

Music Supervisors and Synch Licenses

By Andrea Johnson



After watching prime time dramas such as ABC's *Grey's Anatomy*, the amount of new music that a show like this introduces to the public is astonishing: "Anyone's Ghost" by The National, "Abducted" by Cults, "Chameleon/Comedian" by Kathleen Edwards, "Hit It" by Miss Li, and "Echoes" by Mostar Diving Club. Who is responsible for introducing all of the amazing new music from today's hit TV shows? Week after week, these people have the uncanny knack for selecting uberhip underground artists barely breaking the film of the jellied masses of independent musicians. Women like Alexandra Patsavas of Chop Shop Music known for her work on *Grey's Anatomy*, Andrea von Foerster of Firestarter Music known for her work on *Modern Family*, and Lindsay Wolfington of Lone Wolf, known for her work on *One Tree Hill* are not only outstanding entrepreneurs, they are also the purveyors of musical cool.

For the record, MXSup is the slang industry term for music supervisor, a person who finds and licenses music for films, televi-

sion, video games, or advertisements. Music supervision began at the turn of the 20th century when silent films were all the rage. At that time, organists accompanied the film and the supervisor indicated at various places on the score where classical themes were to be played. Today, music supervisors select music for critical points in the film soundtrack to increase the dramatic effect of the content on the screen. The music leads the audience emotionally and heightens their anticipation and fear before the critical action takes place.

Music supervisors clear two sides of the copyright: the PA Copyright for the music and lyrics as well as the SR Copyright for the master recording. Although a legal background is not a prerequisite, it is necessary to understand the rights of Intellectual Property holders and the terms of their copyright. Music Supervision is often a long process that takes careful consideration and attention to detail.

MISSION STATEMENT

The Music Business Journal, published at Berklee College of Music, is a student publication that serves as a forum for intellectual discussion and research into the various aspects of the music business. The goal is to inform and educate aspiring music professionals, connect them with the industry, and raise the academic level and interest inside and outside the Berklee Community.

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EDITOR'S NOTE

I am pleased to be able to present the second issue of the Music Business Journal for the Fall of 2011 to our readers.

In the cover, Assistant Professor Andrea Johnson discusses music supervision in television as well as the process of discovering new music and acquiring the necessary synchronization licenses for its use in visual media. Megan Graney examines the music service that Google will be offering shortly, and the conflict over their lack of licensing agreements with the major labels. New contributor Haven Belke profiles the “crowd-funding” website known as Kickstarter. Luiz Buff discusses the Rock in Rio festival and examines Brazil’s emergence as an expansive market for live performance. Bartosz Mrugacz’ piece traces the influence of the European club sound in American music. As well, I had the pleasure of interviewing Angelo Ellerbee, publicist for the likes of Dionne Warwick and Alicia Keys, on the subject of artist development.

Continuing our relationship with the University of Miami, we are happy to publish pieces from Devon Spencer, Nadirah Vincent, Nachman Susson, and Kaylee Hyman. Spencer’s piece provides a further look into the future of copyright law; Vincent’s examines the joint venture of Live Nation and Universal Music Group; and Susson takes on the case of ASCAP v. United States and weighs whether or not a digital download is a public performance. Kaylee Hyman’s article touches on what could be considered as the abuse of Auto-Tune in popular music today.

From all of us at the MBJ, we hope you enjoy this issue.

Thanks for reading,



Aaron Gottlieb, Editor-in-Chief

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BUSINESS ARTICLES

Music Supervisors (cont.)

(FROM PAGE 1)

Clearing A Synch License

Ramsay Adams, David Hnatiuk, and David Weiss have suggested in their book, *Music Supervision*, that “music supervisors must be chameleon-like in their business dealings, [and develop] an ability to adapt their methods to the needs of every new production environment”. For that, they write, it is essential that every project be well documented, especially as regards the parties in every transaction: the composer and song title, the publisher, and the record label.

For Lindsay Wolfington, the music supervisor for *One Tree Hill*, the licensing process starts after the spotting session. During the spotting session, the music supervisor, producer, director, music producer, and music editor go through the script and highlight areas that require music (‘Jim drives to Malibu to find his ex-girlfriend and hears a song on the radio that reminds him of her’). The song coming from the source—the radio—must be integrated into the scene with a synchronization license. To minimize work, it is best to procure that license when the picture is “locked” to the music in a final version. A quote request is then sent to the publisher, who returns information about the credits used, her stake in the work, and the rate charged. Wolfington then sends a confirmation of the terms and includes a grant of rights, the fee, and her contact information for final signature.

Cindy Badell-Slaughter CEO of Heavy Hitters Music, a contemporary music library that places music for television in shows like *CSI-NY* and *True Blood*, clears licenses following a similar multi step procedure. In both cases the publisher, who holds the rights to the Performing Arts (PA) Copyright, i.e. music and lyrics, is the first person contacted.

Next, the supervisor would approach the SR Copyright owner, usually the record label. Once the publisher approves the request, the music supervisor creates a formal synchronization license with additional standard contract terms. Having an attorney draft a synch license to ensure its legality is recommended.

The Economics of Synch Licenses

Say an independent action film has a budget of \$100,000. Most of the money is spent on actors, filming, and editing. The

director has \$15,000 (\$3K for the supervisor, plus 4 points - a percentage of ownership shares on the back end income from the movie) and \$12K to find six pieces of music for the film – essentially \$2000 per song. The director placed six temporary tracks into the film to give it the “feel” that she wants for the scenes. These tracks are out of her i-pod collection and range from Foo Fighters’ “Rope”, Aerosmith’s “Love In An Elevator”, Broken Bells’ “The Ghost Inside”, Chris Cornell’s “Ground Zero”, Radiohead’s “Paranoid Android”, and Muse’s “Time is Running Out”.

Al and Bob Kohn, authors of *Kohn on Music Licensing*, state that the going rate to individually license one of these tracks for the life of the copyright in a worldwide release would be \$5,000-25,000 for background use, \$7,500-50,000 for Visual/Vocal use, and \$15,000-100,000 for Featured use. Use of the title of the song as the title of the motion picture should bring an additional \$50,000 to \$100,000 over the above fees. Use of the music for opening credits might double the synch fee with closing credits slightly lower.

Clearly, major labels’ songs are too expensive. It is up to the music supervisor to find songs that fit the scenes with a similar mood and tempo as the temp tracks. This can be a daunting task when everyone from the producer to the music editor has fallen in love with how perfectly the temp tracks fit into the film score.

