

LUZKER & LUZKER — LLP —

Lutzker & Lutzker Newsletter June 2020

To our clients, colleagues and friends:

Music in our COVID-19 world has taken on an even greater than usual role as a source of comfort, sustenance, inspiration and just plain diversion. We've probably

all had tears in our eyes listening to the residents of Italy singing opera from their balconies. This “upsized” importance coincides with a fundamental change in the law that will affect the use of music online.

On January 1, 2021, copyright owners will begin receiving royalties under a complex new copyright regime enacted in the Music Modernization Act of 2018 (the “MMA”) that alters the way in which digital music providers (“DMPs”) do business with copyright owners. At the heart of the MMA are mechanical licenses, which are required to “make copies” of musical works and sound recordings every time they are streamed. These licenses will apply not only to music services – like Spotify or Apple - that stream music 24/7, but also to every website that uses recorded music as a backdrop for its content. We have outlined, in articles summarized below and linked to our website, the changes effected by the MMA and what users and copyright owners need to be doing now to prepare for this new regime. Included in the first article is a glossary of the alphabet soup of acronyms and terms being used in this new world.

Rate-making proceedings for the royalties will be administered by the Copyright Royalty Board (the “CRB”), which also oversees decisions regarding royalty rates and distribution of copyright licenses in cable, satellite and music. Arnie Lutzker has been involved in compulsory royalty proceedings before the CRB since its inception in 2004, and its predecessor agencies going back to 1978. We would be pleased to use our expertise in compulsory copyright licensing to assist both users and copyright owners in navigating the new music licensing regime.

Much more has been going on in the IP arena as well. We have continued to explore in our blogs the heightened fair use debate resulting from the pandemic as well as a trademark case argued before the Supreme Court in its first remote oral argument.

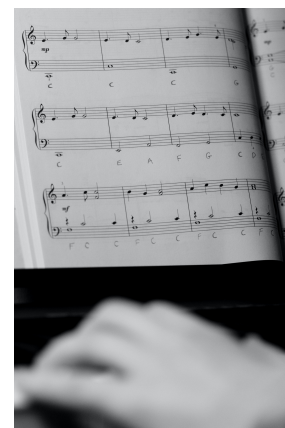
Don’t hesitate to reach out to us at info@lutzker.com with any questions and please stay safe.

Blog Posts from the Firm

Music Modernization Act: An Introduction and Glossary

The Music Modernization Act, signed into law in 2018, is altering how copyright owners receive royalty payments from digital music providers for mechanical licenses of musical works and sound recordings. It consists of three title sections, each affecting various parties involved in the creation of music that may be licensed.

[Read Here >>](#)



Music Modernization Act: A Guide for Digital Music Providers

Digital music providers seeking access to musical works in bulk must adhere to specific reporting provisions and payment procedures, whether they are major streaming services or less-trafficked company websites.

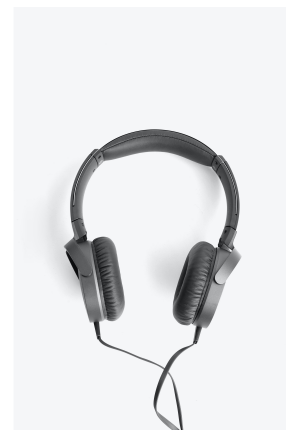
[Read Here >>](#)

Music Modernization Act: A Guide for Copyright Owners

Copyright owners may be wondering what the Music Modernization Act means for them. The MMA offers significant opportunities for copyright

holders, as well as previously ineligible artists and music production teams, to claim their fair shares of royalty payments.

[Read Here >>](#)



Booking.com: The Supreme Court Considers Whether “Generic.com” Domain Names Are Entitled to Federal Trademark Protection

On May 4, 2020, for the first time in history, the Supreme Court heard oral arguments through a telephone conference call in *United States Patent and Trademark Office v. Booking.com B.V.* The Court considered whether the online hotel reservation company, Booking.com, is entitled to federal trademark registration for its company name or whether simply adding “.com” to an otherwise generic term fails to create a protectable trademark under the Lanham Act.

[Read Here >>](#)

Internet Archive's Open Library and Copyright Law

With libraries at K-12 schools, universities and local communities closed, the Internet Archive provides an increasingly valuable resource for educators and distance learning. Before diving into this vast wealth of content, however, some caution regarding the copyright issues the Archive raises is warranted.



[Read Here >>](#)

Connect with us online



LUTZKER & LUTZKER — LLP —

Arnold Lutzker and Susan Lutzker founded Lutzker & Lutzker LLP in 1998 to provide high-quality, cost-effective legal services to businesses, creative professionals and their lawyers in the creation, strategic exploitation and defense of intellectual property assets.

Drawing on their experiences in law, business and the arts, our firm's lawyers have stayed on the leading edge of digital-era issues, including online content, social media, mobile applications, cybersecurity and data privacy requirements. We advise corporate counsel on challenging intellectual property matters and also help more than 300 clients protect and manage their traditional copyright and trademark portfolios.

Questions: please email us at info@lutzker.com



© 2020 Lutzker & Lutzker LLP All Rights Reserved.

This update is for general information purposes only and is not intended to provide legal advice. You should consult an attorney for advice regarding your specific situation. We invite you to contact us, but please be aware that contacting us does not create an attorney-client relationship between you and Lutzker & Lutzker LLP. The creation of such a relationship occurs only after client clearance procedures have been followed, including assurance that representing you will not create a conflict of interest. Therefore, you should not send us any confidential information since, prior to establishing an attorney-client relationship, the information may not be a privileged communication.

No longer wish to receive these emails from us? You can unsubscribe from this list.