Interscope (Guns & Roses), Toyota, Nissan, Ford, VR Troopers, the Ventura County Star newspaper chain, Play It Again Sports, Sony, Boston Acoustics, Audio Source, the BBC, the Jazz Network, Dejaun Jewelers, the Los Angeles Zoo, CBS and Warner Bros., among countless others. He continues to be extremely active in this field.

Well versed in video production, Jeff has written, produced and directed over two-dozen music based concerts and videos. Recently, he produced a 12 camera, High Definition, robotic, five-channel surround sound DVD/CD for Band From TV, a rock and roll cover band comprised of famous television actors who travel the country raising money for their selected charities. He continues to travel with the band producing all their live concerts.

He has been a music journalist with articles in major industry publications nationwide. He

has received numerous awards as an art director and many of his album cover designs have been published in "Best of..." annual publications. As an educator, he has taught courses on the music industry at universities and law schools (he has a law degree as well) across the country.

Jeff is a former member of the Board of Governors of the National Academy of Recording Arts and Sciences (NARAS) as well as a former National Trustee and Chapter Vice President.

## **Educator**

*University of Texas - Austin*
2007 – December 2013 (6 years)

*UCLA*
June 1988 – January 2011 (22 years 8 months)

## **Education**

*Southwestern University School of Law*

J.D., Law
1973 – 1976

*University of California, Los Angeles*

BA, English/Creative Writing
1969 – 1973

## **Credits**

| Year | Album | Artist | Role |
|------|-------|--------|------|
| 2010 | Hoggin' All the Covers Unleashed! | Band from TV | Producer |
| 2010 | Something Goin' On | Shelley & Cal | Producer |
| 2009 | Only the Best of Freddie Hubbard | Freddie Hubbard | Producer |
| 2007 | About A Girl | | Drums |

| 2007 | Free Flight [Xien] | Jim Walker | Producer |
|------|-------------------|------------|----------|
| 2007 | When I Was a Planet | Invitro | Vocals |
| 2007 | XM: Watercolors - Red [Circuit City Exclusive] | | Producer |
| 2006 | A Mellow Jazz Christmas | | Producer |
| 2006 | Full Circle | David Benoit | Audio Production, Liner Notes, Producer |
| 2006 | Standards | Stanley Clarke | Producer |
| 2006 | Standards | David Benoit | Audio Production, Producer |
| 2006 | These Days | Ellen Johnson | Producer |
| 2005 | 20th Century Masters - The Millennium Collection: The Best of David Benoit | David Benoit | Audio Production, Producer |
| 2005 | Anthology | Perri | Producer |
| 2004 | At the Brewhouse, Vol. 2 | Kenny Drew | Producer |
| 2004 | Jazz Standards | Stanley Clarke | Producer |
| 2004 | Melissa Peda | Melissa Peda | Producer |
| 2004 | Once Again | The Kingston Trio | Original Liner Notes |
| 2004 | Peace for Love | Curtis Amy | Producer |
| 2004 | Smooth Jazz | Stanley Clarke | Producer |
| 2004 | Whispers of the Wind | Talia | Producer |
| 2003 | Gold Coast | Rhian Benson | Producer |
| 2003 | Ins and Outs/Lalo Live at the Blue Note | Lalo Schifrin | Digital Editing, Producer |
| 2003 | Kitty Jerry | Kitty Jerry | Producer |
| 2002 | EROShambo | Frank Garvey | Soundscape |

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|---|---|---|---|
| 2002 | The Best Smooth Jazz Ever [GRP/Universal] | | Producer |
| 2002 | The Osbourne Family Album | | Producer |
| 2001 | Gold Collection [Retro Music] | Sarah Vaughan | Production Consultant |
| 2001 | House of the Deafman | DeusMachina | Soundscape, Voices |
| 2001 | Jazzy Christmas [Vertical Jazz] | | Producer |
| 2001 | Out the Box | Bill Gordon | Liner Notes, Producer |
| 2001 | Talia | Talia | Producer |
| 2001 | The Early Years: If I Could Reach Rainbows | David Benoit | Producer |
| 2000 | Great Composers of Jazz | David Benoit | Producer |
| 2000 | Jazz Relaxante | Bob Conti | Producer |
| 2000 | Jazz Straight Up | Leon "Ndugu" Chancler | Producer |
| 2000 | Jazz on Broadway | Joe La Barbera | Producer |
| 2000 | Journey into the Land of Meditation | Christina Drozda | Remixing |
| 2000 | Late Night Jazz | Pete Christlieb | Producer |
| 2000 | The Gold Collection: Sings the Poetry of Pope John Paul II | Sarah Vaughan | Production Consultant |
| 1999 | Beautiful One | Holly Robinson | Producer, Vocals (Background) |
| 1999 | Sugar Cane | Rafael Aragon | Mixing, Producer |
| 1999 | Time Traveler: Three Decade Journey | Tim Weisberg | Producer |
| 1998 | Crossroads | Jeff Berlin | Choir/Chorus, Producer |
| 1998 | Love Songs | Jennifer Love Hewitt | Arranger, Producer |

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|---|---|---|---|
| 1998 | Pump It! | Jeff Berlin | Producer, Vocals (Background) |
| 1998 | Some Other Sunset | David Benoit | Producer |
| 1997 | In a Metal Mood: No More Mr. Nice Guy | Pat Boone | Producer |
| 1997 | Jazz Profile | McCoy Tyner | Producer |
| 1997 | Other People's Houses | David Redman | Producer |
| 1997 | The Very Best of Diane Schuur | Diane Schuur | Producer |
| 1996 | In Harmony with the Homeless | | Producer |
| 1996 | MDMS System Conditioning Disc | | Producer |
| 1996 | Sheffield Jazz Experience | | Producer |
| 1996 | The Sheffield Pop Experience | | Producer |
| 1996 | To: 87 | David Benoit | Producer |
| 1995 | Lifting the Spirit | | Producer |
| 1995 | Road to Joy | Freeway Philharmonic | Producer |
| 1995 | Seeing for the Very First Time | Barbara Weathers | Cover Art Concept, Producer |
| 1995 | Sonic Detour | Freeway Philharmonic | Liner Notes, Producer |
| 1995 | The Best of David Benoit 1987-1995 | David Benoit | Producer |
| 1994 | Acoustic Jazz | | Producer |
| 1994 | Jazz Live | | Producer |
| 1994 | Naked Eyes | Tim Weisberg | Percussion, Producer |
| 1994 | The Beauty of Broadway | Dale Kristien | Producer |

