

Sports, Music Copyright Licensing, & Media Liability



A fan in the stands posts a live video to Facebook during a game tagging the event and team. A team plays a newly released fight song from the radio during a rally. A sports reporter interviews a player in the locker room while music is playing in the background. What do these events have in common?

Every one of these situations could put your organization on the receiving end of a copyright infringement claim.

Whether inadvertent or intentional, playing a song or excerpt of a song without obtaining the proper copyright license could be grounds for legal action. While most leagues and venues purchase a blanket license for the right to play certain music, that license does not necessarily extend to every time the song is played or every delivery method.

For example, for a live sporting event, your organization may purchase a license to cover the music played at the event. While that music is licensed for that event, it may not be licensed for situations in which fans are livestreaming the game with music playing in the background, and it may not be properly licensed should those videos make it to a social media site.

That becomes a problem when legal entities employ software that preemptively crawls the Internet searching for infringements of their clients' music. In an attempt to protect copyright, many music companies have started using this software to identify the biggest offenders.

Moreover, music synchronization claims could be costly. Music synchronization claims arise when a company or individual plays music in a format that is not covered by the license held. Each time the unlicensed music is displayed, viewed or shared may constitute an individual instance of infringement. Multiple instances of infringement will likely increase the damages sought by the copyright holder.

In order to protect yourself, consider the purchase of a media liability insurance policy. A media liability policy aims to provide coverage for claims that arise out of any multimedia, Internet and/or production-related activities, including defamation, invasion of privacy, emotional distress, copyright/trademark infringement and misappropriation, to name a few. Thus, a media liability policy may afford some protection against these music copyright claims.

PROTECTING AGAINST INFRINGEMENT

Even a broad-based media policy to protect your organization's activities cannot protect against every instance of infringement. Further, some insurance carriers have begun to add music copyright license exclusions to their media liability policies. With coverage, there is some level of protection. Without it, the organization is on its own when a claim or lawsuit hits.

To protect against any such incidents, a list of best practices that your organization can use to keep media liability exposures to a minimum follows:



Confirm if you have the exposure. Search across all of your social media pages and websites to confirm what sound recordings have been used. Then confirm if all audio material has the proper synchronization rights.

Remove any current or historical videos with unlicensed content. If you find instances of audio where synchronization rights were not secured, the easiest way to rectify the issue is to take down that content. Make sure the URL is permanently deleted; erase all traces of the material and its location.

Review your licensing. A blanket license can cover only so much of your music usage. Review your license to understand what it entails. For instance, does it extend to cover synchronization and sound recording? Does it cover the recording of a live event? Pay attention to the wording of the licenses, and look for those gray areas that could increase your risk of receiving a claim notice.

Consult legal counsel. When in doubt as to what your licenses cover or what risks your organization may have, seek the advice of your legal counsel. Reviewing the licenses with your legal team can help you stay on the right side of copyright law.

MEDIA LIABILITY PROTECTION

To recap, media liability insurance may afford protection but it is important to review your coverage. NFP has the industry knowledge and experience in claims handling to understand where your exposures lie and to help you build a solid media liability program for your sports organization. We have the ability to see trends as they emerge and alert our clients to the potential challenges that lie ahead.

The key to protecting against media copyright infringement is to understand where your exposures are and how to reduce the risks. Working with a broker who understands both the sports industry and music copyright exposures your organization may face will ensure you have the appropriate coverage. Through employing best practices and putting the right coverage in place, your business can safely upload music well into the future.

For more information, please contact Amanda Conforti at amanda.conforti@nfp.com.