

**MUSIC PUBLISHING INDUSTRY  
SOUTHWESTERN UNIVERSITY SCHOOL OF LAW  
SUMMER SESSION 2006**

**SYLLABUS, COURSE REQUIREMENTS AND GRADING CRITERIA**

**PROFESSOR MICHAEL PERLSTEIN**

**REQUIRED TEXT:** “Music, Money and Success” by Todd Brabec and Jeff Brabec.  
Professor’s Printed Materials available in the Printshop

**CLASS PREPARATION:**

Students are expected to have read the assigned materials. Class discussion will commence with the assumption that everyone is thoroughly familiar with the assigned materials. A student who is unprepared when called upon may be marked absent for that class.

**ATTENDANCE:**

Regular and punctual class attendance is required.

1. A student who has been absent from more than 20% of the regularly scheduled classes of any course will be dismissed from that course. The learning process is materially affected when absences exceed 20% of scheduled classes, whatever the reason for the absences may be. Accordingly, the rule limiting absences to 20% of regularly scheduled classes is intended to extend to all absences caused by illness, emergencies or work requirements.
2. A student with absences exceeding 20% of the regularly scheduled classes will be reinstated in the course if two conditions are met. First, the student must satisfy the instructor that he/she can cure the academic deficiencies caused by the record of absenteeism. Second, the student must demonstrate to the satisfaction of the Dean of Students Office that the record of absenteeism or any portion thereof is attributable to extraordinary reasons beyond the student's control.

**GRADING CRITERIA AND FINAL EXAMINATION:**

The grade for this course will be determined by performance on the final examination. The final examination will be two (2) hours long and will be closed book. It will consist of one essay question and one set of multiple choice questions.

The essay question will be graded on the basis of the thoroughness and effectiveness of the analysis it contains. Answers which merely state conclusions, or answers without an explanation of the reasoning and analytical process used to reach the conclusions, will receive little credit. Similarly, answers that recite abstract principles of law without applying them to the facts of the problem presented in the questions will receive little credit.

**EXAMINATION REVIEW AND PROCEDURE:**

Final examinations will be available for review and copying after the grades have been turned in. I will be happy to discuss the examination with students, but only for the purpose of discussing ways of improving the student's performance on examinations. Sound academic theory as well as university policy require that grades may be changed only for mathematical/clerical errors.

**OFFICE HOURS/INSTRUCTOR'S AVAILABILITY:**

I may be reached by phone at (310) 556-1956 or e-mail at [mperlstein@fpplaw.com](mailto:mperlstein@fpplaw.com), as well as after class.

**Professor Michael J. Perlstein**

- June 1 CLASS 1    General Overview of Music Publishing Industry**  
Chapter 1 - *Music, Money and Success* (“MMS”) - pages 1-52
- 17 USC 101 [“Sound Recording”, “Phonorecord”], 102(a)(2), 102(a)(7), 106, 202
- June 6 CLASS 2    Songwriting, Originality of Songs**
- 17 USC 101 [“Created”, “Copies”, “Copyright Owner”; “Device”, “Fixed”], 102(a), 201(a)  
*Fisher v. Dillingham*  
*Smith v. Muehlenbach Brewing Co.*  
*Consolidated Music Publishers v. Ashley Publications*  
*Tin Pan Apple v. Miller Brewing Co.*  
*Acuff-Rose v. Jostens*
- June 8 Class 3    Joint Works, Works Made For Hire, Derivative Works**
- 17 USC 101[“Joint Work”, “Collective Work”, “Compilation”, “Work Made For Hire”, “Derivative Work”], 103, 106(2), 201(b)  
*Maurel v. Smith*  
*Picture Music, Inc. v. Bourne*  
*Childress v. Taylor*  
*Aalmuhammed v. Lee*  
*Community for Creative Non Violence v. Reid*
- June 13 CLASS 4    Acquisition and Ownership of Musical Compositions, Registration and Recordation**
- 17 USC 201, 202, 204, 205, 407, 408, 409, 410, 411, 412  
Form PA  
Document Cover Sheet  
*Forward v. Thorogood*
- June 15 CLASS 5    Challenges to Ownership: Sampling, Parody, 1<sup>st</sup> Amendment Rights**
- 17 U.S.C 107  
*Grand Upright Music v. Warner Brothers*  
*Newton v. Diamond*  
*Bridgeport Music v. Dimension Films*  
*Fisher v. Dees*  
*Campbell v. Acuff- Rose*

**June 20 CLASS 6 Sources of Income: Mechanical Royalties, Harry Fox Agency**

MMS pps: 20-21; 29-31; 39-40; 106-115; 353; 374-75  
17 USC 101 [“Publication”], 115  
Harry Fox Agency materials  
Copyright Office Regulations 37 CFR 255.3(h), 255.4-255.8  
Controlled Composition Clause  
*Harris v. Emus Record Corp.*

**June 22 CLASS 7 Sources of Income: Performance Royalties, Performing Rights Organizations**

MMS Chapter 7  
17 USC 101[“Perform”, “Publicly”, Performing Rights Society”,  
“Establishment”, “Gross Square Feet of Space”], 106(4), 110  
ASCAP Membership Agreement  
*Buffalo Broadcasting v. ASCAP*  
*Stigwood v. Sperber*  
*Twentieth Century Music v. Aiken*  
*Hinton v Mainlands of Tamarac*

**June 27 CLASS 8 Sources of Income: Synchronization, Print Rights, Commercial Jingles, Jukeboxes**

MMS pps.133-236; 352-353; Chapter 15  
17 USC 112(a)(1)-(2), 116, 803(a)(4)(A)-(B)  
Motion picture synch license  
Television synch license  
*Angel Music v. ABC Sports*  
*Agee v. Paramount Communications*  
Print license

**June 29 CLASS 9 Songwriter/Publishing Agreements**

MMS Chapter 1, pps. 11-28 (revisited)  
Single song agreement  
Term agreement  
Perlstein IAEL Article re Aspects of Co-publishing agreements

**July 6 CLASS 10 Copublishing and Administration Agreements, Foreign Subpublishing**

MMS Chapter 2, MMS Chapter 9  
Exclusive Administration agreement  
Copublishing agreement  
Foreign subpublication agreement

**July 11 CLASS 11 Mock negotiation**

Hypotheticals

**July 13 CLASS 12 Termination Rights/Derivative Works Exception**

MMS 358-360, 365  
17 USC 304(c), 203  
*Mills Music, Inc. v Snyder*  
*Woods v Bourne*  
*Ahlert Music Corp. v. Warner/Chappell Music, Inc.*

**July 11 CLASS 12 Current Developments: Ringtones, Satellite Radio, Subscription Services, Digital Downloads**

17 U.S.C. 112(e), 114, 115(c)(3)-(4) & (d)[Digital Performance Right in Sound Recording Act of 1995]  
Ringtone License

**July 18 CLASS 13 Internet, P2P File Sharing**

MMS Chapter 17; MMS page 354  
17 USC 1001 - 1008 [Audio Home Recording Act of 1992], 512  
*Sony v. Universal City Studios*  
*Recording Assn. of America V. Diamond Multimedia Systems*  
*A&M Records v. Napster*  
*MGM v. Grokster*

**July 20 CLASS 14 Purchase and Sale Transactions**

MMS Chapter 10  
Purchase and sale agreement

**July 24 Final examination**