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|---|---|---|---|
| 1994 | What They Don't Tell You | Rain-Bo Tribe | Producer |
| 1993 | Laughing Medusa Theme Series, Vol. 1 | Emergence | Engineer, Mixing, Producer |
| 1993 | Magical Duos | | Producer |
| 1993 | Passion | Rafael Aragon | Producer |
| 1993 | We're All in This Together | | Producer |
| 1992 | Fascinating Jazz | Jim DeJulio | Producer |
| 1992 | Heavy Hitter | Joe Hackney | Producer |
| 1992 | High Heels | Pat Kelley | Producer |
| 1992 | KIFM - Jazz San Diego Style, Vol. 3 | | Producer |
| 1992 | Letter to Evan | David Benoit | Producer |
| 1992 | Love Lives On | Kenia | Producer |
| 1992 | Reruns | Grant Geissman | Producer |
| 1992 | Up-Front | The Power of Seven | Producer |
| 1991 | Nelson Kole | Nelson Kole | Producer |
| 1991 | The Paper and the Dog | Uncle Festive | Production Consultant |
| 1991 | The Usual Suspects | Usual Suspects | Cover Design, Liner Notes, Producer |
| 1990 | GRP New Magic Digital Sampler, Vol. 3 | | Producer |
| 1990 | La Cocina Caliente | Luis Conte | Producer |
| 1990 | Soldiers on the Moon | David Lasley | Producer |
| 1990 | This Is Me | Emily Remler | Percussion, Producer |
| 1990 | WNUA 95.5: Smooth Sounds, Vol. 3 | | Producer |

| 1990 | What You're Looking For | Kenia | Producer |
|------|--------------------------|-------|----------|
| 1989 | Aurora | Aurora | Producer |
| 1989 | Collection | Diane Schuur | Producer |
| 1989 | Flying | The Ritz | Percussion, Producer, Vocals |
| 1989 | GRP Presents KBLX: The Quiet Storm - Soft and Warm | | Producer |
| 1989 | KIFM: Smooth Sounds of San Diego, Vol. 1 | | Producer |
| 1989 | Movin' Up | The Ritz | Producer |
| 1989 | That We Do Know | Uncle Festive | Producer |
| 1989 | Waiting for Spring | David Benoit | Producer |
| 1988 | Denon Jazz Sampler, Vol. 3 | | Producer |
| 1988 | Do It Again | Toni Tennille | Producer |
| 1988 | KBLX - The Quiet Storm | | Producer |
| 1988 | The Flight | Perri | Producer |
| 1988 | The Ritz | The Ritz | Producer |
| 1988 | The Spirit of Christmas | The Ritz | Producer |
| 1988 | Up Late | Jeff Linsky | Producer |
| 1988 | WNUA 95.5: Smooth Sounds, Vol. 2 | | Producer |
| 1987 | Diane Schuur & the Count Basie Orchestra | Diane Schuur | Producer |
| 1987 | Every Step of the Way | David Benoit | Producer |
| 1987 | Freedom at Midnight | David Benoit | Producer |
| 1987 | Intensive Care | Paul Smith | Producer |

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| 1987 | Say Uncle | Uncle Festive | Producer |
| 1987 | Young People with Faces | Uncle Festive | Producer |
| 1986 | The Cool Side of Yuletide | Joe Hackney | Producer |
| 1986 | This Side Up | David Benoit | Concept, Producer |
| 1985 | It's About Time | Jackie McLean | Producer |
| 1985 | Venusian Fantasy | Joe Hackney | Producer |
| 1984 | More than You Know | Toni Tennille | Digital Editing, Producer |
| 1984 | Odyssey | Sid Page | Engineer, Producer |
| 1983 | 100 Hearts | Michel Petrucciani | Producer |
| 1983 | Digital Big Band Bash! | | Producer |
| 1983 | Live from San Francisco | Maynard Ferguson | Producer |
| 1983 | Target | Tom Scott | Producer |
| 1982 | Desire | Tom Scott | Audio Production, Digital Editing, Producer |
| 1982 | Night Plane | Night Plane | Composer, Producer |
| 1982 | Portrait of an Artist | Joe Albany | Audio Production |
| 1982 | Ride Like the Wind | Freddie Hubbard | Producer |
| 1982 | Storm | Maynard Ferguson | Producer |
| 1980 | Heritage | Kenny Burrell | Digital Editing, Director, Producer |
| 1979 | The Tip of the Weisberg | Tim Weisberg | Flute, Producer |
| 1978 | Black Forest | Luis Conte | Producer, Voices |
| 1977 | Discovered Again | Dave Grusin | Production Assistant |
| 1977 | Gentle Thoughts | Lee Ritenour | Liner Notes |

| 1977 | Sugar Loaf Express Featuring Lee Ritenour | Sugar Loaf Express | Liner Notes |
|------|-------------------------------------------|--------------------|-------------|
| 1976 | Comin' from a Good Place | Harry James | Production Assistant |
| 1976 | The King James Version | Harry James & His Orchestra | Production Assistant |

**Websites:**

http://www.studioexpresso.com/profiles/jeffweber.htm
https://www.uclaextension.edu/pages/instructorbio.aspx?instid=3661
http://moody.utexas.edu/sites/communication.utexas.edu/files/attachments/utla/Music%2013.pdf
https://www.linkedin.com/in/jeffreyweber
http://www.allmusic.com/artist/jeffrey-weber-mn0000317319/credits

**Re: Expert Testimony on (i) Community Establishment; (ii) Nexus; and (iii) Support for DotMusic's Community-Based Application[1] for .MUSIC (Application ID 1-1115-14110)**

Dear ICANN and Economist Intelligence Unit ("EIU"):

Please accept this letter to verify the following facts: (i) the Music Community's *Establishment* as defined by DotMusic; (2) the matching *Nexus* between the "music" Community and the "music" string (or top-level domain); and (3) that DotMusic possesses documented *Support* from organizations representing a majority of the global Music Community addressed and defined.

