

**TUNES NOT TRIALS: MUSIC LICENSING
AND OTHER LEGAL HOW TO'S**

Steven Mashal, Esq.


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WHAT IS INTELLECTUAL PROPERTY?

Three Kinds of Property


- Real Property – Land and any permanent structure on it
- Personal Property – Anything that can be “carried” with you
- Intellectual Property – Intangible items that we have placed a value on.

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WHAT IS INTELLECTUAL PROPERTY?

- Intellectual Property – Intangible items that we have placed a value on.
 - Patents – A right granted to inventors by the government to exclude others from making, selling, or using an invention
 - Trademarks – Brand name for a product or service
 - Copyrights – An original “expression” of an idea that is fixed in any physical medium such as paper, cds and the like.

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COPYRIGHTS


- Copyright protection applies only to the expression of an idea, not the idea itself.
- An idea may have multiple expressions, and each one may be protected by copyright.
 - Novel – Scenes de la vie de boheme by Henri Murger, , 1851
 - Opera - La Boheme by Giacomo Puccini, 1896
 - Musical – Rent by Jonathan Larson, 1996
 - Movie – Moulin Rouge! By Baz Luhrmann, 2001

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MUSIC COPYRIGHTS


- Music is copyrighted upon creation
- Only the owner may grant permission to perform it
- Music performance is the playing of music in a public setting

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POP QUIZ

- If I get my music off the internet for no charge, that means it is in the public domain... True/False
- As long as I buy my music from one of the custom mixing companies like Power Music or Dynamix and that already comes with a license... True/False
- I only play music that I mix myself so I don't need a license for that... True/False

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POP QUIZ

- As long as I get a license from one licensing company, I don't need one from any others.... True/False
- No one every checks to see if you have a license so I don't really need one... True/False

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POWER MUSIC

HOME | **ClickMix** | BROWSE MUSIC | VIEW GEAR | CHOREOGRAPHY VIDEOS | HELP & RESOURCES

ASCAP, BMI and Public Performance of Music:

All businesses, such as radio stations, restaurants, retail stores, spas and concert venues, that publicly perform music are required by law to obtain a Public Performance License from ASCAP, BMI and SESAC in the US and SOCAN in Canada for those performances, with a few exceptions: health clubs, gyms, and fitness studios are also required to get Public Performance Licenses as well. These licenses are normally granted for one year and the fees for fitness businesses are based on a formula that evaluates the size of the venue, the type of activities in your facility and the number of members.

When you purchase a digital download or CD, you have the right to use that music for your own personal use in a non-commercial environment. As a record label, Power Music has obtained the necessary licenses to reproduce the compositions for such use. However, once that music is used in a group fitness class, you as the owner of a club, gym or studio are required to purchase the Public Performance License. Even if you have hired the instructors as independent contractors and they bring in music for their classes, it is the club owner's responsibility to obtain the license. In some cases, an independent contractor who might teach a class in an unlicensed club, because our gymnasium would be responsible for securing this license as well.

You may wonder why such a license is necessary. The reasoning behind the license is that your classes and business benefit from the performance of the music and that the composer and his or her publisher should be benefit as well. The fees collected by the ASCAP, BMI, SESAC and SOCAN are distributed to the composers and publishers who control the musical compositions.

A license issued by one of the 3 U.S. performance societies covers all compositions within a particular society's repertoire of songs. In the US, a Public Performance License from only 1 of the 3 societies does not cover every song found on a Power Music CD or download. To legally publicly perform any music you need to secure licenses with all 3 societies. Most of the time we release certain compositions that are either ASCAP or BMI represented compositions.

For further information you may contact:
 ASCAP: 1-800-950-4620 or ascap.com
 BMI: 1-888-985-5264 or bmi.com
 SESAC: 1-800-926-9996 or sesac.com

In Canada, contact:
 SOCAN: 1-800-357-6226 or socan.com

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POWER MUSIC
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WELCOME TO DYNAMIX MUSIC

Here are some of the questions we frequently encounter. If you have any questions which we have not answered for you here, please use the box below to send your question to us, and a representative will respond within two business days.

- How do I download music? [Click here](#)
- What is your return/exchange policy?
 An full priced music CD may be returned in its original condition (opened or unopened) within 30 days of the purchase date and exchanged for another music CD. A Dynamix store credit (to be applied to your next purchase), or a refund. Music CDs purchased on sale may not be returned or exchanged for any reason. Music CDs purchased as part of a special offer may only be exchanged for a music CD of the same value. Videos, DVDs, Equipment, Accessories and Books may only be returned if defective and exchanged for the same item. Returns are not accepted after 30 days. Please note, shipping and handling charges are not refundable.
- Do I have to pay a licensing fee to use Dynamix music? Doesn't Dynamix pay this fee already?
 All Dynamix releases are legally licensed music compositions. This means we have paid for the right to obtain a master recording, and duplicate that recording for public sale. While the licensing fees we pay for this purpose protect us, they do not protect you as an instructor.
 For that, all fitness clubs and centers (and other public or private facilities) are required to pay for the right to play publicly protected musical works. A blanket license from ASCAP, BMI and SESAC is required for this. If you work for a facility where these licenses have already been obtained, then you are not personally responsible for obtaining them for your classes.
 If you teach in a home studio, or you own a facility where services classes are taught, you are responsible for paying these fees. It is unlawful to play publicly protected music in a public forum without obtaining the proper licenses.
 NOTE: It is also unlawful to reproduce publicly protected music without obtaining a license to do so. If that reproduction will be played in a public forum. Contrary to popular thought, this means it is unlawful to make your own tapes/CD's by mixing from your personal music collection, or by copying another instructor's music.

