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Attention Music Managers and Artists: You May Be Owed BILLIONS in Unpaid Royalties

By Dave Kusek

If you are a recording artist or a manager and have been distributing music on iTunes under a deal with one of the big record labels, pay attention.

F.B.T. Productions in Detroit, the producers who helped Eminem achieve his success are paving the way via a lawsuit against Universal Music and others, to larger payouts for digital music sales via iTunes and other digital services both past and future. This effort could unleash literally billions of dollars in unpaid royalties for recording artists.

Dave Kusek is Vice President at Berklee College of Music and CEO of Berkleemusic.com, Berklee’s online school. Kusek was a co-developer of the revolutionary Musical Instrument Digital Interface (MIDI), co-inventor of the first electronic drums at Synare, and founder of Passport Designs, the first music software company. He authored the online course *The Future of Music and the Music Business.*
How much money is at stake here?

This chart from Asymco, shows the accumulated payments made to suppliers of content to the iTunes store over time. You can see that the total amounts paid to the record labels can be approximated at $12 billion dollars since the launch of iTunes through the first quarter of 2011.

![Apple's Cumulative Payments to iTunes Suppliers by Medium](chart)

*Source: Asymco*

That would imply that the gross amounts collected by Apple are in the neighborhood of $17 billion dollars for iTunes music downloads.

So I did a little back 'o the ole iPad calculation and here’s what I came up with.
I want to be realistic about the potential to collect and so will assume that half the music distributed on iTunes is from catalog sales of artists with older label contracts, and the other half is from music distributed from sales of newer artists. SoundScan numbers from last year show 648.5 million downloads of “catalog” singles in the US, meaning songs more than 18 months old, compared with 523 million for current tracks, so this seems like a very safe assumption.

Using this quick and dirty math, the potential unpaid royalties to artists from just iTunes sales would be around $2.15 billion. Admittedly some of this money has already been paid to music publishers, so the number may be overstated somewhat, and could benefit from a finer accounting. But then again, catalog downloads from iTunes could be closer to 80% which would make the unpaid royalty number higher. So the amount is significant. Really significant. Are you with me?

The lawsuit boils down to a distinction between selling “copies” of physical products such as CDs or vinyl recordings versus selling a “license” to reproduce the digital song data. Record labels actually ship physical product (principally CDs) to record stores; but in the case of iTunes it gets a license to replicate and distribute digital files. When the record labels sell “copies” of music, the artist typically receives a 10-15% royalty, but when the labels “license” the music to another entity, most artists typically receives a 50% royalty.

The complaint filed by F.B.T states:

“Defendants have failed to comply with the terms of the March 9, 1998 agreement and the 2003 Agreement by failing to account and pay royalties equal to fifty percent (50%) of Defendants’ net receipts from the digital uses of the Eminem Masters by the Music Download Providers and Mastertone Providers. Defendants apply an incorrect formula for calculating royalties with respect to those royalties to be paid to Plaintiffs which results in the payment of approximately twelve percent (12%) of receipts instead of the fifty percent (50%) required by the terms of the agreements.”

Universal Music Group, Aftermath Records and Interscope Records appealed against a ruling in the Ninth Circuit Court in December that said they should pay 50% of royalties on digital sales. The defendants took their appeal all the way to the Supreme Court.
However, the US Supreme Court just last week rejected Universal Music’s appeal in the case letting the Ninth Circuit Court of Appeals decision stand that digital music (under this particular agreement) should be treated as a license subject to a 50% royalty payment.

Now to be fair, not all label agreements are the same, and if you signed a label deal in the last 10 years or so, you have probably been excluded from the impact of this decision by contract. Label attorneys have indicated that newer artists are unlikely to be affected by the decision because more recent recording contracts include digital distribution in the definition of “sales” for artist’s royalty calculation purposes. But if you signed prior to the early 2000’s, you may be looking at a significant payday.

That apparently is the thinking by the estate of Rick James, which just filed a class action suit in April against Universal Music, opening the door for a massive settlement involving potentially thousands of artists. The filing can be found here. This is certainly not the last suit that we will see on this issue.

For years I have been arguing that iTunes digital music distribution was a license of music, not a sale. When Steve Jobs and his team negotiated the original iTunes deal with the major labels, the economics gave iTunes roughly 30% of each download, like a distributor/retailer of CDs would receive and the remaining 70% would flow to the labels and presumably be split as with a traditional CD sale.

But what was rarely questioned at the time, was the way the 70% label share would be split. The labels assumed that these downloads were “sales” of copies of the songs and that artists would receive their royalties based on traditional accounting practices.

Hardly anyone questioned whether iTunes downloads were “licenses” versus “sales.” Indeed in the early days of payments from iTunes, labels often continued to deduct fees for “packaging” and “breakage” and “co-op” often when there were no actual costs being incurred. Hardly anyone questioned whether iTunes downloads were “licenses” versus “sales”—which would have swung the payments heavily in favor of the artists.

