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A One-On-One With Passman

By Michael King

Donald Passman is one of America's top entertainment attorneys and the architect of record-breaking "mega" deals for both Janet Jackson and R.E.M. He has authored *All You Need to Know About the Music Business*, which the Los Angeles Times called "the industry bible" and which has sold hundreds of thousands of copies over the last eighteen years. A completely revised and updated seventh edition is being released this week, and we are happy to bring this interview to our readers.

MK: Congratulations on your revised and updated book! Let me start by asking what do you see as being the most significant changes in the record business since the book first came out twenty years ago?

DP: Well, there's no more vinyl...[laughs]. In the record biz the changes have been profound. The record companies have gone from being incredibly powerful players to still powerful, but not nearly as much as they were. The biggest change is of course piracy, which devastated record company revenue. The record business has gone through such a hard period because it is difficult to compete with free. The record companies have been blamed for being asleep at the switch. They could have probably done more than they really did--although there wasn't much anybody could do even with a rear view in the mirror.

MK: Speaking of revenue, the 360 deals are certainly a way for labels to engage in other revenue streams, but are the 360 deals a good option for artists? Is that something that an artist should be interested in if they are going to be signing a development deal with a major?

DP: Whether they are interested in it or not, if they're going to sign with a major or even an independent, they will have to make one of these deals as none of these companies will sign them without it. The labels are essentially trying to position themselves as branding companies, and are saying that they are not just a record company; i.e. we're people that are investing in your career, we're going to help you build your brand, and when you get benefits from that brand we should share in them.

MK: This seems like a contradiction to me. The majors have downsized over the past few years, they have fewer resources, yet they are

promising more with the 360 deals. Can they deliver?

DP: No. In fact, they quit making promises a while ago. They started out by saying they would give you more attention, that they would give you a better record deal if you gave them 360 rights. They wanted the 360 rights to hedge their bet. That's all gone. Now it's just a record deal that looks pretty much like a stand-alone.

MK: Are you saying that if you provide a label with the rights to merchandising, touring, or ticketing there is no guarantee they will provide in turn marketing support and help increase new sources of revenue?

DP: Correct. There are two kinds of 360 rights, active and passive. Some of the labels are actually taking the merchandising rights to manufacture and exploit, some the publishing rights, and others are just taking a part of income--meaning that you make your own deals for a piece of the pie. In the situations where they have a merchandising company, they are of course going to give you those services. They'll do the manufacturing, the distribution, and the marketing. If they have a passive interest, however, they're not really going to do anything.

MK: That looks like a pretty tough deal for artists. So, do you think that now is a good time for artists to be working with independent labels, which might be less constrained by the concept of multiple rights?

DP: Well, the independent labels have gotten just as aggressive as the majors in terms of 360 rights. So you don't actually get much comfort by going to an indie label. You may make a better deal, but they are still going to want the 360 rights as well.

MK: Would it make sense, then, for a developing artist to switch their focus away from labels and instead try to market and promote yourself with the help of partners like a PR firm, an indie distributor, or a low-cost online distributor such as Tunecore or CD Baby?

DP: It depends on what kind of artist you are.

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MISSION STATEMENT

The Music Business Journal (of the 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

Greetings from the MBJ! It is with great pleasure that I introduce you to our November 2009 issue.

Just in time for the release of the newly-revised 7th edition of his *All you Need to Know About the Music Business*, Donald Passman has been kind enough to give MBJ contributor Michael King his thoughts on many current issues facing the music industry today. Passman is one of America's top music attorneys, and we are proud to be able to include his insights in this issue.

Ricardo Gomez will uncover the many fruits of fan-funded projects where large recording advances take a back seat to direct-contributions from music fans. Elsewhere, we have a model work by Morgan Nusbaum on industry moguls. Nusbaum makes four of those moguls accountable for their actions—ranging from commendable to most inappropriate! Also, Amy Mantis gives us an insider's look at the new Google Music Search engine, while Silvina Moreno examines the breakdown of civil society and the emergence of the protest song in Latin America and other regions.

Meanwhile in America, online hit-o-meters, though not quite all the rage, are attracting investment, as Jamie Anderson illustrates. Brian Orlando and I explore the right of public performance and its effect on new forms of distribution, and Kerry Fee imagines the creative use of mobile phones in a live setting. Also, Katy Eggleton tells us how Lala is “going mobile”. Finally, Professor Peter Alhadeff uses a single iTunes statistic to epitomize the calamities of the recorded music business.

We thank you for reading and hope you enjoy this issue. Please remember to check out our newly revamped website at thembj.org, where you can read this and many of our past issues, while listening to our newest podcast.

Sincerely,

Michael L. Benson

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BUSINESS ARTICLES

A One-On-One With Passman (contd.)

(CONTINUED FROM PAGE 1)

Nobody that is mainstream and wants to sell a multi-million release has done it yet without a label behind. That may change. But that is where we are today, Nov. 2nd. If you are an indie artist that has a niche market and a cult following, and you are content to stay there, then you can do just fine without a label. You can sell directly to your fans, you will know who they are, and you will have control of your marketing database. Anywhere in between, the answer is a little bit trickier. You're better off economically on a per unit basis doing it yourself, because you can make so much more if you keep the 360 rights. But the question is: Will you sell enough going through a label to make up the difference? This is of course unknowable. It is easy to sign up on MySpace, use Tunecore, or have someone distribute your music digitally (or even do physical distribution). The problem is everyone can do that too. There's no barrier to entry, and there are four million bands in MySpace. How do you break through the noise? That is essentially what record companies help you do.

MK: In some of the courses we teach (at Berklee and Berkleemusic) we talk about the importance of engaging in permission marketing as opposed to the push marketing that the labels practice with radio and retail. You seem to say that direct-to-fan marketing is an effective option only for a particular type of artist.

DP: Correct.

MK: France is adopting the 'three-strikes-and-you're-out' law, where Internet users could face a suspension of their services for sharing files. Britain might go the same way. Do you think that this is an effective way to fight file sharing?

DP: It is certainly better than what we have right now. Presently, there is no consequence to infringers, really—there have been consequences for a few people here and there, but for the most part file sharing is rampant. I'm in favor of anything that makes piracy more difficult. But I also think it has to be coupled with something that people actually want, which we haven't done a good job of providing yet. This is not completely the industry's fault, a lot of it is technological. There are limits to what (the record companies) can deliver today.

MK: You could offer fans a legal and more convenient option to get music, as file sharing can get complicated. I am thinking of the new Spotify model, where the idea is for us-

ers to pay a subscription to effectively have "anytime, anywhere" music with the inclusion of an iPhone app. Do you think that technology will develop to the point where piracy might stop being an issue?

DP: Yes, if we offer something people really want. In that case, I think we can 'conscript' the pirates. There will always be piracy. Every business, from grocery stores to anybody else has some kind of theft. But it is minimal. In music, it is rampant. If we come up with something that is easy to use and readily accessible and cross-platform, I think we'll have something that people will really want and should be able to monetize. It could be very good for new bands, because people who would never buy at a record store may now be willing to pay for music.

MK: The founder of Spotify has put forth data suggesting that file sharing is down in Sweden, where the company operates. Could Spotify signal a better way forward to deal with piracy than France's strong-armed approach, which has a negative impact on freedom of choice over the Internet?

DP: You may have an impact on freedom of choice, but so does stealing. I do not have much choice if someone's able to steal something.

MK: As traditional CD sales drop, are new income sources—such as video streaming services and the like—showing promise as alternatives to recorded music sales?

DP: Well, none of that means much now. The revenues from videos are relatively modest when spread out, at least on an ad-supported model, because videos haven't worked very well. It is hard to tie advertisers to a specific video and the advertisers are not willing to pay much for it anyway. This may change, but at the moment such revenue has not amounted to much. The same applies to cell phones. In the future, more things will be possible, but as yet there are relatively few options.

MK: After years of contention, rights holders and commercial webcasters have agreed on pricing terms for online music streams; the prices will stay in place until at least 2014. In the updated edition of your book, you refer to the Copyright Royalty Board and this recent agreement. How does this change the playing field for consumers and artists?

