
Gail I. Winson
Janine S. Natter

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Music Law and Business: A Comprehensive Bibliography, 1982-1991*

By
GAIL I. WINSON**
AND JANINE S. NATTER***

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The authors gratefully acknowledge the assistance of Ann Sinfield, Veronica Maclay, and Dan Taysom, members of the Hastings Legal Information Center staff.
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Authors’ Notes

There have been many new developments in the music industry since this bibliography was first compiled in 1981. In order to reflect these changes, some new headings and subheadings have been added, but the basic organization remains the same.

Although the first version contained articles from law reviews and journals almost exclusively, this version contains separate sections for newsletter and newspaper articles as well. Although these might be considered more transitory sources, the authors felt that they contain information of value to the practitioner. It seems appropriate in today’s fast-paced world where information is transmitted instantaneously in “sound bits” that these short current articles be included.

We did our best to assign accurate subject headings, but assigning subject headings is an art not a science; so the reader would best be advised to check alternate headings when in doubt. For example, check “Antitrust” as well as “Copyright—Public Performance—Licensing” for articles on performing rights societies and blanket licensing. Although many articles treating foreign law jurisdictions are listed under “Foreign, International, and Comparative Law,” also consult sections on specific topics. In some cases entries are repeated under two headings. We also did our best to assign headings consistently, but it was not always clear until we were well into our research that a certain area deserved its own subject heading; so it took numerous proofreadings to achieve accuracy and consistency.

Many of the books included are written for the artist or songwriter, but contain useful information for the lawyer as well. Most entries in the “Books” section include annotations or notes of contents. Most of those that do not were integrated from the 1982-1984 supplement and no attempt was made to go back and add annotations.

The “Legal Institute Program Materials” are organized by sponsoring organization and within each organization by date, latest materials first. Although some of these materials are no longer available from the sponsoring organizations, they may be available from other sources such as libraries or in some cases LEXIS or WESTLAW. Institutes on music law topics are regularly presented by the ABA Forum on the Entertainment and Sports Industries and by the Practising Law Institute, but neither organization stocks its program materials beyond the most current two to three years. Most of the program materials, for programs presented from 1974 onward by the University of Southern California Law Center Entertainment Law Institute, are available directly from that organization. There are also many good programs being presented by
state bar associations and a representative number of these are listed in the “Miscellaneous” section of “Legal Institute Program Materials.”

United States Government Publications are organized by topic, and chronologically within each topic. Most of the topics reflect legislation on specific issues, such as source licensing or home taping; so that the chronological listing comprises a legislative history in some cases.

The last section includes titles of law reviews and newsletters which regularly carry articles on entertainment law. Full bibliographical information is given as an aid to ordering any of these publications.
Law Review and Journal Articles

A. Antitrust

Blanket Licensing of Copyrights Does Not Violate Anti-Trust Laws. 5 Art and the Law 45 (Winter 1980).


ASCAP, BMI and the Television Broadcasters: The Antitrust Future of Blanket Licenses. 1985 International Business Lawyer 57-63 (Feb.).

B. Bankruptcy


Bankruptcy: The Death of Recording Contracts. 2 Cardozo Arts & Entertainment Law Journal 189-223 (No.2 1983).


C. Bibliographies

Musician’s Legal Problems: A Select and Annotated Bibliography of Canadian and Comparative Law-Related Materials. 11 Queen’s Law Journal 90-133 (Fall 1985).

D. Contracts


Halloran, Mark. Film Composing Agreements: Business and Legal Concerns. 5 Loyola Entertainment Law Journal 1-59 (Annual 1985).


1. Management


2. Personal Service


3. Publishing

Graubart, Jeffrey L. *The Validity of the Songwriter-Music Publisher Agreement (or Will America Follow England's Lead?)*. 20 Beverly Hills Bar Association Journal 201-206 (Fall 1986).


4. Recording


5. Remedies


E. Copyright and Related Rights


Borchard, William M. *Copyright Considerations*. 4 Communications and the Law 25-32 (Summer 1982). (From: *Problems Unique to the Entertainment Personality: A Forum Sponsored by the Association of the Bar of the City of New York*).


Turkewitz, Neil. *Authors’ Rights are Dead*. 38 Journal of the Copyright Society of the U.S.A. 41-45 (Fall 1990).


1. **Digital Sampling**


Fishman, Lori D. *Your Sound or Mine?: The Digital Sampling Dilemma*. 4 St. John's Journal of Legal Commentary 205-223 (Fall 1989).


2. *Digital Technology*


Leland, Clyde. *Is It Live, or Is DAT Dead?* 7 California Lawyer 12-13 (No.10 1987).


3. Litigation


Blakey, Elizabeth. *Criminal Copyright Infringement: Music Pirates Don't Sing the ‘Jailhouse Rock’ When They Steal from the King.* 7 Loyola Entertainment Law Journal 417-438 (Spring 1987).


Giannini, Maura. *The Substantial Similarity Test and Its Use in Determining Copyright Infringement Through Digital Sampling.* 16


Smokler, Sandra K. *Copyright Infringement: Proof of Access Through Striking Similarity.* 1 The Entertainment & Sports Lawyer 139-144 (Spring 1984).


4. Public Performance


5. *Public Performance—Licensing*


Bradford, Marilee. *From Tin Pan Alley to Title 17: Distinguishing Dramatic from Nondramatic Musical Performance Rights.* 7 Loyola Entertainment Law Journal 45-78 (No.1 1987).


6. **Sound Recordings**


McCarty, Lisbeth L. *Copyright: Commercial Use of Sound Recordings Amendment.* 36 Oklahoma Law Review 337-361 (Spring 1983).


Prevost, Jean-Victor A. *Copyright Problems in Mastermixes*. 9 Communications and the Law 3-30 (No.4 1987).


Tettenborn, A. M. *Records: Who Authorizes Taping at Home?*. 3 The Company Lawyer 82-83 (No.2 1982).

7. *Sound Recordings—Piracy*


F. Foreign, International, and Comparative Law


1. **Australia**


2. **Canada**


Spurgeon, C. Paul. *Changes to Canada's Copyright Act Here at Last.* The Canadian Composer 12(2) (June 1988).


3. **European Communities**


4. **France**


5. **Germany**


6. United Kingdom


Groves, Peter. *'It used to be like that—now it goes like this': Rights in Performances under the Copyright, Designs and Patents Act 1988*. 1 Entertainment Law Review 202-208 (No.6 1990).


Rocking the Torts. 46 Modern Law Review 224-231 (No.2 1983). (British case in which record companies sued “bootlegger” of Elvis Presley numbers).


Tettenborn, Andrew. *Bootleggers Immune from Civil Court Actions by the Recording Industry*. 4 The Company Lawyer 86-87 (No.2 1983).
G. Free Speech Issues


Blodgett, Nancy. *Heavy Metal: Rocker Sued for Fan’s Suicide.* 72 American Bar Association Journal 32(1) (July 1, 1986).


Gartner, Michael. Fair Comment. 33 American Heritage 28-31 (Oct. 1982). (Caption: "Americans don't hesitate to say anything they please about a public performance. But the right to do so wasn't established until the Cherry Sisters sued a critic who didn't like their appalling vaudeville act").

Gerdes, Ted. Ted Nugent on Censorship of Rock Lyrics. 10 Los Angeles Lawyer 14(2) (No.3 1987).


Klug, Margaret. Lyrics of Song Not Defamatory [Valentine v. C.B.S., Inc., 698 F.2d 430 (11th Cir. 1983)]. 4 Loyola Entertainment Law


**H. General**


**I. Immigration**


**J. Labor**


K. Management, Taxation, and Estate Planning


L. Merchandising and Sponsorship


M. Motion Picture Music


N. Music Videos


O. Music—Litigation


P. Musicians


Q. Parody


R. Payola


S. Practice of Law


T. Record Industry


U. Right of Publicity


Kirsch, Jonathan L. *Look What They've Done to My Song: As Bette Midler Heads to Trial, Other Celebrities Try to Stop Their Impersonators. 1990 Entertainment, Publishing and the Arts* 295-299. (Reprinted from 9 California Lawyer 43-45 (July 1989)).