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NEWEST U-MIXIT SINGLES >

TOP 10 U-Mixit Singles

1. **IMPACT**
2. **Just Give Me a Reason**
3. **Stay (Step By Me)**
4. **Daylight**

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MUSIC LICENSING

- Three music licensing agencies for the US
 - American Society of Composers, Authors and Publishers (ASCAP)
 - Broadcast Music, Inc. (BMI)
 - Society of European Stage Authors and Composers (SESAC)

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MUSIC LICENSING

- All licensing agencies have comprehensive web sites
- Each agency handles different musicians
- Each agency has slight differences in what their contracts cover and how you pay

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AND SPEAKING OF CONTRACTS...

- Employment Contracts
 - Covenants not to compete
 - 1) Restricted to a reasonable geographical area
 - 2) Limited to a reasonable length of time
 - 3) Based on legal considerations (pay, perks, raises)

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SPEAKING OF CONTRACTS...

- Waivers and informed consent
 - Good to have
 - Make sure they are actually read and understood
 - Do not allow minors to sign

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SPEAKING OF CONTRACTS...

- Indemnification
- Limitation of liability
- Waiver of consequential damages

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SPEAKING OF CONTRACTS...

- Blogger Agreement
- Nondisclosure (Confidentiality) Agreement
- Consulting Agreement

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HOW ABOUT LEGAL PROTECTIONS?

- Insurance
 - 1) General liability coverage for accidents
 - 2) Professional liability for injury to students
 - 3) Personal liability for slander, libel, invasion of privacy
 - 4) Contracts liability
 - 5) Fire liability
 - 6) Covers PTs when at a client's home

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Insurance Center

Liability Insurance

You've worked hard to establish yourself professionally, but it only takes one incident to put that in jeopardy. Join the thousands of ACE-certified professionals who have discovered the valuable benefits of the American Council on Exercise Liability Insurance Program.

Peace of Mind

As an ACE-certified Professional, you need affordable coverage to protect your hard-earned assets and provide you with the peace of mind you deserve.

Broad Protection

As an employee, you expect to be covered by your employer's liability insurance; however, some facility owners are under-insured or even completely uninsured for their individual trainers' professional liability putting you at great risk. Our program provides coverage to protect you wherever you train—in a gym, your home, a client's home, or even outside.

Enhanced Credibility & Professionalism

Many clubs will not permit independent contractors on-site without evidence of liability insurance. Upon enrollment, you'll receive an insurance identification card so you can easily provide proof of insurance to clubs and clients enhancing your credibility and professionalism.

Limits of Liability/Rates:

Per Occurrence / Annual Total	Annual Premium*
\$1,000,000-\$2,000,000	\$172
\$2,000,000-\$3,000,000	\$217
\$5,000,000-\$6,000,000	\$261
Per Occurrence / Annual Total	Two-Year Premium*
\$1,000,000-\$2,000,000	\$316
\$2,000,000-\$3,000,000	\$399
\$5,000,000-\$6,000,000	\$481

No Joining Fees!

*Rates effective through June 30, 2014. State taxes may apply for residents of N.J., W.V., and Ky. See policy language for coverage details, limits and policy exclusions.

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Contact: InterWest Insurance
 Phone: 1-800-873-3755
www.fitnesspak.com

HOW ABOUT LEGAL PROTECTIONS?

- Forms of business
 - Sole proprietor
 - Corporation
 - Limited Liability Company
 - Partnership

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AND NOW A BRIEF WORD ABOUT TRADEMARKS

- What is a trademark?
- Three levels of protection
- When can you use someone else's trademark?

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HOW TO FIND AN ATTORNEY

- Ask for referrals
- Shop around
- Get answers
 - 1) Have you handled this work before?
 - 2) What is your background?
 - 3) Is there a charge for a first meeting?
 - 4) What is your estimate of the fee to solve this problem?

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HOW TO FIND AN ATTORNEY

- Don't be afraid to say this is not a good fit
- Put everything in writing
- Time is money
 - Come prepared
 - Have an outline of the facts/issues/questions
 - Bring copies of important documents
 - Have a list of questions and take notes

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QUESTIONS?

- Contact Information:

Steven Mashal
Corporate Counsel
American Council on Exercise
4851 Paramount Drive
San Diego, CA 92123
steven.mashal@acefitness.org

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