Copyrights and Permission to Use: Music, Movies and More

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Copyright Law

Title 17 USC 101-1332

A copyright owner has the exclusive right to reproduce, distribute, prepare derivative works and perform the work publicly or authorize another to do so. 17 USC §106

- Literary Works
- Art Works
- Motion Pictures and other Audiovisual Arts
- Music and Sound Recordings
Copyright Law and Music

There are 3 types of licenses available depending on the type of use

Mechanical
Synchronization
Performance
Public Performance of Music

Performance of a work publicly
(17 USC §101)

Music performed at festivals, fairs and concerts
Employee parties and functions
Elevator music
Telephone Hold Music
Performing Rights Organizations

- Broadcast Music, Inc. (BMI) (www.bmi.com)
- American Society of Composers, Authors and Publishers (ASCAP) (www.ascap.com)
- SESAC (www.sesac.com)
Public Performances
When might a license be needed?

- For events held and organized by a Port
- For events where a Port holds an event but it is organized by a Promoter
- For events on port property put on by a third party with no participation by the Port
Copyright Liability Exemptions for Certain Performances

• “Fair Use” (17 USC §107)
  Use of copyright material for the purpose of criticism, comment, news reporting, teaching, scholarship or research

• Statutory Exemptions (17 USC §110(4))
  A license is not required for a public performance of a musical work where the event involves no commercial advantage or private profit
Movie Nights
Are also Public Performances

- Movies shown to a group of people larger than a family circle

- Employee movie nights
- Summer movie nights in the park
Public Movie Showings

Types of Licenses Available

Full Licensing – License for one movie, one showing
  • Swank Motion Pictures (www.swank.com)
  • Modern Sound Pictures (www.modernsoundpictures.com)

Umbrella Licensing – Multiple Titles, Unlimited Showings
  • Movie Licensing USA (www.movielic.com)
  • Movie Picture Licensing Corporation (www.mplc.com)
Release Agreement for Employees participating in film, videos or marketing materials

- Permission to record employee, including appearance, likeness, image and voice
- Specific to a known production, not a “catch all” release for any project
- Include use for advertising and publicity of the production
- Employee releases all claims for invasion of privacy, defamation or misappropriation arising out of use of the production
- No termination of the agreement once employee appears in the production or recording
License Agreements for Filming Contracts

Issues to Address in the Agreement

- Confirm ownership of trademarks (use exhibit to attach samples of the marks), grant permission to use for stated purpose, and payment of license fees
- Limit or exclude merchandising rights of products using trademarks
- Permission to access property, port’s right to suspend filming
- Permission to film and use likeness of employees, any cooperation or tasks to be performed by port personnel
- Right to review and comment on production prior to publication
- Insurance and indemnification and other standard contractual terms
- Filming schedule