Turner, Kimberly Lehman. "*Do You Want to Dance" Around the Law? Learn the Latest Steps from the Ninth Circuit in Midler v. Ford Mo-


V. Ticket Scalping


W. Trademarks and Unfair Competition


*The Four Aces Litigation: What’s in a Name?* 5 Art and the Law 67-68 (Spring 1980).

II

Newsletter Articles

A. Bankruptcy


B. Contracts


Fleisher, Marc S. *Basic Rights to Negotiate in Tour Deals.* 1 Entertainment Law & Finance 1(3) (Nov. 1985).


1. Management


Simenowitz, Steven H. *Key Issues in Drafting Artist/Manager Pacts.* 2 Entertainment Law & Finance 1(3) (Apr. 1986).

2. Personal Service


Rubin, Edward L. *The Enforcement of Personal Service Contracts.* 3 The Entertainment and Sports Lawyer 3-7 (Summer 1984).


3. Publishing


4. Recording


Sobel, Lionel S. Recording Artist Royalty Calculations: Why Gold Records Don't Always Yield Fortunes. 6 Entertainment Law Reporter 3-7 (May 1985).


5. Remedies


Ortner, Charles B. Tolling Termination During Litigation. 7 Entertainment Law & Finance 3(2) (July 1991).


C. Copyright and Related Rights


Zissu, Roger L. *Does Copyright Cover Artist's 'Style'?* 1 Entertainment Law & Finance 5 (June 1985).
1. **Digital Sampling**


'Sampling' Raises Hot Issues. 4 Entertainment Law & Finance 1(2) (Sept. 1988).

2. **Digital Technology**


3. **Litigation**


Eizenman, David B. *Discovery Techniques in Copyright Suits*. 1 Entertainment Law & Finance 3(2) (July 1985).


Smokler, Sandra K. *Copyright Infringement: Proof of Access Through Striking Similarity*. 1 The Entertainment and Sports Lawyer 139-144 (Spring 1984).

4. Public Performance—Licensing


5. **Sound Recordings**


6. **Sound Recordings—Piracy**


D. **Foreign, International, and Comparative Law**


1. **Australia**


2. **Canada**


3. **France**


4. **Germany**


5. **Japan**


6. **Singapore**


7. **United Kingdom**


E. Free Speech Issues


F. Immigration


**G. Labor**


**H. Management, Taxation, and Estate Planning**

*Accountants Air Audit Tips.* 7 Entertainment Law & Finance 1(3) (May 1991).


I. Merchandising and Sponsorship


**J. Motion Picture Music**


K. Music Trade


Sanders, Charles J. and Stan Soocher. When an Artist Does a Benefit Concert. 5 Entertainment Law & Finance 1(2) (May 1989).


L. Music Videos


**M. Music—Legislation**


**N. Music—Litigation**


Gordon, Steven R. *Silverman v. CBS: Amos 'n' Andy Go to Court*. 7 The Entertainment and Sports Lawyer 3-7 (Spring/Summer 1989).


Marks, Leonard M. *How to Avoid/Pursue Suits over Royalties*. 1 Entertainment Law & Finance 1(3) (Nov. 1985).


O. Practice of Law


Jaffe, Judianne. *License to Kill: Strengthening the Attorney’s Privilege to Advise Clients Not to Perform Contracts*. 4 The Entertainment and Sports Lawyer 9-12 (Summer 1985).


P. Record Industry


Q. Right of Publicity


Given, David E. *The Rights of Publicity and Privacy*. 6 The Entertainment and Sports Lawyer 8(2) (Fall 1987).


R. Trademarks and Unfair Competition


Pierson, Edward P. *How to Register Artists’ Names as Servicemarks.* 3 Entertainment Law & Finance 1(3) (Nov. 1987).


III

Newspaper Articles

A. Antitrust

B. Bankruptcy

C. Contracts


I. Publishing


2. Recording


D. Copyright and Related Rights


1. Digital Sampling


2. *Litigation*

Carrizosa, Philip. *‘Kismet’ Authors Win $1.2 Million for Infringement.* The Los Angeles Daily Journal, Sept. 28, 1989, at 1, col. 4.


3. **Public Performance—Licensing**


4. *Sound Recordings*


5. *Sound Recordings—Piracy*


E. Foreign, International, and Comparative Law—Canada


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Q. Trademarks and Unfair Competition


IV

Books

A. Bibliographies


B. Career Guides

Includes sections on songwriting, publishing, copyright, business affairs, the record industry, music in broadcasting and film, career planning and development. Appendices contain forms, international copyright information, music studies in higher education, and a list of professional organizations. Also includes a glossary and bibliography.


motion, music performance, songwriting, music education, writing
and publication of written music, music criticism, music library ca-
reers, musical instrument manufacturing, music therapy, piano tun-
ing, arts management, and music retailing and wholesaling.
Appendices: College Music Business Programs; Music Business Organ-

C. Contracts

A very detailed guide, intended for the lay person, through the terms
of various types of music industry contracts, including management
agreements, agency agreements, personal appearance contracts, artist's recording agreements, independent record production agree-
ments, record producers' agreements, music publishing agreements,
group administration agreements, and merchandise and endorse-
ment agreements.

Farber, Donald C., editor. Entertainment Industry Contracts: Negotiating
and Drafting Guide. New York, NY: Matthew Bender, 1986-. 4 v.
(loose-leaf): forms.
INCLUDES: Vol. 4—Fox, Samuel J., editor. Music. There are also a
few music-related contracts in the volumes on motion pictures, tele-
vision, and theater.

Legal Documents: Sample Contracts Commonly Used in the Music Busi-

Livingston, Robert Allen. The Recording Contract. Cardiff by the Sea,

Livingston, Robert Allen. The Songwriter/Publisher Contract. Cardiff by
Discusses a few basics of contract law as well as each of 40 separate
clauses which might be part of a songwriter/publisher contract.

D. Copyright and Related Rights

This is not a how-to book. It explains why under certain circum-
stances one is permitted to photocopy without permission and why
under other circumstances permission or royalty payments are re-
quired. It provides an introduction to copyright law and the history
and origin of U.S. copyright law. It then relates the law to specific
aspects of music education, including photocopying, performing, ar-
Sponsored by Bay Area Lawyers for the Arts and intended to give songwriters, musicians, managers and attorneys a working knowledge of U.S. copyright law. Provides an overall view with chapters on: obtaining a copyright, duration and transfer of copyright, income from music, and infringement.

INCLUDES: Copyright Royalty Tribunal's Royalty Allocation and Rate-Making Decisions Affecting Copyright Owners and Recording, Jukebox, and Cable TV Industries.

Written to provide the songwriter with a basic knowledge of song protection and copyright. "Featuring a special section on songsharks—and how to avoid them" — Cover. Bibliography: p. 40. "Songwriters Organizations": pp. 42-46.

Includes Guidelines for Educational Use of Music.

Shaper, Sue Z. *Copyright for Performing and Literary Artists*. Houston, TX: Texas Accountants and Lawyers for the Arts, 1988. 44 pp.

1. European Communities

Bibliography: pp. 253-258.

2. International

Report adopted by the Committee, dated "26 June 1987" on the title page. The Directors-General of Unesco and WIPO jointly convened the Committee at Unesco Headquarters in Paris from 11 to 15 May 1987 to discuss various copyright issues arising in relation to dramatic, choreographic and musical works. Experts from 41 countries
and observers from 15 international organizations participated in the meeting.

Bibliography: pp. 993-1012.

3. **United Kingdom**


Papers originally prepared for presentation at a course of lectures in June 1983 sponsored by the Intellectual Property Unit in the Centre for Commercial Law Studies at Queen Mary College, University of London. Includes "Audio and Video Recording," by Yvonne Smyth. Includes bibliographical references.