The best option is an online music library. These pre-cleared and professionally recorded tracks are an easy way to get music in a very cost effective and efficient way. Heavy Hitters, at www.heavyhitters-music.com, is one of the top music libraries in the country. Heavy Hitters has an online “Jukebox” which allows the music supervisor to search using many options. Searching for a replacement of Muse’s “Time Is Running Out”, under “rock” and “Vocal Male”, returns 2,200 hits, but refining the find using “Bad Times” (since the title was “Time Is Running Out”) returned nine songs. One of them was “Wrong Way Down”. Being a hard-rock tune with distorted vocals, heavy guitars, and a similar tempo (111vs. 118 bpm) makes it a good fit.

Communication Skills

Overall, it is important to remember that being a music supervisor is also about fa-

cilitating relationships. Lindsay Wolfington, for example, has always tried to be upfront during negotiation by being transparent with the budget and offering fair rates. She starts on ASCAP.com, where she searches for publishers’ information. She notes that licensing can be difficult when the parties are not registered with the major PRO’s (Performing Rights Organizations). Oftentimes she will find songs with an unlisted publisher. On *One Tree Hill*, for example, she used a Black Eyes Peas song and couldn’t find the person who owned 2.5% of the song. She told the producers and other publishers that unless it was all cleared, she would be unable to use it. She advises songwriters to “have a business head” and register with the appropriate PRO so that paperwork goes quickly and efficiently. Brad Hatfield, Emmy award winner and music supervisor for the show *Rescue Me* stresses instead the benefits of the book *Getting to Yes*, by Roger Fisher and William Ury; for the parties to come to terms, the authors suggest use of the Best Alternative To A Negotiated Agreement method, known as BATNA.

A good licensing strategy depends also on good internal communications. Music supervisors usually report to a creative director, a producer or director of a film, and a video game designer, so pleasing those that have deposited faith in them is essential. **MBJ**

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LAW SECTION

Sound Recordings In 2013: A Legal Brief

By Devon Spencer

The Mayans were partially right when they predicted something drastic would happen at the end of 2012. Yet even if the mystery of the world coming to an end will remain, one thing seems clear: copyright laws in the United States may be changed forever. As 2013 marks the first year when any transfers of ownership in sound recordings will be eligible for termination under § 203 of the 1976 Copyright Act (the “Act”), we will soon be seeing law suits from songwriters and labels to determine ownership in sound recordings. The debate, covered most recently in the October issue of The MBJ, revolves around whether or not a sound recording is, in fact, a work made for hire. To be considered as such under the Act, the work must (1) be created by an employee within the scope of their employment; or (2) be specially ordered or commissioned and fall under one of the nine specific categories enumerated in § 101 of the Act, including: (1) for use as a contribution to a collective work; (2) as part of a motion picture; (3) as a translation; (4) as a supplementary work; (5) as a compilation; (6) as an instructional text; (7) as a test; (8) as test answers; or (9) as an atlas.

Challenging The Letter Of The Law

It is easy to see why many believe there is no real contest to be had with the letter of the law, since under the plain meaning of the language in the Act, sound recordings are not specifically listed as a category of work eligible for copyright protection as a work made for hire. This point was further reinforced when an amendment incorporated into the Intellectual Property and Communications Omnibus Reform Act of 1999 (the “Amendment”) added sound recordings to the list of commissioned works under § 101(2) that could be considered a work made for hire. Facing immediate backlash from songwriters and advocates everywhere, the amendment was repealed within a year. Many argued that due to its potential material effects on one’s rights, the change was more than a “technical amendment” and, therefore, it was not supported by the appropriate studies, debates, and research that would be standard protocol for changes of such magnitude.

Yet the topic has been aired again. Congress’ past failures to address the 1999 amendment and the significant financial and legal implications sure to follow, regardless of the outcome, only add fuel to the fire. For

example, although Congress repealed the Amendment a year after it was added, they also added language to the end of § 101(2) specifically prohibiting individuals from using the amendment, or deletion of it, as a basis for determining whether or not sound recordings are a work made for hire. This left most in the industry scratching their heads for a concrete resolution.

To further complicate matters, one needs to examine past recording agreements to first determine whether an artist will be considered an employee or an independent contractor; the latter would place them into the second category of possible works made for hire, requiring an argument as to why they should be considered so. The issue there is that the relationship between labels and artists has transformed drastically since the 1960s when record companies usually exercised extreme amounts of control over the creation of sound recordings. In addition, over time, recording agreements have begun to resemble the form of independent contractor agreements, including characteristic independent contract language stating that the artists recognize they are not employees but independent contractors. These types of contracts will almost always place the record company into the second category of works made for hire, requiring extra lawyering on the side of the label.

The Modern Music Economy

It is well settled that the purpose of copyright law is to promote the progress of the useful arts and sciences by protecting the rights of authors, creating an incentive for authors to keep creating, and therefore, for science to continue evolving and society to reap these benefits. It is unquestionable that society reaps substantial benefits from songwriters, as virtually every human being on Earth listens to music in some form and garners emotional comfort from it.

Songwriters must sign away ownership of their music in exchange for its market-



ing and distribution (thereby allowing the public to enjoy it). However, most of the money spent by record labels on creating song recordings is directly recoupable from the songwriter’s future royalty payments; in essence, labels cover their own cost. Thus, the argument that copyright ownership assignment is there to hedge the label’s risk of commercial failure appears weak. In addition, with 360 deals gaining tremendous popularity recently, record labels can now go after the artist’s other revenue sources to recoup their advances, something they did not do before; this also decreases the need for using copyright assignment as an insurance policy.

Furthermore, songwriters do not want to lose ownership of their work; they usually have no choice. Unless the creator is an extremely successful songwriter, copyright assignment is required to make a livelihood from music and continue to support promotion and distribution activities. This is important to consider because, as technology evolves and artist access and delivery methods to consumers become easier and less costly, record labels will be rendered less important. It is conceivable that record labels will not be in a position to require ownership rights in the future if artists stop being convinced of their marketing and promotional prowess.

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LAW SECTION

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Ownership of Sound Recordings

While the record labels are blamed for deliberately perpetuating the confusion surrounding sound recordings, the truth is that they do abide the law.

Under the Act, Congress attempted to not only simplify the way to legally determine ownership, but also intended to create a form of ownership by which creators would not be punished for having unequal bargaining power. To do so, Congress created an inalienable termination right that would always vest in the author or the author's heirs. In addition, they removed the requirement of formally renewing the copyright after 28 years, and simply made the term longer, building in the "renewal" right provided under the 1909 Copyright Act into the revised Act.

Thus, Congress's intent was clear: it wanted to create a system of checks and balances to protect authors who reluctantly signed away their ownership rights for potentially hollow promises of international fame, fortune and chart topping singles. If artists entered into a contract that did not produce the anticipated results, they could reclaim their creations after 35 years and attempt to distribute them through another method, thereby allowing the public to derive some benefit from the work. Songs in such a situation, where the label acquired ownership but were unsuccessful in exploiting the works, now sit locked away in a vault, ultimately providing no benefit to society. These points were all taken into consideration during the 1965 judiciary meetings regarding the revision of the Copyright Act.