Steve Jobs himself referred to his deal with the labels as a “license” in his rare and open “Thoughts on Music” letter posted February 6, 2007. Interestingly, this letter has disappeared from and is no longer available on the apple.com web site but you can still find excerpts via Google. Hypebot reported that “Although [Jobs] consistently referred to Apple ‘licensing’ music from ‘the big four music companies’, when deposed in this
case he claimed not to know whether his company’s relationship with Universal was, in fact, a license.”

This potential $2.15 billion represents approximately 12.5% of the gross revenue collected to date by Apple, and that 12.5% figure could apply to all the other digital distributors including Amazon, Napster, and others. With Apple’s iTunes music revenue running around $300 million per month, that is another $37.5 million per month up for grabs at the present rates from Apple alone.

This ruling has the potential to forever transform the very nature and structure of the recorded music business. Certainly all of the cloud-based systems by Amazon, Google, Apple, and others will be commissioned under licenses, especially when you consider that multiple instances of files will be available on a PC, mobile device, or streaming. The very idea of copies just does not make any more sense in the digital age.

This is a significant development for artists and the creative community. Artists and managers joined together could make it happen and see this incredible change of fortune through. This ruling will help transform the music industry for the better and redistribute the money in a way that is more sustainable. Certainly it will continue to be a painful transition, but finally there is some light at the end of the tunnel for creative people looking to sustain a career as a musician—and an indication of a better music business model for independent artists.

**Related Online Courses:**

*The Future of Music and the Music Business*

This course examines alternatives to traditional means of creating, financing, promoting, distributing and marketing music, and explores scenarios and uncovers opportunities that the new digital music reality offers. Discover new structures and strategies for driving revenue and new approaches to the business of music.

[View Course]
Living in the Past Beats Dying in the Present

By Eric Beall

Here’s a shocker: Billboard reports that Germany has now overtaken the UK as the #1 European market for music.

This is while obscure, little-known UK acts like Adele, Tinie Tempah, and Taio Cruz are sitting at the top of the charts around the world– and the biggest selling track in Germany last year was by Unheilig. How is this happening? How can the country that gave us the Beatles and the Stones fall behind the country that gave us Falco and Milli Vanilli? And what does it mean to the future of civilization?

As in most things statistical, there is more than one way to read these numbers. The IFPI (the international music trade group) reports that the trade revenue generated by sales of recorded music in the UK dropped 11% in the past year to $1.38 billion USD, while Germany generated $1.41 billion USD, which clearly gives Germany the edge.

Adele

Eric Beall is the author of BerkleeMusic’s online course Music Publishing 101 and is a respected music industry veteran, having held senior Creative posts at Zomba Music, Jive Records, and Sony/ATV Music. Currently, he handles A&R for Shapiro Bernstein, one of the industry’s most venerable and respected independent music publishers.
The UK remains a considerably bigger consumer of music per capita than Germany, with Brits buying 1.93 albums per capita compared to 1.32 for the Germans. But the more interesting stat was the one that explained the difference in revenues between the two countries:

The primary reason for the relatively stronger performance from Germany in 2010 was the continued dominance of the CD in that market, where physical sales still account for 81% of recorded music purchases. This contrasts with the UK where the move to digital music, whether it’s iTunes purchases or services like Spotify, is much further along. In the UK, physical sales are only 67% of total sales.

Bottom line: you generate a lot more revenue selling CDs than you do selling downloads. Putting a positive spin on their fall from glory, UK experts (and quite a few US experts as well) explain that because Britain is further along in the transition to a digital market, their country is actually better positioned for the future, even if they are lagging a bit in the transition period. To put another spin on it, you gotta die before you can be resurrected—therefore, the sooner you die, the better off you are. Of course, if digital sales stall (which they have started to do) and the coming Cloud actually brings less income than the physical business that’s been cleared away, well then… there is no resurrection. You’re just dead.

This may be one of the lessons in the turnabout between the Brits and the Germans that’s worth noting:

Anytime you encourage the new kid, you’re discouraging the old one. Of course, one wants to support the future, and it’s only natural that the music industry should get behind successful digital distribution channels like iTunes. But we have to remember that by doing so, we only hastened the demise of the old, brick and mortar retailer on the corner. It might have been worth asking if iTunes really had the potential to make us more than our old friend did. Likewise, an industry embrace of streaming services like Spotify will only fast-forward to the end of download sales. Are we sure that the income from streaming services, that vague mix of advertising revenue (which has been soooo profitable with YouTube) and subscriptions (which no one seems to buy) will beat 99 cents a download?

While the UK industry has sacrificed retailers like Zavvi, Borders, and though they’re still breathing, HMV, all in the name of progress, the German industry has continued to support it’s retailers with new product and packages. Explains Frank Briegmann,
president of Universal Music Germany, “Over the past few years, we have repeatedly tried to generate impetus for the physical product without merely lowering prices.”

In return, the retailers have supported the local acts, and in particular, veteran artists, making local repertoire a dominant factor on both the German radio and sales charts. Pretty remarkable– given that it would be hard to name one genuine worldwide superstar in the German market. While the UK has compiled its numbers based on Adele, Tinie Tempah, JLS, and Taio Cruz, Germany topped them with the likes of Rammstein, Lena, Ich + Ich, and the Scorpions. What can it all mean?