DP: It doesn't change anything for consumers and artists. It really has to do with an alternative break in the statutory rate for webcasters, who were complaining that it was so expensive they couldn't do it. So they came up with a private settlement, affordable to most, that makes the cost a bit less. So I think it would help consumers in the sense that there would hopefully be more services available that would cheaper. But otherwise, it's not a direct impact.

MK: In the new edition, you refer as well to the so-called 'upstream' deals. Many readers might be considering music startups and say, for example "Oh, I'll just get a P&D [Pressing and Distribution] Deal." Could you discuss some of the options independent labels have when they join forces with major distributors and labels?

DP: A P&D deal works fine except that it is very risky and you are taking the risk of the manufacturing and the returns coming back. It can be expensive, but when it works you make far more per record. The upstream deals are deals that kick-in after a certain critical mass [of sales] is reached. Then, you no longer have a P&D deal, but a profit sharing deal. You are not taking any financial risk, and the major label takes over the cost of marketing, promotion, and so forth. Again, you make less, but presumably they take it to another level. Some of these deals have worked pretty well, but a lot of them haven't, so it is not clear where the advantage lies. You may be better off or not. Just keep the P&D deal, and if it really works then your label will have more leverage to go out and make a better arrangement with the distributor.

MK: At what point should an independent label think about a P&D deal? What should they have going before they even consider a P&D?

DP: Products... [laughs]. You can make a P&D deal at any time. You just need to know that you are taking a pretty big risk with it. Maybe that's all you can get, because nobody will give you any money, so they'll only press and distribute the records. But that's probably the deal you will end up having to make to get things going at the beginning, when you have no kind of track record or buzz.

Michael King's new course, Online Music Marketing with Topspin, is enrolling now for Berkleemusic's winter term. Keep up with Mike on his blog: <http://mikeking.berkleemusicblogs.com>.

MUSIC LAW

Re-Defining Public Performances

By Michael Benson

Amid the increasingly liquid landscape of the music industry, there is a constant struggle to re-define the terms used in copyright law. These disputes are often over only a few words, but their impact on future royalty structures and business models is enormous. As we head further into the digital age, performing rights organizations seek to monetize public performances through the digital medium on three fronts: downloads of music, downloads of audiovisual works, and song-samples. ASCAP and BMI have been at the forefront of many of these legal battles, most notably suing Verizon and AT&T in their failed attempt to establish public performance royalties in ringtones. Are the performance rights organizations simply fulfilling their fiduciary duties to rights holders or have they overreached?

The right to public performance is one of the six exclusive rights granted to copyright holders by Copyright Law. To dissect these issues clearly, we should look at what makes the performance of a song "public". According to Section 101 of the Copyright Act:

(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'

So if your phone rings on the train and everyone hears Michael Jackson's "Beat It," it seems that this 'performance' would be 'public' under this definition alone. However, this certainly leaves a lot to be desired as it merely specifies the receiving environment of a performance. To account for the gradient of uses for copyrighted materials, limitations on exclusive rights are made in Copyright Law. For public performances, royalties are not payable for performances of an educational nature, religious services, and:

(4) performance of a non dramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizer

Indeed, this exemption on performance royalties for ringtones was used recently for cell phone users and service carriers

In October 2009, U.S. District Judge Denise Cote ruled that cell phones are not sources of commercial public entertainment. The court took some time to determine if there are any commercial purposes for playing ringtones, and came to the conclusion that there are none. ASCAP did provide one example- the 2006 Chicago Sinfonietta "Concerto for Orchestra and Cell Phones," where ringtones were incorporated directly in the performance. However, the defendant (Verizon Wireless) pointed out that ASCAP had a public performance license in place with the orchestra at the time of the performance.²

Back in 2005, in a rate-court proceeding between ASCAP and music services provided by Yahoo, AOL, and RealNetworks, it was made clear that digital downloads are the more modern equivalent of album purchases, and therefore are 'private' in nature and not subject to performance royalties.

However, as David Israelite (President and CEO of the National Music Publishers Association) points out- "This is really a fight about the future... As more and more people watch TV or movies over an Internet line as opposed to cable or broadcast signal, then we're going to lose the income of the performance. For people who do production and background music, that's how they make their living."³ If the NMPA had its way, anyone who sells a download would have to pay a performance royalty.

In contrast, Jonathan Potter- executive director of the DiMA (Digital Media Association), makes the case that this push is merely a knee-jerk reaction to the dry wells music industry executives once profited from so greatly:

These guys are afraid that the business model is shifting away from public performances to a model of private performances. This is a turf battle. They are saying, 'The songwriters aren't getting paid.' Baloney. Songwriters are getting paid. They're paid sync rights and (mechanical) rights. They aren't getting paid for the public performance in a download because there is no public performance in a download.

The performance rights organizations have shown their cards regarding where they feel business is heading, and it shows they are worried about the impact this could have on songwriters and copyright owners.

Most controversial is the case made that 30-second iTunes samples should be subject to performance royalty as well. Apple has licenses to offer these samples with rights holders but they currently do so without paying. The argument is likely made that the previews add value to the music offered because it allows prospective music buyers to try before they buy, an important feature to the music download paradigm. Along with the recent pricing changes including an increase on popular iTunes downloads (.99 to \$1.29), many are worried that any other added cost will further drive the price of downloads upward given the popularity of single-song downloads. As digital revenues seek to replace the more profitable physical sales-revenues, the argument for performance royalties in song samples appears more likely to sink than swim.⁴

In sum, ASCAP and BMI's fiduciary duty to their affiliates seems to explain their willingness to fight these battles. The digital realm certainly remains the wild west- especially in terms of copyright law. These skirmishes will likely continue as new methods of delivery continue to evolve. But these waters must be trolled carefully, as the main threat to the income of rights holders is not a lack of public performance income, but a lack of consumers who are willing to pay for music at all.

Sources:

1. <http://www.copyright.gov/title17/92chap1.html#101>

2. http://lawprofessors.typepad.com/law_librarian_blog/music/

3. <http://news.cnet.com/digital-media/?keyword=Authors+and+Publishers>

4. <http://www.electronista.com/articles/09/09/17/ascap.others.want.online.performance.fees/>

MUSIC LAW

Do Ringtones Constitute a Public Performance?

By Brian Orlando

On October 14th, 2009, the performing rights society ASCAP, and all the publishers, songwriters, and composers it represents, suffered a major blow when a federal judge in New York ruled against their claim of copyright infringement when a cell phone's musical ringtone goes off in public. The ruling stated that, "when a ringtone plays on a cellular telephone, even when that occurs in public, the user is exempt from copyright liability, and [the cellular carrier] is not liable either secondarily or directly."



ASCAP argued that when a cell phone's musical ringtone goes off in public it meets the standard definition of a public performance, likening it to music being played in a restaurant, and therefore their clients were entitled to be compensated. However, ASCAP was directed to the provision in the Copyright Act under section 110(4) where it states that performances are exempt from royalties when done "without any purpose of direct or indirect commercial advantage." The court cited this provision in its ruling while adding that, "consumers do not play ringtones with any expectation of profit." The court also ruled that mobile carriers are not liable because they do not receive any additional profits each time a musical ringtone plays.

This ruling has a significant impact on both consumers and the mobile carriers supporting them. For consumers, it means they never have to worry about owing performance royalties when their cell phone's musical ringtones sound. More importantly, it helps to further clarify the limitations and exemptions on public performances provided by the Copyright Act in section 110. For example, this ruling helps solidify the right to do seemingly mundane tasks such as listening to music in your car with your windows down, playing a radio while at a beach, and even singing happy birthday at a local family spot. For cell phone carriers, it sets a precedent for future cases like ASCAP's still pending lawsuit with AT&T. However, AT&T should take comfort in Verizon Wireless's recent victory, since

this case is essentially the same argument with a different company.