INCLUDES: The Music Industry; Music Industry Problems: Revolutionary Rights and Arrangements; Copyright in Sound Recordings; and Copyright Act 1956 and the Green Paper on Copyright Law Reform (Appendix).

4. **Sound Recordings**


This study, commissioned by the Department of Trade and Industry and the Home Office, assesses the economic effects of a change from the criterion of "first publication" to that of "first fixation" as a basis for protecting the broadcasting and public performance rights of foreign sound recordings in the United Kingdom. The purpose of the
report is to inform the Government in its consideration of changes in the UK copyright law. Glossary: pp. 96-97.


A comparative study of the problem of piracy of phonograms in the countries of the EEC. Analyzes the methods available to combat piracy in each country, including the international conventions to which they are parties and their legislation or regulations. The report also makes proposals for action. Tables show economic and marketing information for the recording industry in EEC countries. Includes bibliographical references.


Includes bibliographical references. Bibliography: pp. 74-83.

### E. Dictionaries and Directories


This book is for anyone who is associated with or anticipating involvement in the music industry. The author explains legal and non-legal music business terms in an understandable manner and cross-references related terms. Bibliographies: v.1, p.383; v.2, p. 418.

McNeil, Barbara and Miranda C. Herbert, editors. *Performing Arts Biography Master Index: A Consolidated Index to Over 270,000 Biographical Sketches of Persons Living and Dead, As They Appear in*
over 100 of the Principal Biographical Dictionaries Devoted to the Performing Arts. 2d ed. Detroit, MI: Gale Research, 1982. 701 pp.


Contains alphabetically arranged entries for persons, companies, organizations, publications, etc., which are involved in the "selling of music." Touches on many different areas including copyright law, record distribution, music publishing, recording, and unions.


F. Foreign, International, and Comparative Law

Comprises the reports of the 12th meeting of the International Association of Entertainment Lawyers, held on 26 January 1987 in Cannes, on the occasion of MIDEM, the annual fair of the music business. Reports discuss issues such as the legal position of performing artists, composers, and managers under national laws; the basics of contracts law; what happens when there is a breakdown of the relationship between artist/composer and manager/publisher/record company; and case studies.

Comprises the reports of the 11th meeting of the International Association of Entertainment Lawyers, held on 27 January, 1986 in Cannes, on the occasion of MIDEM, the annual fair of the music business. Reports are written by legal practitioners specializing in copyright and entertainment law, from the U.S., the U.K., Canada, Germany, Belgium and the Netherlands, and France. Includes bibliographical references.

Peeperkorn, David and Cees van Rij, editors. Collecting Societies in the Music Business: Reports Presented at the Meeting of the International
Contains essays submitted as papers to the 14th Meeting of the International Association of Entertainment Lawyers held on January 21 and 22, 1989 at the occasion of MIDEM, the annual fair of the music business in Cannes, France. Includes a "Survey of Collecting Societies" of various countries giving information on such topics as the scope of a society's administration and control, the constitution and membership of the society, and the collection and distribution of royalties and fees.

Papers presented at the 13th meeting of the International Association of Entertainment Lawyers held on 25th and 26th January, 1988 in Cannes on the occasion of MIDEM, the annual fair of the music business. Essays are by authors from the U.S., the U.K., Germany, France, Italy, and the Netherlands. Includes bibliographical references.

Contains essays submitted as papers to the 15th Meeting of the International Association of Entertainment Lawyers held on January 21 and 22, 1990 at the occasion of MIDEM, the annual fair of the music publishing business in Cannes, France. Includes the following essays on international issues: International Conventions and the Conflict of Rights: There is More Between the Pen and the Ear than Just the Score, by R.A.E. Stuyt; The Road to 1992—Some Aspects of EC Law, by C. van Rij; and The Rights of Producers of Phonograms—Preparing for the Market of the 1990's, by G. Davies. Another section of the book comprises national reports from Denmark, France, Netherlands, Germany, Italy, Spain, United Kingdom, and the United States. Includes bibliographical references.

G. Labor

A history of the development of the Federation from its beginning in the 19th century to the present. Through the history of this organization, the development of musical performance and performers in the U.S. and Canada is also traced. Chapter Notes and Bibliography: pp. 243-318.

H. Merchandising and Sponsorship

This book is written for lawyers as well as for arts administrators, their agents and business advisors. It relies on English law and makes occasional references to international, Commonwealth and U.S. law. There is an emphasis on the practical business and tax aspects of sponsorship. Includes tables of authorities and bibliographical references.

I. Music Videos

The chronicle of MTV and how it created a major breakthrough in music broadcasting. The book discusses the personalities, promotions and content that made MTV the leader in music cablecasting. Bibliography: pp. 339-356. Includes bibliographical references.

A study of rock music videos as exhibited through the institution of MTV. Discusses MTV as a commercial, popular institution, and specifically as a "televisual apparatus." Also discusses its place in today's youth culture. Bibliography: 181-185.

J. Practical and Legal Aspects of the Music Business

Practice-oriented text and compendium of cases. Includes chapters on contract considerations; music publishing; sound recordings; agents, managers, attorneys, and promoters; and personal rights. Also includes a table of cases.

The book illuminates the big business aspects of rock and roll. It explains the roles of all the major players including managers, songwriters, artists, producers, record company executives, and entertainment lawyers. Bibliography: pp. 276-279.


An annual compilation of articles from various areas of the entertainment field, including music. Articles are indexed by topic in the “Articles” section of this bibliography.


Broader in scope than some other introductory texts on the music business, this book includes the history and musical trends of the record business, radio music, American musical theater, and American concert and opera music. The author also addresses the more practical aspects of songwriting and record production, and includes a section on “Music in business settings,” which discusses Muzak(R), taped background music, and the retail music business. Includes bibliographical references. Glossary: pp. 375-382.


A basic legal guide for songwriters and their representatives, explaining self-help procedures for general and simple legal issues. The guide covers copyright, taxes, contracts, and other legal topics.


This book is addressed to songwriters and aims to teach them all the pitfalls of the music publishing and recording business. Contains samples of contracts and other forms such as royalties statements. There are chapters on every aspect of the business, including separate chapters on ASCAP, SESAC, and BMI. Popular Music Periodicals: pp. 666-672. List of Musical Organizations: pp. 674-679. Glossary of Terms: pp. 680-697.


Part I outlines the elements and interrelationships of entertainment laws including U.S. copyright, trademark and unfair competition laws; publicity and privacy law; and international conventions. Part II presents commentaries on the practice of entertainment law, including a chapter on music. Part III contains sample forms. There is also a Directory of Guilds, Unions, and Other Organizations and reprints of U.S. copyright statutes.


Advice for band members on managing their business affairs. Especially good for musicians who have little or no experience in the music business. Covers selecting a type of business organization; protecting the band's name; choosing personal representatives, lawyers and accountants; keeping business records; obtaining insurance; signing contracts; registering copyrights; selecting a publisher; recording demos; and using promo kits. Appendix: Mailing Addresses for the Music Business: pp. 181-185. Bibliography: pp. 187-189.

This volume provides practical information about the entertainment industry which has general application in various areas such as concert promotion or managing an entertainer. It can serve as a reference manual for questions such as how the manager and artist relationship should be structured, how to survive being a promoter, financial planning for the artist, IRS guidelines regarding concert events, and tapping income from personal appearances and ancillary rights. It also includes checklists, forms, and pleadings used in entertainment litigation. Bibliography: pp. 298-299.

This is a compilation of the author's articles published in the New York Law Journal and Variety, and his speeches. The articles were selected to provide useful information relating to legal and business aspects of the entertainment industry. Topics covered include rights of privacy and publicity, trademarks and credits, copyright protection, representation, plays, films, television, music, and new technologies.