As originally written in the 1964 proposed regulation, the Act did not differentiate a work made for hire in the same way §101(2) now does. Many authors argued that such a provision "would allow publishers to use their superior bargaining position to force authors to sign work for hire agreements, thereby relinquishing all copyright rights as a condition of getting their books published." Therefore, the 1965 revision bill added § 101 as we know it today, except that originally it was only limited to four categories. In the 1966 revision bill, the other four were added. By revising the bill to include specific works under § 101(2), Congress attempted to remove any gray area as to what would be considered a work made for hire. With the proliferation of sound recordings at this time, one can only wonder why they were not included under § 101(2).

Compilations and Complications

While no court has fully answered the ownership question, a few have come close. In the 1997 case of *Lulirama Ltd. v. Access Broad. Services, Inc.*, the Fifth Circuit held that sound recordings would not be classified as "audiovisual works" for work made for hire purposes. In addition, a New Jersey district court in the 1999 case of *Ballas v. Tedesco* stated that the sound recordings at issue were "not a work for hire under the second part of the statute because they do not fit within any of the nine enumerated categories'...[the Act] does not provide that a sound recording standing alone qualifies as a work for hire under § 101(2)."

In that same year, the Washington D.C. District Court in the case of *Staggers v. Real Authentic Sound* cited the *Ballas* court, holding that "a sound recording does not fit within any of the nine categories." However, the *Lulirama* case didn't explain why sound recordings could not be considered works made for hire under one of the other categories, nor did the courts in *Ballas* or *Staggers* explain why sound recordings did not fall under any of the enumerated categories, leaving the door open for the Supreme Court or Congress to answer the question.

Legislative history is significant for a few reasons. As the Supreme Court stated, "legislative history underscores the clear import of the statutory language: only enumerated categories of commissioned works may be accorded work for hire status...[a] hiring party's right to control the product simply is not determinative." It also reveals Congress' intent to limit a work made for hire to the categories enumerated in the Act. The Court has also stated that determining employment status based on who had the "right" or "actual control" of the work would "unravel the 'carefully worked out compromise aimed at balancing legitimate interest on both sides.'" . Copyright Chaos

Assuming that many songwriters will not be deemed employees but rather independent contractors, and that record labels will likely argue that sound recordings are a collective work or compilation and therefore a work made for hire, the Act may be in trouble for more than one reason.

Under the Act, some sound recordings are already considered to be compilations while others are not. For example, the sounds that accompany an audiovisual work in a motion picture - in other words, soundtracks - are

not considered to be sound recordings. Logically, other sound recordings like "Now That's What I Call Music" or "Greatest Hits" albums should be classified as compilations, as they are normally "formed by the compilation of pre-existing materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship." However, some Greatest Hits or other "compilation" albums also include songs created specifically for those compilations, broadening the gray area engulfing the law of sound recordings and compilations. It has even been argued that if a soundtrack is released prior to a movie, then it no longer accompanies the film, and as such, can be afforded protection as a sound recording; this does not make much sense, however, as the date of release does not change the substance of the soundtrack.

Overall, the definition of a song recording has become convoluted. Courts and legislators must once and for all clarify the definition of sound recordings under the Copyright Act, and before 2013. This will likely require an amendment. Currently, there is no clear guideline to attribute ownership, so Congress's intent to be an honest broker between the labels and their artists is likely to end in failure unless there is action soon. **MBJ**

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BUSINESS ARTICLES

Google and The Majors: A Zero Sum Game

By Megan Graney



A few months ago, Google lost patience with the major labels and launched its own license-free Music Beta Site, an annoyingly slow, song-by-song, upload locker service. Now, Apple seems to have something better with the labels' consent and Google seems ready to come to terms by acquiring the proper licenses. Rumors point to the imminent launch of its own MP3 download store.

Music Beta

The Google music service aims at recommending songs from an online library to a person's Google+ contacts; said user would then be allowed to listen to those songs one time for free, after which they would become available for sale as an MP3 download for 99 cents. With word-of-mouth being the catalyst of music sales, other digital-music services, including Spotify, are jumping onto the bandwagon of social marketing. Currently, Google's online library goes by the name Music Beta—a free service that lets users upload their music to servers.

Google Executives claim that they intend to start the music-download service this week or next, even though they are unlikely to lock down the rights to sell music from at least two of the four major labels in time. The song-recommendation feature would only work for music released by record labels with licensing agreements in place. Without the involvement of all four major labels, users cannot be expected to continue to use the service since they will not be able to find the artist or song they want. Since the major labels distribute about nine-tenths of the music sold in the U.S., Google has

a problem.

This issue has been relevant for some time. Apple iTunes (2003) and Spotify (2011) had to wait to launch until they had the four majors on board. So far, EMI is the most likely major to reach an agreement with Google. Next would be Universal Music Group, the world's largest record corporation. Two independent record labels were also closing in on a deal with Google, but there is nothing official about any of these rumored arrangements.

Moreover, Google doesn't do enough in the mind of Sony executives to curtail piracy, especially at its YouTube and Android mobile satellites. In fact, Sony believes that the online locker would not discriminate between file sharing and legal music, effectively endorsing piracy. Warner feels that Google's offer is simply not good enough; in its primary form the service is free and does not generate revenue. Of course, Google counters that the service will provide enough MP3 download sales down the road to make a difference. However, this would only hold if Google had access to the full catalog of US music, which right now it does not.

A Conflict of Interest

Google says it is all about cataloging user information. Regardless of how much Google pays for these licenses, however, it will not appease artists, labels, or other rights holders. No matter how convincing Google appears to be about uploading authorized content into its cloud, its search engine is still the number one portal for illegally acquired content. All

of that content could end up in the licensed Google Music cloud, without any reparations paid to the labels.

A big question for Google is how they would deal with users who upload tracks that were acquired through illegal means. Google says that the terms require people to only upload lawfully acquired music, but that it would "respond appropriately to rights holders who believe their work is violated." The company states it will assist with take-down requests "if work gets violated". But, how would the rights holder ever know when a violation occurs in the first place? It is impossible to stop every single case of infringement. However, with all the resources that it has, there must be a way for Google to create more friction in the market for illegal music.

Google's service is a private music locker, which means that the only person who has access to it is the user. In the end, only that user knows if they obtained the music legally or not. Besides, if the industry did not sue Amazon for launching without licenses, would it take on an even bigger giant? Launching without licenses was the lesser of two evils for Google, who could have chosen to pay the licensing fees. In fact, it appears many labels wanted larger cash advances up front, and their bidding put Google off.

