





# Entertainment Law

Broad term that refers to legal practice in and around the entertainment industry

- Corporate/transactional work for entertainment companies
- Finance, Licensing, Distribution deals
- Litigation involving people, businesses, or content in the entertainment industry
- Artist representation

Entertainment companies  
have all the same corporate  
legal needs as non-  
entertainment companies

Definition of an "Entertainment Company" is expanding with changes to how content is delivered and as more traditional businesses become savvy in using media to create customer experiences.

# GOOM



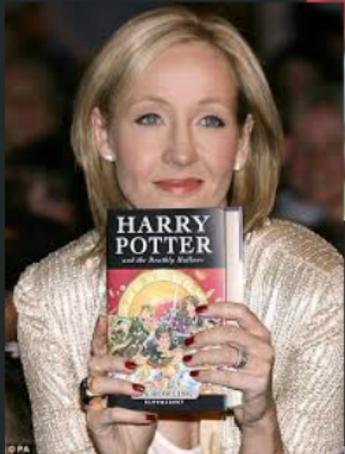
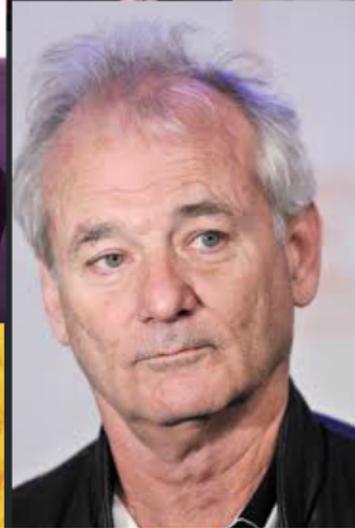
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# Artists

"Artist" or "Talent" can refer to anyone who creates, performs or is just famous



# KNOWLEDGE

CONTRACTS

EMPLOYMENT  
LAW

INDUSTRY NORMS  
& PRACTICES

CASE LAW

ACCOUNTING

**IP**

# COPYRIGHT

BASICS

OWNERSHIP

TRANSFER/ASSIGNMENT

LICENSES

FAIR USE

INFRINGEMENT

PUBLIC PERFORMANCE

DERIVATIVE WORKS

# BIAAS

Based on US Const. Art. I, Sect. 8 Clause 8; 17 USC; most recent updates 1976 + 1998 DMCA

Protects **original**,  
Doesn't have to be novel or unique  
1. Minimal degree of creativity  
2. Independent creation  
creative **works** that  
Literary, Musical, Recordings, Dramatic,  
Audio/Visual, Architecture, Choreography,  
Photographic, Graphic, Sculptural.  
Expression vs. Idea.  
have been **fixed** in  
Paper, film, vinyl, hard drive, etc...  
Unrecorded, live improv has no protection.  
a tangible medium  
for a limited **term**.  
Life + 70 years ... or 95/120.

# §106 Exclusive Rights:

- **Reproduction**  
The right to make copies
- **Distribution**  
The right to do something with those copies
- **Derivative Works**  
The right to make works based on another work
- **Public Performance**  
Musical Compositions v. Sound Recordings
- **Public Display**  
E.g., to show a film in theaters.

## Work for Hire §101

- Work created by employee within scope of employment; **or**
- Special commission to contribute to a collective work. E.g., a film or compilation, but **not** a song or recording.  
Must be in writing
- Always include an assignment provision in contractor agreements!

# MEMBERSHIP

§ 36. Ownership can be transferred to another person without the owner's approval as long as they are an owner.

# TRANSFER/ASSIGNMENT

§ 201(d) - Copyright rights can be transferred/assigned in whole or part.

# USE

For the Order on Copyrights go for case law updates.



# LICENSE

A License is a promise not to sue for what would otherwise be infringement.

© ————       
Most licensing is negotiated at arm's length, except in the music industry where there is a complicated morass of compulsory licenses, collective licenses and statutory rates.  
 



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fringement.

# FAIR USE

§107 - Certain uses are deemed not to be infringement when used for purposes such as criticism, comment, news-reporting, teaching, scholarship, or research

[Fair Use Index on copyright.gov for case law updates.](#)

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# INFRINGEMENT

§501: Exercising a Sect. 106 right owned by another without a license or fair use is infringement.

PERFORMANCE



# FRINGE

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State damages awards for willful infringement up to \$100,000 per work.

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# PUBLIC PERFORMANCE

§114 No public performance rights for sound recordings except for digital transmissions licensed via SoundExchange.

# DERIVATIVE WORK

# PERFOR

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# PERFORMANCE

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# DERIVATIVE WORKS

# OTHER IP

- RIGHT OF PUBLICITY
- RIGHT OF PRIVACY
- TRADEMARK
- TRADE SECRETS
- PATENTS

# Recent Decisions and Developments

Individual Performance

Hey! I Wrote That!

Pre-1972 Recordings

Radio Royalties for Recordings?

Cable Set-Top Boxes

Secondary Liability

Sampling

Streaming Mechanicals

OTHER IP

- RIGHT OF PUBLICITY
- RIGHT OF PRIVACY
- TRADEMARK

# Individual Performance

Leto v. TMZ - Actor has no copyright in video  
filmed by former videographer (follows Google  
v. Garcia)

# Pre-1972 Recordings

Plaintiffs seeking digital public performance royalties for pre-1972 recordings.

# Recordings?



# Secondary Liability

# Recordings

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Capitol Records et al. also sued SiriusXM (Settled for \$210M) and Pandora

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# ROY

ABS v. CBS - CBS wins on a technicality

# NO

The US is way behind the rest of the industrialized world on this one. Over 75 countries, including most of the EU recognize this right.

# developments

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Prezi

# Recordings?

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# Recordings?

# Secondary Liability

Conflict between content stakeholders (the victims of piracy) and intermediaries (ISPs, Google/YouTube, Facebook, etc...)

Lenz v. Universal - Must consider whether the use is fair use before issuing takedown notice.

# Streaming Mechanicals

MM suits - lawsuits for songwriters.



Facebook has been removing videos of fans doing cover versions of famous songs. YouTube has developed a rights management system to compensate songwriters, but FB has not.

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# Radio Royalties for

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# Cable Set-Top Boxes

FCC proposed a rule to "unlock the box"

# Sampling

Newton v. Diamond, 349 F.3d 591 (9th Cir. 2003) (saw a three-note sequence was *de minimis* and therefore

Bridgeport Music, Inc. v. Dimension Films, 410 F.3d 792 (6th Cir. 2005) (unlicensed sampling of *de minimis* of a sound recording, no matter how small, is infringement)

9th Cir. Court of Appeals in Madonna case: single horn stab was *de minimis*



Prezi

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# Streaming

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# Hey! I Wrote That!

Got to Give It Up - Blurred Lines  
I Won't Back Down - Stay With Me  
Taurus - Stairway to Heaven  
Let's Get it On - Photograph  
No Rain - Insane

# Radio Royalties for R



Prezi

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# PLAY

Got to Give it Up - Blurred Lines

I Won't Back Down - Stay With Me

Taurus - Stairway to Heaven

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No Rain - Insane

# TOP BOXES

# Sampling

Bridgeport Music, Inc. v. Dimension Films, 410 F.3d 792 (6th Cir. 2005) (unlicensed sampling of **any portion** of a sound recording, no matter how small, is infringement)

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