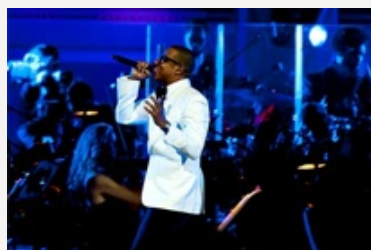




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Copyright Extension, Reversion Are Focus of Legal Panel at MIDEM

January 29, 2012

By Louis Hau, Cannes

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Entertainment attorney Bernard Resnick discusses changes to U.S. copyright law affecting works assigned to publishers in 1978 and thereafter. At right is Lommen Abdo's Kenneth Abdo. (Photo: Louis Hau)

Recent changes in U.S. and European copyright law may not seem like the most scintillating topic for a Saturday afternoon. But a MIDEM panel titled "New Horizons in Copyright Law" drew an overflow crowd at the Midem Academy room of Riviera Hall.

And no wonder. As three prominent entertainment attorneys explained, artists, labels and publishing companies will be profoundly affected by the European Union's copyright term extension and the pending reversion of U.S. copyrights to creators of works assigned to a publisher on Jan. 1, 1978 and thereafter.

EU Extends Copyright Term To 70 Years

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In September 2011, the EU adopted a directive extending copyright protection for sound recordings to 70 years, from the previous 50-year term. The directive will be implemented by EU member states over the next two years.

"This is really, really a major piece of new legislation," said Michael Sukin, chairman of Sukin Law Group in New York. Sukin, a long-time advocate of the extension, stripped down the complex directive to its bare essence, saying that it means "songs get better protection, records get another 20 years, artists get new money, artists get termination rights."

The potential implications of U.S. termination rights for works assigned to publishers in 1978 and thereafter are also significant, said Kenneth Abdo, chairman of the entertainment law department at Lommen Abdo in Minneapolis.

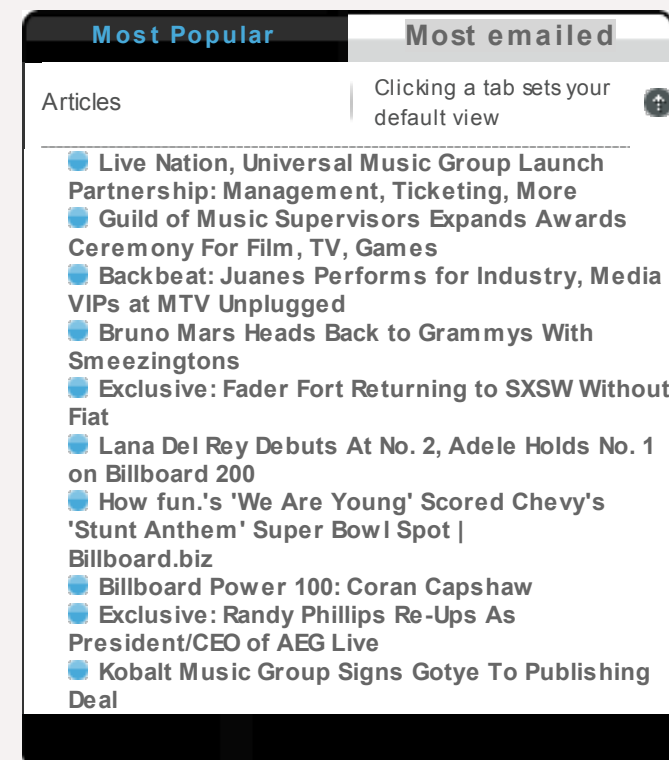
Business Matters: Make No Mistake, EU Copyright Extension Is Good for Record Labels, Too

In theory, Abdo said, the reversion of copyrights to creators means that labels and publishers will lose control of valuable catalogs. "Can it happen? Yes," he said. "Will it happen? Maybe. It's a complicated area."

One factor muddying the waters is the large number of parties who can be considered an "author" eligible to exercise termination rights. They include artists, songwriters, session musicians and producers. Meanwhile, creative works determined to be "works for hire" -- for instance, a work created by someone who was employed by a company claiming the copyright -- are not eligible for termination.

Bernard Resnick, an entertainment attorney based in Bala Cynwyd, Pa., explained what he'd advise labels to do if they were to receive copyright termination notices. First, he said, they should take a hard look at their catalog and determine which works earn the most money. Then they should consider whether to approach a creator preemptively to try to work out a settlement with more favorable terms for the artist, explaining that the termination provision could affect the label's ability to handle copyrighted works they still control outside of the U.S., Resnick said.

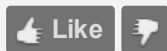
Finally, labels should create departments devoted to the administration of reverted copyrights, which would buttress their argument that they are equipped to handle continued administration of their works.



"This is the kind of thing that drives artists crazy," Resnick said. "It's something we all have to pay a lot of attention to."

TAGS: Record Labels , Publishing , Global , Legal & Management

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