



Stolen Music: Will You Take the Rap?

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Web Site Editor's Note: Not only is this a subject close to my heart, it's a subject that seems to need constant and continual clarification. I was at a seminar recently where the iPod "solution" was bandied about, so it seems that many photographers still need to recognize that copyright also applies to music. I'm personally amazed that these same photographers, who will go after any and all violations of their copyright, will happily try to find any which way to get around the copyright of pre-recorded music.

Judging by the queries at OurPPA.com, there's some confusion about the copyright laws governing the use of music in photographic studios and other places of business. And no wonder, the rules could confuse Confucius.

Can you play the radio or recorded music in your studio without a license? Can you play prerecorded music in the camera room to set the mood? Can you use prerecorded music in your in-studio slide shows? Can you use it in CD albums that go home with customers? To promote your studio? Can you play a customer's prerecorded music (iTune downloads, recorded/published music on a medium he's purchased) in the studio or in a presentation to, or a multi-media product for that customer?

The shortest answer to all of those questions save the first — and even then with certain restrictions — is no. But that hardly does justice to this legal monkey's knot. Log onto the Members Only pages at PPA.com, go to Members Only Downloads > Business, and download "Photographer's Guide to Music Licensing," "Legally Playing Music in the Studio: A Step-by-Step Guide," and "The Five Steps to Legally using Music in Your Slide Show." These documents include licensing procedures, the names and addresses of the five major music labels and resources for locating the smaller publishers, contact info for the three U.S. performing rights organizations that handle licensing, and URLs for several royalty-free music providers.

PPA member or not, if you use music in any of the ways mentioned above, you could be courting danger. In court. Against the music industry with its deep, deep pockets and copyright law in its corner. Here's a quick, and by no means comprehensive heads-up:

If your studio occupies less than 2,000 square feet, playing the radio is a-okay. However, without obtaining a performance

license, it is illegal to play prerecorded music (music on CD, cassette tape, etc.) for direct or indirect commercial advantage, which applies to just about any use in your business within hearing of your customers.

Such licenses are provided by ASCAP, BMI or SESAC, depending on which one represents the copyright holder of the music in question. Safest bet, obtain an annual license from all three. The cost depends on certain variables, but expect to pay at least \$505 a year for all three. (Like PPA, ASCAP actually deploys "copyright police" to businesses to check for copyright infringement.)

As for using prerecorded, copyright-protected music in multi-media presentations of any kind for any purpose, just don't go there without obtaining a synchronization license from the publishing firm that owns the rights to the composition, and a master use license from the owner of the recording(s) in question, even for music on your customer's iPod.

Master license fees are negotiated individually. Off the record, you could barely afford even one, one-use master license. That's why there are royalty-free music providers you can access on the Web (such as uniquetracks.com, radio-mall.com and crankcity.com). It's not likely they'll have big-name performers, but you can probably find the ambience and tempo you're looking for. If you don't have time to wade through all that music, try turning over the entire production to a special photo trade service provider such as eMotion Media Inc. (www.emotionmedia.com).

— Leslie Hunt, PPA Magazine Features Editor

Thanks to Steven Morris, operations manager of the PPA Copyright and Government Affairs Department. For further information, call 800-786-6277, or e-mail the Member Service Center at csc@ppa.com.