

The Hybrid Record Label

By Zach Rickers



In February of 2014, Warner Music Group and Shazam announced that they would enter into a “strategic collaboration” in which Warner would have access to Shazam’s user data and Shazam would have access to exclusive Warner content. Currently, when a user hears a song that they like, whether it is at a restaurant or on the radio, they can open up the Shazam application on their smartphone and hold the phone’s microphone to the speaker which will then analyze and identify the song title and artist that the user is listening to. Once a song is identified, the app logs data such as the time of day the song was “tagged”, the song being identified, and even where the song was tagged (if the user has location services enabled). This is the sort of data that Warner plans to use not only for A&R, but also for marketing and promotion purposes.

Advantages

Primarily, Warner will use this deal with Shazam to start a new Shazam based record label called “Big Data” utilizing data collected by Shazam to find new artists to sign to the label. Shazam already has charts, available to the public, created by calculating which songs are tagged the most by its users. But most of the top hits there are artists who are already fairly well known. For example, Katy Perry’s “Dark Horse” was number two on the Shazam charts on March 26, 2014 while that same song was also number two on Billboard’s Hot 100 chart. This is not the type of data that Warner will use in order to find artists for its new label. By using the data not readily available to the public on Shazam’s top charts, Warner will be able to analyze and recognize trends in upcoming, unknown artists. Many independent artists register their songs with Shazam directly because the exposure of having their songs being recognized can lead to higher sales. Because Warner will be able to see how frequently an unsigned artist’s songs are being tagged, the risk factor of signing a new artist will be lower. Warner will no longer have to put large amounts of capital towards promoting and developing an artist from scratch. Instead, Warner will now have data that will allow them to know beforehand what type of popularity and sales to expect from an artist.

The other largely beneficial exploitation of this data comes from Warner being able to have detailed information about its current artists and songs. First, the data will allow Warner to conduct control experiments to test the potential success for songs and artists. For example, Warner will now be able to play multiple songs by different Warner artists at one specific venue. Then, by comparing the amount of users who tagged each individual song, Warner will be able to identify which artist and song a particular test set of potential listeners would be more likely to purchase. Secondly, because Warner will be able to tell at what time the Warner artists and songs are tagged, Warner will be able to identify another specific trait of its target market: if any songs are tagged past midnight,

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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

In this, our final issue for the Spring 2014 season, our cover story is on Big Data. This new record label is the result of a partnership between the Warner Music Group and Shazam that will likely change A&R forever.

Copyright is always in flux, but now more than ever. The law should pursue a fair balance between the interests of creators and the public, which it hardly achieves. This makes the so-called copyleft challenge all the more relevant and worth covering. Also, the issue features an article on pre- and post- 1972 sound recordings, still a source of confusion among labels, rights holders, and, no surprise here, lawmakers. Keeping it in court, we provide an update on Pandora's recent victory over ASCAP.

Amazon has remained a formidable competitor to digital retailers like iTunes and to brick and mortar shops like Newbury Comics. With its existing infrastructure, Amazon looks to become the new one-stop shop for entertainment with new, on-demand music streaming. Apple and YouTube, of course, are playing the streaming game too and it is worth catching up with their efforts. Meanwhile, with over six million subscribers and a \$200 million credit facility, Spotify may be approaching an IPO. As streaming becomes a more logical choice for consumers, the company's position may well draw support from the investing public.

In the aftermath of the unusual album releases by Beyoncé and Skrillex, The Wu-Tang Clan intends to release one copy only of their latest release to the highest bidder. Wu Tang Clan's curious marketing ploy is worth noting, as is the fact that musicians are now becoming ambassadors for brands when in the past they would never dare.

Finally, Facebook's expensive acquisition of Oculus VR may be a barometer for the future of the music industry. If Facebook could dig deep to commit to virtual reality technology, music making may be next.

I am happy to pass along the role of Editor-in-Chief to Christian Florez, a distinguished co-editor and friend. I wish the absolute best to the MBJ and I look forward to reading the issues to come. Thank you all for your support; it has meant the world to me. **MBJ**

Kyle Billings, Editor-in-Chief



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BUSINESS ARTICLES

Hybrid Label (cont.)

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for example, it is likely that a younger crowd is involved. Lastly, the most beneficial use of the data is likely that Warner will now have access to where its content is actually being tagged (so long as the user has the location services turned on). If a label can tell that a particular artist is being tagged in a particular region, then a label can plan tours, concerts, and other events, in that particular region. The result would be a higher attendance rate at events leading to more album and merchandise sales.

There is one possible problem with the deal: In December 2013, Shazam provided an update which includes an “always-on” feature. Currently, Shazam has 88 million users worldwide which tag songs about 500 million times per month. While these large amounts of users can prove immensely beneficial, when users turn the always-on feature on, the app automatically picks up any song that it hears. At that point, users no longer have to make an effort to tag songs that they enjoy. Therefore, there is no way for Shazam to know if the 88 million users actually liked the song that they tagged or if the always-on feature incidentally tagged the song. As a result, Warner’s data would lose a degree of freedom. The specific terms of the deal have not been disclosed so it is hard to tell how this issue will be addressed.

Implications

The Warner/Shazam deal can also be used as a model for streaming services that are looking to start creating in-house content. Shazam has access to data that shows which unsigned artists have the potential to be successful, but so do streaming services such as Spotify and Grooveshark. Given their quest to acquire more paying subscribers, the question is whether these streaming services will use the data to sign new artists or instead use it primarily for the benefit of their existing roster. Shazam reduces the risk of signing unknowns, but it is less clear that it will precipitate higher risk-taking overall.

In February of 2013, Netflix premiered “House of Cards”, its first in-house series. Since then, it has been developing series for the purpose of getting more subscribers to its service (the series can only be viewed exclusively on Netflix, which requires a user subscription). The strategy has worked well for Netflix, whose user base has grown considerably since. In particular, streaming services could use the Netflix model as a way

to benefit from the data they collect. For example, Spotify could potentially sign an artist that has proven successful and pay for that artist to record an album exclusively for Spotify. Then, the album could be exclusively put on Spotify and only be available to users who pay for the subscription service. Therefore, the monetary benefit to Spotify would be measured by the growth of its subscription base.

It should be remembered that the amount of subscribers to streaming services has grown from 8 million in 2008 to 28 million in 2013 and there has been a 51% increase in subscription revenues just in 2013. These figures seem to indicate a watershed of change in the business and invite further reflection.

In particular, streaming services could act as traditional record label. They could find an unsigned artist and sign her to a record deal. Streaming services as ‘labels’ would then be able to license masters, manufacture and distribute physical copies of albums, and even possibly get a piece of the touring and merchandise pie. They could track song analytics, a selling proposition that traditional labels could not match in cyberspace, and because they would keep all the profits from distribution (Apple currently takes 33 cent out of every dollar of a download), there would be the likelihood of better recording contracts all around.