It comes down to this one terribly unsexy truth:

The weasels that win over the next three to five years will be the ones that play to the past, not the future.

The writing is on the wall everywhere–even if no one particularly wants to read it. The top touring acts? Bon Jovi and U2. The top-selling albums of last year? Lady Antebellum, Susan Boyle, Sade, Michael Buble… all aimed at the adult demographic. Even Eminem and Alicia Keys are not exactly new faces. The reason people are bidding to buy Warner Bros. is not for their new stars (there aren’t many) but for their catalog. The same is true of Warner Chappell and EMI Publishing. Their value is in the classic songs, not in their current market share.

Across Europe, it’s not only the Germans who are profitably investing in revitalizing or re-packaging their older superstar acts. In Italy, for example, the charts continue to be dominated by names like Eros Ramazzotti and Vasco Rossi. Given the predominately aging populations of most of the major European countries, this trend won’t change anytime soon. In America, Rihanna has had an unprecedented string of #1 hits, and still can’t manage to mount a successful tour, while acts like Roger Waters pack arenas, without having had a hit record in more than a decade.
For music publishers, the older catalogs are far more profitable than chasing current hits. It’s the classics that show up on *American Idol*, the classics that get made into jukebox musicals like “Jersey Boys,” “Mama Mia,” or “Rock of Ages”; the classics that will bring the worldwide money with the advent of mobile music and video. As for me, I’m giving up my spot at Mercury Lounge or Rockwood and checking out whoever’s playing at Foxwoods casino.

If you’re in the record or music publishing business and you’re looking for safe ground, put your money on heritage acts. Old acts singing old songs to old people may not be the future of the music business, but it sure looks like the here and now. The generation that created lasting superstar acts like Bon Jovi and U2 is one that continues to support live music and buy CDs. Until something better comes along, that’s what keeps us all in business.

Like the Germans, you may only be holding off the inevitable Five years from now, all that investment in older acts might well put you out of position to face the future. On the other hand, if there is no future, you will have stayed alive longer than anyone else. Sometimes winning is just not losing. It’s better to be #1 than #2, even if it’s only for today. Just ask the Brits.

**Related Online Courses:**

*Music Publishing 101*

Create and operate your own publishing company, and learn how to effectively promote and place your songs into income-generating opportunities. [View Course]
Sponsorship: An Artist’s Answer to Financial Relief and Public Visibility

by John Czajkowski and Jeff Dorenfeld

One of the biggest obstacles to an artist’s success is building an audience. Touring artists cannot be successful if they are invisible, but most artists and promoters cannot afford the tens of thousands of dollars it cost to advertise in newspapers, magazines, on the radio and television, and even the Internet. Even if an artist is well-known, they still have enormous expenses associated with touring and producing a concert. Sponsorships can help solve these financial challenges for the artist and the concert promoter. When a corporation sponsors an artist, music and commerce have tied the knot. We’ve seen sponsorship before in a number of ways: Apple sponsoring U2, Vans sponsoring the Warped Tour, Toyota Pavilion in Scranton, PA, Comcast Center in Boston, MA, Budweiser Concert Series, and Miller Beer Summer Series. Corporations want to associate with artists and will pay dearly for this privilege, hoping the artist’s fans will buy the sponsor’s product. Depending on the type of sponsorship, revenues and fees can vary.

John Czajkowski and Jeff Dorenfeld are co-authors of Berkleemusic’s Concert Touring.

John Czajkowski is a graduate of Berklee’s Music Business/Management program and has been active in the concert touring industry for nearly a decade. Czajkowski has fulfilled the roles of tour manager, tour accountant, production manager, and road manager, giving him a broad overview of the touring industry.

Jeff Dorenfeld is a professor of Music Business/Management at Berklee College of Music who has more than twelve years experience in higher education and more than thirty years experience in the music industry.
Revenue from venue sponsors goes to the owner of the building, lowering the owner’s building investment and also paying for the promotion of shows. Many of the major amphitheaters and venues in the United States are owned by Live Nation, House of Blues, or AEG Live, so the promoter owns the building and receives the revenue. This benefits the artist, because the lower the cost of a show, the higher the profit that artist will make, which is why managers and agents will structure deals accordingly. Yearly venue sponsorship fees reach into the millions of dollars. The larger and more visible the venue, the higher the fees the sponsoring corporation pays the venue owner. Consider this: Gillette Corporation negotiated a $120 million deal with the New England Patriots, and Federal Express sponsored the Washington Redskin stadium for $205 million. Live Nation and House of Blues Amphitheaters that are sponsored by companies such as Verizon Wireless, Tweeter, and others, receive millions in yearly fees. Sponsoring artist tours also reaches into the millions of dollars, especially if appearances in commercials are included in the deal. When a corporation sponsors a touring artist, the money goes to the artist’s bottom line. It isn’t only the money the sponsor advances to the artist; it is the marketing power that comes with a sponsorship. The commercial blitz sells tickets and also sells CD’s and merchandise for the artist.

