Legally Speaking- Music Modernization Act 2018

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Interview with Ryan Leas, the financial struggles with music streaming providers. Crosby stated, “the streaming services, which is the direction it’s all going in, are worse. They don’t pay us at all. If you played Déjà Vu 10,000 times I could buy you a cup of coffee. Is that right? No, that’s not right.” Due to the lack of royalty payments by the streaming providers, Crosby noted that several songwriters and musicians are beginning to rely on concert tours to help compensate the lack of income.

The Senator’s comments reflect the Music Modernization Act that addresses the compensation issues of paying artists and songwriters, which had not been maintained during the past twenty years as digital streaming increased the changes in musical usage. Several bills were introduced to provide financial support for songwriters and artists during this time period, but most failed to get passed. The Music Modernization Act is legislation that assists in updating the copyright laws that benefit both the artists and the publishers, while collaborating with digital streaming providers.

The Music Modernization Act provides support for three previous acts. The CLASSICS (Compensating Legacy Artists for their Songs, Service and Important Contributions to Society) Act (H.R. 3301/S.2393), the AMP (Allocation for Music Producers) Act, and the Fair Pay Fair Pay Act (H.R. 1836). The legislation also closes the pre-1972 AM/FM radio loophole, provides compensation for producers and audio engineers through the “letter of direction” from the copyright owner, provides compensation to eligible participants of recordings made prior to the 1995 digital performance rights through the digital royalties, ends the “Notice of Intent” process to establish a Mechanical Licensing Collective to compensate artists efficiently, creates a publicly accessible database for sound recording royalties, and allows courts to set rates for sound recording royalties fairly.

As noted by Senator Hatch, the U.S. Copyright, legislation, and policies needed to be updated and created to maintain the growth of digital uses for music in order to properly pay artists and other contributing personnel involved in the creation of music. The process to create the Music Modernization Act took several years and attempts to create the legislation that a bipartisan leadership and leaders in the music industry could agree upon.

A portion of the Music Modernization Act was first introduced in the House of Representatives on April 10, 2018 by Utah Representative Bob Goodlatte that included the AMP (Allocation for Music Producers) Act, which was introduced by New York Representative Joseph Crowley on February 6, 2017. The AMP Act would allow the copyright owner to direct assigned royalties to producers, mixers, or sound engineers before November 1, 1995.

In addition, the Music Modernization Act reforms the U.S. Copyright Section 115 by eliminating the Notice of Intent and funds a Mechanical Licensing Collective (MLC) entity that would create a blanket music licensing for streaming and digital downloads, as well as a public accessible database of publishers and artists that would be governed by music publishers and songwriters. Writers will also have auditing rights, which was not established in Section 115. Furthermore, Section 115 will provide a legal standard to require courts to set conditions in determining royalty rates. This includes the “Wheel” approach that assigns district judges for rate settlements for the performing rights organizations.

Section 114 is repealed under the Music Modernization Act. The prior section stated that a performing rights organization could consider the sound recording statistics as a benchmark to determine royalty rates for artists. For instance, the performing rights organizations could base the fee of a song through sound recording sales, which could potentially lower royalty rates paid to artists. Currently, writers can provide other evidence to base the rate for songs to the judge, instead of the sound recording data.

Due to the unanimous bipartisan acceptance of the proposed legislation, it was able to move directly to the president for his approval and eventually becoming a law through the “hotline” process. While it appeared the act was not met with opposition, the major satellite radio provider SiriusXM did have opposition towards the legislation, which did have two senators considering to vote against the legislation.
Sea Divers Implied-in-Fact Contract

MINNIEAR v. TORS. 266 Cal. App. 2d 495; 1968 Cal. App. LEXIS 1536

In the September ATG, our edge-of-the-seat exciting column made a glancing reference to “Sea Hunt,” the TV show that launched the career of Lloyd Bridges. Now our intrepid legal analyst has chosen to delve deeply.

Mid-decade of the 1950s, Harold Minniear dreamed up an underwater adventure series for TV. He had been in the picture business as a writer for 22 years.

Minniear brought in Lamar Boren, an underwater photographer. They agreed to collaborate in a pilot film. No written contract was ever executed, but Minniear was to bring ideas, talent, cast, writers, directors, script, film editor and artsy stuff. Boren would use his technical skills to film the pilot.

Next, Minniear hired Thomas Scott to edit and cut the film. Scott had worked for Ivan Tors and Ziv Television Programs. Scott worked at the Ziv lot on his own time. This was known to other Ziv employees. And Sea Divers was completed.

In 1956, Minniear held a showing of the pilot on the Ziv lot. Ivan Tors was invited. Tors was a seasoned producer for Ziv TV and at the time was doing a series called Science Fiction Theatre.

Tors pronounced the pilot excellent and said he was interested in doing a series of underwater skindivers. “Where do we go from here?” he asked.

Minniear said he had enough ideas for a full season and described one where a jet pilot is trapped underwater. Producer Tors began Sea Hunt for Ziv. And hired Boren for underwater photography. And tried to hire Minniear’s leading man as an actor.

This actor’s name has vanished from history. Was he being ethical in his refusal? If so, why didn’t he warn Minniear?

Not knowing what was going on, Minniear was unsuccessfully trying to sell Sea Divers. Boren announced he wanted nothing more to do with the Minniear/Boren project. Boren then sold the trapped jet pilot idea to Ziv for the first episode of Sea Hunt.

Is it a ruthless world or what?

Sea Divers and Sea Hunt both feature an ex-Navy frogman named Mike, commissions for dangerous underwater work, and California honeys in bathing attire. The pilot of Sea Divers has Mike hired to find a canister of smuggled diamonds.

Episode one of Sea Hunt has the trapped jet pilot. continued on page 53