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Music Licensing

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Business Owners: Are You Streaming Music?

The digital age has not only transformed the manner in which individuals listen to music, but also the ease by which businesses can stream music into their public spaces. The convenience of digital media players and music streaming providers such as Apple Music, Pandora, and Spotify, however, has also made it far easier to run afoul of the law as it relates to the public performance of recorded music.

Under U.S. Copyright Law, the copyright owner of a musical composition has the exclusive right to perform that composition in a public space, regardless of whether that “performance” is live or recorded. Any business that wishes to “perform” a work must first obtain permission from the owner and pay a royalty for the right to perform it. So how does a business owner go about obtaining permission?

Obtaining the Necessary Licenses

In order to avoid potentially costly penalties associated with copyright infringement, businesses have the option to obtain “blanket” licenses from one or more of the major performing rights organizations (PRO’s) such as ASCP, BMI and SESAC, organizations that administer and oversee the public performance rights of their member-artists. Each PRO typically requires exclusive affiliation from their member-artists, so a license from one PRO will only authorize music from artists included in that PRO’s catalogue. PRO blanket license fees vary based on a number of factors including the size and type of venue and whether live music is also performed.

The introduction of streaming music services has further simplified the licensing process for digital music performed through those platforms. Services like Pandora and Soundtrack Your

Brand offer commercial subscriptions that are fully licensed for standard business use.

Apple Music, which does not yet offer a commercial subscription, appears poised to offer a similar product in the near future. Fees for these commercial subscriptions are generally higher than those for private use, but still less expensive than licensing from the PRO’s directly. Commercial subscriptions do come with some limitations, such as being restricted to a single venue and, in certain cases, a single location or “zone” within that venue. The selection of music streamed through these business subscriptions is also limited to the catalogue licensed by the PRO(s) with which that particular service has partnered. That said, many of the major streaming music providers have partnered with multiple PRO’s, resulting in a far more comprehensive catalogue of available music than can be obtained through a single PRO license.

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