We cannot argue the benefits of sponsorship. Venues get to underwrite their mortgage and expenses, tours have a major amount of their touring costs covered, and both the venue and the artist receive marketing dollars that drive traffic to concerts. The artist/sponsor venture is a piggyback trade-off where both the artist and sponsor can benefit tremendously often resulting in achievements larger than either would have gained individually. Not every product or media company can afford to sponsor the Rolling Stones or U2, but most companies that depend on public awareness can benefit from the visibility of your band. It may just be to sponsor one of your shows or an endorsement deal that covers a percentage of your gear. You will be surprised by the success that you will encounter when you search for the appropriate partner. We have seen multinational companies like San Disk Inc. sponsor an annual concert for a student-run record label. Energy drinks have sponsored local bands and musical equipment companies have endorsed regional bands. A chain of burrito restaurants in Boston, sponsors a yearly battle of the bands. These examples may not find their way to the Wall Street Journal, but the effect of sponsorship on your band could mean better equipment, free advertising, larger audience, and maybe even a free lunch.

It’s important to be proactive in finding sponsorship by making a plan, meeting people, and developing a proposal. Start thinking about companies who might support you and who would benefit from what you have to offer in return. Begin on a local level.
by seeking out companies both big and small that may already be familiar with you. Create a proposal that sells yourself or your band as the vehicle for reaching the audience demographic of that company’s product. Include ideas such as the size of your audience, the age demographic that attends your show, how many shows you play per month, what you will do for the company, what you are looking for from the company, and any references from entertainment professionals offered upon request. Before entering a sponsorship, remember to consider things like whether or not you support the product claims, what effect the relationship will have on your fan base, the length of the agreement terms, and whether or not you believe in what they stand for. There is always a risk in associating with a product or corporation, but if you do your research and ask yourself the appropriate questions, then sponsorships and endorsements could be your answer to financial relief and public visibility.

Related Online Courses:

*Concert Touring*

Learn the preparations and logistics involved in developing, budgeting, and executing a successful tour, from small club dates to international stadium shows. [View Course](#)
Copyright Law and Online Music Royalty Structures

By Allen Bargfrede

Why is copyright vital to the music industry? It provides the very foundation upon which the recorded music industry was built, by protecting the music itself. Without copyright, there would be no means of preventing copying and no way for creators/owner to derive revenue streams from their works. The first copyright statute was enacted in England in 1710, called the Statute of Anne. Copyright as a concept was initially conceived to protect authors and developers of creative works from having their works stolen and to provide them with a source of revenue, which would hopefully spur creativity. The Statute of Anne was a British stationers’ attempt to protect works from piracy and which gave the monopoly control over a work back to the author instead of a publisher.

The United States Constitution gave Congress the right to establish laws “to promote the Progress of Science and useful Arts, by securing for limited times to Authors and Inventors the exclusive Right to their Writings and Discoveries.” As a result, and in an effort to encourage creativity, the United States Congress enacted the first copyright legislation in the U.S. in 1790. This first law protected maps, charts, and books for a period of 14 years, with 14-year renewals.

Allen Bargfrede is the author of Berkleemusic’s online course Copyright Law. He is also an entertainment and technology attorney and an assistant professor of Music Business at Berklee College of Music in Boston. He serves on the Board of Trustees for the Boston Volunteer Lawyers for the Arts, and holds a JD and a BA from the University of Texas and an MA from Northwestern University.
Copyright law was expanded in the U.S. in 1909 to include additional creative works such as musical compositions. The 1909 Act also expanded the duration of copyright to 28 years, with 28-year renewals, and introduced the concept of a compulsory license for musical works, which is a key part of the foundation of today’s music industry. However, sound recordings did not officially qualify for copyright protection under federal law until 1971. In the 1960s, Congress began to mull over a complete overhaul of copyright law, and copyright in the United States is now based on the Copyright Act of 1976, which became effective on January 1, 1978. The new law extended copyright protection to life + 50 years (it has subsequently changed to life + 70 years for most works), and it made some other changes to the notice and registration requirements.

Current U.S. copyright law provides for six exclusive rights of all copyright holders. They include:

1) The right to make copies of a work.
This right has been a thorny issue with the development of new technology, as many questions have arisen about what constitutes a copy. For example, if I stream music to my computer from an “in the cloud” service, my computer must make a copy of that file in order to render the music to me. However, the file is erased immediately after the music is played. Is this a copy? What about copies made on multiple servers to facilitate downloading or streaming?

2) The right to distribute a work (or copies of that work).
This right allows a copyright owner to control the distribution of his/her work. The right can be divided, as seen when some creators license their works for physical distribution through one source and digital distribution through others.

3) The right to create derivative works.
A derivative work is a work based on another work.
4) The right to publicly perform a work.
The right to publicly perform a work is the right to determine when/where the work is, for example, heard by the public, using the music example. Each time a song is played on the radio, or streamed online, the work is considered to have been performed to the public. Only musical compositions (not sound recordings) are eligible for public performance royalties under this right.