Unfortunately for ASCAP and other similar companies like BMI and SESAC, this blow comes at a time when profits in the music industry as a whole are quickly shrinking.

Additionally, this ruling helps highlight a recurring problem with copyright law in the digital age of music. As newer forms of manipulating digital raw material become introduced, it inevitably raises more questions on the legalities of said manipulation. Combine this with the music industry's different sectors and their search for new forms of revenue streams, and you get a recipe for many lawsuits.

Sources:

1. <http://www.eff.org/deeplinks/2009/10/court-rules-phones-ringing-public-dont-infringe-com>

2. Sheffner, B. "Legal Matters", *Billboard*, Nov. 7, 2009, 12.

SESAC Faces Class-Act Lawsuit

By Sawyer Stoltz

On November 4th a group of television broadcasters came together to file a class-action anti-trust complaint against performance rights organization, SESAC. The Television Music Licensing Committee, a non-profit organization that negotiates music licensing fees with performance rights societies on behalf of television broadcasters, stated that SESAC has used price-fixing along with various anti-competitive acts to unjustly raise their fees.

Previously SESAC negotiated licensing for local broadcasters through the Television Music License Committee, which represents 1,200 local television broadcasters. However in 2008 SESAC decided to individually license local television stations. The Television Music Licensing Committee stated, "the complaint alleges that essentially all television stations are compelled to pay SESAC the price it demands for a license because they cannot control what music is used in most of the programs and commercials they broadcast, and they cannot remove the music; thus, to avoid broadcasting music without a license--a violation of copyright law--they have no choice but to accept SESAC's licensing terms." Allegedly, SESAC had also been signing popular television composers with the incentive of a higher income, which potentially escalated the size of annual fees paid by television broadcasters without regard to the amount of music a station uses.

ASCAP and BMI, the other two predominant music-licensing companies, operate

under what is known as voluntary consent decrees. The consent decree allows for courts to set fees should the parties not be able to reach a mutual agreement. These agreements were signed in 1941 and amended again in 1950 after ASCAP was sued for violating terms of the Sherman Antitrust Act. Due both to (i) a lack of consent decrees and (ii) the recent implementation of individual broadcasters licenses, the Television Music License Committee now believes that ASCAP too is taking advantage by setting fees that would be considered excessive of the industry standard.

As Charles Sennet, Chairman of the Television Music License Committee, said, "SESAC's actions are an unlawful restraint of trade. The antitrust laws prevent the other two [performance rights organizations] from using their collective power to extract coercive rates for music from broadcasters. We believe those same antitrust principles should be applied to SESAC." The charges in the class-action suit filed against SESAC resemble those that brought about the regulation <http://www.weegleradio.com/Files/Images/sesac.jpg> modifications within ASCAP and BMI. It is likely that similar results will come from this hearing and SESAC will have to overhaul its licensing negotiation policies.

The suit was filed in the U.S. Southern District Court of New York by Weil, Gotshal & Mangles LLP. SESAC spokesperson, Shawn Williams, said that the group had been served on November 5th, "and are currently reviewing the documents so we have no comment at this time."

Sources:

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2. http://www.billboard.biz/bbbiz/content_display/industry/e3i5262a3b026dcf171094131afd8b0e4a2

3. <http://www.televisionbroadcast.com/article/89938>



BUSINESS ARTICLES

Fan-Funded Music Websites A Business Model with a Future

By: Ricardo Gomez

Since the beginning of the recorded music industry, record companies have been subjected to a constant and bitter recrimination from artists all over the world, who claim that labels should not be entitled to any sort of creative control over their music, nor the right to own masters. Until recent years there wasn't much being done about this issue, but with the current reliance of the music industry on the Internet, there has been an emergence of a new and simple, yet interesting business model: fan-funded music.

Amongst the most popular fan-funded music websites are Sellaband.com, ArtistShare.com and Slicethepie.com. While these three websites work within the same framework (but with some differences), it's hard to say specifically who came up with this idea in the first place. The reality, however, is that the model actually works, and the results speak for themselves; American jazz composer, Maria Schneider became the first artist who won a Grammy with a fan-funded album distributed exclusively online⁽¹⁾. Some of these websites are not limited to music projects only. ArtistShare and U.S. based site Kickstarter.com both support filmmakers, designers, inventors and any one else with a creative work that needs financial support in order to be created.

Back in 2000, rock band Marillion turned to its fans to finance the recording of their 12th studio album, *Anoraknophobia*. For this, they applied a similar concept. The band reportedly raised \$725,000 by pre-selling the 2-CD album before it was even recorded. The incentive for their fans was that everyone who pre-ordered the album before a set date would get their names printed in the CD booklet.⁽²⁾

Despite the decreasing numbers in recorded music sales over the previous years, it seems that fans are eager to help their favorite artists by funding their projects, perhaps in exchange for a ringside seat to the creative process, which is a much more rewarding experience than just going out and buying a CD. Fans also develop a deeper relationship with their favorite artists because they feel like they're actively participating in the artists' projects by funding them. Artists on the other hand, can take advantage of this model by marketing their music directly to their fan base with a much more personal approach and

develop long-lasting, deeper relationships with their fans.⁽³⁾

The principle of how this model works is rather simple, and has been adopted by both new and established artists. By creating an online profile, providing project details, and a budget to be reached, artists will offer incentives to their fans/investors in exchange for non-recoupable money. Such incentives vary, since it is the artists who decide what they are willing to give back to their fans depending on the amount of the investment. Some artists might offer a lifetime backstage pass, or even a private concert.

In order to give artists a reference for budget projections, Sellaband.com provides a series of guidelines for setting a target budget. It includes a detailed list of costs related to recording, manufacturing, artwork, shipping, royalties, etc.⁽⁴⁾ Artists can choose an option from \$10,000.00 up to \$100,000.00 as their funding target. They can also specify if, and how much they want to share the net revenue of their music sales with their fans. Once the target is reached, the project is launched. The website will take care of all expenses and will also take a 10% fee from the total budget raised.⁽⁵⁾ However, if the target is not reached, all fans are refunded for the complete amount they invested. The reason they do this is to minimize risk to investors. For instance, if a project had a target budget of \$100,000.00 and it only reached \$75,000.00, it is likely that the delivered product will be of a lower quality than the project initially envisioned and "sold" to the investors.

Another important factor that can benefit artists is the freedom they have while working within this business model. Although there is certainly an ethical commitment to deliver the best possible product when working with other people's money, fan-funded websites guarantee the artists 100% creative freedom to produce the project they have conceptualized. In the case of recording an album, artists are entitled to all of their copyright and publishing rights as well as to the ownership of the masters, and remain free to sign a record deal at any time. However, the site Slicethepie.com does charge a royalty per album or per track, but it is significantly less than what record labels charge on their deals.⁽⁶⁾

Since the application process is extremely easy, these websites receive many applications from bands and artists wanting to be financially supported. That's why, for quality control purposes, they had to come up with a more selective process for choosing who to support. Slicethepie.com, for instance, puts the artists without an established fan base into something called Scout Rooms. The artists are sent to the appropriate Scout Room based on genre, location and so forth. Music fans can earn money by rating tracks in these Scout Rooms with detailed and constructive reviews. Then, the highest rated artists have a period of six months to reach a £15,000 target (the website is currently based in the United Kingdom). If the artist fails to hit the target after the six-month period, they are dropped out of consideration and all investments are refunded. Artists with an established fan base already can bypass the Scout Rooms, and raise up to £500,000.⁽⁷⁾

The system, however, is not without its flaws. There seems to be a lack of a regulatory body that supervises what's done with the money after the target is reached. There's not enough information on the websites about what happens when a band, for instance, breaks up after receiving the money, and it's conceivable that this type of service could be used to fraudulently raise money for an artist with no intent to produce their advertised projects. Hopefully, these companies are prepared to deal with these types of situations, but for now the model's clearly based on a code of honor between artists and their fans.⁽⁸⁾

Amazon.com Inc. (Public, NASDAQ:AMZN) has recently become an active player in the game. Last year, a deal with Sellaband.com, in which Amazon agreed to be the official online retail store for Sellaband's launched projects, lead to a \$5 million venture capital investment from the European firm Prime Technology Ventures to help Sellaband.com expand in the United States. This is a clear sign that this business model has inspired some confidence in the marketplace. Sellaband's co-founder and Chief Executive Johan Vosmeijer said "America is the biggest market for us potentially. This new capital will enable us to make the necessary investments and expand in America."⁽⁹⁾

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BUSINESS ARTICLES

Transforming the Live Experience

By Kerry Fee

Although it has taken a while to catch on, mobile devices are now beginning to prove themselves as essential tools that have essentially transformed the live concert experience. Venues used to ban the use of cell phones from their shows, but now, the tide is turning, and venues, artists and promoters alike are seeing the benefits of a creatively integrating mobile and live. At a live show, excited fans always have the dire need to get closer to the band and be more involved with the overall concert experience. People constantly are trying to push their way to the front, get backstage, yelling out to the band, and throwing things on stage. The fan wants to be involved, and with some recent experiments with mobile devices, this is becoming immensely popular, and there seems to be more possibilities than ever before.

