

Ziccardi: Proseguiamo in questa interessantissima giornata con l'intervento di Victor Simonelli, che ringraziamo di essere oggi qui in sostituzione del relatore che non è potuto venire, l'avv. K. Nasserì. Victor Simonelli racchiude in se diverse qualifiche. Egli è, infatti, un editore musicale di New York ed è nel business della musica da più di dieci anni. Victor è inoltre un autore, un produttore discografico, nonché un dj. Ci darà quindi non un'analisi giuridica delle questioni, ma pratica, ossia vista dalla parte di chi vive tutti giorni in queste problematiche. Il mondo della musica è anche un mondo di passione e di persone che ogni giorno sono a contatto con l'evoluzione ed i cambiamenti, che sono necessari non solo da un punto di vista contrattuale ma anche come approccio al business ed al gusto dei consumatori. Penso che l'analisi di Victor sia molto interessante proprio perché è il primo intervento che abbiamo in questi due giorni di un attore del mondo musicale che, oltre ad avere per forza una necessità di competenze anche giuridiche, seppur non approfondite come quelle che abbiamo sentito dai precedenti colleghi avvocati, ogni giorno vive tra i contratti, tra le produzioni, e in contatto con gli artisti e con il pubblico. Pertanto, penso che possa darci un quadro delle problematiche relative all'editoria musicale ed alla sua evoluzione.

“Aspetti legali del contratto di edizioni musicali”

VICTOR J. SIMONELLI

*Editore musicale, produttore discografico e Dj, New York (USA)*

As just it has been explained, I am not a lawyer, I am just someone who learned the hard way, really. I started in New York making records probably in 1987 and actually I did not realize all the goes to making records. I just know that you have to go into the studio and produce the record. The sale of the record produces royalties and they are accumulated from making them. But I discovered, and it was the first thing that I found out that really bothered me, the Mechanical Royalty e.g. the royalty that are accumulated and shared to the owner from the Collecting Society and due to the publisher.

At that time I was not a publisher, I was just an author and composer. I was in New York and I licensed my compositions to independent label and they wouldn't tell me anything about what publishing is and how royalty are accumulated. They was just assuming they get a portion of the publishing. So, I was not collecting my mechanical royalties. But I did not even know who was collecting them, who was getting the money. When I realized that, I set up a meeting with a lawyer in New York to find out a way to collect this money coming from the exploitation of my records. He explained to me that from the exploitation of a record two different kind of royalty: 1) Mechanical Royalties are generated by the sales of the record and 2) Performance Royalty generated by the public execution of the record (e.g. in concert, via radio, tv, at discos).

In America the way it's work is by BMI and ASCAP, American Collecting Society that only collect Performing Royalty of a song. For Mechanical Royalty we have Herry Fox Agency. In order to start to getting my royalties as a publisher I had to become a member of Herry Fox Agency. I am telling you the truth. The labels that releases the record in America supposed to inform Herry Fox Agency that your composition is been released but you know what, that's just an idea, they won't do that. When I become a publisher had go back to the beginning of the tunes and register from there to the present to collect my royalty, because the labels that produced them did not inform the agency, so I did not start to receive the royalties, telling the truth Herry Fox is pretty slow. This was my introduction to the publishing world.

Now when I go into the studio I wearing hats. I am a producer, and this does mean that I produce royalty generated from label's negotiation, I am a author and composer and that means there will be author's and composer' royalty, and I am also a publisher and there will be publishing royalty generated. Those are different ways to get money

from the music business. To get those various royalties you have to fight hard, those are not coming easily. In a couple of years I had to find out that Herry Fox Agency does not really work well, when I started to license my compositions abroad, first in England (Where I had the chance to hear about MCPC, the England equivalent to Herry Fox Agency) and then in all of Europe. I had the so called sub-publisher approach. The sub-publisher offered me advances for the right to collect Mechanical and Performing Royalty for my compositions.

My first sub-publisher was a friend from England. He passed by and at that time he left a reversion letter whereby he gave back to me the ownership on my musical composition. I then became a direct member of MCPS and I like it. I discovered that a unit from the advance what is that independent record do, I don't really need third party, I can collect those royalty directly. Now what I am doing is manufacture records. There are many young guy that come to me and want to release records and you know I can explain to them what I understood. I am not interested in taking their publishing as was taken from me in a bad way. I think it is not correct. I don't know how it goes in Europe, but in New York I had a lot of shocks. To the guys that come to me today and they would like to release their material I tell them to join Herry Fox or another Collecting Agency, whatever country you may be in, to collect your royalty directly. Because it is all come down to this independent records. I guess traditionally printing sheet music and licensing the tunes and getting covers on compositions the major publisher doing that for authors and composers, but at my level, an independent level, that's the way I see.