
Journal

● of the
iawm
international alliance for women in music



Patricia Leonard

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stead of letting these memories interfere with my compositional process, as they had previously done, I decided to confront them and integrate them into the piece itself. The resulting composition is grounded in Shawn's impressive abilities as a performer, and engages ideas inspired by North Indian music; its political and emotional character, however, comes directly from my own thoughts and experiences. The piece is dedicated to Shawn, and to Equality Now (an organization that works for the protection and promotion of the human rights of women and girls around the world). The organization receives a donation of fifty cents from the purchase of every copy of the recording (available on Shawn's website).

La folia (2008) is my second piece for harpsichord; it also grew out of my relationship with the performer, Katelyn Clark, who commissioned the piece with assistance from the Canada Council for

the Arts. I did not particularly like the sound of the harpsichord until I heard Kate play, but when she sits at the instrument it is as if all its limitations fall away. When I wrote this piece I tried to follow her transcendent example, composing harpsichord music that contains dynamic contrasts and (in one section) a melody that stands out from the surrounding texture. I loved giving my friend the chance to show off her virtuosity and musicality; writing this piece felt a bit like test-driving a sports car on the Autobahn.

In addition to solo pieces, I also write chamber music, choral music, and orchestral music. This year I am working on two orchestral commissions, a kind of cantata for Third Practice (a Washington, DC-based chamber vocal ensemble that performs early music side by side with brand-new compositions, and does both beautifully), a recomposition of music by electronica artist Grimes for indie band/

new music ensemble Plumes, a song cycle for the winner of the Jeunesses Musicales' Maureen Forrester Tour (commissioned by the Canadian Art Song Project), a new piece for the Yale Carillon, and a Magnificat setting for the Elm City Girls Choir and Yale Schola Cantorum. I already have ideas for most of these works, and in every case I am really excited about the people for whom I'll be writing.

I am an active member of the Association of Canadian Women Composers. I had heard about the IAWM for years, but as the ACWC has worked at reconnecting with our sister organization, some of my colleagues have spoken about their admiration of and commitment to the IAWM, and I felt I should join it as well. I am frustrated by the sexism that still exists in the world, and am excited to be part of a community that is doing positive work to change inaccurate and harmful perceptions.

THE BUSINESS SIDE OF MUSIC

Licensing Music for Audio-Visual Uses

PRISCILLA J. MATTISON

This article will highlight some of the customary practices and considerations in the U.S. relating to master use and synchronization licenses, with emphasis on film and television uses.¹

An Introduction to Master Use and Synchronization Licenses

Music is an important element of audio-visual projects such as films, television programs, television and Internet advertisements, video games, and Internet websites.

If a producer hires a composer to write a piece of music specifically for an audio-visual project, the contract between the producer and the composer will probably specify that the producer owns all rights to that composition (with certain possible exceptions, which are beyond the scope of this article). However, in order to use an *existing* composition in an audio-visual project, the producer will need to get a license from the people or entities that own or control the rights to that composition (what I'll call the "owners").² That license, a "Synchronization License," gives the producer the right to "synchronize" the composition with, or include it in timed relation to, the images in the audio-visual project. (To be precise, since the producer will generally

also need to be able to publicly perform the audio-visual project, the license may be called a "Synchronization and Performing Rights License.") Uses of compositions in audio-visual projects are not subject to collective or statutory licensing schemes. Each use of an existing composition in an audio-visual project is subject to the approval of the owners, and to negotiation between the owners and the producer regarding the terms of the license.

Sometimes, a composition is used by itself in a film or television program, as when a character in a film croons a lullaby onscreen or when a performer plays a contemporary violin piece on a television show. No existing recording of the composition is used. Only a synch license is required. Other times, an existing recording of a composition is synched into an audio-visual project, as when the characters in a film dance to a recognizable record. In such a case, a second license is required—a "Master Use License," which is granted to the producer of the audio-visual project by the owner of the master (sound) recording. As with a composition, each use of an existing recording in an audio-visual project is subject to the approval of the recording owners, and to negotiation between

the owners and the producer regarding the terms of the license.