Popular jam band, Umphrey's McGee, is on the forefront of this new technology. At a series of shows, concert-goers could influence the playlist by texting ideas for the act to improvise on during a jam. In a crowd of 50, the band had about 400 responses, and will continue to apply this experiment to their upcoming shows in the year ahead. As reported by Billboard's Antony Bruno, and according to Umphrey's McGee's soundman Kevin Browning, "a lot of successes today we owe to the fans, and mobile technology helps us better understand their wants and communicate in an intimate way" Acts can use such experiments as a launch point for encores, and think about giving a twist to the making of live music videos in front of a crowd.

Mobile technologies have also shed new light to opportunities of advertisers. Instead of the usual banners and kiosks at shows, mobile communications will allow advertisers to track engagement and build their exposure and contact lists. During a Keith Urban tour, sponsors KC Masterpiece and Kingsford Charcoal backed a sweepstakes where fans could enter to win a barbecue featuring a performance by Urban by sending a text to the artist's Mozes mobile fan club. Throughout the tour, posters and banners covered the venues telling fans how they could get involved. Signing up for such sweepstakes via mobile phones allows the sponsoring companies to collect data, having consumers choose to sign up for alerts from the company.

There has also been development of purchasing tickets via mobile devices.

Sites such as Tickets.com have seen a sharp increase in traffic on its mobile website, and the purchase of tickets the day of a show. Some venues have adapted separate entrances for mobile ticket holders, and allow them an earlier entrance, which have led to an increase in mobile ticket sales. All of these new developments have shown that technology and creative mobile experiments are developing a new way of live music experiences.

See Antony Bruno, "Mobile Comes Alive", *Billboard*, Nov. 7, 2009, 8

Streams Go Mobile

By Katy Eggleton

Lala, a digital music streaming service, will soon release a new iPhone app that will enable users to stream music from their smartphone. The Lala app will likely prove to be another fierce competitor in the music app world by offering a set of strengths unique to the Lala platform.



First, even if you already have most of your music in your iTunes library there is no need to sync your iPhone or upload your library. Lala members can use their free Music Mover™ software to verify the songs you own and synchronize them into your Lala cloud-based library to be made available for streaming anytime (internet connection required- sign up is free). This however is only the beginning; the iPhone app will make tapping into Lala's original service of music streaming a portable luxury.

With over 8.5 million tracks in their library, users can stream any song in its entirety for free one time, and if they decide they want to add it to their Lala library, a mere ten cents will give users the ability to stream that song indefinitely. This option saves users the time it takes to download each track, in addition to the storage space necessary to store their entire personal music library.

The best part is your cloud-based library can hold up to 40,000 songs, and once a song is streamed, the data is cached to your device. This eliminates any latency issues that may have occurred in the initial stream. Of

course, Lala's bitrates for streaming are considerably lower than MP3's- 32 kbps per second as opposed to most common rate of 128kbps. However, the quality of streaming will continue to improve. As mobile networks become faster, bitrates will gradually increase until the difference in quality is inaudible.

MP3 downloads are offered at 89 cents and could potentially serve as notable competition with iTunes in the future. This enables customers to own the track and enjoy a higher quality file. While the app is currently pending Apple's approval, the release is expected sometime in mid-November. Co-founder Bill Nguyen has already warned, "We may not give that [app] away forever. But we will in the beginning." It seems if you want to be able to listen to your entire music collection on your phone for free, it is in your best interest to keep a look out for Lala's new app this November.

Fan-Funded Music Websites (contd.)

Despite the uncertainty of the music industry's future, this model brings a breath of fresh air to the industry by expanding the possibilities of recorded music. Rather than imposing an absolute monetary value on art, and instead providing fans with the opportunity to put a subjective value to music in accordance with their personal artistic appreciation and economic capabilities, fan funded music sites have, to a certain extent, brought about a return of the intangible value of creativity in music.

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*Additional consultation with Stephanie Kellar. Berklee College of Music - Faculty (Music Business & Management Department).

BUSINESS ARTICLES

A User's Perspective On Google Music Search

By: Amy Mantis

Millions of people use Google to learn about bands as well as find music on the Internet. Considering two of the top ten queries surrounding Google are music related⁽¹⁾, it's about time that we hear from them.

Google launched its new and potentially titled OneBox, or Google Audio, music service in America on Wednesday, October 28th⁽²⁾ while it is not a completely new website, it is "a new set of integrated options to (sic) normal search results."⁽³⁾ Partnered with iLike, which was recently acquired by MySpace, iMeem, Lala, MySpace, Pandora, and Rhapsody for streaming purposes, Google has brought "the power of its search to the music industry."⁽⁴⁾ Google has agreements with EMI, Sony, Universal, and Warner Brothers⁽⁵⁾ for music.

Now when you search for an artist, the first result is a small picture of the artist accompanied by four or five of their most popular songs in addition to the typical Google search results. You can preview the song—usually courtesy of MySpace or Lala—right there on Google. A small box (hence the working title OneBox) pops up when you press the "play" button. The length of the preview is anywhere from thirty to ninety seconds, and the quality is the same as any other streaming service. Google also gives you the option to listen to the song on any one of its partners' websites, as well as to purchase the song through that same site. On occasion, you can listen to the song in its entirety. After many searches, there seems to be no pattern as to why some songs are more than a preview and some are not.

Since the beginning of Google's existence, people all over the globe have been using its services to look up song lyrics. Google has made it easier to find a song that you can't quite name but know a lyric or two from it, however it hasn't perfected that aspect of the service just yet. For example, I typed in [Gold coast slave ship bound for cotton fields sold in the market down in New Orleans] from Brown Sugar by the Rolling Stones and the links to the lyrics of the song showed up. No preview of the song was available to me the first time I tried it. I typed the lyric in again a few days later and there was a preview of the song. When I typed in the first line of Lady GaGa's Poker Face [I wanna hold 'em like they do in Texas, please], the preview option appeared right at the top of the page. This technology is likely to develop

over the next few years. Soon it may be possible to search for and find virtually any lyric or song through Google's new service.

Another one of the music "features" Google has now is that when you search for an album, you will be able to listen to a few songs from it—again, courtesy to one of its partners. I searched for [Wolfgang Amadeus Phoenix] by Phoenix, and I was able to listen to four of the songs off of the album. I could have bought them or clicked on a link and continued on to iLike to listen to or purchase more songs by Phoenix.

One of the coolest things Google's new service has to offer relates to their other partners. Pandora is one of the most popular Internet radio sites. It creates radio stations that it thinks the user would like based on the artist or song typed in the search bar. Now, when you search for a song, lyrics, or an artist on Google you are presented with the option to go to Pandora to listen to your query and possibly discover new music as well. Alongside Pandora in the "Listen on" section you can find Rhapsody, iMeem, and Lala, all of which are sites that advertise how you can discover new music through them.