The Warner/Shazam deal appears to have allowed Warner better risk control in signing new artists and has the potential of breaking the shackles of business as usual. This is because the real kicker is that it may be providing a hybrid model for other companies to follow, where the old guards of the record business meet the wiz kids that stream and together they prosper. **MBJ**

A Singular Idea

By Christian Florez

The Wu-Tang Clan has been making headlines in past weeks as they recently announced that their new record, *The Wu – Once Upon a Time in Shaolin*, is only being pressed into one copy. Immodestly comparing their work to art pieces by Picasso, Warhol, as well as Beethoven and Michelangelo, they argue that, unlike a work of art, the popular nature of music lends itself to being inherently devalued. By limiting the copies of their album to one single pressing, preserved, of course, in a handmade silver box, they feel they can drive demand prices to levels currently expected for high art in non-aural mediums.

Once Upon a Time in Shaolin attempts to fly in the face of music’s desktop and smartphone ubiquity by making it almost completely inaccessible—and therefore capturing, to some extent, the glamour of the golden years of the business. The album was recorded in secret over six years with Wu-Tang’s main producer, Cilvaringz, and the entire production attempts to convey a sense of high-art, rather than an album created for mass consumption. The container for the album was “handcrafted over the course of three months by British-Moroccan artist Yahya, whose works have been commissioned by royal families and business leaders around the world”¹. Much like any other piece of art, this album is one-of-a-kind. According to Cilvaringz, “the plan is to first take *Once Upon A Time In Shaolin* on a ‘tour’ through museums, galleries, festivals and the like”². There will be a cost to attend, much like a ticket to a concert, and visitors will be put through heavy security to prevent bootleg copies and illegal recordings of the precious album.

Bids have already begun to pour in. Even before seeing the finish of the exhibition tour, “[t]he rap legends claim to have a \$5 million bid already on the one and only copy of their next album”³. Despite having fallen from the limelight, and thus far removed from the mainstream success that they experienced over a decade ago, their ploy has created a surge of attention. Still, in the wake of Beyoncé’s surprise album and other similar publicity stunts in the music world, this may prove to be one of the cheekiest attempts yet. There is already huge interest, and the Wu-Tang clan could potentially stand to make a handsome profit. This kind of attention, at the very least, boosts interest

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LAW SECTION

Copyright and Common Sense

By Griffin Davis



In May of 1787, the top political figures of a fledgling United States met in Philadelphia to draft a Constitution. They judged artistic expression and ingenuity as important to progress and recognized that the time of the great patrons had long passed. An artist's success, and that of an inventor, would in the future be tied to the marketplace. At the time, however, access to printing presses, for instance, was limited and there was no legal control over the dissemination of creative works—which meant that artists and inventors stood a good chance of not reaping any rewards for their talent. And so the framers of the Constitution recognized that they needed to step in “[promoting] the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.” American copyright, in short, was born.

Precedent

250 years later, in the digital age, art and commerce find themselves at a crossroads and so does American copyright. The framers of the constitution sought equilibrium between the rights of the creator and the need to disseminate works publicly. Yet, today copyright has evolved into a system that is mostly focused on maintaining both an artist's and a corporation's livelihood at the expense of the public interest.

This shift has drawn the ire of many creators, including Richard Stallman. Stallman, a computer programmer, recognized the incredible potential for software development of an open software licensing system. He created the GNU General Public License in 1989 and

marked the start of the Copyleft license. When applied to a software program, such a license allows for the free distribution and modification of the software as long as the modified version is shared under the same licensing terms.

Open licensing has been a great success in the software industry, with licenses similar to Stallman's giving birth to Mozilla's Firefox web browser, and the Linux operating system. Inspired by this success, a group of creators and intellectual property experts, led by Harvard professor Lawrence Lessig, decided to promote open by forming a Creative Commons interest group. Creative Commons's licenses, which are built on the idea of “some rights reserved”, as opposed to “all rights reserved”, allow the owner of a copyrighted work to design an open license based on her preferences. Licensors can control whether or not licensees can use their work commercially or as derivative works, and can require licensees to give them attribution and share the work.

Copyleft licensing has drawn criticism from the creative community too. Notable voices here include the Recording Industry Association of America. While these licenses do limit an artists' ability to monetize copies of their work, it must be said that a return to the old full paid model appears, since Napster, more and more out of touch with the times. It ignores the advances brought about by technology and threatens the delicate balance between the needs of creators to make a living and the needs of the public to access to a creative work.

Limit Terms

Copyleft licensing is only part of the movement for copyright reform. Other expressions of a new vision for copyright are the push for a shorter copyright term and for compulsory licensing of derivative works.

In the United States, for works created on or after January 1, 1978, copyright “endures for a term consisting of the life of the author and seventy years after the author's death.” To put this in context, let us look to pop star Taylor Swift. One of Ms. Swift's most popular songs, “Love Story”, was penned in 2008 when she was nineteen. “Love Story” would retain its copyright until 2139, i.e. 131 years from its creation. Yet Ms. Swift's life expectancy, barring a medical breakthrough, would be about 80 years. In fact, everyone alive today will be long dead before “Love Story” enters the public domain and Ms. Swift's monopoly on its use is lost.

Consider again how long after her death the work is protected. Based on the Center for Disease Control's life expectancy prediction of 78 years, an American would have to create a work before their ninth birthday for the pre-mortem term to be equal or longer than the post-mortem term. For personality theory, an intellectual property theory that views a work as an extension of the author's personality, this is anomalous: it seems odd that someone other than the author of a work has the potential to control the work for longer than the author controlled it (and surely the elements of the author's personality contained in the work would be greatly diluted during such a period, resulting in a work whose uses are in no way representative of its creator).

In effect, a copyright protection based on the life of the author is clearly biased toward younger creators, and presents the possibility of absurdly long copyright terms.

Derivatives

Among the six exclusive rights given to the owner of a copyright is the right “to prepare derivative works based upon the copyrighted work.” One of the most common derivative works is music sampling. Sampling, which was originally developed in the 1960's and became a prominent musical technique with the rise of hip hop, is the process of taking a portion of an

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LAW SECTION

Copyright (cont.)

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existing recording, known as a sample, and merging it with other samples or with an original composition. While the majority of early uses of samples went unlicensed, the landmark case of *Grand Upright Music, Ltd v. Warner Bros. Records Inc.* set the precedent that unlicensed sampling is in fact copyright infringement and will be prosecuted to the fullest extent of the law. To comply with copyright law, someone looking to sample must either obtain separate licenses for both the composition and the sound recording, or obtain a license for the composition and create a “sound-alike” recording. In addition to being very expensive, often to the point of being cost-prohibitive, this licensing system also allows the owner of the original work to block the creation of the work for whatever reason they choose.

To illustrate the detrimental effect that blocking the creation of a work can have, pretend for a moment that current copyright law, not patent law, governed inventions, and that the scientific community were focused entirely on personal gains instead of societal benefit. Now look to Thomas Edison who is credited as being the inventor of the incandescent light bulb, a creation that made possible all of the light-based technologies that we take for granted today. Mr. Edison invented the bulb in 1879 and died in 1931, meaning that the copyright for this invention would have lasted from 1879 until 2001. During this period, the introduction of another bulb, which can be viewed as a derivative of Edison’s bulb, would undoubtedly have reduced the market for Edison’s bulb. Given his economic interest in maintaining his bulb’s monopoly, Mr. Edison would have refused to license those derivatives, and light technologies such as the halogen lamp and light-emitting diode (LED) lamp which would not have been commercially available until 2001-- a clear loss to society.