Final Remarks

In the end, the music locker was supposed to be a way to make the consumer's music experience effortless. While the story is still evolving, this could have been an opportunity to make the music more socially valuable while helping copyright holders to make more money. The labels may have their share of blame, but it is Google that ironically sees no problem in wanting to distribute an artists' product when at the same time they seem to be enabling its theft.

If digital music were a tangible product, the consequences for Google might arguably be stiffer. But music is an intangible product and an important cash cow for Google's business—so Google decides to trump the law. In the end, both transacting parties pay a price. Google does not get to launch a complete service with a full catalog, and the record labels miss yet another opportunity to drive substantial revenues to their coffers. ^{MBJ}

BUSINESS ARTICLES

The Confluence of Live And Recorded Music

By Nadirah Vincent

Early in 2010, Ticketmaster, one of the largest ticket distribution companies merged with Live Nation, a top venue and concert promotion company. The merger caused antitrust concerns, and the Department of Justice gave its approval only on certain terms. Ticketmaster had to first divest itself of its ticketing subsidiary Paciolan, which Comcast Spectator bought, and secondly, it had to license its proprietary ticketing software to the Anschutz Entertainment Group. Antitrust concerns, of course, are based on competition being beneficial. But now, the new merged entity, known as Live Nation Entertainment, is proceeding with another controversial acquisition.

In September 2011, Live Nation Entertainment, described as the “world’s biggest ticketing, concerts promotions and artist management firm” formed a joint venture with another artist management group inside Universal (UMG). A joint venture does not raise antitrust concerns as a merger does. However, many observers are worried that this alliance will be bad for artists by reducing their leverage to choose a management firm.

UMG is the world’s largest music content company with market leading positions in recorded music, music publishing, and merchandising. In 2007, it acquired the British Sanctuary Group, a promotion company, and thus began its endeavor in the artist management business (Sanctuary’s artist management firm was key to the deal). As Live Nation already represented nearly four-tenths of all music concerts in North America before the merger with Ticketmaster, there is much concern about its joint venture with UMG.

The joint venture will be “aimed at strengthening artists and their brands through a variety of worldwide sponsorships, strategic marketing campaigns and brand extension opportunities.” Live Nation has put its Front Line Management Group division, with a 51% control stake in the deal, in charge. In return, Universal is getting the expertise of Live Nation Chairman Irving Azoff, who will likely better promote Universal’s emerging bands. For Azoff, the joint venture opens up new avenues for a better synergy between artists and their management, and the setup is more attuned to react to and exploit innovations in the industry. Whereas this could be true for top level artists with leverage on their management, it is

less certain that benefits will accrue to lesser-known talent that does not already have a seat at the table.

Additionally, the joint venture seeks to bundle concert tickets with recorded music sales using Live Nation’s Ticketmaster operations. (Bundling products definitely raises antitrust issues if a customer wishes to purchase one product and is forced to tie in an additional item as a condition of the sale; there is no problem if the buyer can get the original item without purchasing the tie-in).

If this powerful alliance can have its way just on the bundling count, the terms of trade of the music industry might change forever. After all, it was not long ago when recorded music and live music were regarded as separate businesses. The A&R head and the Business Affairs manager of a label were always different in kind to a concert promoter and a booking agent. Moreover, their respective revenue sources, i.e. receipts from a recorded medium and ticket grosses from a live musical experience, were very different. In short, the joint venture between Live Nation and UMG is perhaps the best exemplar so far of the confluence of recorded and live music. It is symptomatic of the bigger long-term realignment we are witnessing in this industry.

MBJ

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INTERVIEW

Preparing Artists For Stardom: Interview With Angelo Ellerbee

By Aaron Gottlieb



Angelo Ellerbee is the founder and CEO of Double XXposure Media Relations, a full service public relations, marketing, and artist development firm. Ellerbee's client roster is deep and diverse. He has worked with some of the top artists in the industry including the likes of Mary J. Blige, Alicia Keys, Michael Jackson, Ginuwine, Roberta Flack, Dionne Warwick, and Nina Simone. Mr. Ellerbee is a staunch believer in the notion that head-to-toe artist development is what is needed most to ensure longevity in an ever-evolving music industry.

MBJ: Can we talk about the way you work for artists?

AE: I was raised on my mother's teachings. I grew up on faith, believing in God, and struggling against resistance. She said to me, "Never ever take resistance and live with it—rebut it. Challenge yourself to do better and get more." My mother taught my siblings and I survival skills. So, I teach survival skills to my artists because I think that people need to know how to take care of themselves. Self-preservation is key, especially in this industry. I stand very firmly on the foundation that she gave me, and in my line of work I use everything she taught me.

MBJ: I understand that you have a background in fashion. How have you transformed that into being a manager and publicist for over 20 years?

AE: I am still figuring that out. I started as a model relatively young in Paris at 16 and did that for two and a half years. I wanted a better life. My French was horrible, and still to this day I can barely speak one word of it. Man, I screwed up so many jobs at first. I would get lost and was always late because of it. When I left, my portfolio was not as good as it could have been. I rushed it because I wanted to go at the same time that my friends were. I ended up working in a soul food restaurant making fried chicken and collard greens for a portion of my first year. I wasn't getting any jobs. One day a photographer came in to the restaurant, we started talking, and I explained to him that I was a model. I showed him my book and he agreed that my portfolio was awful. He shot all new pictures of me, and I worked constantly for two years after that. I came back and started to sketch and design. I graduated from the Fashion Institute of Technology and had some of my stuff sold in nicer department stores like Lord and Taylor—I made around 300 prom gowns. I was doing a lot of one-of-a-kind pieces, too. From that, I had the nerve to shop my designs around to potential retailers.

I was blessed with the opportunity of meeting James Mtume. Mtume is a four-time Grammy award winner who has written songs like "Killing Me Softly", "I Never Knew Love Like This Before", and "Juicy Fruit". His wife is a fellow designer and used to come to my fashion shows. She approached me once at a show and asked me about doing some collaborative

work with her for her husband's latest album cover. She and I became close friends instantly—like family—and I would help her shop her designs around like I used to do with mine. She would talk to her husband about me. One day he came to me and said, "If you can do all this stuff for my wife, you should come work for me. I want you to manage me." I designed clothes. I didn't have any clue why he wanted me, but I agreed. So, I started working for the Mtume's. I must've gone to six meetings at CBS records not knowing what the hell I was talking about, and every time they would call him and ask, "Are you sure this is the guy you want to manage you?" Eventually, he told me "Angelo, when you talk to them you have to have the same balls that you have when you talk to your fashion people. What I do is naked and you need to dress it up the way you need in order to pitch it to people." After that, I understood.