Please see my credentials attached hereto that identify my level of expertise and specialized knowledge with respect to music.

<div align="center">SUMMARY</div>

Based upon my knowledge of music, the music community and DotMusic's public statements concerning their .MUSIC community application, DotMusic has established the following facts:

1) Its Community definition recognizes the cohesive, symbiotic and overlapping nature of the global Music Community. The definition includes those associated with commercial and non-commercial creation, performance, marketing and distribution of music;

2) "Music Community" members have the requisite awareness and recognition of the interdependency, overlapping and cohesive nature of each "organized community of similar nature that relates to music." These organized and aligned communities are closely united and make "music" as we know it today. It is this self-awareness and interdependence that gives the "Music Community" its strength. With exponential growth of the Internet, mobile and the Domain Name System (DNS), the "Music Community's" use and reliance on the Internet to create, market and disseminate music-related content, products, services and activities will continue to grow;

3) The "Music Community" functions in a regulated sector with global copyright protections – it is clear that the "community," as defined, implies "more of cohesion than a mere commonality of interest" with an "awareness and recognition of a community among its members." Several international treaties mandate a globally-recognized set of standards for

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[1] https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/1392

the protection of the "Music Community" member rights with relation to their copyrighted music works around the world;

4) The "Music" Community -- as defined by DotMusic -- has at least one entity dedicated to the community supporting DotMusic's application. Such documented *Support* includes several "international federation of national communities of a similar nature," music coalitions and others that are strongly associated with "music," which represent a majority of the Community with considerable millions of members worldwide.[2]

5) The *Nexus* of the "music" Community matches the "music" applied-for string because it represents the entire global Music Community – a community that pre-existed 2007 with a size in the considerable millions of constituents. The "Music Community" definition -- which incorporates the strict fundamental attributes of a closely united Community definition that is "organized" and "delineated" -- ensures that all of its constituent members have a requisite awareness of the community as defined, including both commercial and non-commercial stakeholders, to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination.

6) DotMusic has received support from the largest coalition of Music Community member organizations ever assembled to support a cause. Such unparalleled global Music Community support represents an overwhelming majority of the global Music Community. Cumulatively, DotMusic possesses documented support[3] from institutions/organizations representing a majority of the defined and recognized Community.

There is substantive evidence that DotMusic fulfills the *Nexus*, *Community Establishment* and *Support* criteria for the "Music" string. The inclusion and representation of every music constituent type is paramount to the articulated purpose of the string. DotMusic and its application's global Music Community supporters substantiate that every type of music constituent contributes to the function and operation of the music sector within a regulated framework. The symbiotic nature of the Community as defined and structured means that "Music" would not function as it does today without the participation of all music constituent types that interconnect to match the "music" string with the "music" Community definition.

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[2] http://music.us/supporters
[3] http://music.us/supporters

ASSESMENT OF COMMUNITY DEFINITION, ESTABLISHMENT AND NEXUS

## A) *Music Community Definition, Establishment & Community Endorsement*[4]

DotMusic's definition of the "Music Community" as a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>" (See Application, 20a) is factually accurate and representative of the "Music Community." Community characteristics include:


*i) An Organized, Cohesive, Interdependent Logically-Allied Community:*

The "Music Community" definition covers the <u>regulated</u>, <u>interdependent</u> and <u>cohesive</u> nature of the music sector that exists today. "Music Community" members have the requisite awareness and recognition of the interdependent, overlapping and cohesive nature of each "organized community of similar nature that relates to music" that comprises the "Music Community." Without such cohesiveness and interdependency, the defined "Music" Community matching the applied-for string ("Music") would not be able to function in its regulated sector, a "Music" regulated sector that was publicly recognized by both ICANN and the Government Advisory Committee.[5]

As a result, the Music Community as defined is "<u>closely united</u>" (As per the definition of "cohesion" according to Merriam-Webster dictionary[6]) or "<u>united or form a whole</u>" (As per the definition of the word "cohesion" according to Oxford Dictionaries[7]).

The "Music Community" as defined (a "strictly <u>delineated</u> and <u>organized</u> community of individuals, organizations and business, a <u>logical alliance of</u> communities of similar nature that <u>relate to music</u>") establishes that:

> (1) There is an awareness and recognition among its members;
>
> (2) The organized and delineated logical alliance of communities exists; and
>
> (3) The Community is "closely united" and "interdependent" (i.e. Each "organized community of similar nature that relates to music" which is part of the "logical alliance of communities that relate to music" is <u>not</u> mutually exclusive).

In short, the applied-for string ("Music") matches the name of the "Music" Community as defined by DotMusic's application. DotMusic's "Music Community" definition accurately represents the common definition of the "Music Community," which is confirmed by Wikipedia.