This new service does more for Google's partners than it does for Google. The new search capabilities are creating a bigger playing field and helping them compete with iTunes and Amazon. In a recent article in the Los Angeles Times, writer Alex Pham said, "Although not a direct threat to Apple Inc.'s hugely popular iTunes store, the new feature is expected to bolster the music services that compete with iTunes."⁽⁶⁾ Google's service was "applauded by the music industry"⁽⁷⁾ in hopes to curb the amount of illegally downloaded music. The music industry is hoping for Google to "direct users to legitimate digital music outlets"⁽⁸⁾ and create a stronger competition with free (and often illegal) sources of music. R.J. Pittmann, Google's director of product management, says that Google is "merely a music search feature,"⁽⁹⁾ and will not allow users to buy their music directly from the site.

Despite the fact that users won't be able to buy music directly through Google, this new service offers easy access to means of purchasing. Apple's iTunes is very user friendly, which is one of the reasons it sells so many

songs, but in comparing the amount of traffic for both sites- Google's numbers more substantial. It is estimated that in 2008, 85 billion searches were performed in the United States on Google alone⁽¹⁰⁾, however the number of those that were music related is unknown. Imagine if only one percent of the searches were music related, that's still roughly 850 million searches for artists, songs, lyrics, etc...There is no way to know for sure, but if there had been an option to purchase the song right then and there it's possible that many people would have purchased the song through Rhapsody, iLike, or one of the many other partners involved with the service.

Rhapsody and iTunes both now have variable pricing. Unlike iTunes, though, you can purchase a subscription for as little as \$12.99 per month on Rhapsody and stream your music through a downloaded player (in a similar fashion to Spotify). For two dollars more, you can listen to the 6 million songs "anytime, anywhere—including on your portable player." The "anytime anywhere" feature is only available on PCs⁽¹¹⁾. Rhapsody also makes you fully aware that their songs are compatible with an iPod.

Lala also does something unique to iTunes: it lets potential buyers listen to an album in its entirety, free of charge, before they make a decision as to whether or not they'd like to purchase it. There are two ways one can purchase music on Lala. You can either buy a song online (known as a "web song") and put in your "Lala collection" for ten cents, or there's an option to download the song for 89 cents.⁽¹²⁾ The first twenty-five web songs are free, and if you decide that you want to download the song, then the ten cents⁽¹³⁾ you spent on the web song will go towards your purchase of the download, reducing the price to 79 cents. Lala also has what they call a "Music Mover," which "instantly adds the music you own to your Lala collection for free."⁽¹⁴⁾ The Music Mover can take songs directly from your home computer and put them into your Lala collection online so they can be played anywhere.

While Google itself is not interested in becoming a place to purchase or listen to music, simply providing the option to do so levels the playing field with other companies. Now people might not head straight for iTunes or Amazon when they want to purchase a song or an album. iTunes was respon-

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The Drama of the Recorded Music Industry In Numbers

By Peter Alhadeff

The following table illustrates the plight of the record companies since the inception of the iPod and iTunes in 2001.

The \$.99 of a song are typically distributed as follows:

Labels	\$0.48
Artist Royalty	\$0.10
Mechanicals To Songwriters	\$.045
Mechanicals To Publishers	\$.045
Apple	\$0.33
Total	\$0.99

(Rounding error = 1cent)

Kusek, D., "The Future of Music", Online Course, berklemusic.com. To the best of my knowledge, Kusek's data is unchallenged and goes back, at least, to 2006.

Conclusions

1. Buyer shifts to Apple iTunes deprived the labels of any distribution income online.
2. The majors had completely owned the distribution of their products in the physical world, but the loss of distribution revenue online was, at 33 cents to the dollar, catastrophic.
3. As consumers began buying songs rather than albums, the negative repercussions of this loss of income reverberated, and were compounded, in the physical realm.
4. Finally, the data shows that the 50/50 label-artists split advocated by many as fair never materialized in the new digital marketplace after 2003. Apple, as well as the labels, maintained the status quo.

sible for 69 percent of all digital music sold in the United States in the first half of the year and it accounted for 35 percent of total music sales—including physical albums⁽¹⁵⁾. Amazon accounted for nine percent of digital downloads and ten percent of total music sales⁽¹⁶⁾. Had Google chosen Apple instead of the partners Google now has to fuel its new music service, Apple could have easily become even more dominant in the digital music world. Whether or not Google proposed this idea to Apple first is unknown.

The only thing left to do now is wait and see if Google's OneBox new music service catches on. More than anything, these "integrated options" add a new level of visibility for Rhapsody, MySpace, iLike, etc as well as more convenience in using Google, the always user-friendly Internet giant.

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MODEL WORK

Music Industry Moguls

The Good, The Bad and The Crazy

*Model work features the best paper of a major assignment from an MB/M class. The candidates are chosen by the professors(s) of the course, then The MBJ chooses from blind submissions. The following piece was written for Jeff Dorenfeld's Music Intermediaries Class. *Note: all essays are edited for placement in the MBJ.*

By: Morgan Nusbaum

There are countless job positions in the music industry: Managers, Attorneys, Concert Promoters, Publicist, Agents, Producers, Tour Managers, Radio Broadcasters, Business Managers, and the list could go on. Yet the spotlight is place upon that small group of businessmen that go above and beyond the standard, or just get plain lucky, to work their way to the top of the music industry food chain. These are the "music industry moguls" that wield the power and have great standing in their field. Some of their names have recognition worldwide, others only in their homeland, but their influence has certainly been felt throughout the global music industry for decades.

Many moguls use their wealth and prominence to help those in need, be it starving children in Africa or talented and aspiring musicians. Their open generosity can help direct the public's attention towards the important political, musical or global issues. For this purpose, I have chosen to examine the lives and careers of two men who have famously shared the benefits of their success: Richard Branson, English entrepreneur and founder of the Virgin brand, and David Geffen, American record executive, film producer and founder of Asylum Records, Geffen Records and DreamWorks SKG.

With great power and influence come great responsibilities, some of which are too much for the unprepared music mogul. The music industry has seen some of its greatest minds fall prey to their own personal demon, destroyed by the sudden influx of riches and authority. Others have let their egos or public personas devour and take over the person they truly were. For this purpose, I have chosen to examine the lives and careers of two men who famously suffered from their own success: Walter Yetnikoff, president of CBS Records from 1975 to 1990, and Don Arden, English manager, agent and businessman best known for his work with Small Faces, Electric Light Orchestra, and Black Sabbath.

Finally, in my study of these different music moguls, I had the opportunity to interview my friend and Canadian music force, Gary Slaight. As the President and CEO of Standard Broadcasting Corporation from 2000 until it's sale to Astral Media in October 2007, Gary has lived the music mogul life. He is currently the reigning President and CEO of Slaight Communications, enjoying his time exploring the new frontiers of radio, working with new Canadian artists, and heading the Slaight Family Charitable Foundation. In other words, he's a good one.

A "mogul", by definition, is "an important, powerful, or influential person" (MLA). Having reached a prominent place in their particular industry, they typically have great wealth and the respect of their contemporaries. The terms "mogul", "tycoon", and "baron" are often attributed to the North American business magnates from the late nineteenth and early twentieth century era known as the Second Industrial Revolution. These wealthy, usually corrupt men, controlled many of the American industries of that time such as mining, petroleum, railroads, steelmaking, banking and newspaper publishing ("Business Magnate").

In the music industry, moguls can grace either side of the corruption scale. The majority though, have used their power for good. David Geffen has been a presence in the music and film industry since 1971 when he established Asylum Records, which was acquired by Warner Communications a year later and merged with Elektra Records. As a top record producer, manager and agent, he helped launch the careers of artists such as The Eagles, Joni Mitchell, Bob Dylan, Tom Waits, Guns N' Roses and Crosby, Stills, Nash and Young. However, Geffen did not begin his entertainment career at the top. His first job, for which he submitted a forged college degree, was in the mailroom of the William Morris Agency, where he met his future partner Elliott Roberts. Wanting to represent a few musicians he had discovered, among them Joni Mitchell and Laura Nyro, Geffen teamed up with Roberts to found a talent management company in 1969. (Variety).