Volume 1 addresses the structure of the entertainment industry, financial aspects of that industry, and the nature of contract disputes which arise in that context. Volume 2 covers unfair competition, right of privacy, right of publicity, libel, and remedies. Volume 2A covers artistic control, grant of rights, and representations, warranties, and indemnities. Volume 2A also includes a Glossary of Entertainment Industry Terms and tables for cases, statutes, authorities and selected names. Volume 3 is devoted to sample forms, including music forms. Includes bibliographical references.

This book maps out the basic flow of the booking process for touring companies of different disciplines of the performing arts. The text is supplemented with chapters written by Susan Hardy (booking and tour management from the presenter's perspective), Art Becofsky (international booking and tour management), and M. Kay Barrell (the technical end of touring). Appendices: Sample contracts (pp. 224-235); Tour manager's resource kit (pp. 236-246); Technical information questionnaire (pp. 247-256); Technical glossary (pp. 257-258); Resources (pp. 259-263); and Bibliography (p. 264).

Consists of additional topics and material not contained in the authors' book, *This Business of Music*. Part I deals with the business of "serious music" such as symphonies, chamber music, operas, and choral works. It also includes sections on religious music and jazz. Part II deals with other aspects of music such as the production and sale of printed music, background music and transcriptions, and live performances.


A comprehensive text covering all aspects of the law and operation of the music business. The contents is divided into three main parts: Recording Companies and Artists; Music Publishers and Writers; and General Music Industry Aspects. Appendices include the texts of copyright laws and regulations and many sample contracts. This sixth edition describes recent changes such as U.S. adherence to the Berne Convention, the acceleration of mergers and consolidations in the music publishing and record industries, the growth of the European Communities market, and digital audio tape (DAT) technology. Bibliographies: pp. 604-611.


Aimed at the songwriter and recording artist, this book provides a working knowledge of the language of the music business; the basics of music publishing and record deals; and how to acquire the professional help which is needed. Includes interviews with well-known artists, managers, and other industry leaders. Glossary ("Lexicon Plus"): pp. 3-21.


This is a casebook which uses case law, sample individual agreements, collective bargaining agreements, and newspaper and magazine articles as source material. Entertainment law as defined here includes movies, television, live theater, music, and print publishing. The book covers many issues common to all five branches of entertainment law. Includes Table of Cases and bibliographical references.

1. **Australia**


Sponsored by The Arts Law Centre of Australia. Emphasizes theatrical performances, but also has applications to musical performances. Bibliography: pp. xv-xvi.


2. **Canada**


Source book of Canadian laws affecting musicians in their business affairs. Includes notes on U.S. law since it often interacts with Canadian law. Contents divided into the following main parts: Composers, Copyright and Music Publishing; Performers, Live Performance and Related Activities; and Structuring Business Affairs. Includes Table of Cases and bibliographical references.

3. **United Kingdom**


K. **Record Industry**


A business and financial journalist chronicles the development of some of the biggest record companies in pop and rock music. He tells the stories of behind-the-scenes power struggles at CBS Records, Casablanca Records, and others. “Debts and Sources”: pp. 329-370.


A study by a social scientist of popular music and its relation to modern culture. Included is a look at the “star-making machinery” of the record companies and the effect of music videos on the music industry. Includes bibliographical references.


The title says it all. Contents includes technical as well as business and legal aspects of independent recording, covering topics such as promotion and sales, printing and graphics, manufacturing process, recording procedures, and song rights. There are business planning worksheets in the back of the book. Some separately written articles appear in appendices: *New Technologies,* by Craig Anderson; *Financing Recordings,* by Edward R. Hearn and J. Gunnar Erickson; *Negotiating Record Contracts,* by Edward R. Hearn and J. Gunnar Erickson; and *Selling Your Record in Foreign Markets,* by Holger Peterson. Directory and Bibliography: p. 179.


Guide for songwriters and musicians, covering all aspects of successfully recording music. Part 1, Getting Started, includes choosing the right songs and making an artist demo. Part 2, Creating the Product, includes selecting a recording team, preparing for the studio, creating album covers and press kits, and promoting and publicizing the recording. Includes bibliographical references.


This guide provides an in-depth analysis of the music recording business. Chapters include cash flow; music publishing; record companies; artists; broadcast royalties; representation; partnerships; marketing; negotiating and contracts. Appendices provide information on performance societies, unions, music organizations and copyright forms. Bibliography: pp. 535-538.
L. Taxation


M. Writing and Publishing

Contains practical information, sample letters, and forms. Designed for the secretary of a music publishing company.

This book is for the songwriter who wants to publish his or her own songs. It includes advice on how to get material to an artist and to the ultimate consumer. It explains the nuts and bolts of starting a publishing business, marketing, and getting paid.

A reference book for amateur and professional songwriters intended to provide practical advice as well as general background information to help songwriters develop a better understanding of the writer/publisher relationship and the music business as a whole. Includes chapters on the general history of music publishing in America, copyright law, performing rights societies, how to present your song, how to choose a publishing company, how a publishing company works, publishing contracts, foreign markets, and new technologies. There are appendices listing U.S. songwriter organizations, licensing societies, record labels, artists and their managers, record producers, music publishers, and commonly used forms of the performing rights societies. Glossary: pp. 252-256.
V

Legal Institute Program Materials

A. ABA Forum on the Entertainment and Sports Industries


INCLUDES: Negotiation of the Co-Publishing Agreement, by Ed Pier- son; Co-Publishing Agreement Forms; Exclusive Songwriter Agreement; Administration Agreement; Subpublishing Agreement; Record Agreement Forms; and Production Company Recording Agreement.


INCLUDES: Songwriter, Co-Publishing, and Administration Agreements; Foreign Publishing Issues; and Music in Television and Motion Pictures.


Text discusses very specific issues of lawsuits and litigation as they relate to the entertainment industry, providing insight to litigators and practitioners interested in entertainment issues and who need additional knowledge on litigation of entertainment contracts.


Materials deal with insurance issues involved in holding events in sports arenas and other facilities. Includes insurance forms, case reports, and bibliographical references.

Focuses on specific issues in negotiating and drafting recording contracts, management, and agency agreements. Also discusses lawyers who manage music artists. Emphasis on contracts that precede and supplement recording contracts, specifically production company agreements, producer agreements, speculation and finder's fee agreements. Includes sample management contract forms, agency forms, and recording contracts.


INCLUDES: Management Agreements; Representation of Unsigned Talent; Music Publishing; and Current Developments in Recording Contracts: A Mock Negotiation of a Record Agreement.


Course materials contain sample contracts and agreements made for negotiating motion picture financing, motion picture video, and music video. Text also provides discussion on merchandising and the right of publicity.


INCLUDES: *Representation of Unsigned Talent,* by Edward P. Pierson; *Negotiation of Management and Agency Agreements in Music,* by Rosemary Carroll and Robert E. Gordon; *Corporate Sponsorship of Music,* by Jay L. Cooper and Harvey T. McLain; *Producer Agreements,* by Rosemary Carroll, et al.; *Enforcement of Personal Service Contracts,* by Edward P. Pierson; *Music Copyright Infringement,* by Robert Jay Bernstein and Judith M. Saffer; and *Current Developments in Recording Agreement Negotiations,* by Rosemary Carroll, et al.

INCLUDES: Part III, Music in Film (sample agreements); Part IV, Merchandising, the Right of Publicity and Protection of Names.


INCLUDES: Songwriter and Publisher Contracts; Considerations in Co-Publishing and Administration Agreements; Update on New Cases and Statutes Affecting the Music Publishing Industry; Mechanical Licensing and Income; Foreign Publishing; Print Publishing; Source Licensing; Music and Copyright Infringement Suits; and Music in Television and Motion Pictures.


INCLUDES: Music Copyright Infringement; Representation of Unsigned Artist; Negotiation of Recording Agreement Between Record Company and the Artist; Use of Music in Motion Pictures and Television; Music Publishing and Performing Rights; and Management Agreement Forms.