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[4] See http://music.us/establishment
[5] https://www.icann.org/en/system/files/bm/briefing-materials-2-05feb14-en.pdf, Pg.3
[6] http://www.merriam-webster.com/dictionary/cohesion
[7] http://www.oxforddictionaries.com/us/definition/american_english/cohesion

According to Wikipedia:[8]

> *Music community is defined as a <u>logical alliance of interdependent communities</u> <u>that are related to music</u>, which include commercial participants…and non-commercial participants…and consists of an "<u>ensemble of practices and</u> <u>institutions that make possible and regulate the production, distribution and</u> <u>consumption of music</u>"…UNESCO identifies the music community as a "<u>community of identity</u>" implying common identifiable characteristics and <u>cohesive</u> attributes such as sharing a music culture, norms and <u>subscribing to</u> <u>common ideals</u> related to music…The music community is not <u>defined</u> as much by demographic indicators such as race, gender, and income level, as it is <u>by</u> <u>common values, cohesive norms and interconnected structures to build a</u> <u>community identity</u>. It refers to music-related individuals and organisations in a shared environment with shared understandings and practices, modes of production and distribution. The <u>shared organisation of collective musical</u> <u>activities, identity and community value is created as result of infrastructure and</u> <u>a shared set of common values</u>…Many studies outline the historical, cultural, and spatial significance of the music community, including how its identity is formed through musical practices. The music community shares a <u>cohesive</u> and <u>interconnected structure</u> of artistic expression, with diverse subcultures and socio-economic interactions…subscribing to <u>common ideals</u>. Under such structured context music consumption becomes possible regardless whether the transaction is commercial and non-commercial.[9]*

*ii) An Aware, Pre-Existing and Recognized Community of Considerable Millions Worldwide:*

DotMusic's definition of the Community covers <u>all</u> Community members associated with the string, each with a requisite awareness of the Community that can be validated through their natural association with a particular music-related community that they clearly identify with. According to DotMusic, <u>all</u> Music Community members <u>must identify their music-related</u> <u>community</u> in order <u>to demonstrate their requisite awareness of the defined Community</u> as part of the .MUSIC registration and validation process.

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[8] Wikipedia is ranked 6th among the ten most popular websites (Alexa, Retrieved March 23, 2015 from http://www.alexa.com/siteinfo/wikipedia.org) and constitutes the Internet's largest, most frequently updated and popular general reference work (See OECD, OECD Internet Economy Outlook 2012, OECD Publishing, http://www.oecd-ilibrary.org/science-and-technology/oecd-internet-economy-outlook-2012_9789264086463-en,Pg.172) that compares favorably to the accuracy of other encyclopedias (such as the Britannica) according to a 2012 study conducted in partnership with Oxford University (See http://blog.wikimedia.org/2012/08/02/seven-years-after-nature-pilot-study-compares-wikipedia-favorably-to-other-encyclopedias-in-three-languages).
[9] Music Community. In *Wikipedia*. Retrieved March 23, 2015, from https://en.wikipedia.org/wiki/Music_community

According to DotMusic, the Music Community's geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents (Application Answer to Question 20a).

According to DotMusic, "registrants will be verified using Community-organized, unified "criteria taken from holistic perspective with due regard of Community <u>particularities</u>" that "invoke a formal membership (Application Answer to Question 20a)." The defined Community represents <u>all music-related entities with a clear and straightforward membership with the Community involved in the legal production, performance, promotion, and distribution of music worldwide</u>. According to DotMusic, the Music Community members must have an <u>active</u>, <u>non-tangential relationship</u> with the applied-for string "music" and also have the requisite awareness of the music-related community that they are a part of by specifically identifying it as part of the registration and validation process (i.e. upon successful registration and validation, each community member will be given a unique community identification number that will automatically associate them with their identified community and the "music" string).

<u>DotMusic's Community definition matches the applied-for string</u> because it allows both commercial and non-commercial stakeholders to register a .MUSIC domain <u>without any conflicts of interests, over-reaching or discrimination/exclusion</u>. Given the regulated sector of the community, it is clear that the "Music Community" as defined implies "more of <u>cohesion</u> than a mere commonality of interest" with an "<u>awareness</u> and <u>recognition</u> of a community among its members." Several international treaties mandate <u>cohesive and globally-recognized set of standards for the protection of the music community members' rights with relation to their copyrighted music works</u> around the world.[10]

The Berne Convention for the Protection of Literary and Artistic Works[11] provides that each of the 168 contracting parties[12] (representing an overwhelming majority of the world's population) provides automatic protection for music works first published in other countries of the Berne union and for unpublished music works whose authors are citizens of or resident in such other countries.[13] This means that if a Music Community member's copyright rights are violated in any other signatory country's jurisdiction, then the music community member will have the music copyright rights given by that country. Music Community members are <u>clearly aware of the collective Community's rights,</u> which could not be made possible without these cohesive and globally-recognized set of standards. If such standards were <u>not</u> coherent or enforced then music <u>would not be able to exist in its current form</u> and the industry component of the Music Community sector would <u>not</u> exist. As such, the Community's *Establishment* and definition is "cohesive" and hence <u>cannot</u> be construed since the Community is a <u>logical alliance of music</u>

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[10] http://www.rightsdirect.com/content/rd/en/toolbar/copyright_education/International_Copyright_Basics.html
[11] http://www.wipo.int/treaties/en/text.jsp?file_id=283698
[12] http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15
[13] http://www.britannica.com/EBchecked/topic/62482/Berne-Convention

communities that establish a <u>clearly delineated and organized Community structure</u> that is "<u>closely united</u>" and functions as a "whole"

Further evidence to substantiate the <u>cohesive, symbiotic and overlapping nature of the Community</u>, includes other globally-recognized standards and classification systems, which identify who the individual songwriters, publishers and rights holders are and which songs they are associated with so that Community members are appropriately compensated, regardless of whether the constituent is a commercial, non-commercial or amateur entity. The "music" string is commonly used in classification systems such as ISMN,[14] ISRC,[15] ISWC,[16] ISNI.[17] (Application Answer to Question 20a). For example, if a music entity would like to distribute their music, either commercially or for free, then an ISRC can be assigned to globally identify any specific music work. An ISRC, which facilitates efficient music discovery and community member payment, is constructed from 12 characters representing country, registrant, year of registration and designation (i.e. the serial number assigned by the registrant). With respect to domains, an equivalent system that relates to identifying a specific domain's registrant and other relevant information pertaining to the domain is WHOIS. Domain registrants are required by ICANN "to provide accurate WHOIS contact data" or else their domain "registration may be suspended or even cancelled".[18]

Without such Music Community "cohesion" and standardized systems functioning in its regulated sector, the Music Community would <u>not</u> be able to create, market and distribute their music. By the same token, fans would <u>not</u> be able to identify the music they are listening to with a specific music artist, regardless of whether the listening activity or behavior is commercial or non-commercial in nature. The socio-economic structure that characterizes "music" as commonly-known today would be non-existent <u>without</u> these organized and delineated elements that commonly define the Community.