Asylum's 1972 transition to Warner Communications not only made Geffen the president and chairman of Elektra/Asylum Records, but gave him the beginnings of his immense

fortune: two million dollars in cash, as well as five million dollars worth of Warner stock. David ventured into the film industry in 1975 when he became the vice chairman of Warner Brothers Pictures, until he was soon after misdiagnosed with bladder cancer and receded into a four-year retirement. Reentering the business in 1980, he founded Geffen Records, which, along with its companion film company, released several successful records and movies. A true mogul, Geffen capitalized on his success, selling the label to MCA in 1990 and the year after received around \$710 million when MCA was sold to Matsushita (Variety).

These days, Geffen is one of the richest moguls in the entertainment industry, with an estimated net worth of \$6.5 billion, according to Forbes Magazine. A prominent supporter of medical research, AIDS organizations, and the arts, David has established his good mogul stance by pledging to donate whatever money he accrues later in life. His most notable contribution also set a nation record. In 2002 Geffen's \$200 Million unrestricted endowment to the UCLA Medical School became the largest donation ever given to a medical school in the United States. On top of that, during the October 2007 California wildfires, he opened the doors of the Malibu Beach Inn, which he owns, as a refuge for evacuees and firefighters.

Unfortunately, not every success story has evolved in the same way as that of David Geffen. As an intellectually gifted child born into an impoverished family, Walter Yetnikoff was fortunate to obtain a law degree from Columbia University. While employed at a law firm, he met fellow lawyer and future music mogul Clive Davis, who convinced Yetnikoff to follow him to work at the legal department of CBS Records. Although Walter did not possess the same musical genius as Davis, he quickly worked his way to the top and by 1975 he was running CBS Records, the house of Columbia, CBS and Epic Records (Janicke).

Yetnikoff marked a beginning in the shift from "record men" to businessmen running the music industry. As journalist Bruce Janicke wrote in his review of Walter's memoir, *Howling at the Moon*, "What he lacked in music appreciation he made up for in corporate savvy. He learned to please his bosses because

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he understood that all that mattered was getting hits, selling millions of records and generating big profits. He could get away with anything, including an outrageous lifestyle, as long as those goals were met" (Janicke).

Yetnikoff's lifestyle was outrageous indeed. As the president of CBS from 1975 to 1990, he oversaw the careers of music superstars like Michael Jackson, Mick Jagger and Bruce Springsteen. He also battled an addiction to alcohol and cocaine, among other things. In a March 2004 interview with Eric Olsen, Walter described his daily routine at that time: "'Id; come out of a coma around 7 or 8 a.m. By 9 I might have drunk a half a bottle of vodka. Then I would call someone at CBS, maybe the head of the network or accounting, and yell at them. I'd finally drag myself out of bed and get into the office around noon. The steward would immediately bring me a screwdriver...I might walk out of my office and say, 'That one's nice, lets make his career,' or I might say 'Get rid of that one'" (Olsen).

However, despite his demons, Yetnikoff's mogul brainpower managed to raise CBS's annual revenue from \$485 million to more than two billion dollars during his term as president. Regarding any questions concerning his business practices, Walter "insists he was always 'squeaky-clean' when it came to fraud or any criminal wrongdoing" (Janicke). After organizing the two billion dollar sale of CBS Records to Sony in 1987 and signing a contract rumored to contain a twenty million dollar bonus, it took less than three years for Walter Yetnikoff's lifestyle to cause Sony to break that contract. Now, after several years spent clean and sober, Yetnikoff occupies his time with volunteer work at recovery centers and homeless shelters, devoted to saving others afflicted with addiction.

It is always unfortunate to see such a thriving career find such a tragic end. In Walter Yetnikoff's case, he basically fell into the position of a music industry mogul with a quick decision to follow his friend to another company. He was unprepared for the life and responsibilities of a mogul, and his intelligence was not enough to compensate for that. Walter's success was definitely supported by the industry's boom following the introduction of the Compact Disk format, but it would be wrong to attribute it to that completely.

The next mogul managed to transform his 1970 discount record mail-order business into a worldwide commercial empire now consisting of over 360 companies. I am speaking of course, about Sir Richard Branson, the

English entrepreneur who formally established his Virgin brand in 1972, when he launched the record label Virgin Records. Luckily, the label's first release, instrumental artist Mike Oldfield's *Tubular Bells*, was a best seller on the British charts. The label went on to sign hit makers such as The Rolling Stones, Genesis, Simple Minds and Culture Club. Branson also earned praise for funding controversial artists like The Sex Pistols, whom other labels were reluctant to sign, as well as artists who produced a more obscure, avant-garde sound (Woopidoo).

Over time, Sir Richard's Virgin Empire began to accumulate companies. In 1984, he launched his international airline Virgin Atlantic Airways. However, in a move to keep the airline business afloat, Branson had to make the difficult decision to sell Virgin Records, the epitome of his Virgin brand, to EMI in 1992 for one billion dollars. Awarded knighthood in 1999 for his contribution to entrepreneurship, Richard himself declares that he is constantly looking for a new and interesting business to start. Airlines, radio stations, health clubs, bridal shops, hotels, television, mobile phones, railways and travel agencies are among the many companies that have been "Virginized". One of the most recognizable brands in the world, Virgin's business expands to cover a wide range, from the United Kingdom to Australia, Canada, America, Asia, Europe and South Africa (Woopidoo).

With a net worth of approximately \$4.4 billion dollars, Sir Richard Branson has established himself not only as a music and business mogul, but also as a humanitarian and philanthropist. A major supporter of environmental preservation, he pledged in 2006 to donate the personal profits from his airline and rail company, an estimated three billion dollars, to the development of energy sources that won't contribute to global warming. In 2004, Richard launched Virgin Unite, a charitable vehicle to utilize the many global resources of the Virgin Group and help tackle important worldwide challenges, particularly HIV/AIDS, TB and malaria. Branson has also supported many health and education projects in Africa, helping to found the Branson School of Entrepreneurship at the CIDA University in South Africa. Says Branson, "with extreme wealth comes extreme responsibility. And the responsibility for me, is to invest in creating new businesses, create jobs, employ people and to put money aside to tackle issues where we can make a difference" (Coughlan).

As a music mogul, the pressures of living up to his extreme reputation consumed

the life of English manager, agent and businessman Don Arden. Nicknamed "Mr. Big", "The English Godfather" and "The Al Capone of Pop", Arden achieved notoriety in England for his aggressive, and sometimes illegal business tactics. The most legendary incident occurred in 1966, when Don and a gang of large companions are rumored to have dangled Robert Stigwood off a balcony after he tried to convince Arden's band, Small Faces, to change management. Arden is also infamous for pursuing the band Skip Bifferty in a high-speed car chase after they attempted to end their management contract with him (Performing Songwriter).

Arden helped his acts achieve fame and considerable sales through "hype" their records. He claimed the process to be legitimate, paying housewives to purchase around five records from each record store in their area, which Arden then supplied to DJs and ballrooms. His greatest period of success was in the 1970's, through his management of Electric Light Orchestra, Black Sabbath and the solo career of Black Sabbath's lead singer, Ozzy Osbourne. Arden relocated to America in 1977 and founded his record label, Jet Records (Telegraph).

Arden's rough business tactics did not escape anyone, not even his daughter, Sharon. Their troubles began in 1982 when she married Ozzy Osbourne and Don gave her Ozzy's contract as a wedding gift. However, when Sharon tried to break Ozzy's contract with Jet Records, Arden sued his own daughter in a case that was settled at one million dollars. Their estrangement lasted for twenty years.