INCLUDES: Protection of Group Names; Role of the Manager and Agent in the Music Industry; An Overview of Contracts and Statutes; Current Developments in Recording Agreement Negotiations; Music and Video; Current Development and Trends Involving Record Companies, Music Publishers, etc.; and Current Developments in Entertainment Litigation Affecting the Music Industry.
B. American Law Institute-American Bar Association Committee on Continuing Professional Education


C. Miscellaneous

INCLUDES: Music Law, by Mark A. Fischer: Assessing the Strengths and Weaknesses of the Artist; Industry Overview, Popular Music; Managers and Agents; Partnerships and Incorporation; and Recording Contracts, Contemporary Issues.

INCLUDES: Contracting with Minors in the Arts and Entertainment Industry, by Daniel M. Satorius; Unions and Agencies, by Mark
Volpe; Copyright and Trademark Law, by John S. Sumners; Representing the Musician, by Brad C. Eggen; Preparing for and Negotiating a Record Deal, by Paul L. Landry; and Representing the Artist/Entertainer, by John Roth.


INCLUDES: Personal Management, by Howard Siegel; Composition Agreement, by Michael F. Sukin; Co-Publishing Agreement, by Michael F. Sukin; and Exclusive Songwriter’s Contract, by Michael F. Sukin.


INCLUDES: Legal and Business Aspects of Representing and Promoting a National Event, by Joel A. Cherry. Forms include: concert hall license agreement; concert performance agreements; concert budget; variety production and license agreement; merchandising agreement; food services agreement; sponsorship agreement; and inbound service agreement.


INCLUDES: Personal Management, by Howard Siegel; Minor’s Contracts, by Marc Jacobson (cassette); and Mock Negotiation of a Management Agreement, by Howard Siegel and David Sonenberg (cassette).
INCLUDES: Management Agreements, by Alan H. Bomser; Record Company Contracts, by Julian H. Kreeger; Representing Foreign Entertainers and Athletes Performing in the United States, by Jordan Bittele; and Tax Planning for Foreign Entertainers and Athletes Performing in the United States, by Gerald Damsky.

This edition has been prepared for attendees of “The Music Business Seminar” sponsored by the California Lawyers for the Arts in association with the Beverly Hills Bar Association Committee for the Arts. Description is based on a photo copy of a version that is being designed, illustrated, indexed, and bound for publication by Jerome Headlands Press and will be distributed in the fall of 1991 by Prentice Hall. The original version of this book was produced by the Committee for the Arts (CFTA), an ongoing project of the Barristers (Young Lawyers Division) of the Beverly Hills Bar Association. It includes articles on all aspects of the music business, all revised or newly written for this edition. Bibliography: pp. 443-447.

INCLUDES: The Recording Artist (What He Has to Sell and How He Sells It), by Douglas H. Clarke; Income Tax Considerations, by Howard J. Kellough and Ian Scobell; and Immigration Aspects, by Dennis McCrea.


**D. Practising Law Institute**


**Counseling Clients in the Entertainment Industry, 1990.** Patents, Copyrights, Trademarks, and Literary Property Course Handbook Series, No. 291. New York, NY: Practising Law Institute, 1990. 912 pp. INCLUDES: Established Artist-Record Company Agreement; New Artist-Record Company Agreement; Exclusive Songwriter Deal Memo; Co-Publishing Agreement; Foreign Subpublishing Deal Memo; Personal Management; Musician’s Personal Management Contracts; Business Management in the Entertainment Industry; Sample Engagement Letter for Business Management and a Royalty Audit; Audit Report—Sound Recordings; Touring Agreements; Ethical Aspects of Entertainment Law Practice; Development of an Entertainment Law Practice; Legal Retention Agreements; Waiver of Conflict Letter; Client Data Sheets; and Tasteful Advertising.

**Current Developments in Copyright Law, 1990.** Patents, Copyrights, Trademarks, and Literary Property Course Handbook Series, No. 296. New York, NY: Practising Law Institute, 1990. 520 pp. INCLUDES: Copyright Fundamentals, by I. Fred Koenigsberg; Copyright Ownership in Relation to Certain Curiosities of Authorship, by Peter Jaszi; Copyright Office and Legislative Developments, by Doro-


INCLUDES: Legal Representation Agreements; Personal Management Agreements; Artist-Record Company Agreement; Songwriters and Music Publishers; Exclusive Songwriter’s Agreements; Participation Agreement; Negotiating a Sub-Publishing Agreement; and Licensing, Merchandising, and Endorsement Agreements.


INCLUDES: Subject Matter of Copyright, and Jurisdiction, by Robert J. Bernstein; Formalities and Duration, by Alan L. Shulman; Works for Hire, and Other Ownership Questions, by Alvin Deutsch; Compulsory Licenses, and the Copyright Royalty Tribunal, by Robert Cassler; U.S. Adherence to Berne (text of the Berne Convention); Copyright in Congress, Legislative Developments, by Benjamin L. Zelenko; Fair Use after Sony, and Harper & Row, by William F. Patry; and Rights of Publicity, by Stanley Rothenberg.


INCLUDES: Personal Management Agreement; Video Songs Provisions; Agreement for Exclusive Services of Songwriter—No Advance; Agreement for Single Song—No Advance; and Foreign Sub-Publishing Agreement with Advance.


INCLUDES: Personal Management and Legal Representation; Sound Recordings; and Music Publishing.

E. UCLA Entertainment Symposium


F. University of Southern California Law Center Entertainment Law Institute

Music in Film, Film in Music. Thirty-Sixth Annual Entertainment Law Institute, The Vic Netterville Memorial Lectures, Apr. 28, 1990; Co-sponsored by the University of Southern California Law Center and the Beverly Hills Bar Association. Los Angeles, CA: University of Southern California Law Center and Beverly Hills Bar Association, 1990. 338 pp. INCLUDES: Motion Picture Music, by Donald S. Passman; Motion Picture Music Video, by Merritt B. Kleber; The Artist, by Kenneth L. Kraus; Putting Music into Films, by Burt Berman; The New New New Monkees Movie Soundtrack, by Robert L. Young; Publisher Checklist, by Marsha L. Gleeman; and Why Would an Artist Want to Participate in Soundtrack?, by John T. Frankenheimer.


INCLUDES: Music Term Arrangements, by Peter T. Paterno.


INCLUDES: Record Agreements; Songwriter/Publisher Agreements; Administration, Co-Publishing, and Sub-Publishing Agreements; and Publisher’s Licensing Agreements.


INCLUDES: Representing Musical Performers, by David A. Braun.

INCLUDES: Music Considerations; Rights in Music for Pay Television, by Alan Latman, Robert J. Bernstein, and Jane C. Ginsberg.
VI

U.S. Government Publications

A. Copyright and Related Rights


This is a numbered series of publications, with individual circulars being updated whenever there is a change in the law. Each describes a specific type of work covered by the Copyright Act and provides instructions for registering that work with the Copyright Office. Circulars current as of February 1991 are as follows:


The purpose of the amendment is to provide an exemption for non-profit veterans and fraternal organizations from the requirement of paying certain performance royalties for musical works which are used for charitable fundraising. It is the intention of the conferees to provide an exemption to the copyright act to college and university fraternities and sororities only for those specific events that are held to raise funds for a specific charitable purpose. Events held by these groups that are merely social in nature are not intended to be covered. Passed (P.L. 97-366).


Consideration of S. 2044 to exempt from Copyright Act of 1976 the "work-made-for-hire" provision, which covers audiovisual and printed material commissioned for use in motion picture, educational text, or literary collection. Witnesses include Elmer Bernstein, Screen Composers Association, and Richard Colby, senior distribution and
marketing counsel, Twentieth-Century Fox Film Corp. (pp. 72-105). Includes statements regarding motion picture industry contracting practices.

