Leyendecker & Lemire, LLC

An Intellectual Property and Business Law Firm

ENTERTAINMENT LAW

YOUR ENTERTAINMENT LAW LEGAL TEAM

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- Starting an Indie Record/Film Company
- The Arts and Entertainment as a Business
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The Evolving Music Industry

The days of a young band being "discovered" by a Hollywood executive, signing a multi-album deal, being nurtured by the record company, and going on to fame and fortune are long gone. Advancing technology and new business models have altered the basic functioning of the music industry. To be successful today you need to be familiar with the way things work and the applicable tools.

Recording

Creating high-quality music recordings no longer requires a professional studio with expensive equipment and hourly fees. Personal computing allows a single musician to record an entire album in the comfort of his home. Music does not have to be recorded on tape but can be captured digitally and transferred easily.

Dissemination

Musicians used to rely on radio and record sales to spread their music to the public. The Internet now offers an easy (and often free) medium for the transfer of music (in data format). Although this provides a great opportunity for musicians to disseminate their music, there are many potential pitfalls. Unprotected music can be pirated, preventing the artist from receiving any payment for her efforts. An artist distributing music on the Internet should be sure to have agreements in place that specify the terms of the distribution and the expected compensation. The Internet is a powerful tool that must be used carefully by a musician anxious

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to gain exposure.

Record Companies

In the past, record companies developed relationships with their artists and cared about the artist's success. As companies put more focus on the "bottom line," bands have been pressured to make money fast and have been squeezed for their worth. Record deals are notoriously disingenuous and no musician should ever sign a recording contract without consulting an attorney. In fact, no artist should ever sign any contract without consulting an attorney!

Album Sales

Artists no longer need "brick & mortar" record shops to sell albums. Countless websites sell music downloads but a musician has to choose the right portal through which to sell his music. The person who creates the music should receive maximum profits from the sale of that music - don't put your music up on any old website! For example, some file formats offer digital rights management (DRM) to prevent music from being copied, transferred, or burned to CD without permission. These are important considerations and you should know what you're getting in to before selling your music digitally.

Representation

The Internet has completely transformed the music business for managers and booking agents. Up-&-coming bands can utilize social networking websites like MySpace to expand their fan-base and circulate their music. Interactive websites offer full booking and promotions services that include music industry directories and extensive tools. Nonetheless, it is crucial for artists to execute contracts with their representation and to understand the laws regulating managers and agents. Did you know that it is illegal for anyone who is not a licensed talent agent to procure work for a client in the state of California?

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Touring

Some things have not changed: bands still need to tour. In fact, playing live has become an increasingly important source of income as album sales decline and online piracy runs rampant. A successful tour should be meticulously planned and artfully executed. Every show should be secured with a signed contract to ensure that the artist gets paid for her performance. The contract should include a rider that guarantees the talent will be treated well: food, lodging, drinks, hospitality. Other potential issues include transportation (who owns the van? who is insured to drive the van?), recording (can fans record the show? can the venue record the show?), and security (who is responsible?).

Merchandise

Artist merchandise can provide a significant revenue stream when handled properly. Merchandise offerings that were formerly limited to CDs and T-shirts now include sweatshirts, hats, kiddie clothes, stickers, posters, mugs, magnets and just about anything that can be emblazoned with a band name. More importantly, the Internet offers ways of marketing and selling these goods to fans around the world instead of just to fans who attend the band's concert. Licensing your name to appear on merchandise can be a tricky business. Any licensing agreement should be professionally reviewed to ensure that your interests are protected. You wouldn't want to see your band's name printed on toilet paper... and not be getting paid for it!

Trademarks

Your (band) name identifies who you are and what your music is. It is your brand, it represents you to the world, and it is, in fact, a trademark. However, if you don't register that trademark, someone else may come along and use it. Or, what if another group has already registered the name that you plan to use? Too many bands have started on the road to success, only to be derailed by another group who claims to have used the same first. Be proactive and address these issues before it's too late.

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There are countless topics to think about in the quest to make music and be successful at it. Technology continues to evolve and these changes affect every level of the music business. Trusted professionals can ensure that your rights are protected and your music career is primed for success.

Leyendecker & Lemire, LLC is a Denver-based law firm offering a full spectrum of Intellectual Property, Business and Entertainment related legal services for entrepreneurs, individual inventors, and businesses of all sizes. We pride ourselves in providing large firm quality, but with personalized service and attention the large firms do not provide to their smaller clients. Our strength is working with a client from the beginning of his/her venture to maximize the venture's value and potential, as well as, help minimize the risk of legal disputes. Call (303) 768-0123 or e-mail us at info@coloradoiplaw.com today to see how we can help you!

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