Fortunately, the scientific community does not claim that personal profits outweigh the value of societal progression. Unfortunately, many artists seem to feel that their economic success and personal image do. As a result, far too many derivative works have not come to fruition or have been forced to rely on the fair use doctrine.

The best way to address this issue is through the introduction of a compulsory license for derivative works. In a compulsory licensing system, a licensee need only inform the licensor of their intent, pay them royalties set by statute, and comply with accounting processes set by statute. Contrary

to popular belief, compulsory licensing does not look to eliminate negotiated licenses, but instead to promote healthy negotiation by setting a legal minimum that a licensee can fall back to if they encounter a hostile licensor.

Critics of compulsory derivative works licensing have presented two main arguments against such a system. The first argument is essentially that an author has the moral right to decide how their work is used, and should be able to prevent it from being used in a manner that they find distasteful or have moral objections to. While most artists, and, for that matter, creators of any kind would love for their work to only be used for works they agree with, allowing them to do so prevents criticism, the allowance of which is at the cornerstone of our right to free speech. Without such a right, neither Thomas Paine’s *Common Sense* nor Harriet Beecher Stowe’s *Uncle Tom’s Cabin* would have seen the light of day.

The second argument is that it would be impossible to come up with a fair statutory rate for derivative works licenses. While it is true that it would be more difficult to determine that rate than the rates for compulsory mechanical licenses, it is far from impossible. In an article published on the *Tunecore* blog, Berklee’s George Howard suggests a potential payment system based on a “[a] sliding scale,” where “for a certain number of reproductions and streams, the sampler must pay the copyright holders a certain amount, and that amount increases when certain thresholds of reproductions or streams are met.” Though this is only one of many possibilities for a compulsory derivative licensing system, its suggestion has started a conversation around the issue, which is undoubtedly an important step towards the realization of this idea.

Prequel To A Standoff

Creative Commons has done well in bringing these so called Copyleft principles into the forefront of a discussion on copyrights. Recently, moreover, Register of Copyrights Maria Pallante called for a comprehensive review of the copyright act at a time when the Internet has greatly increased creator’s awareness of their rights and their involvement in the process of policy making. This arguably bodes well for a shortened copyright term and a compulsory derivative works license. On the other hand, there are still formidable challenges to overcome and the opposition is cash rich. MBJ

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in Wu-Tang’s previous albums.

The future of the album’s availability is uncertain. A record label may potentially purchase the album, which would allow them to make pure profit in exchange for a one-time expense. Although the situation remains unclear as to whether all the rights to the album will be transferred to the purchaser, the intent seems to allow the buyer to use the music however they please. A generous mogul might decide to make the music available to the masses for free. A pop-art collector might keep the album to themselves, content to have access to an extremely rare item that is unavailable to the rest of the world. A large corporation might purchase the album and use the music to sell various products, promote films, or create unique advertisements.

Clearly, this is a move that cannot be easily replicated. It would be impractical for most musicians to only make one copy of their albums, let alone make a livelihood. Seeking new music in museums, galleries, or Sotheby’s would be pretty artificial, while performers would have to deprive the public from their singular hit (‘The Emperor’s New Clothes’, anyone?). Wu-Tang may hope that more and more listeners will begin to treat music with the respect it deserves but is often not afforded. But if the group is trying to make a statement about the low value of music, its example is unlikely to reverse it. MBJ

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BUSINESS ARTICLES

Ad Nauseam

By Athena Butler and Linnéa Lundgren



Advertising revenue is quickly becoming critical in the music industry. This is in part because general mobile and tablet advertising income currently exceed desktop ad receipts by a factor of seven (desktop ads on their own are doing exceedingly well, showing an annual 7 per cent growth rate). As music goes with new devices, so goes the ad money. And, of course, a large part of this money ends up going straight into Google's coffers.

The ubiquity of ads in the music industry is observed, for instance, in artist branding, music and video synchs, live music, and, generally, all forms of music delivery services. Content creators and their intermediaries, such as the publishers and the record labels, are all affected.

Jay-Z's new album, *Magna Carta Holy Grail*, was chaperoned by Samsung, who bought one million copies to give away to users of their Galaxy phone three days before the official release. There were ample opportunities for publicity because, apart from anything else, the storyline was original: an A-list artist putting out an album with a consumer electronics and smartphone company underwriting the launch. Jay-Z's deal shows too that a regular endorsement, where a brand's logo might show up at concerts or in print ads, may no longer suffice for many top artists: they seem to seek as well an active role in the creative process of the product's marketing campaign.

In fact, music celebrities are now eager to call themselves creative directors and

brand ambassadors when there is some basic comfort level with a corporation's business. Examples are not hard to find. Beyoncé's has a deal with Pepsi, who is invested in the star's future; while Beyoncé serves as Pepsi's brand ambassador, the star will continue to draw on Pepsi to fund her career. Taylor Swift works Diet Coke; she makes money by keeping the product in the public eye and on-demand at concerts or otherwise. Variety Magazine reports that Justin Timberlake works as a creative director for Bud Light. Similarly, Pharrell Williams is active in publicizing Karmaloop TV, Alicia Keys has had a deal with BlackBerry, and Lady Gaga is reported to have signed with Polaroid. Now even Bob Dylan makes good income from ads, as his Super Bowl Chrysler commercial shows.

Today's competitive music streaming sites, moreover, attempt to offer free options to the public by using income from advertising to supplement their current losses. It makes sense. Nearly eight out of ten Internet users aged 16 to 64 have engaged in legitimate digital music activity in the past six months. But even in unauthorized sites, ads are prevalent. The Digital Citizens' Alliance estimated that in 2013 unlicensed music services earned as much a quarter of a million dollars from ads. The issue is a thorny one and the European Commission is pursuing legislation to stop this.

In the meantime, technology is creating more efficient ways to pinpoint ads accurately. YouTube and Vevo play high definition visual ads that often allow for user interaction. The Google AdSense system, which plants cookies in browsers, is quite sophisticated. An example of the new ad frontier can be found too in the free Internet radio site Hulkshare. As mobile ads will soon be more meaningful economically than radio, magazine, and outdoor billboards combined, the music market is in for a ride.

Still, there are issues. Streaming subscription services are useful because they deliver music rather than ads. In fact, Spotify and Deezer have implied they want to forgo ads altogether. The problem is that many sites, including the radio streaming site Pandora, wrestle with poor margins and need more ad revenue to sustain their growth. This in spite of the expansion in market: the Recording Industry Association of America reports that paid streaming subscribers went up from 3.4 million in 2012 to 6.1 million in 2013, while Spotify puts its global paid subscriptions at 628 million, and US collector Soundexchange distributed more than half a billion dollars in webcasting revenue.