Purpose of the hearing is to assess the implications for copyright law of technological developments in communication, entertainment media, and computers. Numerous articles, written statements, and other insertions are included, among them, Materials from Congressional Copyright and Technology Symposium, Fort Lauderdale, FL, February 4-6, 1984 (pp. 162-300).

Includes an examination of major copyright issues and Copyright Act provisions focusing on cable television royalty-fee payments for retransmission of copyrighted materials, home off-air videotaping, and satellite transmission of television programming.

Hearing on how to protect the nation's creativity by protecting the value of intellectual property. Bulk of this document consists of a thorough written report submitted to the Subcommittee by David Ladd, Register of Copyrights (pp. 8-183), "To Secure Intellectual Property Rights in World Commerce." The report includes an agenda for the Congress to promote progress through trade agreements, establishment of bilateral copyright relations with the States of the Pacific Basin and the Persian Gulf, possible U.S. adherence to the Berne Convention, modernization of both worldwide copyright conventions, and support for international and domestic copyright training programs.


Oversight hearing on the Copyright Royalty Tribunal and the Copyright Office. The focus is primarily on the CRT which has statutory authority to set copyright royalty rates for compulsory licenses in the areas of cable television, phonograph records, jukeboxes, and non-commercial broadcasting, and to distribute cable and jukebox royalties deposited with the Copyright Office.


Hearings on H.R. 2752, the Copyright Royalty Tribunal Sunset Act of 1985, to terminate the CRT and transfer its functions to the Copyright Office, and on H.R. 2784, the Copyright Dispute Resolution and Royalty Court Act of 1985, to establish a Copyright Royalty Court and for other purposes.


Hearing on the authority and the responsibility of the federal government to protect intellectual property. Hearing provides the subcommittee an opportunity to review recent legislative acts (Audio First Sale Act, Semiconductor Chip Protection Act, and amendments to the Generalized System of Preferences) and assess how well they are furthering the constitutional mandate of promoting the progress of science and the useful arts. Includes: statement by Victoria Toensing, Deputy Assistant Attorney General, Criminal Division, Department of Justice, regarding the Department’s role in enforcing the criminal provisions of the 1976 Copyright Act and its 1982 amendments; statement by Donald C. Curran, Acting Register of Copyrights, regarding the effectiveness of civil and criminal remedies for infringement enacted in the 1982 amendments; statement by Michael K. Kirk, Assistant Commissioner for External Affairs, U.S. Patent and Trademark Office, Department of Commerce, regarding efforts to protect American works of authorship worldwide; statement by David Ladd, former Register of Copyrights; and statement by Barbara Ringer, former Register of Copyrights with objections to the 1985 Supreme Court decision in Mills Music v. Snyder.


Hearing on S. 1384, a bill to amend the Copyright Act of 1976 to clarify the operation of the derivative works exception (text p. 2-3). This legislation is in response to the 1985 Supreme Court decision in Mills Music v. Snyder which permits publishers to continue receiving royalties for derivative works after termination of a contract by the author or author's heirs. Witnesses include Barbara Ringer, former Register of Copyrights who expressed her opinion that the Mills decision misconstrued the "derivative works exception" to the termination provisions of the 1976 Copyright Act. Also included are written statements of both Ralph Oman and Ms. Ringer which give background information on legislative history of the 1976 Act and the Mills litigation. Also supporting the bill is Irwin Karp, counsel, the Authors League of America, Inc., and George David Weiss, president, Songwriters Guild of America. Testifying on behalf of music publishers is Dean Kay, executive vice president and general manager, Welk Music Group.

Report to accompany H.R. 1622, a bill to change the fee schedule of the Copyright Office and to grant the Register of Copyrights the authority to adjust the fee schedule by regulation at five-year intervals, to reflect increases in the Consumer Price Index. Passed (P.L. 101-318).

Oversight hearing to review activities and programs of the Copyright Office and the Copyright Royalty Tribunal. Includes text of H.R. 1621, the Copyright Royalty Tribunal Reform Act of 1989, and H.R. 1622, the Copyright Fees and Technical Amendments Act of 1989 (pp. 65-72). Written statement of Ralph Oman, Register of Copyrights (pp. 8-22), gives an overview of the administration of the copyright law by the Copyright Office, including the implementation of the Berne Convention Implementation Act of 1988. The report covers eleven areas where legislative activity might occur, i.e. issues which were not resolved in the previous Congress, including DAT/Hometaping, performers' royalties, and source licensing. There is also a statement by Edward W. Ray, chairman, Copyright Royalty Tribunal (pp. 42-54). H.R. 1622 passed (101-318).

United States. Congress. Senate. Committee on the Judiciary. Subcommittee on Patents, Copyrights, and Trademarks. Copyright Fees and

Hearing on S. 1271, a bill to change the fee schedule of the Copyright Office, and S. 1272, a bill to reduce the number of commissioners on the Copyright Royalty Tribunal and to provide for lapsed terms of such commissioners. Written statement of Edward W. Ray, chairman and commissioner, Copyright Royalty Tribunal, includes CRT budget for FY1989 and FY1990, table of jukebox royalties from 1978 to 1988, and table of appeals cases since 1985. Witnesses also include Ralph Oman, Register of Copyrights, and Irwin Karp, counsel for office organizations involved in the Copyright Revision Act. Companion bill to S. 1271, H.R. 1622, passed (P.L. 101-318).


Report to recommend passage of identical bills S. 1271 and H.R. 1622. By amendment, the language of S. 1271 was replaced by the text of H.R. 1622. The bills double the fee schedule for copyright registrations under the copyright laws and grant to the Register of Copyrights the authority to increase fees every five years, beginning in 1995. H.R. 1622 passed (P.L. 101-318).

B. Digital Audio Recording


Report, to accompany H.R. 3, includes commentary on a temporary provision, lasting one year from date of enactment, requiring the inclusion of copy-code scanners in digital audio tape recording devices (pp. 58-59). This is a drastically scaled down version of the Administration proposal on this issue. President Reagan proposed a permanent requirement that DAT recorders have copy protection. For text of the President's proposal see "The Trade, Employment, and Productivity Act of 1987; Message from the President of the United States Transmitting a Draft of Proposed Legislation," February 19, 1987 (100th Cong., 1st Sess., House Document 100-33), pp. 104-106, Subtitle C—Regulation of Commerce in Digital Audio Recording Devices Act of 1987, Title III—Omnibus Intellectual Property Rights Improvement Act of 1987. H.R. 3 passed (P.L. 100-418).

Hearing on H.R. 1384, a bill to require the inclusion of copycode scanners in digital audio recording devices (text of the bill: pp. 3-8). H.R. 1384, as well as H.R. 1155, the Administration's proposed DAT legislation, would make it unlawful to engage in the manufacture, distribution, or sale in the U.S. of digital audio recording machines that do not incorporate copycode scanner devices to prevent unauthorized reproduction of phonorecords. Witnesses include: Emylou Harris, Warner Brothers; Jason Berman, president, Recording Industry Association of America; David Stebbings, director of Recording Research at the CBS Records Technology Center (to explain and demonstrate the CBS copy code system); Victor W. Fuentealba, president, American Federation of Musicians; Charles D. Ferris, attorney, representing Home Recording Rights Coalition; Leonard Feldman, Leonard Feldman Electronic Laboratories; and Alec Bernstein, Aesthetic Research Co. Witnesses opposing the bill expressed concerns that DAT technology will not be available in the U.S. and that if it is, methods of restricting copying would cause audio distortion on cassettes; they also refuted testimony that DAT will have an adverse effect on the recording industry.