5) The right to publicly display a work.
The right to display a work usually involves visual arts, although the right can be implicated in music in certain circumstances: for example, the display of song lyrics online.

6) The right to publicly perform a sound recording through digital transmissions.
As mentioned above, recordings do not qualify for public performance royalties. However, Congress amended copyright law in 1995 to provide a right to sound recording copyright holders to control the public performance of their works through certain digital transmissions. As digital technologies have grown, the definition of “digital transmission” has been the subject of much debate.

Congress has attempted to address new technologies with amendments like the Digital Millennium Copyright Act (DMCA) and the Digital Performance Right in Sound Recordings Act. However, licensing remains a constant headache and there are many calls for reform of copyright law.
Copyright law is also crucial in determining how some forms of royalties are paid. Royalties that are to be set by the U.S. Government under copyright law, are decided upon by the Copyright Royalty Board (CRB). Below is a table of current royalty rates for the four most prominent online music delivery mechanisms.

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<th>Conditional Downloads</th>
<th>On-Demand Streaming</th>
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<tr>
<td>Sound Recording Rights</td>
<td>Wholesale rates are negotiated with each label/licensor; typically per track/album</td>
<td>Variable rates are negotiated with each label/licensor; typically per play or revenue share</td>
<td>Variable rates are negotiated with each label/licensor; typically per play or revenue share</td>
<td>Compulsory rates typically paid to SoundExchange (generally on a per performance or hourly basis)</td>
</tr>
<tr>
<td>Reproduction Right/ Mechanical (typically licensed from publishers or the Harry Fox Agency)</td>
<td>Compulsory Rate: 9.1 cents per track or 1.75 cents/minute (through 2012)</td>
<td>Generally, 10.5% of service revenue</td>
<td>Generally, 10.5% of service revenue (minus PRO fees)</td>
<td>Current Dispute: is there a mechanical for server copies?</td>
</tr>
<tr>
<td>Public Performance Right (licensed by PROs: ASCAP, BMI, and SESAC)</td>
<td>None, as there is no public performance attributed to downloads</td>
<td>None, per recent decisions, as there is no public performance attributable to a conditional download</td>
<td>Yes, negotiated with each PRO</td>
<td>Yes, negotiated with each PRO</td>
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**Related Online Courses:**

*Copyright Law*

Understand the basics of how your creative works are protected by copyright law, what rights you have as a content owner, and how to leverage your copyrights to generate income.

*View Course*
Releasing an Album in 2011 and Beyond

By Jon Vanhala

When talking about the album release cycle and how it’s evolved in 2011, two words really come to mind: iterative, and agile. Iterative and agile processes in software development are great keywords and analogies for how artists can self-publish or publish through their labels. The concept of a big release date and everything leading up to that is not the only way to do it. There isn’t just one cookie cutter plan. So one specific approach that I may take may work very differently for another artist depending on their genre, and scale of career at that given moment.

We have to acknowledge that we live in a very diverse world so taking a single line approach doesn’t always work. Larger releases do work with artists of high magnitude that a lot of people know-so a lot of labels will still do this. They will get out two or three singles that reach different formats and different audiences prior to street date. They might also have accompanying videos, as closely timed as possible so that their core audience understands it’s a good album with more than one good track. All of this will lead up to the big event,
otherwise known as the album release, followed by a combination of earned media, publicity, paid media online, other marketing and advertising, in conjunction with touring, and with the whole eco system of the marketing package. On the other hand, I could talk all day and I wouldn’t cover all of the opportunities. So, the iterative and the agile approach might be putting out a series of three track bundles or maybe one track every Friday, without necessarily having an album.

The beauty of the toolsets available to artists today, is that we can test different approaches to see if they work. If there was a single way to do it that always worked, everyone would be doing it—and then actually it wouldn’t work anymore because familiarity breeds boredom, or perhaps less engagement. Not unlike playing a tune in a live band; if you are trying to get people to dance, you got to keep them dancing.

Try new models, publish often, and pay attention to your fan base. You have to be willing to try new models, publish often, and pay attention to your fan base, because it starts and ends with how you are magnetizing your audience. Doing all of this on your own plus making music can be challenging, which is why business partners like labels, managers, agents and others in consulting and independent businesses still exist. There is a need for them. This makes it important for artists to attract labels, even if they are already signed, to help assist their current label. The best way to do this is to engage with your fans through the social channels that are available. Fans want to have a connection with the artist that feels authentic. So the better you are at connecting with your fans in this way, the better chance you have to build your audience, allowing you to gig more often in more lucrative places, further allowing you to attract better labels. In doing this, you are building leverage, so that when you are in the process of closing in on a deal, you have more control of your destiny.