So, what does it take to be a successful, levelheaded music mogul? To help answer that question I turned to the former president and CEO of Standard Broadcasting Corporation, a family radio empire that grew from five stations in 1985 into a dominant fifty-two-station force on the Canadian airwaves. Gary Slaight's first venture into radio began on the campus of the University of Western Ontario, where he volunteered at the student radio station. However, that was not how he became interested in the music industry. In our e-mail interview, Gary said it was when "my father brought home the first Beatles LP when he ran a radio station in Toronto...CHUM...the year was 1964" (Interview). Gary's father and his "biggest influence", Allan Slaight, is the man who started the radio empire that Gary fully took over in 2000.

His first job in the business came in 1973, when he joined McLaren Advertising's media department. He then moved on to work

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in promotions at Quality Records and WEA Records before joining his father's "up-start Toronto rock station", Q107, in 1977. Although it was his father's business, Gary did not move up the corporate ladder based on family ties. He filled many positions in Standard Radio Inc. before becoming the president and CEO of the company in 1987, following his father's purchase of Standard Broadcasting Corporation Ltd in 1985. After fully replacing Allan at both companies in 2000, Gary used his business smarts to establish Standard as a major player in Canadian broadcasting, gaining more than a twenty percent market share (Wedge).

When asked the motivation behind his difficult decision to sell Standard in October 2007, Gary wrote, "We felt that Commercial Radio was at its peak and faced difficult years ahead with the proliferation of new media...iPods, internet radio, satellite radio, etc. [Also,] young people just don't listen to radio as much as they did 10 years ago...as well we felt that the economy was in for difficult times...finally...we had worked extremely hard building our business and wanted to take time to do other things...especially in terms of philanthropy and music projects" (Interview).

Gary has lived up to his word. However, he has always been heavily involved in philanthropy, and was the 2004 recipient of the Award for Outstanding Community Service by an Individual Broadcaster from the Canadian Association of Broadcasters. He has been on the boards of the Toronto Hospital Sick Children, the United Way Leadership Giving Committee, is the owner of the Slight Family Charitable Foundation and is praised for his support of Canadian artists through the National Songwriting Contest, the Canadian Radio Music Awards, and the Homegrown Contest. Gary was also inducted into the Canadian Music Industry Hall of Fame in 2005 and the list of his achievements could go on (Wedge, Farber).

Concerning the changes in the music industry, Gary is not too worried, stating, "great music will [always] be heard and purchased" (Interview). A major supporter of Iceberg Internet Radio, Gary believes that the advent of the Internet has been more helpful to the industry than harmful. "The big issue", he says, "is what the music collectives charge for the usage of [online] music" (Interview). How has Gary Slight gotten through the life of a music mogul in one piece? Maybe it's his positive attitude, maybe it's his business smarts, or maybe it's that he never wears a suit without Converse sneakers. Whatever it is, Gary has definitely made it to the other side while still retaining

his sense of humor. When asked how he feels being called a music industry mogul, he wrote, "I guess it means I have been around for a long time...isn't a mogul a bump on a ski hill..." (Interview).

I wonder if there will ever be a formula for the successful music mogul. Through the history of the music business there have been those who have fallen under the pressure, and those who have risen to the challenge. I have definitely realized that the road to the top is full of challenges, hard work, and dedication, and that very few have what it takes to be the leaders on such a cutthroat industry. The tragic stories of Walter Yetnikoff and Don Arden can be seen as examples of what can happen when a music mogul is not stable, or well prepared for their success. However, it is the stories of men like David Geffen, Richard Branson and my personal favorite, Gary Slight, which will inspire future music moguls to put in the extra effort to achieve that same gratifying, music-filled life experience.

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Face The Music ! Latin America and the Song Protest Movement

By Silvina Moreno

It is somewhat interesting how people sometimes re-analyze the music business and the current social scene only after the death of an important political figure or musician. Tragedy, it seems, can sometimes trigger new ways of seeing life. It may be bold to state that even in an event as big as an artist's death, people tend to start appreciating what was supposed to be appreciated in the first place. Not the fame, not the money or popularity, but the message that this artist wanted to give to the world: the message behind the music.

The recent death of Mercedes Sosa, an Argentine singer and icon who was popular throughout Latin America and internationally, has mainly affected many followers of La Nueva Canción, a social movement that Mercedes Sosa and many other Latin American artists are involved in. So what is La Nueva Canción? What does this mean?

In 1970, when Salvador Allende won the presidency of Chile by a narrow victory, he became the first socialist to be democratically elected as the leader of a Latin American nation. As he greeted the cheering crowd, the banner above him read, "You can't have a revolution without songs." It was a testament to the powerful role music plays in creating social change. This role is the essence of Nueva Canción (new song), also known as Canto Nuevo or Trova.

The new song movement of Latin America saw its beginnings in Cuba's revolutionary nueva trova movement in the early 1960s as artists began to reflect the ideology of anti-imperialism. As life in Cuba changed, events in South America lead to the birth of nueva canción in Chile and Argentina, where musicians sang about the injustice and oppression in their homeland as well as the plight of the exploited indigenous populations. By the 1970s, many saw this music as a platform for protest, and the musicians would suffer the consequences of rising up against the imposed dictatorial regimes.

In Chile, the movement began in the 1960s with artists such as Victor Jara and Violeta Parra, who drew attention to the plight of the indigenous populations of their country. The same occurred in Argentina, with pioneers such as Atahualpa Yupanqui and Mercedes Sosa blending ancient Andean musical traditions with socially

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conscious lyrics. Nueva Canción in many ways reflected the solidarity between Latin Americans from various countries, and offered cries for peace and social justice on a worldwide humanitarian level. Also, Nueva Canción echoed the anti-American sentiment resulting from the Vietnam War, and the genre became a suitable platform for expressing anti-imperialist views.

This type of music brings a positive social message- lyrics that reflect the struggles of the people, and their desires for a better world. It is a music genre that combined Latin American folk music played on traditional instruments with politicized lyrics, which had deep respect for the working and peasant classes. It spread across Latin America and the Caribbean in the 1960s and '70s when musicians joined the mass uprisings that were calling for democracy, justice and an end to U.S. intervention. Most songs feature the guitar, and often the quena, zampoña, charango or cajón. The lyrics are typically in Spanish, with some indigenous or local words mixed in.

The '73 Chilean coup impacted the genre's growth in Chile, the country where it was most popular, because the whole musical movement was forced to go underground. During the days of the coup, Victor Jara, a well-known singer, songwriter and maybe the most popular figure of Nueva Canción, was tortured and killed by the new rightist military regime under General Augusto Pinochet. Other groups, such as Inti-Illimani and Quilapayún found safety outside the country. The military government under General Pinochet ruled until 1989 and went as far as to ban many traditional Andean instruments, in order to suppress the Nueva Canción movement.

While Chile has produced the largest number of Nueva Canción artists, its popularity pervades in almost all Spanish speaking Latin American countries, and it enjoyed some popularity in Spain and the USA during the 1970s.

Nueva Canción songs became political weapons used to attack unjust governmental systems and support revolutionary ideals while giving hope to the progressive movement. Its main exponents are Silvio Rodríguez, Pablo Milanes, Violeta Parra, Carlos Varela, Mercedes Sosa and Victor Heredia. In Argentina these songs were born during the regime of Juan Perón, and continued throughout the military dictatorship. In Brazil it is called Tropicalismo, and the main exponents are Chico Buarque, Caetano Veloso and Gilberto Gil.

There has always been a strong relationship between music and politics, particularly political expression in music. This expression has used anti-establishment or protest themes, including anti-war songs. In addition, pro-establishment ideas are also used, for example in national anthems, patriotic songs, and political campaigns. Many of these types of songs could be described as topical songs. Unlike many other types of music, political music is not usually ambiguous, it is simple yet effective and is used to portray a specific political message. We must consider the fact that in order to remember a certain melody or lyric, it has to be simple and recognizable enough in order to be memorized by followers. While the political message in music is apparent, it is important to analyze the political context of the time it was made. In other words, understanding the historical events and time that inspired the music is essential to fully understanding the message that was intended. Therefore, since political messages are meant to be heard by the people, this music is often meant to be popular.

