

## Litigation vs. Cooperation: Why Viacom, YouTube, Universal and MySpace need the PERFORM act

by Leslie Kallen

Modern media is in chaos. In this digital free-for-all there are no winners, and the current paradigm is only feeding the frenzy. The filtering technologies currently in use blatantly censor content, consumer groups are justifiably up in arms over privacy breaches, and the labels are suing the individual users while holding ISPs hostage with exorbitant revenue demands. Meanwhile, the courts are reluctant to take proactive measures to stem the bloodshed. In the end, it's all about the money: the financial consequences to America's entertainment industry are staggering.

On top of it all, the end user experience is duplicitous and mediocre at best. A solution must be adopted where creative content is delivered securely, providing lawful access and guaranteed privacy for the consumer. The rights owners and the distributors must cooperate to that end if the industry is to have any sensible future, which is why adopting the PERFORM Act is a critical first step.

Professor Richard Walter, Screenwriting Chairman of UCLA's Department of Film and Television opines, "At the heart of the problem lies the adversarial mindset. Intellectual property owners and users should not be engaged in this futile prizefight. Copyright customers and purveyors are not intrinsic enemies at all, but partners sharing common interests and goals. The PERFORM Act embraces collaboration over conflict. Far from limiting the creation and dissemination of intellectual property, the legislation expands it."

Viacom's takedown notices to YouTube (purchased by Google for \$1.65 Billion last fall) accomplish nothing beyond censorship, negative consumer experiences, and a non-competitive business environment which foments global piracy. Ironically, Viacom's CBS Innertube remains a veritable buffet for copyright infringement, with its entire contents available for easy theft. As MySpace is one of the primary platforms of YouTube content, its financial future is also very much at risk.

What is universally understood is that everyone deserves proper compensation. One of the goals of the PERFORM Act is to create a level playing field for all content distributors, so that they may prosper along with the creators. Financial realities mandate MRT's distribution solutions which power, enable, and enhance business models for all types of digital media.

Robert Hambrecht, Managing Director of WR Hambrecht Co. and acting advisor for Media Rights Technologies, eloquently expresses the commercial impact, "The entertainment industry will continue to shoot itself in the foot until creators and distributors work as a team toward this reachable goal. MRT's solution is a win-win answer to the problems at hand, deftly answering the PERFORM Act's call-to-arms. If even a small percentage of piracy is converted into real revenue, then both parties stand to benefit greatly."

Hank Risan, CEO of MRT, adds, "Hundreds of millions of dollars are needlessly spent in litigation while solutions are commercially available, proven, and affordable to the entire entertainment industry. Why are we

not employing technological innovations to create a harmonious relationship throughout the entire creative economic food chain? Our solution can bear out this critical legislation; the economic viability of the recording and film industry is at stake."

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