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THINGS COMPANIES NEED TO KNOW ABOUT MUSIC LICENSING

Increasingly, marketing, training and sales teams turn to music as a way to attract and engage colleagues, customers and prospects. However, very few understand the licensing requirements associated with using music in presentations and videos. Whether using popular music or production music (i.e., music recorded principally for use in film, television and other visual media productions), if you and your colleagues are thinking about adding music to marketing, sales, and other corporate communications, understanding the unique licensing requirements for music is critical. Here are six items to consider.

① Music rights are complicated.

For any one piece of music, there are a number of licenses that may be required to enable what seems a single use. For example, a public performance license enables a company or building to play music for an audience, but a synchronization (“sync”) license is required to set music to visual works such as movies, YouTube videos and even PowerPoint presentations. A mechanical license allows a company to manufacture copies of copyrighted compositions in forms such as CDs, records, and digital downloads, but this license does not cover any performance or playback of the work.

② A license from a Performance Rights Organization doesn’t cover all of your music licensing needs.

Performance Rights Organizations (“PROs”) only cover the public performances or playback of music for public consumption, not music sync or reproduction. A license acquired from a PRO (like ASCAP, BMI, or SESAC in the US, or their counterparts in virtually every other country in the world), covers public performances or playback for public consumption. Examples include playing a song in a cafeteria or on phone hold, but a PRO license does not allow the song to be synchronized with or played in coordination with a sales presentation or a video and it does not provide reproduction rights.

③ Companies need music synchronization rights.

Although individuals within a company may know about music synchronization rights and abide by the law, not every employee knows the legal requirements. Employees often add music from their own phones or the web to PowerPoint presentations or videos, not realizing their actions may be infringing on music copyrights. Furthermore, employees may confuse a public performance license with a sync license, believing that a PRO license covers their sync use. Businesses should be aware of the legal risks around music synchronization, and should purchase a license before any litigation arises.

④ Music rightsholders know how to defend their rights, and not having a sync license puts your company at risk.

The music industry earns its revenue from copyrights and so music rights holders are sometimes quick to take legal action against infringement. Lacking the proper license, whether by intentional act or an honest mistake, puts a company at risk for copyright infringement. Everyone from famous YouTubers like Michelle Phan, to politicians like Ted Cruz, have gotten into legal trouble because of a lack of sync licensing or other music-rights licensing, and with statutory damages as high as \$150,000, businesses are well advised to be careful.

⑤ Not all licenses are created equal, and neither are all licensing organizations.

There are a number of companies that offer sync rights for businesses. However, it's important to consider the reliability, reputation and resources of that company. Even those that offer indemnification may not be able financially to adequately defend against infringement claims or pay damages. As the quality of the indemnity varies from company to company, knowing from whom your indemnity comes and whether it is a trustworthy source is essential when getting a sync license.

⑥ Failure to clear permission to use music can lead to reputational harm.

Musicians have huge public voices, and can use these voices to leverage support against your company if they feel aggrieved. They will use their voice to complain not only about infringement, but also complain about your company and its products.

The right music can make all the difference in helping marketing, sales and corporate communications professionals engage with and inspire their audience, but without a clear understanding of the licensing requirements around music rights, companies could be at risk for copyright infringement.



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