That's how I got into music. I created his corporation. At that time he also had a production deal with Sony Music. I started to manage several of the artists he was working with—clearly not knowing what I was doing. I was smart enough to be able to add what I needed and put the pieces in place. Mtume is a highly intelligent person, and was really my guide through it all. He got the opportunity to score a major motion picture, called "The Native Son", which had Oprah Winfrey in it. I was so happy that we got him the opportunity, but now he wanted me to get him some publicity. I turned his basement into my office, and I went and bought hundreds of newspapers and magazines. I called all of them telling them about the new film, about Oprah, and that my client, Mr. Mtume, had done the score. I got the press' attention. Thus, from fashion came music.

MBJ: Are you still active within the fashion community?

AE: I've incorporated it all still to this day, both fashion and music. I look at what I have now as sort of a one-stop-shop. Fashion is truly married to music. Look at Lady Gaga, who has taken fashion to another level, Rihanna, Nicki Minaj, and all these people. I don't think we sell just music anymore. We sell image and style. When you go to a magazine stand or go online, you see how these people look first. Then you get into the music. Whenever I have a new artist, I focus on the

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INTERVIEW

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importance of image and style first before looking at their music.

MBJ: How do you recruit clients?

AE: I don't, really. Sure, if you would like to become a client you can go to my website or call the office, but I have 30 plus years worth of relationship building under my belt. Most of the clients I have come to me as a result of some sort of referral by association. Building relationships is paramount to everything else.

MBJ: What kind of things do you work on with artists?

AE: Let me start by saying that I'm a hands-on guy, especially when I see something special in an artist. A young girl from Long Island came to me earlier this year. Her name is Stephanie Courtney (not to be confused with the comedienne). She looked like a mess, and to me, her sound was not much better. I had a feeling there was something to her, though. She was warm and polite, and her father was equally as nice. She came back to sing for my staff who thought I was crazy for taking this girl on as a client. I had her go through our artist development program. We worked on hair, skin, makeup, clothes, and style. At the same time, we set her up with voice and dance lessons—she had some amazing teachers. She did them all without complaining, was always on time, and was always happy to do anything we asked of her. Her work ethic is incredible. Now she sings like a bird. On top of that, we aligned her to an anti-bullying campaign, for which she wrote a song. I teach my clients that it's important for them to be able to give back to the community.

MBJ: Do you also teach them about the business-related aspects of music?

AE: Very much so, yes. Industry education is incredibly important. You need to know what has been written in your recording contract, you need to know about publishing deals, endorsement deals, and things of the like. Technology has circumvented this somewhat. With the Internet, new artists are quickly achieving levels of success without being prepared adequately for all of it. They don't last very long, do they? If you invest the time, teach the necessary skills, and prepare an artist for what they will face, then that artist will have a longer career. When an artist studies the business of music, he or she must understand that every entity is important. You can't go and get a manager without

knowing about the work that he's supposed to be doing for you. He's managing you, but you also need to be managing him. Wouldn't it be great for you to know all of the who's, what's, when's, where's, and why's so that as this manager oversees your business you know the effect that his decisions will have? It's a real functioning business, and you have to indulge in every aspect. If you don't, you're here today and gone tomorrow. We've seen evidence of this. In the past, I've spoken out against certain hip-hop executives regarding the day in time when rap music was gaining popularity. These executives were ripping these young artists off by taking their publishing rights and their royalties. They now live in mansions and their children live a life of luxury, while the rappers who made the music have come and gone. Those executives didn't care about the artists, and the artists didn't know anything about the business. Where are the artists now?

MBJ: Do you think that artists need to be as scrutinized in the media as much as they are?

AE: I firmly believe that artists should be held accountable for their behavior just as you and I are. At this day in time, an artist has the ability to be more influential than the President. Our own children want to be like the artists they see. You have a problem in urban communities today because artists in music videos are glorifying this materialistic lifestyle in which you have jewelry, tons of cars, and 500 women. A lot of artists don't realize that they have to take this seriously and think about how their words affect their audience. Artists need to especially take responsibility for committing crimes. The consumer is watching them and taking it all in.

One of my artists, Ginuwine, went through a really hard time with his parents both dying in the same year. He was suffering from mental health issues and ended up doing drugs to help him deal with everything. Part of what I had him do was to talk to the public about it, because it's important that you take responsibility and give back by sharing your experiences thus allowing other people to learn from them.

MBJ: Is it unfair for an artist to have to live up to public expectations?

AE: I really respected Charles Barkley for saying, "I am not a role model." He acknowledged that he's fallible and that he's human. Unfortunately, that's not really how it works in America. You have to realize that any public figure, whether positively or negatively influential, is going to be idolized by someone. That's a conscientious decision that an artist makes when he decides to call himself an artist. That's just the way it is.

MBJ: How do you handle artists' crises?

AE: I've had to deal with a lot of those, and people come to me most often when they have a crisis. I worked with Michael Jackson in the 90's when there was the alleged situation with that little boy. I got to know him, he told me he did nothing wrong, and so I had to carefully examine the problem. The media was relentless, too. I always find that touching on the source of an issue is typically the best approach. The source of the issue was children, so I worked to help create the Children's Choice Awards. A lot of high profile people were there, including Governor (of New York) Cuomo's wife. I packed the auditorium with 3,000 kids, and Michael ended up being the recipient of an award. Also, presenting the award to Michael onstage was a handful of children. The crowd loved it. It was such a press-driven event that whatever they thought of Michael was no longer what it was. This was, of course, until new allegations started popping up.

I've dealt with DMX and his drug problems throughout a portion of his career. I personally managed him for five years and was his publicist for two. Going back to the source of the issue, I learned that he has a fear of abandonment from his father leaving and his mother always working to support the family. I try to really get to know my clients as people, because I feel that I'm better prepared to handle the situations that they get mixed up with if I can really get to the root of the issue.

MBJ: Are some artists' crises not manageable or fixable?

AE: For sure, but it's always preventable. So many artists don't take the time to think before they speak or act. A lot of them just react and it's not always pleasant—even for the ones that mean well like Sinéad O'Connor when she ripped up the picture of the pope. One has to ask the artist whether or not they realized they did something wrong. I always tell people that America is "gangster". When you do not go by the customs of the masses, you get shut down. After Kanye West got on the stage at the VMA's and embarrassed himself, he got shut down for a long while. Fortunately for his career, he's managed to come back from it for the most part. You have to wonder, however, how many opportunities he has missed and how many people won't work with him now.

I think that the record labels' reluctance to take the time to develop artists like it used to do is

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BUSINESS ARTICLES

Kickstarter: Fresh Money By A Deadline

By Haven Belke

Kickstarter, a for-profit company that started in April 2009, broke into the “crowdfunding” market with a new take on financing projects in music, film, art, technology, design, and other creative ventures. One of its founders, Perry Chen, wished to organize a concert for The New Orleans Jazz Festival in 2002. Chen was prepared to risk \$20,000. At the time, there was no way to find investors, or to assess the risk of the project. Both problems would lead to Chen’s own market solution, and by 2005 he had teamed up with Yancey Stickler and Charles Adler to form Kickstarter.