But composition rights holders complain loudly about extremely low royalty rates from streaming services and increasingly advocate more advertising for revenue generation. Pandora, presumably, would be inclined to agree. Changing its business delivery model, however, risks alienating consumers. The same applies to Sirius XM, which is mostly commercial free. SoundCloud, which offers subscriptions to users that wish to stream content, has managed to stay ad-free up until now but it may be only a matter of time before this changes.

In the meantime, song placements in video and TV are becoming an ever-growing source of industry revenue. Nick Drake, for instance, could not find a market for his music easily, or at any rate command the sort of sales that he did after the VW ad in which he appeared. He sold 300,000 albums, by some estimates as much as one hundred times more what he would have done otherwise.

Artists, therefore, are focusing on the good economics of partnership deals. Indeed, the concept of 'selling out' to a brand is not the taboo it was once among content creators. Fans themselves seem to not to care much either about tying an act to a corporation or questioning advertising, so why would the artist? Besides, the ad free album was the cash cow of the business fifteen years ago, too long a time to wait for miracles when one is trying to make a livelihood in music. **[MBJ]**

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BUSINESS ARTICLES

Spotify's Time

By William Kiendl



The music industry once again is on the tipping point of another digital transformation, this time moving away from CD's and downloads and into the world of streaming services like Spotify, YouTube, and Pandora. As consumers continue to stream more music over the Internet and on their smartphones, major investors outside the industry are beginning to turn their heads towards a business model that may be the future of how we listen to music.

Spotify, which has more than six million paying subscribers, continues to be the leading company in the increasingly popular world of online music streaming. The subscription service has secured major funding both overseas and within the U.S and the company is valued today at well over \$5 billion, a staggering amount. To give perspective to this number, according to PricewaterhouseCoopers the worldwide digital music industry is expected to grow into a \$12 billion industry by 2016 at an annual growth rate of 7.5%.¹ Points of tension, however, include how the service will turn an annual profit, manage artist royalty payments, and increase its subscription user base.

The IPO

Spotify seems to be preparing for a multibillion dollar initial public offering in the U.S sometime this fall. Rumors first surfaced in February when the company published a job opening for an External Reporting Specialist to "prepare the company for SEC filing stands and set up all reports necessary to be SEC compliant." According to sources, the company also received a \$200m credit facility from Morgan Stanley, Credit Suisse, Deutsche Bank and Goldman Sachs.

The Stockholm start-up also recently acquired music intelligence company The Echo

Nest for an estimated \$100m.² This arrangement will give Spotify key tech information and data from a company that powers the majority of Spotify's competitors, including Rdio, iHeartRadio, Deezer and Rhapsody. It will also provide Spotify with a new source of revenue, through analytics on trending artists and licensing its technology to outside partners for playlist creation.

While the company has only entered informal discussions with investment banks and has yet to release any official statements on the matter, it is clear they are taking all the steps necessary to go public. In order for Spotify to launch a successful IPO however, it must show a healthier income sheet. The company's revenues more than doubled to €435m in 2012, but losses widened to €59m as receipts had to be paid to record labels and for licensing fees.³

The Partnerships

Spotify's financing rounds include investments from major companies and banks from outside of the music industry including The Coca-Cola Company, Goldman Sachs, Fidelity Ventures, and Technology Crossover Ventures. Clearly, as music-streaming platforms continue to expand around the world, key companies are turning their heads towards a model that appears to be the working when the majority of digital music companies struggle with building sustainable businesses.

Coca-Cola and Spotify first announced their strategic partnership in April of 2012. The deal, which combined the global scale and reach of the world's largest beverage company with Spotify's immersive music technology platform, is meant to give consumers around the world unprecedented access to the music they love. The agreement included utilizing Spotify's technology to power Coca-Cola Music globally and integrating Spotify into the Facebook and Timeline brands, the latter with an audience of over 40 million fans⁴. The deal also included using the Spotify API to reach new users through different applications – the first being a branded app used for the 2012 Olympics in London. As Spotify continues to tap new markets, these well-known consumer and social media brands plan to continue their unique partnership with Spotify in an effort to connect and share music with people around the world for their own purposes. In particular, Coca Cola's new interest in mu-

sic technology advances and demonstrates a potentially massive new source of investment for digital music companies⁵. Moreover, the storied VC firm Technology Crossover Ventures made its biggest investment ever betting on the fact that Spotify will either be bought handsomely or go public in the near future.

Global Growth

Spotify first launched in Sweden in 2008, and has since expanded into 56 countries including the U.S and most recently Philippines. Prior to launching in the U.S in 2011, the startup secured funding and popularity in Europe before expanding globally into new markets. The music service additionally landed key licensing agreements with Universal Music Group, Warner Music group, EMI Group, Sony Music Entertainment and Merlin bringing more than 15 million tracks to American users. The five music groups own a combined 17% share in the service⁶. Equity was traded in lieu of a cash payment for the music licenses. Digital music companies are increasingly faced with pressure to expand globally and gain market share. Spotify's competitor Deezer recently announced plans to launch its service in 200 countries including Canada, Latin America, Africa and Asia⁷. The company has yet to move into the U.S, due to market saturation (Spotify, Rdio, Grooveshark have already debuted there). The race to gain control of new territories will be marked by music streaming services ability to keep a local bend to content they feature on their platform across international borders.

Significance

As the digital music industry continues to grow and major investors begin to recognize on-demand streaming services as a progressive step forward for the business, big questions remain. Subscription services like Spotify and Pandora have yet to turn an annual profit, despite being on track to double by 2017. According to a new analysis, the barrier to profitability for streaming music is the 60-70% of revenue each services pays to labels, publishers and artists⁸.

Musicians have widely criticized Spotify's service claiming it is hurting the record industry and that both new and established artists are hardly getting paid royalties. In an effort to be more transparent on the topic, the company introduced a new Spotify Artist

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BUSINESS ARTICLES

A Trojan Horse Named Amazon

By Amanda Ruggieri



Amazon, one of the most storied online companies ever, may soon add music streaming to the list of services and industries it is a player in. Since January of this year, reports have been surfacing that it is preparing to compete with Spotify, iTunes Radio, and Rhapsody. It is currently attempting to negotiate with the record labels for catalog. The service, it is felt, would provide benefits to consumers, at least in terms of pricing.

However, the fear is that it might dominate the music industry as it earlier did the book publishing industry. This is because music streaming would add to Amazon's current movie and television streaming, online books, and general online retailing, and render the giant a one-stop shop for virtually all forms of entertainment (except, in the short-run, video games).

Amazon Books

Amazon first began selling books online in 1996. Now, the website not only sells both print and electronic books, it also publishes them. Beginning with previously self-published and out of print titles, Amazon soon expanded into different genres including mysteries, romance, sci-fi, and translations, and eventually into general fiction and nonfiction.¹ Amazon started its venture into book publishing by offering authors a larger percentage of sales, but no advance—thereby taking on very little risk.² Eventually, though, it became more aggressive and, in one notable move, outbid traditional publishers by \$100,000 for a memoir by Penny Marshall, the actress who played Laverne on the 1970s television show *Laverne and Shirley*.³

The publishing world, notoriously conservative and resistant to change, was suddenly forced to consider digital over print as the dominant form of book publishing. While

for some this may have been a welcome evolution, keeping up with the general shift to digital media, others disagreed and criticized the online retailer-turned-publisher. David Streitfeld complained in October 2011, “Amazon.com has taught readers that they do not need bookstores; now it is encouraging writers to cast aside their publishers.”⁴ Indeed, readers have been turning more and more often to the electronic version of books since the launch of devices like Amazon's Kindle.

