WHAT'S THE SCORE WITH SYNCHRONIZATION RIGHTS

As the composer of a film or TV score or as a songwriter whose song is used in a movie, TV show, advertisement or video game, under the copyright law you own 100% of the copyright in your work from the moment you create the work and "fix it in a tangible medium." However, a composer or songwriter must be careful what documents he or she signs so that those rights are not signed away without fair compensation for the work.

When it comes to the use of music there are two copyrights: one in the musical composition or song and one in the sound recording which is the fixation of the sounds that make up the music. When music is used in synchronization with visual images, whether it is created especially for the particular score or whether it is a pre-existing song that the director wants to use in a scene in a TV show or film, this is referred to as the "synchronization" of music with visual images. Permission in the form of a synchronization license (sometimes referred to as a "synch license") must be procured by the makers of the audio/visual production from both the owner of the sound recording (the artist or record company) and from the owner of the song copyright (the songwriter or publishing company) Sometimes these are one and the same person or entity, sometimes they are not.

A synchronization license may take various forms. If a producer, director or music supervisor decides that a certain pre-existing song is right for a particular scene in a film, TV show, commercial or in a video game, then a synch license covering the master and the composition would be requested. Depending on the length and prominence of the use, if limited solely to use in the film the price can range from a few hundred dollars to tens of thousand of dollars, or more. If the movie company also wants the right to include the music on a soundtrack album, then additional provisions would be required for that use which would pay royalties for each record sold. Also, the song should be registered with the author's performing rights society (e.g., ASCAP, BMI, SESAC, etc.) so that revenues from performances in foreign movie theaters (U.S. movie theaters do not pay performance royalties) and from television broadcast can be collected and paid to the author.

On the other hand, a songwriter may be specifically employed to write incidental music for a film or for a TV commercial. Such an arrangement may be structured as a "work made for hire" whereby the songwriter is employed to write specific music which may ultimately be owned by the producer of the film. There is no set fee for such an arrangement - it can range from a few thousand dollars for a small budget project to hundreds of thousands for a blockbuster film score. However, in such circumstances, since the production company would own the copyright, the author may not be entitled to performance royalties from its performing rights society. This would depend on the negotiation of the contract between the parties.

Since this is a complicated area the details of which are beyond the scope of this article, I would suggest that if such an offer is made to any composer or songwriter, an experienced entertainment lawyer would be a good investment.

My advice on such matters to a prospective client is always "don't sign anything – other than an autograph – unless you have a lawyer review it first!"

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