Before Kickstarter was launched, there were other types of funding sites, charities, peer-to-peer lenders, and investment firms operating in the Internet. However, none of them used the concept that Kickstarter became known for.

Kickstarter is a funding site where the investors get a return based on the amount of their donations: from a T-shirt, signed poster, or a CD to a private dinner, concert invitations, and beyond. Kickstarter’s goal is to inspire people to want to be a part of the project they are so passionate about. In a New York Times article, Perry Chen explained it this way: “It’s not an investment.... It’s something else: ...a sustainable marketplace where people exchange goods for services or some other benefit and receive some value”.

Also, Kickstarter has an all-or-nothing deadline. When someone creates a project, they set a goal for the amount they would like to raise and the day they would like to raise it by. If that goal is not reached, there is no money to be had and the investors are not charged. This system is beneficial to both parties since the creator will know if there is a need for their product/service, and the investor will know that they are investing in a project that will be successful.

When looking at the website, it is easy to wonder how the projects are selected because they seem so random and diverse. There are successful projects in every category. At first, the founders thought they could let everyone vote on the project proposals. They changed their mind when they realized they were really running a popularity contest and not an exchange with money. The decision was made to review all the projects by a board of members before they went online—which protected investors. On the website there are project guide-



lines and steps for starting a project. The important thing is to be creative, straightforward, have unique incentives, and to make the investors feel a part of the enterprise. Kickstarter is unique because it develops a relationship between the creator and the investor. More than four-tenths of all the projects on Kickstarter are successful in meeting their goals.

When Kickstarter was launched, the first projects on the website were from the founders’ artistic friends. They wanted to support Kickstarter. In the last year, there has been a continuous flow of creative proposals to choose from, good incentive platforms, and an increase in spontaneous supporters and contributors. On the site’s homepage, a daily “Project of the Day” is always featured. There is tab to discover projects, organized into categories and by city of origin. Another recently added element is the addition of the so-called ‘curated pages’. This is where famous foundations, charities, and businesses in the creative community emphasize the projects they wish to support.

Growth has been impressive. In its first sixteen months, Kickstarter had 200,000 backers. It took only three months to double that amount. Currently, Kickstarter accommodates an astounding 75,000 new backers each month. Kickstarter is a for-profit company that takes a 5% cut out of every successfully

funded project. Amazon.com eats into that as well, as they charge for processing all their financial transactions. But, Kickstarter’s profit driven business is opening opportunity for many at a time of economic crisis. Access to banks and capital markets has always been hard, but the company appears to have engaged new investors both to finance good causes and to afford market oriented solutions for new business opportunities.

This month, Kickstarter received its one-millionth financial pledge. Overall, nine-tenths of all their investors appear to have supported a successful project. This shows that backers are funding enterprises that reach their goals and become funded, which in turn will entice them to become a part of another project that could possibly become successful. According to Music & Copyright, repeat-users make up one-third of the total funds pledged in successful projects, compared to one-time users that make up two-thirds. This demonstrates that a large number of new investors are joining Kickstarter and that many are returning. The most common pledge amount is \$25 dollars. However, investors can pledge as little as \$1 if they like. The more unique, interesting, and interactive the incentives are, usually the higher the pledges will be.

Kickstarter can be used to benefit numerous creative projects in music. Since its creation, it appears to have contributed an estimated \$13 million to the music economy (Hypebot). Much of this sum has gone towards financing private EPs, recording an album, making a music video, funding a tour, and even creating a new radio station.

Kickstarter could be financing the music industry even more in the future. Record labels are taking much less risk with artists. Here, the consumer can be a part of the solution, becoming actively involved in supporting a favorite group or a new interest. Nevertheless, it is not uncommon to hear that Kickstarter is a fad that will be over soon. Consumers can get tired of paying for a band’s shows, merchandise, and recording projects. The argument against this notion is that this is an age of consumer-artist exclusivity. Opting in to the den of an artist’s abode and creativity will always convey a sense of belonging to something bigger than the mundane—even if most people can only contribute very little. **MBJ**

BUSINESS ARTICLES

The Rock In Rio Festival

By Luiz Augusto Buff

Nearly two months ago, and after a ten-year hiatus, Brazil witnessed the return of the Rock In Rio Festival. The event, considered the biggest of its kind in the world, has developed its own international profile, with Madrid and Lisbon editions in Europe. Roberto Medina, one of the most successful advertising entrepreneurs in Brazil, has built an empire around it.

The first edition of the festival, a landmark event in Brazil, was held in January 1985. The country was recovering from military dictatorship and the new democracy welcomed international acts at last. 1.4 million people went to a specially-built location called “Rock City” (Cidade do Rock) to see Queen, Iron Maiden, Ozzy Osbourne, and AC/DC. The festival also featured Al Jarreau, James Taylor, and George Benson. Large audiences drove Rock in Rio to success. Queen’s performance was anthological, with Freddie Mercury conducting a choir of more than 325,000 voices singing Love of My Life. The performance was recorded and broadcasted in over sixty countries and reached two hundred million people, giving sponsors an unprecedented amount of visibility. Rock in Rio became a reliable brand, which then cemented the reputation of young local groups such as Paralamas do Sucesso, Titãs, and Barão Vermelho. These bands are now recognized as pioneers of a new musical landscape in Brazil.

The second edition of the festival, in 1991, took place at the famous Maracana Stadium. The economy was not doing well, the event could not be run from the desired Rock City venue, and, for budgetary reasons, there were many more national artists performing. Part of the reason for that was that the organizers themselves wished to diversify into genres other than rock in order to attract newer audiences. Artists from more traditional Brazilian styles like Gilberto Gil and Elba Ramalho shared the same stage as Sepultura, George Michael, A-Ha, and Judas Priest. The highlight of the festival, however, was Guns and Roses, who played two memorable concerts.

Rock in Rio III took place in 2001, and welcomed 1.2 million people in a rebuilt City of Rock. Good causes dominated



the event, which pushed the motto and project “For a Better World”, education for the young, and untold UNESCO initiatives. Celebrities attended in droves, and convinced 3,200 radio stations and 400 TV broadcasters to air three minutes of silence for reflection.

This social mantle was instrumental in establishing Rock in Rio as an international brand, promoting festivals in Europe, with Rock In Rio Lisbon in 2004, 2006, 2008 and 2010, and also in Madrid in 2008 and 2010. The European versions were not as well attended as in Brazil but, on average, audiences hovered around a respectable 350,000.