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[14] The International Standard Music Number (ISMN) is a unique number for the identification of all notated music publications from all over the world. The ISMN is an ISO certified global standard number (ISO 10957:2009). See http://www.ismn-international.org/whatis.html and http://www.iso.org/iso/home/store/catalogue_ics/catalogue_detail_ics htm?csnumber=43173

[15] The ISRC (International Standard Recording Code) is the international identification system for sound recordings and music video recordings. The ISRC is an ISO certified global standard number (ISO 3901:2001) and is managed by the IFPI. See http://isrc.ifpi.org, https://www.usisrc.org/about/index.html and http://www.iso.org/iso/catalogue_detail?csnumber=23401

[16] The ISWC (International Standard Musical Work Code) is a unique, permanent and internationally recognized reference number for the identification of musical works. The ISWC has been approved by ISO (International Organization for Standardisation) as a global standard (ISO 15707:2001) and is managed by CISAC. See http://www.iswc.org/en/faq html and http://www.iso.org/iso/catalogue_detail?csnumber=28780

[17] The International Standard Name Identifier (ISNI) is the ISO certified global standard number (ISO 27729) for identifying the millions of contributors to creative works and those active in their distribution. ISNI holds public records of over 8 million identities and 490,000 organizations. See http://www.isni.org/ and http://www.iso.org/iso/catalogue_detail?csnumber=44292

[18] https://whois.icann.org/en/about-whois and https://www.icann.org/resources/pages/faqs-f0-2012-02-25-en

*iii) International Federations and Organizations Dedicated to Community Functions:*

According to ICANN's Applicant Guidebook ("AGB")[19]: *"With respect to "Delineation" and "Extension," it should be noted that a community can consist of…a logical alliance of communities (for example, an <u>international federation of national communities of a similar nature</u>… viable as such, provided the requisite awareness and recognition of the community is at hand among the members."* (AGB, 4-12). The community as defined in the DotMusic application has <u>at least one entity mainly dedicated to the community</u> which has supported DotMusic, which include several "international federation of national communities of a similar nature" relating to music, music coalitions and other relevant and non-negligible music organizations.

One of these entities include the <u>only</u> international federation of national communities relating to government culture agencies and arts councils, which has an integral association with music globally: the International Federation of Arts Councils and Culture Agencies (IFACCA).

IFACCA is the <u>only</u> international federation that represents government culture agencies and arts councils globally. These national communities are governmental institutions that play a pivotal role with respect to music.[20] IFACCA's members cover the majority of music entities globally, regardless of whether they are commercial, non-commercial or amateurs. Government ministry of culture and council agencies related to music cover a majority of the overall community with respect to headcount and geographic reach. The "Size" covered reaches over a hundred million music entities i.e. "<u>considerable</u> size with millions of constituents" per Application Answer to Question 20a.

The string "music" falls under the jurisdiction of each country's Ministry of Culture governmental agency or arts/music council (emphasis added). The degree of power and influence of government ministry of culture and council agencies with respect to music <u>surpasses</u> any organization type since these agencies (i) provide the majority of funding for music-related activities; (ii) regulate copyright law; and (iii) encompass all the music entities that fall under their country, regardless whether these entities are commercial, non-commercial or amateurs. IFACCA is globally recognized by its strategic partners, such as UNESCO, a United Nations agency representing 195 member states and the European Commission.[21] The UNESCO strategic partnership[22] is relevant, especially since UNESCO founded the International Music Council (the "IMC") in 1949, which represents over 200 million music constituents from over 150 countries and over 1000 organizations globally.[23]

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[19] https://newgtlds.icann.org/en/applicants/agb/guidebook-full-11jan12-en.pdf
[20] http://www.ifacca.org/membership/current_members/
[21] http://www.ifacca.org/strategic_partners/
[22] http://www.ifacca.org/strategic_partners/
[23] http://www.imc-cim.org/about-imc-separator/who-we-are.html

Government activities in the clearly delineated and organized "Music Community" include setting statutory royalty rates. For example, in the United States, mechanical royalties are based on a "statutory rate" set by the U.S. Congress. This rate is increased to follow changes in the economy, usually based on the Consumer Price Index. Currently, the mechanical statutory rate is $0.091 for songs five minutes or less in length or $.0175 per minute for songs that are over five minutes long.[24]

Ministries of culture and arts councils (that comprise IFACCA's membership) support musicians, musical performances, independent music artists, non-commercial musical expression and education in their respective countries. The 165 ministries of culture, arts councils and affiliates that comprise IFACCA's membership support the "performing arts" and music specifically. Without the financial and logistical support of arts councils and the ministries of culture, the music community would be adversely affected, and in some countries, may not exist in any appreciable manner. For example, the Ministry of Culture 2011 budget for the small country state of Cyprus for culture funding was €34,876,522 with critical support of music activities.[25] Other small government Ministries of Culture, such as Albania,[26] or government Ministries of Culture and Arts Councils from countries with larger populations, such as India,[27] all provide critical support and substantial advocacy for music. Other examples include government institutions collaborating and advocating music through their funded country-based pavilion initiatives at Midem, the world's largest music conference.[28]