Mercedes Sosa and her first husband, Manuel Óscar Matus, with whom she had one son, were key players in the mid-60s Nueva Canción movement (which was called nuevo cancionero in Argentina). Her first record was "Canciones con Fundamento", a collection of Argentine folk songs. In the early 1970s, Sosa released two concept albums. She also recorded a tribute to Chilean poet Violeta Parra in 1971, including what was to become one of Sosa's signature songs, "Gracias a la Vida". After the military junta of Jorge Videla came to power in 1976, the atmosphere in Argentina grew increasingly oppressive. At a concert in La Plata in 1979, Sosa was searched and arrested on stage, along with the attending crowd. Their release came about through international intervention. Banned in her own country, she moved to Paris and then to Madrid. She eventually returned to Argentina in the 1980's.

In the present, there are many artists who want to give a message to people, to raise social awareness and to go against unfair governments and war. Manu Chao (a French/Spanish artist who is internationally recognized) is a perfect example of this. Many of Chao's lyrics talk about immigration, love, living in ghettos and drugs, and often carry a left-wing message. This reflects Chao's own political leanings. He is also known to be very close to the Zapatistas (from Mexico). His band Mano Negra is possibly a reference to an anarchist group. He has many followers among the European left and the anti-globalization movement.

One of the best American examples of this is Joan Baez, a folk singer and songwriter known for her highly individual vocal style, and for her topical songs dealing with social issues and therefore her strong commitment to generating awareness for social change. In 1956, Baez first heard a young Martin Luther King, Jr. speak about nonviolence, civil rights, and social change. Several years later the two became friends, marching and demonstrating together on numerous occasions. Her experiences regarding Vietnam's human-rights violations ultimately led Baez to found her own human-rights group, "Humanitas International", whose focus was to target oppression wherever it occurred. She toured Chile, Brazil and Argentina in 1981, but was prevented from performing in any of the three countries, for fear her criticism of their human-rights practices would reach mass audiences if she were given a podium.

La Nueva Canción gives these oppressed musicians a voice. This type of music never gets old since it is from the heart, and it has a more lasting message in comparison to types of mainstream music that can be forgotten in a short period of time. This is the type of music that can move crowds, generate a positive effect on our societies, and change a community significantly. Through music, these artists have been able to express their opinions to the world and fight for justice. The power invested in music is underestimated when people classify genres and catalog music as just another form of entertainment.

In these times more than ever poetry and songs are the best weapons for peace. The inspiring lyrics of these musicians express a respect for Latino culture, a demand for better social and economic conditions for Latin America, and a quest for a better world for all people. Therefore, music can be used for deeper goals besides entertainment. It can contribute to bigger causes, generating awareness, promoting social change and reaching the people's hearts through art, instead of violence and war.

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Finding Hits with Modern Technology

By Jamie Anderson

With the advancement of musical technology, practically anyone can create a hit song from the comfort of his or her own home. Audio workstations like GarageBand, Logic, Pro Tools, Reason, and Digital Performer enable musicians to create, record and mix their own songs with ease. Although these products allow for easy access to an artistic medium for many, it's hard to tell if your song could be a hit. That is, up until now. A website called uPlaya.com caught the attention of many artists globally back in 2005 with its launch. Since then the website has evolved into a sort of hit song generator. Integrated with the technology of Music Intelligence Solutions' "Hit Song Science" (HSS), any artist can upload their song and within minutes determine whether or not it has the potential to break the Billboard charts.

The way HSS works is based on a series of algorithms. Upon hearing a new song, HSS will mathematically analyze the underlying patterns in a track, including harmony, bass lines, chord progressions, and lyrics. These results are then compared against past hit recordings from a wide range of genres and languages. With all this information the program will enter it into a multidimensional grid or matrix, referred to as the "uPlaya Music Universe" on the website. Music that has been submitted is rated on a scale of 1-10. Scores of 7.00 or higher mean that the song is a potential hit. While lower scores don't necessarily reflect poor musicianship, they are meant to inform the artist or artist intermediary if that particular song will make it to the top of the charts based on past hits. Despite the fact that the songs submitted are scored against "hit clusters" of music, or compressed files of popular tracks, songs rated by the program to be potentially profitable (7.00 or higher) are allowed as many unique components as contributors. David Meredith, CEO of Music Intelligence Solutions, reported that, "the songs that score the best include a certain amount of unpredictability in the music... Norah Jones is a great example of an artist who pulled from jazz and pop to create a sound that was different from other artists at the time, but the underlying patterns of her music was strong and the music scored very well."

Artists can upload two songs to the uPlaya site for free before having to pay a \$90 six-month subscription fee. This subscription allows fifteen additional uploads within the six-month period. If you've uploaded fifteen songs before the end of your premium membership (6

months) there is an option to pay yet another \$90 for the same ability to upload fifteen more songs. Once a member, songs that have been uploaded and rated from an individual's account stay in the uPlaya database and are accessible by not only the artist, but the programmers and developers of the site as well as limited access to major record labels.

According to studies done at the Harvard Business School, HSS programming has an approximate success rate of 80 percent, compared to a mere 10 percent success rate for songs promoted by record companies as singles. This high percentage allows artists to utilize the HSS software for a variety of career launching decisions. That said, record labels have begun to utilize the client to determine whether or not they will sign an artist. According to The



San Diego Union-Tribune, "...record industry executives said they lean heavily on Music Intelligence Solutions' pre-release reports to weed out probable sonic duds." The uPlaya client has also gotten praise from newspapers, artists around the globe, and economists. Sony Music commented, "the kind of information Music Intelligence Solutions provides in their pre-release reports helps reduce uncertainty before releasing a given song," (Muff Winwood, Senior VP A&R). According to The Economist Technology Quarterly, "Music Intelligence systems that can distinguish hits from misses could change the way which music is made and marketed."

Certainly, technology has changed the face of the music industry, but does the introduction of HSS technology mean that all songs are going to sound similar in the future? Despite the fact that every song submitted is scored against a wide variety of genres and lyrics, it seems as if uPlaya is creating a sort of grid for musicians to work with. In having such structure for each song deemed a hit by the site, it leaves many wondering if there is any room for musical evolution. Music has always changed over time, spouting out new genres and waves of popular artists influenced by culture, individual experiences and global events. If big record labels start to rely solely on

HSS programming to weed out "unprofitable" songs, would the music industry fall into a rut? Would creative evolution come to a halt? Fortunately, artists will always have different influences contributing to the song writing process, inevitably making each song produced different from the previous. However, there is always the possibility that "mainstream" music and songs found at the top of the Billboard charts could slowly conform to a grid in such a way that listeners may get bored with new material.

With uPlaya's immediate success around the Internet (as well as looking great on paper), not all artists are inclined to jump on the algorithmic bandwagon. The idea of trusting a computer for input on a personal song or recording doesn't sit well with some. Alternative non-technological websites have been created to combat and compete with uPlaya. Garageband.com for example (not affiliated with the Apple GarageBand software) made it into the music scene in late 2007, operating similarly to uPlaya while still keeping its independence from the mainstream. Garageband.com doesn't use any HSS technology, rather it's a type of open forum where, once a member, one is free to browse songs, give feedback and upload original tracks for free. Since feedback is given from humans and not computers, there will not be as much accuracy or consistency within the comments, however the administrators of the website have implemented a system in which to keep track of fraudulent accounts (people who "down-rate" for no apparent reason), therefore making the site more enjoyable and friendly. While many artists are satisfied in using the uPlaya programming and simply getting a number as feedback, there are alternatives out there for those who would like to gather more input and not be branded by the success rate of a particular song.

The introduction of Music Intelligence Solutions' Hit Song Science technology has turned many heads in the music industry. All across the board, music executives are turning to the internet to find new stars. uPlaya has almost mastered the recognition of new hit songs by use of algorithms and multidimensional matrixes. Whether or not these trends in forums and technology will continue to grow is a decision to be made by record label executives and software programmers, although it's safe to say that for the short-term this technology is another useful tool for upcoming and established artists alike.

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- MySpace Free Fall
- Long Tail Questions

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