More regularity helped too. After six European editions, the way was paved for a stellar return to Brazil. A partnership with the Rio de Janeiro City Hall allowed the construction of an entirely new City of Rock on the site of the future Olympic Village in 2016. Rock in Rio 2011 has had an enormous impact on the city’s economy because it generated about half a billion dollars in revenue and indirectly created 10,000 new jobs. It was not the largest festival of the series, but attendees numbered 700,000 throughout the week. More than 160 musical acts were featured across three different stages. The price of admission was around \$110 and tickets sold out in less than four days.

This year, one of the criticisms levied at the festival is that not enough space was set aside to feature Rock music—the genre from whence the event was born. Roberto Medina explained that the festival is an

open space where different people can come together and share experiences. In fact, the majority of the 600-plus acts featured in every edition of Rock in Rio have been rock acts like AC/DC, Metallica, and the Red Hot Chili Peppers. However, the strategy always was to diversify in order to attract a wide array of customers. Roberto Medina emphasizes that the choice of artists who perform at the festival is the result of dense marketing research and a thorough analysis of trends in social media. Katy Perry and Rihanna were both at Rio this year, and their success seems to confirm Medina’s approach.

This year, for instance, the organization decided to invest heavily in communication through non-traditional outlets. They estimated that 180 million people from more than 200 countries followed the festival via the Internet and social media. Rock in Rio had an exclusive channel on Youtube that streamed all the concerts live worldwide. During the weeks of the festival, Rock in Rio was the top “trending topic” on twitter in more than ten countries, and its exclusive iPhone app was the most downloaded in Brazil.

Taking advantage of the success of this latest edition, the organizers announced that the festival will now happen on a regular basis. Even with no bands announced yet for 2013, 15,000 tickets have already been sold during a pre-sale promotion at the festival this year. Before it happens again, Rock in Rio will go back again to Lisbon or Madrid in 2012, and possibly to Latin America in 2013. Mexico and Colombia are the most likely candidates.

The brand is growing organically. But, Rock in Rio demonstrates too the growing power of Brazil in the international music market. With a thriving economy plus important events in the upcoming decade—the World Cup in 2014 and the Olympic Games in 2016—the country is attracting new business. Indeed, Lollapalooza, America’s best-attended festival, has announced a Brazilian edition next year.

MBJ

LAW SECTION

Song Downloads and Performance Rights

By Nachman N Sussan

On October 3rd 2011, the Supreme Court of the United States refused to hear the case of American Society of Composers, Authors and Publishers (ASCAP) v. United States. This case would have dealt with the question of whether the category of a public performance extends to downloading a song via digital download. ASCAP asked the justices to review an appeals court decision, which stated that downloading songs from iTunes, Amazon, eMusic or even music-sharing services do not count as public performances. To ASCAP, they are indeed public performances.

The 2nd U.S. Circuit Court of appeals, ruling against ASCAP, referenced the Copyright Act, Section 101, where it defines 'perform' as to "recite, render, play, dance or act it either directly or by means of any device or process." The legal question presented to the Supreme Court was "whether an Internet-based music service perform[s] ... a work 'publicly' when it transmits a performance of a copyrighted musical work to the public by means of a digital download." Is the transmission of a performance via digital download a transmission that should be considered a 'public performance,' or is it simply a digital sale and transfer of content as if it were in physical form such as a CD or vinyl record?

ASCAP's Case

As a Performance Rights Organization with a membership of 420,000 U.S. composers, songwriters, lyricists, and music publishers, ASCAP said it stood to lose tens of millions of dollars in potential revenues each year. However, such an interpretation relies on monetizing reproduction rights, which are different in the law to performance rights. For example, composers for television typically receive a small flat fee upfront from the production company in exchange for their reproduction right. Since today's users are increasingly receiving television and film content by means of download transmissions through services such as iTunes and Netflix, ASCAP wishes to declare this a performance right. Under the Second Circuit's decision, these songwriters and composers should receive no back-end compensation for download transmissions. ASCAP has said that the ruling does



not support the primary objective of the Copyright Act, which is to encourage the production of original literary, artistic, and musical expression for the good of the public."

The US Case

The lawyers for the U.S. responded with a general 'Bah Humbug' and were dismissive of most of what was said in the complaint against them. Agreeing that the Copyright Act of 1976 was the controlling statute, they staunchly opposed ASCAP's interpretation. They relied heavily on the Second Circuit and pointed out that the definitional section of the Copyright Act provides that "to 'perform' a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible."

However, they go on to direct the Courts' attention to the rest of the Act, which provides that "to perform or display a work 'publicly' means: (1) To perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or (2) To transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the

public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different time."

By defining a performance, the lawyers for the US are holding the position that digital music downloads are not per se public performances. "Musical works traditionally have been distributed on physical media such as sheet music, records, tapes, and compact discs. More recently, however, they have also come to be distributed electronically through Internet downloads of sound recordings." According to them, ASCAP is trying to 'double dip' and receive payment twice for the same download (a performance payment that does not correspond on top of the reproduction or mechanical right).

The Overall Perspective

It appears that the decision of the Second Circuit court will remain the law of the land for the foreseeable future (the US seems no different in this regard to Europe and the rest of the world). This is a victory for the digital music providers and a loss for the PROs and publishers. Nevertheless, a different ruling was really a long shot, considering that collections abound for broadcasted performances over the public airwaves. It made sense, for instance, to ask webcasters to contribute to a sound recording right, which is why SoundExchange was created in 2000 as a new right but only for special digital transmissions. Ultimately, in these trying times, the Supreme Court could not require the labels to pay a new performance right on top of their existing mechanical dues. ^[MB]

Sources

- 1) <http://www.wired.com/threatlevel/2011/10/digital-download-royalty-flap>
- 3) 17 U.S.C. § 101
- 4) Fogerty v. Fantasy, Inc., 510 U.S. 517, 524 (1994)
- 5) 17 U.S.C. 101
- 6) Id

BUSINESS ARTICLES

US Welcomes The European (Dance) Invasion

By Bartosz Mrugacz

Today more than ever, electronic dance music has gone mainstream in America. Electronic productions by Stargate in Lady Gaga and Rihanna songs, and dubstep elements in Britney Spears' hits are just a few examples of the popularity of electronic genres. Today, the likes of David Guetta, Tiesto, and Afrojack are well known in the US. They are all from continental Europe. Indeed, if dance music continues to do well, Europe could become a recruitment destination for American executives looking to break new acts.

The Marketing of Dance Music

The most important business aspect of dance music is its marketable character. In the digital age, the value of music is based not just on record and ticket sales, but on the exploitation of new non-traditional markets.

For instance, recording artists are making income from ringtones for cell phones. According to RIAA, 1.5M ringtones were sold from Pink's last album 'Funkhouse'. Physical sales of the album were around 1.5M units too, so the number of ringtone sales is impressive. However, the market for ringtones seems to be open only for certain genres that sound good enough on cell phones to make people buy them. Electronic dance music meets this requirement more than any other genre. Most dance anthems' themes are no longer than two bars and have an easily reproduced synthesizer sound that makes them practical for use as ringtones. Moreover, dance music fans have their own likes, which include sleek phones, modern urban clothing, and ringtones with their favorite club themes. Marketers recognize this trend, and direct their efforts at these people. They realize that a 'Stairway to Heaven' ringtone is not cool anymore.