Together, it’s crucial for artists, labels, and their business partners to find out best practices for maximizing the channel to the audience that they are creating, and give that audience what they want. Historically, record labels and artists were concerned with protecting their major channels—the big retail partners in the world. Whether it was Tower Records, or Wal-Mart, or Target, or independent retailers like Newbury Comics or Music Millennium, and in today’s world this even extends to iTunes and all the other digital partners. But now, most partners aren’t concerned with artists or labels selling direct to consumer through the channels they’ve built up. On a label level, we still link off to our main partners and most artist sites do; but if an artist controls, funds, and builds their own site, they have an opportunity to make that extra margin. When an artist is signed to a label then they work out a deal where they get wholesale or reasonable discount on wholesale. What it is, is taking advantage of a built up channel, and often through direct to consumer commerce platforms plugged into a website.
We are in a place today where we can create merchandise on demand easier than ever; we can do interesting things with virtually no inventory risk. We’ve been here for a while through a variety of companies such as Zazzle and CafePress. I think what works best is creating something unique for your fan. Something that is a little bit more difficult to get or maybe not as likely to be carried at a physical retail store. With social channels functioning in many ways, you can solicit your audience to find out what they are looking for. In some cases these channels replace an artist’s website, and that artist then has over 30 million likes on Facebook. How do you maximize this? Do you decide to sell through the Facebook page, or through an application that you built? Do you bring them back to your site? There’s no wrong answer. You just have to try, test, iterate, be agile with it.

Related Online Courses:

*Music Marketing: Press, Promotion, Distribution, and Retail*

Take your marketing efforts to the next level by learning the key marketing and promotion techniques that all independent labels, artists, and managers have to understand to create an effective worldwide marketing strategy focusing on publicity, radio promotion, retail & distribution, merchandising, internet, advertising, and touring.

[View Course](#)
Entrepreneurship: Lessons Learned From Start-ups

By Peter Gotcher

When I look at getting involved with a company, I follow a different hierarchy than a traditional investor does. When I was a partner in a venture capital firm after Digidesign, the overriding mission was to make money for the investors; everything else was secondary. To me, the number one indicator of probable success for a company is the quality of the people and the quality of the team collectively. This lines up well with what I want to do in my life. I want to work with people who I enjoy working with and so in my hierarchy the people come first. I also really want to be interested in the product and the market, which is why I end up doing so many things having to do with music. I’ve done things in the digital media space but music is a passion of mine. The third thing I consider is whether or not it can be a significant business success and that is necessary because nobody will support something that is going to fail.

Peter Gotcher founded Digidesign Inc. in 1984 and served as its President, CEO and Chairman through its initial public offering and acquisition by Avid Technologies in 1995. Gotcher currently serves as a director of Dolby Labs, Topspin Media, Line6 and Pandora and continues to be an independent private equity investor. Peter Gotcher is featured in BerkleeMusic’s Music Industry Entrepreneurship course.
If you look at the music space right now, from a venture capital standpoint, it’s getting better. Two and a half years ago at the start of a big recession, there were a lot of unsuccessful music start-ups. A lot of them died because they relied on direct content licenses from the major labels, who, as diplomatically as I can say it, are not very progressive about granting licenses. They were in a tough position because if you are in a declining business such as that, you are scrambling to maximize revenue. So there was a period in time where it was almost impossible to get anything. If you said the word “music,” the door slammed in your face and the meeting was over. VCs are still very reluctant to invest in companies that require direct label licenses. I think if you are doing a music start up today, either you are the one that can raise money, or you are the one that already has momentum or a well-established team with prior success that can raise money. If you are a new entrepreneur with a music idea, your best bet is to look for one that is capital efficient, not requiring a lot of money. Create a prototype, get it out there, develop some traction—because that’s really your leverage. This is a show-me era for venture capital. It’s difficult to raise money on a PowerPoint, especially around a music concept. But there are new music concepts getting funded right now, and some of the major VC’s are putting their toes back into the water in this space.

It used to cost a lot to make a record, which is one of the reasons record labels were necessary in the past. There was also a monopoly on physical goods distribution; so if you wanted your physical record or CD in enough stores to matter, you needed the distribution record labels had. However, this has been solved. Thanks to digital tools that are available now for recording you can make a quality record inexpensively, and depending on demand, fulfillment is pretty straight-forward through outlets like iTunes or Amazon. One thing that is getting harder is marketing. We live in a noisy world, there’s millions and millions of bands on MySpace and other platforms competing for people’s attention. How do you get out and acquire fans efficiently in a noisy world? How do you serve them as customers on an ongoing basis? While most things have gotten easier, there are still definite start-up costs involved in a music career; and for things that have gotten harder there are really encouraging developments analogous to things like Topspin for marketing.

You need sellers but you need a community of buyers as well. If you look at Kickstarter, for example, there is almost a 50% success rate. These are not people raising fifty dollars, these are people raising thousands to tens of
There are often special privileges and offers attached, but the world is migrating toward super fans who are looking to have some deep, special connection with artists. So to me, Kickstarter, out of several different startups, is the best example of one that is really thriving and seems to have a critical mass of participation. If you are super cost sensitive, there are some really low cost tools online to at least get your content out there.