In addition to the convenience of having access to a multitude of titles on one small device, the Kindle came with much lower prices for consumers. Amazon sold popular e-books for download onto the Kindle for \$9.99, much less than the \$20 or more for the print version. Amazon was able to make prices so low due to its wholesale agreement with the publishers, which gave the publishers half of the list price but no say in what that list price would be.⁵ This arrangement effectively kept independent bookstores out of the e-book arena because, unlike the massive Amazon, they could not afford to price books at less than \$10.⁶ Amazon's huge market share allowed it to dominate the competition, for example, by removing all 5,000 of the Independent Publishers Group's e-books from the site after the group refused to grant Amazon better agreement terms.⁷

Amazon kept its monopoly on the e-book industry until Apple, in promoting the iPad as an electronic reader, struck deals with publishers allowing them to set the price of the e-books it sold and taking a percentage from that. Unfortunately for Apple, those agreements resulted in a lawsuit from the Justice Department. The Justice Department sued Apple and several publishers—Hachette, HarperCollins, Macmillan, Penguin, and Simon & Schuster—for colluding to fix e-book prices.⁸ In its supposed attempt to prevent a monopoly,

the lawsuit helped Amazon rebuild theirs.

One concern over a company like Amazon having a monopoly on this segment of the book publishing industry is that when it offers books to consumers, it is doing so more to sell its other product, the Kindle, than for any creative value. Additionally, such low prices for consumers can mean lower royalty payments for authors. This is the same concern voiced by some members of the recorded music industry about Amazon's potential new music streaming service.

Amazon Streams

Amazon's proposed music streaming service would come carry an additional price tag to the current Amazon Prime subscription service. Amazon Prime subscribers currently pay a yearly fee of \$79 for free two-day shipping on Amazon products. The service also includes free streaming of certain movies and television shows. However, most Amazon Prime users do not take advantage of these services even when Amazon spends about \$1 billion a year on updates, probably because they are not even aware of their existence.⁹ Amazon may view music streaming as a way to get customers to see Amazon Prime as more than just a way to get free shipping for online purchases, as well as a justification for raising annual fees.

According to Billboard, the service would consist of a different kind of catalog from already established online music streaming services, like Spotify, and result in a different revenue system for record labels. It would be a relatively small catalog containing mostly older songs.¹⁰ Amazon is reportedly offering labels a fixed yearly amount to license their songs. That amount would be paid out pro rata based on the number of plays each labels' songs receives.¹¹ According to Billboard, Amazon is offering independent labels \$5 million a year and major labels \$25 million.¹² It may seem like large numbers, but they are miniscule in comparison with the supposed \$800 million in additional revenue that Amazon would receive from raising the Prime price from \$79 to somewhere between \$100 and \$150.¹³ Record labels are concerned about licensing their songs and helping Amazon gain customers by providing more bonuses for prime subscribers without sharing in the newly created value. They also fear they

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Amazon (cont.)

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are indirectly aiding Amazon in harming rival streaming services that also pay the labels to license songs.¹⁴ Despite some record label executives' reluctance to accept the terms Amazon is reportedly offering, they might not have much choice given Amazon's power in the music industry as one of the largest retailers of CDs and downloads.¹⁵

Negotiations are still taking place and Amazon has not yet got record labels to accept terms, but it appears to be following the same route it did when it began its book-publishing venture. The strategy is not that different. Amazon has recently hired several music business veterans as executives, similarly to when it hired Larry Kirshbaum, the former CEO of the Time-Warner Book Group, to lead Amazon Publishing in 2011.¹⁶ In 2012, Amazon hired Michael Paull, a Sony music executive, as the head of music operations and Drew Denbo, who formerly handled business development for Rhapsody and other streaming services, to handle its business development.¹⁷ Then, in 2013, Amazon hired Adam Parness, who formerly handled licensing at Rhapsody.¹⁸

One Stop Shopping

Amazon has already used its market share to sway the book publishing market against content creators and it could do the same with the music industry. The record labels, and by extension artists, will have to stand firm, for, without them, there would be no music for Amazon to stream. On the other hand, consumers will likely be attracted to the idea of an all-in-one entertainment source for movies, television, and books (even if Amazon's fee seems expensive). How Spotify would fit into the mix remains to be seen. If the new model for music acquisition shifts massively towards access rather than ownership, there should be room for both. Long-term, though, buyers have sought produce from one source, and the Walmarts of this world have left the single product store in the dust. Such could be the power, for good and bad, of Amazon. **[MB]**

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page, which attempts to break down in detail the business model and how royalties are distributed. Since 2013, the music streaming service has paid \$500m in royalties to rights holders and \$1bn total since 2009, totaling 70% of its revenue⁹.

The fundamental problem at hand, however, is the fact that users will still consume large amounts of music for free, but converting them to paying a monthly subscription fee is exceedingly difficult. According to MIDiA Consulting, only 4-5% of music consumers in America and Britain have signed up for subscription streaming. "If just 10% of the people in rich countries were to subscribe, the industry's fortunes would be transformed," says Claudio Aspesi of Stanford C. Bernstein¹⁰.

The music streaming market is still very young and will increase considerably in 2014. Smarter smartphones, faster Internet connections, and online cloud storage space will make this a very competitive space, especially as tech giants like Apple and Google are expected to roll out their own streaming services. Still, executives in the record industry are looking at this transition as the dawn of a new golden age. **[MB]**

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LAW SECTION

The Law and Pre-1972 Sound Recordings

By Matthew Limones



Certain sound recordings from decades ago are still considered commercially viable today. In fact, songs by Frank Sinatra, Etta James, and the Beatles are still heard on the radio. However, it has become unclear to what extent these sound recordings are protected by copyright law and which version of the Copyright Act pertains to which creative works.

Before understanding the different versions of the Copyright Act, it is important to understand the distinction in the law between musical works and sound recordings. Every song that is written, recorded, and released has two copyrights. One is the copyright for the song itself, which covers the underlying composition, the other is for the sound recording itself. Additionally, there is a distinction between copyright protection at the federal level, and copyright protection at the state level.

Copyright Protection for Sound Recordings

At first, the 1909 Copyright Act did not offer federal protection for sound recordings, leaving them under the protection of common law. However, in November 1971, Congress passed the Sound Recording Amendment, which stipulated that the 1909 Copyright Act offer federal protection to sound recordings that were fixed, published, and copyrighted on or after February 15, 1972. This amendment was later incorporated into the 1976 Copyright Act, creating a distinction between pre- and

post-1972 sound recordings as regards protection by federal law. The amendment also placed a limitation on the duration of copyright protection for pre-1972 sound recordings protected under the common law, which had previously been protected indefinitely. The Supreme Court ruled in *Goldstein vs. California* (1973) that common law protecting pre-1972 sound recordings was valid and enforceable, but the 1976 Copyright Act limited

the duration of common law copyright protection for pre-1972 sound recordings to last until February 15, 2067. This means that although sound recordings fixed, published, and copyrighted before 1972 are governed by state law, federal law requires they are provided no protection after 2067.

