

Soothe The Savage Beast...

by Steve Traudt

Convene a group of photo enthusiasts and soon the conversation turns to digital imaging. And one of the most hotly debated issues in digital photography concerns copyright. Never before has the potential for copyright infringement been so rife. With the proliferation of photo CDs, scanners, digital manipulation and such, photographers grow increasingly wary.

And yet, those same photographers have long violated the rights of another group, namely musicians! We all acknowledge the value of music with photography. Music has become a nearly inseparable part of photography. But all too often, knowingly or not, photographers have ignored the copyright of that music.

Well, times are changing. Ignorance may be bliss, but it can also be very expensive. Consider the plight of a local company here in Grand Junction who was fined several thousand dollars for tying a local radio station into its telephone system. Callers placed on hold were entertained with radio music. Unfortunately, for the company, no music rights had been obtained.

I think everyone appreciates the impact music can have on photography. Try to imagine the movie *JAWS* without its signature sounds! Or *2001: A Space Odyssey* without the *Blue Danube Waltz*. Like a photographer, a musician has a copyright when he or she writes that music. It becomes even more complex when that piece of music is recorded. For now, the recording artists have rights as well as the record company producing that CD or tape. And finally, if that music is played in public, a performance right exists. No wonder photographers have often found it convenient to play "ostrich"!

Before going further, let's dispel a long-held myth. Photographers assume they can use any music they want as long as they don't charge admission to their show. *This is absolutely not true!* I suspect this illusion began with the notion that a big ole' record company does not have time or energy to prosecute someone showing slides to the camera club. This may have had some truth in the past but music companies are becoming quite zealous in defending their rights. Part of this issue is "education" and that is my goal in writing this. Let's begin with a real-life example: the local camera club hears of my recent Costa Rica trip and invites me to show these slides. I want to entertain them as well as teach some photography and ecology. I decide to put together a digital slide show. What are my options for adding music to this program?

First, I could commission some original music. Although this could be really nifty, I'd also need a second (and third?) mortgage! Next I might decide to peruse my large collection of CDs. I have all sorts of wonderful classical, jazz, new age, etc. I am probably going to need 3 or 4 pieces of music for a 15 minute program. I remember a perfect selection on a *Fresh Aire* disk by *Mannheim Steamroller*.

Next I contact the record company, in this case, *American Gramophone*. A friendly employee patiently explains the process. First I need a "master use" license from the record label. I also need a license from the publisher. Finally, I need a license for public performance. Whew, no wonder ignorance is bliss! I ask what kind of money we are talking. The fee depends on many factors. Television use is the highest; radio is less. For

my slide show, I was told the master use fee might be as low as "a few hundred dollars". But he hastened to add, that I still needed to pay the publisher. They usually charge the same fee as quoted by the record label. Add to this the performance fee and my little slide show is getting pretty expensive. And this is for just ONE song! (Note: churches and schools can usually avoid paying license fees)

The subject of sheet music comes up and I think I see my opening. *American Gramophone* publishes a variety of sheet music, including solo piano. My sister is an accomplished pianist with both a grand piano and electronic piano. So I just make a 1500 mile trip, record her playing my favorite pieces, and sync it with the slides. Wrong-o Velvia breath! As you might guess, it is not that simple. All I have actually circumvented is the master use license. I still need to obtain publishing and performance rights.

This brings us to the concept of music libraries. Such libraries have been around since the beginning of film and provide an affordable source of licensed music. Initially, these libraries were called "needle-drop" since you paid a fee every time the phonograph needle was dropped on a selection. Even today you'll find the term used although the needle has given way to "laser-drop" on a CD. Most major music libraries are needle-drop and the amount and variety is astounding. You hear this music every day on radio, TV and film.

Sadly, I bid *adieu* to the lovely *Fresh Aire* piece and begin searching these libraries. I find a nice cut and the fee may be as low as \$50. This does not sound too bad. However, this license is only for one showing and I have to report each time I give my slide show. For a small producer like me, the obstacles are again daunting.

Finally, in the late 1970's, a solution evolved. Within the music library business, a whole new sub-industry was born...the "no-needle-drop" or "buy-out" library. The theory is simple: pay for the music ONCE and use it forever, whenever, and as much as you like! Buy-out music can cost as little as \$25 a CD in quantity, although I usually pay \$40 to \$50 per CD. For that very reasonable sum, I get 60 minutes or more of royalty-free music. Since the term "forever" does not hold much legal value, the license for a buy-out CD is normally 99 years. That works for me!

How can buy-out be so reasonable in cost? With the computer revolution, sound production technology has made giant strides, while the price has tumbled. Quality studio equipment is within reach of even the small producer.

Is this music any good? Yes, and it is getting better everyday. In the early days of buy-out, many musicians used a synthesizer leading to certain "sameness" from many small studios. The trend now is definitely toward more lush, complex music, much of it acoustic. Even orchestral works are being produced.