Hearing on S. 506 to require the inclusion of copy-code scanners in digital audio recording devices. The proposed "Digital Audio Recorder Act of 1987" is intended to protect the intellectual property
rights of prerecorded music from tape recordings, by prohibiting for three years the sale, resale, lease, or distribution of digital audio recording devices which do not contain a copy code scanner chip. Text of bill: pp. 8-13. Witnesses include Jason S. Berman, president, the Recording Industry Association of America; Charles D. Ferris, counsel, representing Home Recording Rights Coalition; Mary Travers, songwriter and artist representing the recording group Peter, Paul and Mary; Alec Bernstein, Aesthetic Research Company; David Stebbings, Director of Recording Research, CBS Record Technology; Leonard Feldman, Electronic Laboratories; and Fred W. Weingarten, program manager, Communication and Information Technologies, Office of Technology Assessment.


Joint hearing with the House Judiciary Committee, Subcommittee on Courts, Civil Liberties, and the Administration of Justice. Testimony on S. 506, the Digital Audio Recorder Act of 1987, and similar bill H.R. 1384. Witnesses include Jason S. Berman, president, Recording Industry Association of America; David W. Stebbings, director, Recording Research, CBS Records Technology Center; Leonard Feldman, owner, L. Feldman Electronic Laboratories; Charles D. Ferris, attorney, representing Home Recording Rights Coalition; Ralph Oman, Register of Copyrights; and Frederick W. Weingarten, Office of Assessment.


Hearing on S. 2358, the Digital Audio Tape Recorder Act, or DAT bill (text: pp. 7-24). This bill is similar to S. 506 introduced in 1987 but not passed. The 1990 measure prohibits the manufacture or distribution of digital audio tape recorders in the United States unless equipped with serial copy management systems circuitry chips. The SCMS technology will allow first generation copies of prerecorded materials but will not allow succeeding generation copies. Witnesses include: Ralph Oman, Register of Copyrights; Jason Berman, president, Recording Industry Association of America; Thomas P. Friel, chairman, Home Recording Rights Coalition; Kevin Kondo, general manager, Honolulu Audio Video; Leonard Feldman, Leonard Feldman Electronic Labs; Philip Greenspun, president, Isosonics Corporation; Edward Murphy, president, National Music Publishers Association; George David Weiss, president, Songwriters Guild of America, on behalf of the Copyright Coalition; Michael Smith, presi-

C. Economic Conditions and Labor


Includes hearing on H.R. 5107, the Performing Arts Labor Relations Amendments, to extend to performers' unions exemptions similar to those provided to the construction and garment industries in Sections 8(e) and 8(f) of the NLRA. Testifying in favor of the bill are: Victor Fuentealba, president, American Federation of Musicians; Jack Golodner, director, Department for Professional Employees, AFL-CIO; and Raymond M. Hair, Jr., president, Local 72, American Federation of Musicians. Testifying in opposition to the bill are Jerry Davis, New England administrator, National Association of Orchestra Leaders; Charles Peterson, treasurer, National Association of Orchestra Leaders; and William Haeberlin, past president, International Theatrical Agencies Association. Appendix contains numerous exhibits: letters; statements; and examples of entertainment contracts.


Oversight hearings also include consideration of S. 281, the Performing Arts Labor Relations Act, to allow musicians to engage in collective bargaining through their union representatives and clarifying that purchasers of music services are the employers of the musicians. Witnesses include Victor W. Fuentealba, president, American Federation of Musicians; Ned H. Guthrie, president emeritus, Local No. 136; and Cosimo Abato, American Federation of Musicians.


Hearing to consider S. 1346, the Performing Arts Labor Relations Amendments of 1987, to amend the National Labor Relations Act to clearly define the employer and employee relationship between musicians and purchasers of musical services and to afford musicians the right to engage in collective bargaining. The bill extends the current
exemption for the construction industry under section 8(f) to permit employers and unions in the performing arts industry to enter into pre-hire agreements. The bill also extends the exemption to section 8(e) to the performing arts industry, allowing employers and unions in the performing arts industry to enter into agreements under which employers would hire union subcontractors. The bill also allows a union in the performing arts industry to picket persons “in the relation of leader, contractor, recording artist, purchaser of entertainment or music, promoter, producer, or person similarly engaged or involved in an integrated production of performance” in order to enforce agreed upon working conditions. Witnesses include J. Martin Emerson, international president, American Federation of Musicians and Jay Collins, president, Nashville Association of Musicians.

D. Home Recording


Covers testimony in support of H.R. 5705, the Home Recording Act of 1982, to propose a royalty-fee system for home audio taping of copyrighted materials and to prohibit record rentals without copyright owner’s consent. Insertions include: Melville B. Nimmer, Legal Status of Home Audio Recording of Copyrighted Works, legal memo prepared for NMPA and RIA, 1982 (pp. 481-512); and J.A. Baumgarten, Private Audio Recording of Copyrighted Music, legal memo prepared for NMPA, 1982 (pp. 529-537).


Testimony focuses on H.R. 5705, the Home Recording Act of 1982. Supplementary materials include assessment of the impact of home audio recording on the recording industry (pp. 784-835) and additional testimony reflecting record industry claims that home audio recording has a harmful impact on the industry (pp. 763-783).


Hearing on S. 31 (text: pp. 3-47), the Home Recording Act of 1983, and S. 175 (text: pp. 48-49) to exempt private noncommercial record-
ing of copyrighted works on video recorders from copyright infringement. S. 31 exempts video and audio recording for private use from copyright infringement liability, establishes procedures for compulsory licensing of and royalty surcharges on importers and manufacturers of recording devices and blank tapes, and provides for distribution of royalties to copyright owners.


Hearings on S. 1739 (text: pp. 3-18), a bill to legalize the home taping of copyrighted music and other audio material; impose royalty fees on manufacturers and importers of audio recording devices and blank tapes; and set up procedures for distribution of the fees by the Copyright Royalty Tribunal. Prepared statement by Ralph Oman, Register of Copyrights (pp. 29-84) contains bibliographical and legislative references and a comparison of similar legislation in other countries. Witnesses Stanley M. Gortikov, president, Recording Industry Association, and George D. Weiss, president, Songwriters Guild, testify in support of S. 1739. Witnesses representing Audio Recording Rights Coalition present arguments against S. 1739. Many more witnesses present testimony and comprehensive written reports on the economic impact of the proposal on the recording industry, on the technology of the CBS copy-coding system, and on the mechanics of a royalty distribution scheme.


This report examines home recording technologies, the legal status of home copying, and the possible economic effects that home audiotaping may have on the recording industry contrasted to the effects that restricting home taping might have on consumers. Included in the report are the results of a national survey of home taping and copying behavior conducted for OTA in the autumn of 1988. Includes bibliographical references.

E. Jukeboxes


Hearing on S. 1734 to amend Title 17 of the U.S. Code with respect to public performances of nondramatic musical works by means of coin-operated phonorecord players, specifically to shift the royalty pay-
ment from the owner of the jukebox to the manufacturer or the importer, and make the royalty a one-time, nonadjustable $50 payment in place of the current annual fee. Witnesses include Wesley S. Lawson, representing Amusement and Music Operators Association (AMOA); Don Van Brackel, former president of AMOA and of Ohio Music and Amusement Association; and Jerry Gordon, president, Rowe International, Inc., all testifying concerning the adverse economic effect the current CRT royalty fee has had on the jukebox industry. Testifying in opposition to S. 1734 are Hal David, president of ASCAP; Edward M. Cramer, president of BMI; and Vincent Candilora, executive vice president of SESAC. Exhibits include AMOA's brief to the U.S. Supreme Court, October term, 1981, in AMOA v. CRT; and A Report on the Economic State of the Jukebox Industry, prepared for AMOA by James F. Gaertner, September 1983.


Background information in the report covers the jukebox exemption under the 1909 Copyright Act, the 1976 Copyright Act, the administrative structure of the jukebox license, early compliance problems with the compulsory licensing system, and the 1985 agreement between the performing rights societies and the Amusement and Music Operators Association (AMOA). The Register of Copyrights also addresses the issue of the jukebox compulsory license and the Berne Convention, and presents an overview of a public hearing held by the Copyright Office. There is an analysis of administrative issues and conclusions by the Copyright Office on compliance and enforcement issues. Appendix 4 contains the May 13, 1985, press release regarding the voluntary agreement between AMOA and the performing rights societies. Appendix 5 contains Copyright Office jukebox licensing statistics as of September 1, 1988.