DMCA's Safe Harbor

Evidently, this dual system of protection and the conflicts between common law in different states caused some serious confusion leading to major legal problems in the music industry. These problems have been exacerbated by the digital reproduction and distribution of music over the Internet. In 1995, the Digital Performing Rights in Sound Recordings Act (DPRSA) was passed as an amendment to the 1976 Copyright Act to provide sound recording copyright owners with protection in the digital realm. However, because the DPRSA was passed when the Internet had not yet been used for certain types digital transmissions of sound recordings, its provisions were not specific enough to accommodate the new ways that music is being shared. As a result, in 1998 the Digital Millennium Copyright Act (DMCA) was created to amend the provisions of the DPRSA and extend protection to sound recordings in uses such as online music services. However, there was still some confusion about the new ways in which music could be shared between Internet Service Providers (ISPs) and their users. This issue was addressed in 1998 by The On-Line

Copyright Infringement Liability Limitation Act (OCILLA) of 1998, which created "Safe Harbor" provisions that decreased the liability of systems, and networks for the infringing actions of their users. However, these provisions did not specify whether the users of online music services, by way of ISPs, could use pre-1972 sound recordings, resulting in disputes over the DMCA's applicability.

Court Decisions

The dispute over the DMCA and pre-1972 sound recording has been the focus of several recent court cases. In *Capitol Records, Inc. v. MP3tunes LLC* (2007), several record companies motioned for summary judgment against MP3tunes, a music locker service, and argued that the safe harbor provisions of the DMCA did not offer protection for pre-1972 sound recordings residing in MP3tunes, and that MP3tunes had violated the rights of the copyright owners of pre-1972 recordings. The plaintiffs supported their stance by pointing out that the words "infringement of copyrights" in Section 501 of the 1976 Copyright Act only applied to works granted protection under federal law. However, the court's interpretation of the words "infringement of copyright" held that "copyright" in Section 501 includes protection under both common law, and federal law, and they decided that pre-1972 sound recordings were legally made available for anyone by way of the safe harbor provisions using online music services such as MP3tunes. Shortly after the Capitol Records court decision, there was another case, *UMG Recordings, Inc. v. Escape Media Group, Inc.*, that raised the same argument, this time regarding infringing actions by Escape Media, the parent company of the music-sharing site Grooveshark. Though the courts initial ruling was in lock step with the Capitol Records decision, the appellate court overturned the decision, ruling that the DMCA safe harbor provisions were not applicable to works that are not protected by federal law. Shortly after these decisions, the U.S. Copyright Office began to heavily advocate for Congress to include pre-1972 sound recordings under federal protection.

Public Performance of Sound Recordings

The issues surrounding pre-1972 sound recordings did not end with those two

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BUSINESS ARTICLES

Apple, Google, and the Streaming Stakes

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By Kyle Billings

cases. Another very important legal issue arose with pre-1972 sound recordings and Internet radio²⁰. In 2013, all three major labels realized that SiriusXM Radio was not paying performance royalties for broadcasting pre-1972 sound recordings. It is important to remember that terrestrial (AM/FM) radio only pays royalties for the underlying composition. However, music played by satellite radio (a.k.a. Internet radio), is a digital transmission that is considered a public performance of the sound recording, so when music is streamed via Internet radio, royalties are owed to the owners of both the composition and the sound recording of the song. The issue with SiriusXM Radio is that it has not paid royalties for pre-1972 recordings because these recordings are not protected under U.S. federal copyright law. A decision on the SiriusXM case has not yet been made, but it is evident that although February 15, 1972 draws the line between those sound recordings protected by state law and those protected by federal law, this copyright law technicality is causing serious problems.

Conclusion

It is apparent that Congress must do something soon to alleviate this confusion, as the issues surrounding pre-1972 sound recordings and how they fit into the digital era of music could continue to result in not only headaches, but also the loss of valuable revenue that is owed to owners of old, but still commercially successful works. Given how long these disputes have been occurring, Congress should have amended the Copyright Act to address the rapid evolution of technology. Although our copyright law was designed to ultimately benefit society, in recent years it has become a source of great confusion, resulting in the disruption and destruction of important revenue streams for some musicians. **[MBJ]**

The MBJ wishes to acknowledge the contribution of Don Gorder.



Apple and Google, the two companies that have most changed the fortunes of the music industry, are shifting their weight in preparation for the future of streaming-based music. Apple's iTunes is facing serious challenges to its download model and considering innovation. Google's YouTube, which introduced all of the benefits of music streaming to the world (endless choice, on demand accessibility, playlist creation, and cross-device functionality), is also due for an update. As faster computing power is empowering both buyers and sellers of recorded music, once novelty services like Spotify are for now taking center stage. Other services, such as Dr. Dre's Beats, are picking the industry apart. Monetization may remain a problem, but digital listeners today are becoming more likely to subscribe than to buy, which allows new players to seize opportunity.

It must be remembered that the launch of iTunes Radio was meant to bolster Apple's track sales. It has not, as a 13% dip in Q4 2013 orders show. The Pandora-like service may have attracted some following, but it appealed mostly to passive listeners who rarely interrupted their radio stations to purchase songs: just over one in a hundred users followed through with a buy. Now, speculation is that Apple will bring on its own on-demand streaming service—one where users can freely stream any song within its catalogue without restriction, as Spotify allows.

It is not clear where this new service will leave iTunes. A new interactive platform would attract a more "lean-forward" than "lean-back" listener. iTunes Radio, for instance, combined discovery and purchase, but unfortunately delivered content mostly to a passive audience. To emu-

late Spotify, a tool that is meant to dig deep into certain artists or genres, Apple would need to add in-demand functionality. The platform is already installed on millions of computers, and iTunes already recommends music, displays charts, and shows playlists.

Google's YouTube, of course, has become the world's biggest platform for music streaming. Musicians, labels, and music publishers use it mostly for promotion, while owners of all composition, video, and video synch rights to a song can claim ad revenues from their own YouTube channel. However, as Spotify and Beats steal the limelight, the income generating value of the service may diminish in relative terms, especially if subscriptions continue to grow worldwide.

In the meantime, it appears that YouTube may be building a more advanced derivative service called "YouTube Music", which will better address the current expectations of music creators, delivery curators, and music fans. Set to the so-called UX standards, it would include an audio-only option to save bandwidth on slower connections or mobile devices, maintain the massive catalogue of its parent, clean duplicates and unofficial uploads from search results pages, and organize content by artist, album, or featured playlists. Users with accounts could save original playlists and histories across multiple devices, and would receive detailed recommendations based on their activity. A paid subscriber account could freely access content without the interruptions of advertisements, and, like Spotify or Google's All Access, could download music and video for offline access. At the moment, Google maintains YouTube and Google Play as separate entities, but may very well benefit from the synergy of the services.