Government ministries and arts councils provide critical support for the Music Community, including commercial music organizations By way of example, government ministries' and arts councils' substantial connection to and support of "music" is noted in the reports of funding and support for music. Some examples to showcase the degree of power of the IFACCA's membership towards the string and global and national music are music investment and music funding (Annual reports by governments and councils):

- New Zealand Ministry of Culture has funded significant music projects. Some include the REAL New Zealand Music Tour ($415,000), the New Zealand String Quartet ($150,000) and New Zealand Music Commission: ($1,378,000).[29]
- The Australian Government/Council For The Arts invested $51.2 million for the nation's orchestras; $21.6 million for opera; $10.8 million for other music artists and

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[24] U.S Copyright Office, http://www.copyright.gov/carp/m200a.html
[25] 2011 Annual Report for Cyprus Ministry of Culture, Section 1.2 "Music" (http://www moec.gov.cy/en/annual_reports/annual_report_2011_en.pdf). Activities include Music Performances in Cyprus (1.2.1) and Abroad (1.2.2), Subsidization of Paphos Aphrodite Festival (1.2.3), Music Publications (1.2.4), Subsidization and Purchases of Digital Records (1.2.5), Promotion for Cypriot musical creativity abroad (1.2.6), Cyprus Symphony Orchestra Foundation (1.2.7), Music Information Centre (1.2.8), Developing Music Education (1.2.9), Organising of the 1st Musicological Symposium (1.2.10) and Musical Festivities for the European Volunteerism Year (1.2.11)
[26] http://www.culturalpolicies net/down/albania_012011.pdf
[27] 2010-11 Annual Report from India Ministry of Culture, http://www.indiaculture nic.in/hindi/pdf/Culture-AnRe-2010-2011(Eng).pdf
[28] http://my.midem.com/en/contact-us/pavilion-representatives/
[29] 2011 Annual Report from New Zealand Ministry of Culture: http://www.mch.govt.nz/files/Annual%20report%202011%202012%20pdf%20version%20(D-0448383).PDF

organizations; $13.1 million for multi-platform artists and organizations; and $4 million in miscellaneous funding, including sector building and audience development initiatives and programs.[30]

- Canada Council for the Arts is Canada's national, arts funding agency investing $28 million in its Canada Council Musical Instrument Bank (Page 16) and $28,156,000 in Music Arts Programs (Page 66).[31] The Government of Canada also renewed its annual investment of $27.6 million over five years in the Canada Music Fund.[32]
- The United Kingdom Department for Culture and Education (DfE) will fund music education at significant levels: £77 million, £65 million and £60 million will be available in the three years from April 2012.[33]
- The United States National Endowment of the Arts has awarded more than $4 billion to support the arts since its inception[34] and has a strong focus on music as outlined in its Strategic Plan[35] with Congress requested to provide $154,465,000 for fiscal year 2014.[36]
- The National Arts Council of South Africa invested 2,536,131 ZAR in Music and 9,995,000 ZAR in Orchestras and has focused strongly on the "Strengthening of live indigenous music and advocating the revival of the live music circuit in South Africa"[37]
- The Singapore Arts Council will fund $10.2 million in the arts under its 2013 Grants Framework, including the Ding Yi Music Company and Siong Leng Musical Association.[38]
- In 2011, the support for artistic activities by the Arts Council of Finland was €32.4 million of which €4,921,850 was awarded to music.[39]

Each of IFACCA's members has a clear association with, and mandate to support the music arts in their countries. In most countries, their ministry of culture/arts council is the largest funder and marketing supporter of the music arts.

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[30] 2011 Annual Report for the Australia Council for the Arts, http://www.australiacouncil.gov.au/__data/assets/pdf_file/0016/142351/Australia-Council-Annual-Report-201112.pdf, Page 28

[31] 2011 Annual Report for Canada Council for the Arts, http://www.canadacouncil.ca/NR/rdonlyres/6F7549BB-F4E5-4B8B-95F4-1FF9FAFB9186/0/CanadaCouncilAnnualReport2012_COMPLETE.pdf

[32] http://www.pch.gc.ca/eng/1294862453819/1294862453821

[33] Department for Culture, The Importance of Music, A National Plan for Music Education, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180973/DFE-00086-2011.pdf, Page 4, 2011

[34] 2011 Annual report for the National Endowment of the Arts, http://www.nea.gov/about/11Annual/2011-NEA-Annual-Report.pdf, Page 2

[35] NEA Strategic Plan 2012-2016, www.arts.gov/about/Budget/NEAStrategicPlan2012-2016.pdf

[36] http://www.ifacca.org/national_agency_news/2013/04/10/us-president-requests-154465000-neh-2014/

[37] 2010-2011 Annual Report for the National Arts Council South Africa, National Arts Council South Africa, http://www.nac.org.za/media/publications/AR%2010-11%20NAC.PDF/download, Page 11. Also Mmino, the South African – Norwegian Education Music Programme, solely funds music projects funding a total of 294 projects. Thirteen projects were allocated funding for a total of R1,680,600 of which R1,381,000 went towards music educational and R299,600 to exchange projects (Page 10)

[38] Singapore Arts Council, http://www.nac.gov.sg/media-centre/news-releases/news-detail?id=c2db15e2-c319-40ec-939c-d58735d0a91c

[39] http://www.taiteenkeskustoimikunta.fi/documents/10162/31704/TY+tilastotiedote+1+12+.pdf, Page 1 and Page 23

Another clear example of an "entity dedicated to the community" with members that cover hundreds of millions of music constituents with <u>formal</u> boundaries is A2IM, the American Association of Independent Music. A2IM has two types of members: U.S independent Label members and Associate members. A2IM membership for Labels and Associates is invoked formally through an application and if accepted would require annual membership dues.[40]

The reach of A2IM Associate[41] membership covers hundreds of millions of entities (i.e. the reach of A2IM's total membership "geographic breadth is inclusive of <u>all</u> recognized territories covering regions associated with ISO-3166 codes and 193 United Nations countries with a Community of <u>considerable</u> size with millions of constituents – See Application Answer to Question 20a).