In my experience, there is a vast amount of content available on the Internet. Even the iTunes store has inventory that sells zero units per year. So, as an artist regardless what start-up you are developing, it’s important to focus your attention. Be sure not to put the cart ahead of the horse in terms of distribution versus demand.

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[View Course](https://www.berkleemusic.com)
Using Fan-Funding Techniques to Help Direct a Direct-to-Fan Marketing and Sales Campaign

By Mike King

One of the online sales techniques I’ve been advocating in my online courses is for artists to create different physical and digital products and make them available on their own site at tiered price points. The idea is that you can offer something for all of your fans—the hard core fans might be interested in something from you that is a little more personalized and rare, and newer fans might be able to get something from you that wont break the bank. All the while you have the ability to offer something that cannot be purchased at traditional retail, which makes the experience of purchasing off of your site more rewarding for your fans.

Mike King is the author of three Berklee music online courses: Online Music Marketing with Topspin, Music Marketing: Press, Promotion, Distribution, and Retail; and Online Music Marketing: Campaign Strategies, Social Media, and Digital Distribution

Blog: Music Business and Trend-Mongering

atomzooey
Determining what you offer—and at what price point—is an art that takes into account a number of factors. For example, if the goal of your campaign is to expose your music to as many folks as possible, you’ll want to price some of your items lower and take a lower margin per unit. You’ll also want to take into account what unique items your specific psychographic would respond to the best. If you’ve determined that one of the psychographic traits your community shares with you is a love for vegetarian food, you might want to create a downloadable PDF vegetarian cookbook for your fans as a value add (similar to what Jonsi and Alex did for their fans).

Another important factor in creating an effective product and pricing plan is to use data to determine what options might create the best result for you; which brings me to the point of my post.

John Grubber turned me onto a fantastic post written a few weeks ago by Craig Mod, describing how he and Ashley Rawlings used the fundraising website Kickstarter to self publish a book by generating $24,000 in 30 days. The entire post is well worth reading, and although Craig and Ashley’s goal was to generate funding for their book, I think there’s a lot of similarities between his execution on Kickstarter and the execution of a successful music-focused DTF sales campaign on your own site.
Once Craig and Ashley had determined the overall goal of their campaign—to sell enough books to generate a return substantial enough to further expand their existing or similar publishing endeavors—their next step was to figure out what their strategy would be for the pledge tier offerings. With Kickstarter, people pledge a pre-determined amount of money towards a project on a tiered basis, and get something tangible in return, once the project is funded. Kickstarter’s tiered pledge functionality is not dissimilar to what a musician would offer for sale on their own site to their fans.

What was really interesting to me about what Craig and Ashley did for their book project was that they looked at the top 30 grossing Kickstarter campaign to determine the most successful tiers of pledges. This provided Craig with data that he could use, in his words, to “look for a balance between number of pledges and overall percentage contribution of funds.” Take a look at his graph below:

![Graph showing pledge tier data](image)

Chris’ analysis of this data is spot on, and I’d like to quote his thoughts from his blog, here:

“This data is, of course, hardly perfect (for example, not every project I looked at used the same tiers). But it’s good enough to give us a sense of what price ranges people are comfortable with.

The $50 tier dominates, bringing in almost 25% of all earning. Surprisingly, $100 is a not too distant second at 16%. $25 brings in a healthy chunk too, but the overwhelming conclusion from this data is that people don’t mind paying $50 or more for a project they love.
It’s also worth contemplating going well beyond $100 into the $250 and $500 tiers: they scored relatively high pledging rates compared to other expensive tiers.

The lower tiers—less than $25—are so statistically insignificant (barely bringing in a combined 5% of all pledges) that I recommend avoiding them. Of course this depends on your project—perhaps there’s a very good reason for a $5 tier. More importantly, this data shows that people like paying $25.

Having too many tiers is very likely to put off supporters. I’ve seen projects with dozens of tiers. Please don’t do this. People want to give you money. Don’t place them in a paradox of choice scenario! Keep it simple. I’d say that anything more than five realistic tiers is too many.”

The overall results that Craig outlines above are generally similar for musicians who offer a range of products at tiered pricing levels on their own site. While I do think that offerings of less than $25 do make sense for most musicians, Craig’s overall idea of not providing too many low cost items make sense. For example, I’ve spoken to a number of my students and other artists that are interested in offering $1.00 singles off of their site. While this is possible to do, providing a lower revenue option like that tends to incentivize potential curious fans downward, as opposed to incentivizing folks to purchase a higher priced option.