Moving Forward

Apple and Google are challenged to convert their successful histories into sources of competitive advantage. While a greater size can lead to a less agile response, both companies have existing platforms upon which to launch great streaming services into the market. For instance, Spotify, Beats, and Rdio require significant user investment to learn the interface, build playlists, and make customers comfortable with the experience; not so for iTunes and YouTube.

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LAW SECTION

Collecting From Pandora: A Brief

By India Thomson

Pandora has been in and out of the courtroom since it went public in 2011. It has had mixed results against SESAC, BMI, and ASCAP, always trying to lower the rates it pays songwriters and publishers. Beginning this past January, the streaming giant found itself in federal court once again, participating in a long awaited trial against ASCAP.

The lawsuit began late 2012. Pandora filed suit against ASCAP after the two were unable to agree upon a reasonable royalty rate. Sony and several others publishers had made attempts to partially pull out from ASCAP in order to deny Pandora their catalogues. At stake was how much Pandora would pay for the use of compositions over the next two years.

Pay the Artist

Both ASCAP and BMI negotiate and collect fees from businesses that play music. ASCAP, the American Society of Composers, Authors, and Publishers, represents high profile songwriters such as Beyoncé, Jay-Z, Katy Perry, and many more. The company currently represents around 470,000 members. CEO of ASCAP, John Lofrumento, pointed out that Pandora would not have business if it weren't for their members creating music. "Our fundamental position in this case is that songwriters deserve fair pay for their hard work," stated Lofrumento.¹

Lofrumento is not the only one voicing concern. Burt Bacharach, six time Grammy winner and world-renowned musician, recently published an article in the Wall Street Journal stating his position on the topic. In his article, titled *What the Songwriting World Needs Now*, Bacharach sympathized with other artists, explaining the difficulties of trying to make a living as a musician in this day and age: "Today many songwriters are being denied fair compensation as result of antiquated regulations that were conceived over 70 years ago for a different world."

Bacharach then continued to explain why this is: "The 1941 consent decree with ASCAP and [...] BMI were written when vinyl records were the hot technology. They were deemed necessary to ensure that these leading licensors charged reasonable rates for the use of the music played on AM radio, in restaurants and bars and other public places." Under these "consent decrees", ASCAP and BMI are

required to license a song to anyone who asks. "When the parties can't agree upon a price, federal judges are the arbiters of the value of our work-instead of the market place-and judges set rates without knowing what deals might be struck in a free market,"² Bacharach writes, describing a situation identical to the one existing between Pandora and ASCAP now.

Although those decrees were introduced before Internet radio existed, they still apply to digital media today. Pandora has a market cap of over 6 billion dollars. Yet, a songwriter earns 8 cents 1,000 plays of a song. In fact, Linda Perry was paid roughly \$350 for "Beautiful", which was played 12.7 million times on Pandora last year. Consent decrees guarantee songwriters "reasonable fees", but Bacharach argues that these current fees are far from reasonable. Pandora should be paying more, not less.

Recognize the Service

In contrast, Pandora contends that they are the digital equivalent of a radio station. The company believes they should be paying the same amount that regular, terrestrial radio stations pay to songwriters. Terrestrial radio stations currently only pay 1.7 percent of its revenue to songwriters and publishers, and Pandora considers these radio stations their main competitor.

ASCAP, on the other hand, argues that music is more valuable to Pandora's revenue than it is to terrestrial radio. The streaming service lacks sports-and-talk programs and plays fewer audio ads and should therefore pay higher rates. Money made from Internet streaming is split between publishers and music companies and, currently, music companies are making the bulk of the money. Pandora pays approximately half of its revenue to record labels, while only 4.3 percent of its revenue, mostly made from advertising, goes to songwriters.

Furthermore, Pandora is a non-interactive streaming service, meaning that users cannot control the songs they listen to and cannot choose to listen to songs on repeat. Other streaming services, considered interactive, such as Spotify and iTunes, must negotiate their fees directly with ASCAP. This rate is actually much higher than what Pandora pays at the moment.

Additionally, Pandora and digital rivals, including Apple Inc.'s iTunes Radio, have recently made deals to license music directly from individual publishers at much higher rates than what ASCAP has been charging for blanket licenses. For example, Apple has agreed to pay 10 percent of its revenue generated from catalogues on iTunes Radio to certain publishers. This is more than twice the amount that Pandora spends on publishing royalties.³

Court Ruling

Up until now ASCAP has charged streaming services either 1.85 percent of their gross revenue or .006 cents each time a user listens.⁴ Pandora has been paying an interim rate based on these guidelines since 2011. However, the case came to a close on Wednesday, March 19 when a federal judge sided with Pandora over ASCAP. The judge agreed with Pandora's position that it is more like terrestrial radio than other music services such as Spotify.

U.S. District Judge Denise Cote ruled that Pandora should continue paying a royalty rate of 1.85 percent of its annual revenues. ASCAP had sought after 3 percent, but Judge Cote determined that this rate was "unreasonable". The ruling declared that Pandora's rate should not be determined by what interactive streaming services pay.⁵

If Judge Cote had ruled for Pandora



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BUSINESS ARTICLES

Remarketing Twitter

(FROM PAGE 12)

By Nina Thistlethwaite

to pay more, it would have affected their bottom line, but probably not by much. Actually, the consequences for Pandora may be greater now that they have won. Songwriters and composers may decide to pull out of ASCAP in order to negotiate their own deals. Pandora will have to reconsider everything if this happens; they will technically be out of product.

As for ASCAP, which celebrates its 100th birthday this year, it may have to face the wrath of many publishers who will need more justification not to pull out from under the its umbrella.

Judge Cote's ruling, in short, will impact Pandora and ASCAP as well as the industry's traditional *modus operandi*. Internet radio companies may be forced to make more individual deals with publishers, leading to higher rates than charged by ASCAP.⁶ Songwriters will be further embittered, as they feel that the ruling only undercuts their ability to make a living. Although for now the decision may put Pandora on equal footing with other radio stations, disagreements over royalty payments will likely continue to bring instability to the industry and add friction between content owners and music providers. **MBJ**

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For more than a year, Twitter has been addressing music. Its 241m monthly users are closer now than ever before to bridging the divide between artists and their fans. A year ago it acquired the Australian-based music data platform We Are Hunted, after which it signed, in succession, Ticketmaster president Nathan Hubbard as head of music commerce and Bob Moczydlowsky, from the marketing camps of Topspin Media, as head of music.¹ Moreover, despite pulling the #Music app from the Apple store, Twitter has made some headway with partnerships and made some needed adjustments to their overall music strategy.

Initially, Twitter's flagship music app generated a buzz. It was launched on the iTunes store in April 2013 (and, before then, shared exclusively with a few celebrities like Wiz Khalifa and Ryan Seacrest). It reached its peak at #6 on the Apple's free app chart but was abruptly shutdown on April 18. The app was meant to enable users to find trending songs and to detect what music favorite artists were listening to. The concept was attractive, but Twitter could not make it work. Some reasons are listed below.