Organized and strictly delineated communities related to music that are A2IM members include:

- **Apple iTunes**[42] – iTunes accounts for <u>63% of global digital music market</u>[43] - a <u>majority</u> – with a registered community of 800 million registered members[44] available in <u>119 countries</u> who abide to strict terms of service and boundaries[45] and have <u>downloaded over 25 billion songs</u>[46] from iTunes' catalog of over <u>43 million songs</u>[47] covering a global music community, regardless of genre or whether the community entities are amateur, professional, commercial or non-commercial. To add music to iTunes, all music artists must have a formal membership with iTunes via an Apple ID registration, which includes a current credit card on file.[48]
- **Pandora**[49] – Pandora is the world's largest streaming music radio with a community of <u>over 250 million registered members</u>.[50]
- **Spotify**[51] – Spotify is the world's largest music streaming community with over 50 million active registered members in 58 countries and over 30 million songs. The music community uploads 20,000 songs every day.[52]
- **Vevo**[53] – Vevo is the world's leading all-premium music video community and platform with over 8 billion monthly views globally.[54]

[40] http://a2im.org/about-joining/
[41] http://a2im.org/groups/tag/associate+members/
[42] http://a2im.org/groups/itunes
[43] http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share
[44] http://www.npr.org/blogs/therecord/2015/01/06/375173595/with-downloads-in-decline-can-itunes-adapt
[45] http://www.apple.com/legal/internet-services/itunes/ww/index.html
[46] http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html
[47] https://www.apple.com/itunes/features/
[48] https://www.apple.com/itunes/working-itunes/sell-content/music-faq html
[49] http://a2im.org/groups/pandora
[50] http://www.cnet.com/news/like-a-rolling-milestone-pandora-hits-250m-registered-users/ and http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTkxNTM1fENoaWxkSUQ9LTF8VHlwZT0z&t=1, Pg.9
[51] http://a2im.org/groups/spotify
[52] https://press.spotify.com/us/information/
[53] http://a2im.org/groups/vevo/

- **Youtube**[55] – Youtube is the world's largest music video streaming community with millions of music creators -- amateur, professional, commercial or non-commercial -- and over 1 billion registered members covering all regions globally. 6 billion hours of video is watched every month on Youtube,[56] of which 38.4% is music-related.[57]
- **Reverbnation**[58] – Reverbnation[59] is one of the world's largest music community and a leading music distributor with over 3.87 million musicians, venues labels and industry professionals covering every country globally. The Reverbnation community grows by over 50,000 artists, bands, labels and industry professionals monthly.
- **BMG**[60] – BMG is focused on the management of music publishing and recording rights. BMG has an international presence and represents over 2.5 million music rights globally.[61]

A2IM also includes members that are associated with global government agencies which exclusively represent substantial music economies and music members, such as France (BureauExport[62]), China (China Audio Video Association[63]) and Germany (Initiative Musik).[64] A2IM also has Affiliate[65] associations within the global music community. These include Affiliates such as MusicFirst,[66] the Copyright Alliance,[67] the Worldwide Independent Network (WIN)[68] and Merlin.[69]

A2IM also represents a recognized Music Coalition representing the interests of the Global Independent Music Community.[70] The A2IM Coalition includes Merlin, a global rights agency for the independent label sector, representing over 20,000 labels from 39 countries, Worldwide Independent Network (representing label creators in over 20 countries), Association of Independent Music (representing largest and most respected labels in the world), and IMPALA (Independent Music Companies Association on behalf of over 4,000 independent music companies and national associations across Europe, representing 99% of music actors in Europe which are micro, small and medium sized enterprises.

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[54] http://www.vevo.com/c/EN/US/about
[55] http://a2im.org/groups/youtube/
[56] https://www.youtube.com/yt/press/statistics.html
[57] http://www.researchandmarkets.com/reports/2092499/internet_video_2011_2014_view_share_site_and
[58] http://a2im.org/groups/reverb-nation/
[59] http://www.reverbnation.com/about
[60] http://a2im.org/groups/bmg-rights/
[61] http://www.bmg.com/category/about-us/history/
[62] http://a2im.org/groups/french-music-export-office
[63] http://a2im.org/groups/china-audio-video-association-cava
[64] http://a2im.org/groups/initiative-musik-gmbh
[65] http://a2im.org/groups/tag/associate+members/
[66] http://musicfirstcoalition.org/coalition, The musicFIRST Coalition, with founding members A2IM, RIAA, and Recording Academy represents musicians, artists, managers, music businesses, and performance right advocates.
[67] http://www.copyrightalliance.org/members
[68] http://www.winformusic.org
[69] http://www.merlinnetwork.org
[70] https://www.icann.org/en/system/files/correspondence/bengloff-to-chehade-et-al-20aug14-en.pdf and https://www.icann.org/en/system/files/correspondence/bengloff-to-crocker-et-al-07mar15-en.pdf

Cumulatively, A2IM's Label and Associate Membership, A2IM's Affiliates and the A2IM's Global Independent Music Community Coalition, covers a <u>majority</u> of the global music community. Its cumulative membership is in the hundreds of millions of entities with formal boundaries belonging to strictly organized and delineated communities related to music as per the Community Definition and Size (See Application answer to Question 20a).

Another global Music Community Coalition led by the RIAA "on behalf of over 15 national and international trade associations" also expressed its support for .MUSIC to be under a "community" application model, including encouraging statements in support of DotMusic's policies that stated that the coalition "was encouraged to see" that DotMusic "included several <u>measures to deter and address copyright infringement within that TLD.</u>" The "coalition members represent the people that write, sing, record, manufacture, distribute and/or license <u>over 80% of the world's music</u>" [71] – a <u>majority</u> of global music.[72]

Collectively, the DotMusic application received support from the <u>largest coalition of music community member organizations ever assembled to support a cause</u>. Such unparalleled global Music Community support represents an overwhelming <u>majority</u> of the global Music Community. Cumulatively, DotMusic possesses documented support[73] from institutions/organizations representing a majority of the Community addressed. Music -- as commonly-known by the general public and experienced today -- would <u>not</u> be possible without these supporting, non-negligible and relevant organizations that have endorsed DotMusic.