I encourage photographers, amateur and professional, to explore this method of adding music to still or video shows. To get started, check several of the companies listed on my Reference sheet. Go to their website and audition some of their music. Evaluate the number of different themes in each library; look for a variety of styles.

A typical CD has 8 to 12 selections, each cut usually 2 to 5 minutes long. Often, these cuts are accompanied by 60, 30 and 15 second versions. Obviously these are intended more for radio and TV commercials, but I find them useful as intros, exits or transitions.

Look for music that augments your style of photography. While this is subjective, for my nature and landscape programs I prefer a com-

bination of new age, light jazz and classical. I want the music to complement my slides, not compete. I almost always avoid music with lyrics.

When producing a program with several cuts, vary the music style. Don't put several slow cuts in a row or you'll lose the audience. Start with an up-tempo cut. Sandwich slow cuts between more lively styles. It is also good to vary the screen time for each slide; 5 or 6 seconds is probably optimal, but try both longer and shorter times.

What rights are actually conferred by a typical buy-out license? Most libraries grant you unlimited use for 99 years. You may use the music in video, film, slide shows, cassette programs, multi-media, TV, radio and satellite broadcast. It is also legal to charge your client extra for the use of your library music. If your production is broadcast, the library does ask you to notify them of such usage. That way the composer receives a share of the fee, but this does NOT cost you anything!

As for restrictions, buy-out music is much like computer software. You cannot lend, share or distribute the music. The license is granted to one individual, business or site. I specifically asked if a camera club could buy the disks and let members use them and I was told NO.

Buy-out music has been very exciting for me. I can now produce slide shows with good music, at a fair price, and without violating any copyright laws. If you think a few hundred dollars for some buy-out disks is still too much, consider the following. You are reading a magazine and there, in an ad, is your photo! You were never contacted about such use and you feel ripped-off! *Your photograph has been stolen; it is that simple.*

Besides record companies taking an increasingly dim view of unauthorized use, the 3 public performance companies are monitoring music use. ASCAP, BMI and SESAC all exist to represent the rights of the music creators. They are not "music police" and they take no joy in fining a violator. But as the company described earlier found out, they are not hesitant to defend music copyright. While ASCAP is perhaps the most aggressive of the 3, they all will prosecute. The problem of music downloads on the internet has especially got the industry's attention. People are being prosecuted.

Last year I attended a photo conference. One presenter gave a program on creating effective slide shows. He had several good ideas and thoroughly discussed the value of music. But he never once mentioned copyright issues. I waited until after the program and asked him how he dealt with the issue of music. His face instantly clouded, he glanced around, lowered his voice and assured me that since he never charged money for his programs, he was well within the law! That philosophy is sad really, for I suspect he would scream the loudest if anyone stole his images. If we as photographers are to preserve, protect, indeed, demand respect for our photography rights, it is mandatory we respect the rights of others.

Special thanks to the following in preparing this report:

Jack Waldenmaier, Music Bakery

American Gramophone

BMI (Broadcast Music, Inc.)

Buy-Out Music Reference...



If you Google on "buyout music" or "royalty free music", you'll get lots of hits. Below are the companies I have personally dealt with.

Gene Michaels Productions

1105 N. Front St, Suite 29, Niles, MI 49120
800-955-0619 ~ <http://gmpmusic.com>

Have nearly 200 Cds. 1 CD costs \$70 but price drops if you buy more. Very high quality; large variety. Constantly adding new titles. I have several of their volumes. I would suggest you start your search with this company. Contact Dianna, at: dianna@gmpmusic.com to discuss your needs and budget

Music Bakery

7522 Campbell Road, Suite 113-2, Dallas, TX 75248
800-229-0313 ~ <http://www.musicbakery.com>

Cost is \$59 per CD. I have several of their disks and find them quite well done and diverse.

Fresh Music Library

34 South Main St, Hanover, NH 03755
888-211-8576 ~ <http://freshmusic.com>

Have a large CD library. Cost is \$69 for one CD but it drops to \$139 for 5 disks.

QCCS Productions (PBTM)

1350 Chambers St, Eugene, OR 97402
541-345-0212 ~ <http://www.instantdownloadmusic.com/>

Over 25 Cds, Range from \$30 to \$80, depending on quantity. Very good music.

Music 2 Hues

54 Hazard Ave, #315, Enfield, CT 06082
888.821.7515 ~ <http://www.music2hues.com/>

This is another favorite. They have over 65 in their library. Prices range from \$48 for one CD to \$125 for four titles.

Free Play Music

<http://www.freeplaymusic.com>

Download free music for non-commercial use!

PD Info (Public Domain Music)

<http://www.pdinfo.com/>

Great prices. Check out "Flagship" & "Production" libraries.