The effort was meant to entice an older demographic. The company announced the app on the popular morning show Good Morning America, a show geared towards an older crowd. But it was fighting a losing battle from the start: nearly one-third of 18 to 29 year-olds use Twitter, compared to one in ten of 50 to 64 year-olds.²

Also, user retention was hindered because Twitter had no music licensing agreements. As a result, it had to direct their

#Music users towards competitors like Rdio and Spotify to listen to the full song, and then only if the user registered. The alternative was a thirty-second preview in an iTunes snippet built into the app.³

Other factors to consider were the lack of integration within the main Twitter feed, which must have alienated registered users, and the fact that many were having difficulty understanding the methodology of the rankings. As Jay Frank, chief executive of the label DigSin, said "we had songs on our label that had more retweets than charting songs, yet we wouldn't show up on the #Music chart; after a few times of seeing the disparity, we just stopped looking".⁴ Indeed, #Music ultimately ranked at #165 in the free music app category rankings of the iTunes store—a dismal showing.

Fortunately for Twitter, interest in the social media site is still strong within the industry.

Lyor Cohen, CEO of Warner Music Group for eight years, recently launched the pioneering music company 300 Entertainment. A few well-placed individuals, he believes, can change the music business and pop culture for the better. The company concept goes back to the war between Sparta and Persia in 480 BC, "a battle that changed the way wars were fought; [if you forces were] well synchronized, strategic, loyal, with great planning and preparedness much more could be done with less."⁵ For instance, why would Cohen need to hire A&R staff in quantity when Twitter's data could help simplify the task? The idea behind 300 is to both to sift through Twitter's music intelligence and also collaborate with Twitter building tools to facilitate the discovery of promising talent. Cohen believes the social media company has not been given enough credit yet for how much it does for artists.

The Cohen-Twitter partnership has increased awareness of the Twitter brand in music. Billboard is now joining in. On March 27, Twitter announced a multi-year exclusive partnership to provide the world with "the first-ever real-time chart", aggregating data from conversations taking place on Twitter in the US. The live-chart will live on Billboard.com, alongside

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TECH NEWS

Music in the Twilight Zone

By John Lahr



On March 25th, 2014 Facebook made news again. Following the nineteen billion dollar purchase of high tech startup WhatsApp in February, Chairman and CEO Mark Zuckerberg announced it was buying virtual reality pioneer Oculus VR and its product The Rift for two billion dollars. The price tag implied Facebook valued virtual reality technology way above what analysts did and put the wind in a new gaming paradigm that, with the support of Facebook, could transform entertainment. In particular, Zuckerberg and the Oculus team share the belief that the typical user experience of the future will be at once more immersive and total. Advances in gaming technology, in short, could have far reaching consequences on music listening.

Virtual reality technology has been around since 1993 when Sega debuted its VR headset prototypes in *Popular Science* magazine¹. The technology, though, was underpowered, had latency issues, and caused motion sickness, headaches, and even nausea in many of the beta testers. The Sega project was shelved and, in the meantime, graphics and motion sensor technology advanced. The Rift's screen is key to its success and is made anew from an Organic Light Emitting Diode display. It has exceptional resolution and intelligent ergonomic design without blurring the picture when the user rotates his head by as much as 100 degrees.

When Facebook announced its high dollar purchase of Oculus, consumers and investors alike were aghast at the price. Shares

of Facebook slid nearly ten percent on the announcement². Yet this was a long-term strategic purchase, not unlike Google's acquisition of Android in 2005. The search engine bought the little known firm for the bargain price of \$50 million. Smart phones were just starting to penetrate the market. Now Android is in eight of ten smart phones worldwide. The Android example is also an illustration of what a small firm with a dedicated team of talented people can do when they have the resources and expertise of a large, successful company. By leveraging Facebook's deep pockets, programming talent, and connections Oculus has the potential to move beyond the gaming market it currently is focusing on.

Music Industry Applications

The Rift has the potential to make a lasting impact on the music industry. Visuals, of course, are becoming increasingly tied to music and the industry, both in the recorded and live music sectors. Artists like Dr. Dre have received overwhelming acclaim for incorporating holograms into live performances, and Beyoncé's recent video album has also helped move recorded music sales.

The Rift has already been hailed as a product that can give more immediacy to shows. This could be especially useful to concert or festivalgoers who often are forced to rely on large TV monitors to see what is happening on the stage. Audience members could experience being in the first row or on stage with the artist, as shown by developer Chris

Milk when he created a 360-degree audio-visual experience to simulate a concert with Beck.

This same idea can also be applied to streaming live concerts. By streaming the performance directly to the Rift, or by partnering with YouTube, the Rift could add extra layers to the performance and deliver it at the viewer's living room. This could be a new source of revenue for artists, particularly when a venue is sold out. It would also help artists reach the largest potential possible audience and put pressure on the secondary ticketing market ticketing, as Rift's ticket price would compete with the cheapest seats.

The Oculus technology can also be used to add supplementary content to traditional recorded music. This could include interactive music videos or, on a larger scale, adding an interactive or story telling element to concept albums. It would increase fan engagement and provide more outlets for artistic creativity.

Closing Thoughts

The Oculus Rift is the first viable attempt to integrate virtual reality into our everyday lives. From dating, to sports, to games and to music, the potential for virtual reality to add to real life experiences is great. By providing artists with new ways to engage fans and create alternative streams of revenue the Rift might transform the way music is consumed—just as YouTube did in 2006. Mark Zuckerberg's two billion dollar gamble could pay off. **[MBJ]**

Endnotes

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Streaming Stakes (cont.)

(FROM PAGE 11)

Streaming services remain at the mercy of mobile connections and the smartphone experience. That is why Beats Music has recently inked an agreement with AT&T to bundle services with data plans, and Spotify has announced a partnership with Sprint. Verizon Wireless remains uncommitted, but is likely fielding offers from several companies. Apple and Google operate a sizable majority of mobile hardware, which presents a quick channel to market penetration. And partnerships with telecoms may soon become even more significant if the auto market adopts service providers like is expected to happen to Volvo with AT&T in 2015.

Apple and Google may be resting in the shadows as the current streaming industry thins itself out through competition. But both enjoy very deep pockets of readily available cash and have a history of being innovative. They could be the ultimate winners of the streaming stakes if they made it their priority. **MBJ**

Remarketing Twitter (cont.)

(FROM PAGE 13)

the 200 exclusive charts it houses, and will be shared multiple times a week on Billboard's Twitter page: @billboard. Twitter claims that the earlier lessons learnt from its #Music app are now being put to good use.

Artists and their fans are avid users of the social media platform and will be greatly affected by these various changes, possibly altering their interaction with the site. And as data increasingly becomes a commodity today, the key to lasting success is being able to discern what information is valuable, and how it can be used.

It seems that the San Francisco based company has taken an introspective look at who the people they cater to are, all while understanding how much others can benefit from their data. "We want music business decisions to be based on Twitter data", says Bob Moczydlowsky, "and we want artists to know that when they share songs and engage with their audience on Twitter, the buzz they create will be visible to fans and industry decision-makers." Twitter, in

short, is repositioning itself as more than just a micro-blogging platform, and the music industry is coming along nicely. **MBJ**

Endnotes

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