In conclusion, there is substantive evidence that DotMusic entirely fulfills the criteria for *Community Establishment* and Community *Endorsement* from the majority of the global Music Community as defined.


*B) Nexus*[74]

According to the Applicant Guidebook ("AGB"), to receive the maximum score for Nexus, the applied-for string -- "music" -- must <u>match</u> the name of the community or be a well-known short-form or abbreviation of the community name.

The *Nexus* of the "Music Community" entirely <u>matches</u> the applied-for "music" string because it represents the <u>entire</u> global Music Community as commonly-known and perceived by the general public. This definition allows for <u>all</u> constituents with a requisite awareness of the Community

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[71] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.1

[72] https://www.icann.org/en/system/files/correspondence/riaa-to-icann-05mar15-en.pdf, Pg.3, Appendix A

[73] http://music.us/supporters

[74] See http://music.us/nexus

defined to register a .MUSIC domain without any conflicts of interests, over-reaching or discrimination. The definition of the Community requires that members have an active, non-tangential relationship with the applied-for string and the requisite awareness of the music community they identify with as part of the registration process. It is clear that the general public will directly associate and equate the string with the Community as defined by DotMusic. There is no possibility of overreaching beyond the definition or allowing unrelated non-music entities to be included as part of the Community.

Community members may register a .MUSIC by either:

1) Identifying that they belong to a Music Community Member Organization ("MCMO"); or

2) Identifying the community they belong to, which is consistent with the definition of the Community: "the strictly delineated and organized logical alliance of communities of similar nature related to music."

All Community members are aware of and recognize their inclusion in the defined Community by identifying which clearly defined community they belong to and have an active participation in. The *nexus* of the applied-for string ensures inclusion of the entire global community that the string represents while excluding unrelated-entities not associated with the string. This way there is a clear match and alignment between the "music" sting and the Community defined.

While the exact size of the global Music Community as defined is unknown (there is no empirical evidence providing an exact, finite number because amateur entities are also included in the Community's definition), it is in the considerable millions as explicitly stated in the DotMusic Application. DotMusic's definition of the Community and mutually-inclusive Registration Policies ensure that eligible members are only music-related and associated with the string. This is because the string identifies all constituents involved in music. Music-only participation optimizes the relevancy of .MUSIC domains to the string and entirely matches the *nexus* between the string and Community defined. According to DotMusic, the Community *definition*, *eligibility* criteria and *content and use* requirements ensure that peripheral industries and entities not related to music are excluded so that the string and the defined Community matches and aligns in a consistent manner consistent with DotMusic's community-based purpose i.e. only entities with music-related activities are able to register .MUSIC domains.

Membership aligns with the *nexus* of the Community and the string, which is explicitly relevant to music. The string as defined in the application demonstrates uniqueness because it has no other significant meaning beyond identifying the community described in the application. According to DotMusic's application, any tangential or implicit association with the *nexus* of the Community and the string is not regarded as a delineated membership since it would be considered unclear, dispersed or unbound. Such unclear, dispersed or unbound tangential

relationships with the defined "music" Community and applied-for "music" string would <u>not</u> constitute a qualifying Community membership and would be <u>ineligible</u> for registration.

The inclusion of every music constituent type is paramount to the purpose of the string. Every type of music constituent critically contributes to the function and operation of the music sector within a regulated framework given the symbiotic overlapping nature of the Community as defined and structured. Music would <u>not</u> function as it does today without the participation of all music constituent types which cumulatively <u>match</u> the string with the Community definition.

In conclusion, there is substantive evidence that DotMusic entirely fulfills the criteria for *Nexus*.

Respectfully Submitted,

*Stella Black, MM*

Signature:   Contact Information Redacted        Apr 3 '15    ip: 99.127.186.10

Name:  Stella Black,MM

Title:  Composer/Opera Singer

Organization:  VMD Group Enterprises, Owner

Date: April 3, 2015

**About Stella Black, MM**

*Degrees & Studies:*

Bachelor of Music Degree - Vocal Performance and Composition

Bachelor of Psychology Degree

Masters Degree of Music - Vocal Performance, Vocal Pedagogy, and Music Composition

PHD studies in Cognitive Research

Post Graduate Studies - Oberlin Coservatory of Music - Voice and Computer Analysis of the Human Voice under Richard Miller

American Institute of Musical Studies, Gras Austria - Vocal Performance/Concert Series

Additional Private Studies with, Harold Heiberg of Texas State/ Mary Schiller of Ohio State/ Jane Rolondi Gray of Converse Conservatory of Music/ Jerry Helton of Winthrop Conservatory of Music/ Arranging with Kay Holley - former Music Director of Radio City Music Hall/Conducting - Bill Malambree of Winthrop Conservatory of Music/Gyrotonics and Gyrokenisis Foundation( founded byJulio Hrovatt former Ballet Master of the Metropolian Opera Ballet)  in Dance with Miriam Barbosa fo Martha Graham School of Dance, New York.


*Professional Organizations:*

ASCAP - Artist
ASCAP - VMD Publishing/SB Productions
NSAI
WWSWA
NATS
SAG/AFTRA

*Awards:*

Metropolitan Opera Winner
Southeastern Opera Winner
NATS Vocal Winner (5 consecutive years) - Southeast Region
Young Artist Vocal Winner - Southeast Region
Recipient of the Charlotte Opera Guild Scholarship
ASCAP Plus New Songwriter Award - 2004
Finalist in three categories of the ISC International Songwriting Competition - 2006 - Nashville
Finalist in the ISC People's Choice Awards - 2006 - Nashville