Music's decline in status as a physical product has led it to become a marketing platform for other products. Electronic dance music is the best example of such a model in the music industry. Money from sponsorships, appearances in marketing campaigns, and special editions of albums signed by clothing companies are becoming more and more common ways for artists and their management teams to compensate low profits from unsatisfying record sales.

In fact, marketers from the American clothing industry see significant potential in European electronic music artists. In 2008,

the Italian brand Armani Exchange launched first in the US and signed a contract with one of the most famous European trance DJs, Tiesto. The artist played a few concerts under the Armani Exchange brand, and soon afterwards the company released a special edition Tiesto album, which was distributed via their chain of stores.

Another example of the commercial use of European dance songs can be heard at Abercrombie & Fitch stores. The number of songs that are played at store locations that had been hits in Europe two or three years before is surprising. Although most of them were remixed, these productions still grossed substantial royalties for original artists. This is further proof of their commercial value.

In summary: Armani Exchange and Abercrombie & Fitch know that their young and dynamic customers like European dance music and nurture that interest.

US Hits And The Value of Remixes

Another significant source of revenue for dance music artists and their publishers are remixes. A successful dance song can be like a classic pop hit. Everybody covers it. With dance music, every DJ makes his own remix of a hit song. As a matter of fact, the remix model is even more profitable for artists and publishers than covers. Unlike covers, remixes are treated as compulsory licenses, which opens the door for dance music producers to get higher royalties for licensing their songs. Moreover, popular dance tunes are often remixed by established DJs, who can not only sell a substantial amount of their music, but also constantly promote and refresh a re-

mixed tune. Such an extension of a song's life can prove quite profitable.

The American music industry plays a role in European dance artists' development. You do not need to be a careful observer of the market to observe that many A&R managers in major labels have significantly shifted their focus towards European club sounds. Even major artists such as Rihanna and Lady Gaga hire European dance music producers and keep their songs at 125 to 130 BPM club tempos. Such tunes as "Give Me Everything Tonight" by Pitbull, Ne-Yo, Nayer, and Dutch producer Afrojack, or David Guetta's remix of Snoop Dog's song "Sweat" have already become mainstream hits that every American teenager is familiar with. There are many more songs made by European producers that hit top positions on the Billboard charts. Producers that have had hits include Tiesto, Nelly Furtado, Chris Brown, Benny Benassi, Afrojack and Eva Simons, Swedish House Mafia Pharrell, and Busta Rhymes.

Conclusions

Dance music is suiting American musical tastes better each year. The cross-pollination between Europe and America is at an all time high for the genre, and commercial success has followed. Branding opportunities have opened up and record company producers are taking notice.

"Miami 2 Ibiza", by the Swedish House Mafia, was a number one hit on dance floors around the world and in this country. The way things are going, the apt title should have been "Ibiza 2 Miami". **[MBJ]**



BUSINESS ARTICLES

The Voice Altering Code

By Kaylee Hyman

Auto-Tune is the reason why some pop stars sound amazing on a record but terrible in real life. It corrects pitch in a vocal performance and disguises off-key inaccuracies and mistakes. As well, it makes artists like T-Pain, Ke\$ha, and The Black Eyed Peas sound special.

The use of technology to alter the pitch of a voice is not a new occurrence. In the 1930's, research physicist Homer Dudley, at Bell Labs, created the Vocoder, which found its way into the music industry but was originally intended to transmit voices over copper phone lines to decrease the cost of long-distance calls. It was, however, imprecise. Technology progressed and during World War II, Bell Laboratories was commissioned to develop a machine that would distort the voices of high profile military and political figures.

Music artists first began experimenting with the Vocoder in the 1970's. Wendy Carlos used the Vocoder in her interpretation of the fourth movement of Beethoven's Ninth Symphony for the film *A Clockwork Orange*. Artists adopted it soon after to turn their voices into synthesized tones, which could in turn be manipulated further through the use of a keyboard controller or other digital instruments.

While the Vocoder came to be widely used in the music industry, it was an expensive technology. A more cost-effective solution was sought, and in 1997 Andy Hildebrand developed Auto-Tune. It quickly became popular with record labels and producers. The device, used to hide slightly flat or sharp notes in an artist's vocal performance, can also distort a singer's voice creating a desired robotic-sounding effect. Auto-Tune software has become less expensive today and users can easily download it for their personal home use.

The use of Auto-Tune has spurred a debate in the music community. Does it belittle true talent, allowing pop-music factories to churn out teenyboppers with mass appeal? Or does it simply perfect an artist's voice, and enable distortion as a means of expression?

Recently, some artists and industry professionals have called for the end of Auto-Tune. Jay-Z penned a single called "D.O.A" (Death of Auto-Tune) and, in a

similar vein, Wyclef Jean released the single "Mr.Autotune". Alternatively, some artists have come forward in defense of the technology. Mary J. Blige recently stated that she supports singers for their artistry and creativity, regardless of whether they use Auto-Tune. Other proponents hail the technology as a way to cut down on costs and solve logistical problems. For example, an artist may have to leave the studio with no opportunity to return and correct one or two off pitch notes. For many, Auto-Tune is merely another tool that musicians use, just like a guitarist uses a pedal.

As Auto-Tune becomes more affordable and accessible, it is used for effect in social media. Moreover, the evolution of music making is a function of technology and the meaning of the word 'artist' has evolved in tandem with the development of our production tools. Hitting the right notes has become easier, but it has to be remembered that recorded music has been served for long anyway with a bag of tricks. ^{MBJ}

Ellerbe (cont.)

(FROM PAGE 9)

the hugest mistake ever. I understand the need for "artistry." There are certain things, however, that should not change in modern times. One of those is artist development. Diction, speech, and manners are what allow an artist to succeed—as well as knowing when to shut up.

MBJ: Do you think most artists need to be developed?

AE: To reach their maximum potential, absolutely yes. For me, it's not about the Beyonce's of the world. It's about the people who are trying to get to that same level, who have previously lacked the opportunities and chances to get there. A lot of publicists won't work with an artist who they feel "won't cut it" or is a "lost cause". When I started my whole artist development program, people laughed at me and thought I was totally insane for teaching things like fashion and etiquette to artists, especially to rappers. When I started my business, I tried to emulate Berry Gordy. He realized that his people were being shunned by mainstream America; so he taught the people under his tutelage how to walk, talk, dress, and meet kings and queens. I try to teach the same thing to my clients, and provide them with the best chance to succeed. ^{MBJ}

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