Based on the data that Craig obtained from past Kickstarter campaigns, he created the following pledge tiers:

<table>
<thead>
<tr>
<th>TIER AMOUNT</th>
<th>PLEDGES</th>
<th>TOTAL $</th>
<th>TOTAL %</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>$25</td>
<td>28</td>
<td>$700</td>
<td>3%</td>
<td>Art Space Tokyo PDF</td>
</tr>
<tr>
<td>$50</td>
<td>155</td>
<td>$10,075</td>
<td>42%</td>
<td>Above + physical book</td>
</tr>
<tr>
<td>$100</td>
<td>64</td>
<td>$6,400</td>
<td>27%</td>
<td>Above + name in book as backer</td>
</tr>
<tr>
<td>$250</td>
<td>11</td>
<td>$2,750</td>
<td>12%</td>
<td>Above + signed book + limited edition tenugui</td>
</tr>
<tr>
<td>$500</td>
<td>4</td>
<td>$3,400</td>
<td>14%</td>
<td>Above + original Nobumasa Takahashi artwork</td>
</tr>
<tr>
<td>$2,500</td>
<td>0</td>
<td>$0</td>
<td>0%</td>
<td>Above + day tour of Tokyo</td>
</tr>
<tr>
<td>Totals:</td>
<td>262</td>
<td>$23,325.00</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Lastly, Craig and Ashley engaged in a wonderful online promotional campaign that focused on their permission based social medial digital touchpoints, as well as key design blogs and magazine sites that were completely in target with their psychographic and
demographic. They focused their messaging campaign using Twitter and Facebook (their messaging was relevant and minimal, too), as well as their own mailing list.

Craig and Ashley had build up an extensive mailing list of design and art world over the past 6 years, which they leveraged nicely. Take a look at the timing of their targeted email campaigns, and the results:

<table>
<thead>
<tr>
<th>DATE</th>
<th>CAMPAIGN</th>
<th>PREVIOUS DAY $</th>
<th>DAY OF $</th>
<th>FOLLOWING DAY $</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 6</td>
<td>It's New! [a]</td>
<td>$1,135.00</td>
<td>$1,440.00</td>
<td>$815.00</td>
</tr>
<tr>
<td>April 8</td>
<td>It's New! [b]</td>
<td>$815.00</td>
<td>$1,370.00</td>
<td>$785.00</td>
</tr>
<tr>
<td>April 15</td>
<td>Midway Update</td>
<td>$855.00</td>
<td>$1,310.00</td>
<td>$150.00</td>
</tr>
<tr>
<td>April 30</td>
<td>Three days left!</td>
<td>$870.00</td>
<td>$1,210.00</td>
<td>$1,255.00</td>
</tr>
</tbody>
</table>

Example of the artwork that was used for the email:

Perhaps most impressive was Craig’s outreach strategy to the blogs that he felt were a laser shot target for what he was doing with this project, and his method of communication to them. He was not focused on quantity of external outreach – he was more interested in the quality of the blogs he did focus on. Again, this is fundamental marketing strategy that all artists could use to their benefit. Again, in Craig’s words:
“I’m writing to blogs that I’ve been reading for years, so for me, referencing older posts of theirs and personalizing these emails is trivial, and fun. Whatever you do, don’t send scattershot emails to media outlets. Be thoughtful. The goal is to appeal to editors and public voices of communities that may have an interest in your work, not spam every big-name blog. A single post from the right blog is 1000% more useful than ten posts from high-traffic but off-topic blogs. You want engaged users, not just eyeballs!”

Here’s his PR results on the project:

<table>
<thead>
<tr>
<th>DATE</th>
<th>SOURCE</th>
<th>COMMUNITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 30</td>
<td>37Signals, SvN</td>
<td>Entrepreneurs</td>
</tr>
<tr>
<td>March 31</td>
<td>Spoon &amp; Tamago</td>
<td>Design, Japan</td>
</tr>
<tr>
<td>April 1</td>
<td>Kickstarter Tweet</td>
<td>Kickstarter</td>
</tr>
<tr>
<td>April 5</td>
<td>Hypebeast</td>
<td>Design</td>
</tr>
<tr>
<td>April 9</td>
<td>Viewers Like You</td>
<td>Design</td>
</tr>
<tr>
<td>April 9</td>
<td>Superfuture</td>
<td>Design</td>
</tr>
<tr>
<td>April 10</td>
<td>Complex</td>
<td>Design</td>
</tr>
<tr>
<td>April 9</td>
<td>Street Giant</td>
<td>Design</td>
</tr>
<tr>
<td>April 11</td>
<td>Notcot</td>
<td>Design, Art</td>
</tr>
<tr>
<td>April 11</td>
<td>Subtraction</td>
<td>Design</td>
</tr>
<tr>
<td>April 13</td>
<td>We Jet Set</td>
<td>Design, Travel</td>
</tr>
<tr>
<td>April 13</td>
<td>Limited Hype</td>
<td>Design</td>
</tr>
<tr>
<td>April 14</td>
<td>Jean Snow</td>
<td>Tokyo, Design, Art</td>
</tr>
<tr>
<td>April 16</td>
<td>PSFK</td>
<td>Art, Design</td>
</tr>
<tr>
<td>April 17</td>
<td>Nonaca</td>
<td>Art, Tokyo</td>
</tr>
</tbody>
</table>

While we’re not talking apples to apples between what Craig and Ashley did with their book campaign and an online DTF music campaign, many of the best practices that Craig and Ashley employed in this campaign, from the data analysis they used, to their communication techniques are exactly what independent musicians should be focused on when they engage in online direct to fan sales and marketing campaigns.

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