F. Record Lyrics


Packet of background information compiled by the Congressional Research Service Reference Division. Includes reproductions of news articles and editorial comments from publications around the country. Includes a bibliography on record labeling.

Hearing on the contents of music and the lyrics of records. Witnesses include Susan Baker, Tipper Gore, and Jeff Ling, representing Parents Music Resource Center; Dee Snider, musician; Joe Stuessy, music professor, University of Texas; Paul King, child and adolescent psychiatrist; Frank Zappa, musician; John Denver, musician; Millie Waterman, National PTA vice president for legislative activity; Stanley Gortikov, president, Recording Industry Association; Edward O. Fritts, president, National Association of Broadcasters; William J. Steding, executive vice president, central broadcast division, Bonneville International Corporation; Robert Sabatini Jr., representing WRKC-FM, Wilkes-Barre, Pa.; and Cerphe Colwell, radio announcer, WWDC-FM, Washington, D.C. Includes reproductions of record album covers, examples of explicit rock lyrics, and articles from the press.


Report discusses constitutional issues related to proposals to require that lyrics of certain phonograph records be printed on record jackets or that restrictions on access by minors be placed on certain phonograph records. Discussion includes broadcasting of recorded music, access by minors to allegedly pornographic material, potentially harmful lyrics other than sexually explicit lyrics, and record labeling requirements. Includes bibliographical references.

G. Record Rental


Recommends passage of S. 32 to prohibit commercial renting, lending, or leasing of phonograph albums for the apparent purpose of private audio recording, except when authorized by the copyright owner. Passed (P.L. 98-450).


Hearing on S. 32 and S. 33, both of which are intended to revise the first sale doctrine to give copyright holders a limited voice in how their property is marketed. S. 32 relates to audio rentals and S. 33 to video rentals. Although most of the witnesses focus on S. 33, there is also testimony and written statements regarding S. 32. Witnesses include Stanley Gortikov, president, Recording Industry Association of America, Inc.; Sal Chiantia, chairman, National Music Publishers'
Association; George David Weiss, president, American Guild of Authors and Composers; and John Marmaduke, president Western Merchandisers Hastings, on behalf of the National Association of Recording Merchandisers. S.32 passed (PL 98-450).


Report to accompany H.R. 5938; discusses the background and history of the “first sale” doctrine and contains a section by section analysis of the bill. Also contains the codified text as it appears in Title 17, sections 109 and 115. Companion bill S. 32 passed (P.L. 98-450).


Hearing on H.R. 1027, H.R. 1029, and S. 32, bills to modify the copyright “first sale doctrine.” Text of House bills: pp. 727-730. Testifying in favor of the Record Rental Amendment is Stanley M. Gortikov, president, Recording Industry Association; Leonard Feist, president, National Music Publishers Association; George David Weiss, president, AGAC, the Songwriters Guild; and John Marmaduke, former president, National Association of Recording Merchandisers and current president, Hastings Book and Recording Merchandisers and Western Merchandisers. Testifying in opposition to the Amendment is Senator Marlow Cook, currently a practicing attorney representing the Audio Recording Rights Coalition; Dr. Steven R. Brenner, an economist; Father Robert McEwen, a consumer activist representing the Consumer Recording Rights Coalition; and William R. Watts, owner and operator of a record rental business. Also included is the testimony of Prof. David Lange of Duke University Law School. Additional material includes The Record Rental Amendment: An Analysis of Its Consistency with the First Sale Doctrine and Principles of Fair Competition, by Robert Pitofsky, Arnold & Porter, April 29, 1983 (pp. 69-87). S. 32, related to H.R. 1027, passed (P.L. 98-450).


Report to accompany H.R. 4310 to extend for an additional five-year period the prohibition on commercial rental, lease, or lending of phonograph records unless authorized by the copyright owner. Related bill S. 2201 passed (P.L. 100-617).

Hearing on H.R. 4310 (text: p.3) a bill to extend for an additional five-year period the prohibition on commercial rental, lease, or lending of phonograph records unless authorized by the copyright owner. Witnesses include Ralph Oman, Register of Copyrights, and Jason Berman, president, Recording Industry Association, both in support of H.R. 4310. Related bill S. 2201 passed (P.L.100-617).


**H. Source Licensing**


Hearings on H.R. 3521, to amend the Copyright Act to require that the right to broadcast music on the sound track of any prerecorded television program be licensed together with all other copyrights in the program. Program producers or syndicators will be required to acquire music rights from composers or publishers and convey all program rights in one package to TV stations. Written statement by Ralph Oman, Register of Copyrights (pp. 13-60), contains background of TV music licensing, a review of court cases involving the legality of blanket licenses, and arguments for and against source licensing. Witnesses representing TV station interests present testimony on the adverse effects of blanket music licensing on TV stations and in support of the bill. Witnesses representing performing rights societies present testimony on the adverse effects of the bill on musicians' creative incentive and economic situation, and on the effectiveness of the current system of licensing.

Hearing on S. 1980 (text: pp. 4-5), a bill prohibiting TV program producers or syndicators from conveying the right to perform publicly a copyrighted audiovisual work without simultaneously conveying the music rights to that work. Prepared statement of Ralph Oman, Register of Copyrights (pp. 46-90), discusses the background of TV music licensing, court cases involving the legality of blanket licensing, and arguments for and against source licensing. In support of S. 1980 witnesses cite inequities and anticompetitiveness of the blanket licensing system and the adverse economic effects on local TV stations. Witnesses in opposition to S. 1980 cite adverse effects on songwriter royalties and effectiveness of the current system of blanket licensing.


Hearing on S. 698, a bill to amend Title 17, United States Code, to prohibit the conveyance of the right to perform publicly syndicated television programs without conveying the right to perform accompanying music (text: pp. 3-5). Ralph Oman, Register of Copyrights, discusses the impact the proposal will have on individual composers. This version of the bill will give composers an undefined interest in payments made by local broadcasters to copyright owners for programming, the amount of residuals to be negotiated individually since composers are denied the benefits of collective bargaining. Mr. Oman's written statement (pp. 11-60) sets forth the background of licensing rights in televised motion pictures, noting court cases which challenged blanket licensing. The statement also considers arguments for and against source licensing. Other witnesses include: Philip J. Lombardo, Citadel Communications, on behalf of the National Association of Broadcasters; Richard DeAngelis, KPHO-TV, Phoenix, representing the Association of Independent TV Stations; C.E. Cooney and Leslie G. Arries, representing the All Industry TV Music License Committee; Bruce Lehman, counsel, All Industry TV Music License Committee; Mike Post, composer; Hal David, representing the American Society of Composers, Authors, and Publishers; Edward M. Cramer, consultant, Broadcast Music, Inc.; A.H. Prager, chairman and president, SESAC; and William C. Cotton and Robert L. Wehling, representing the American Association of Advertising Agencies.

I. Trade

The focus of this hearing is piracy of intellectual property rights in international trade, in the areas of computer software, moving picture video cassettes, musical recordings, patents, and chemical formulas. Witnesses include Alexander H. Good, Director General, U.S. and Foreign Commercial Service, Department of Commerce; Stanley M. Gortikov, president, Recording Industry Association of America; and Nesuhi Ertegun, president, International Federation of Phonogram and Videogram Producers.


Hearing on S. 1867 and Title VI of S. 1860. Purpose of the legislation is to direct the President to transmit legislation to Congress that would remove “newly industrialized countries,” specifically Taiwan, Korea, and Hong Kong, from the GSP program allowing duty-free entry for goods from developing countries. Includes testimony and written statement of Stanley M. Gortikov, president, Recording Industry Association of America, on behalf of the International Intellectual Property Alliance.
VII
Periodicals