The musical composition is generally owned or controlled by one or more music publishers or administrators, or by the composers/songwriters themselves if they have not entered into music publishing or administration agreements. The sound recording is generally owned or controlled by a record label, or by the recording artist herself if she has not entered into a recording contract. In the case where both a recording and a composition are being licensed, and one person or entity owns or controls both the sound recording and the music publishing—for example, an "unsigned" artist who writes her own compositions—the two licenses can be combined into a "Master Use and Synchronization License."

Master use licenses can be significant sources of income and exposure for artists and labels. In an era of transition from sales of CDs to physical downloads to streaming, and with revenue from sales and licenses of recorded music struggling to rebound from the stark declines of prior years, master use licenses can be welcome and even vital sources of revenue.³ In particular, unlike sales of recordings, which often bring in small amounts of money on a delayed ba-

sis, master use licenses often bring in up-front lump sum payments (as discussed below), which can help the owners' cash flow. Also, having a "placement" in a film or television program means that the artist and label can benefit from the promotion and marketing for that project, especially if the artist and label receive prominent written credit within the project and in advertisements for the project, and if the recording is used in audio-visual ads for the project (such as a film trailer). Such promotion can lead to additional sales or streams of the recording. Further, a placement in a successful film or television show can bolster the credibility of the artist and the label, thus paving the way for the owners to obtain additional master use licenses for that or other sound recordings. Likewise, placements in high-profile advertisements can be both lucrative and useful as promotional opportunities, both for up-and-coming artists and for legacy acts seeking to connect with new audiences or draw attention to upcoming tours or (re)releases.

Similarly, synchronization licenses can be significant sources of income and exposure for composers/songwriters and for publishers/administrators. For example, the placement of a composition in a television show might lead to the composer being hired to write for other films, television programs, or commercials.

Now consider the producers of audio-visual projects. Synch and master use licenses are important to them for reasons of aesthetics; using the right music in the right way can enhance the emotional impact of the project. Also, the producer of the audio-visual project can select music designed to appeal to, and increase awareness of the project to, its target audience, capitalizing on the popularity of the performer and music and thereby raising the commercial value of the project. Further, a producer can choose to enter into a specific license for reasons of convenience—such as a cooperative publishing company with short turnaround time, a library of pre-cleared music, or a "one-stop-shop" artist/songwriter who owns her own masters and publishing and can give quick approvals.

A notable example of the importance of a song placement to both owner and producer is the use of the original recording of the 1972 Badfinger song "Baby Blue" for the closing of the finale of the popular AMC cable television channel program, "Break-

ing Bad." Using that track was the idea of the series creator, one which took some convincing of the music supervision team,⁴ and which ultimately proved very popular with the program's ardent audience. In the days just after the broadcast, digital sales of the song increased by 2,981%, U.S. terrestrial radio spins increased by 1,175%, and U.S. streams jumped by 20,000%.⁵

In fact, over the past few decades synch and master use licenses have become more important than ever before. Although most film production companies still hire composers to create and compose background "score" music for their films, many contemporary films also incorporate individual master recordings into the soundscape. Some contemporary productions rely on outside master recordings to serve as nearly the entire score for the film. Many U.S. television programs, including dramatic and comedy series, license current hit records performed by top artists, so that the television producers and networks can use the association with the artists to promote upcoming broadcasts. Use of current master recordings by original, independent artists has also been on the rise, with certain music supervisors excelling at finding and placing recordings by artists on the way up.

How Master Use and Synch License Deals Get Started

Synch and master use license deals come about in various ways. Music supervisors for films and television programs seek out music for their projects through their networks of contacts, pre-cleared library sources, listings in tip sheets, and other methods. Music publishers "pitch" their signed writers' music. Labels pitch their signed artists' music, both to projects being developed by their affiliated film and television production companies, if they have them, and to outside producers. Entertainment lawyers and other representatives

may also solicit placements of their clients' music. Synchronization placement specialists offer to represent songs, composers, artists, labels, or catalogs to potential users. Independent artists may submit their own music to projects, using tip sheets and other publicly-available information.

As suggested above, some license deals are made, at least in part, because of personal relationships between professionals and executives who have worked together before; music supervisors, synch placement specialists, film company music department heads, and entertainment law firms are all in regular communication with each other. A music supervisor might reach out to trusted colleagues to search for the perfect recording to fit a project, often at the last minute and needing to be confident that the purported owner really does control the rights. In the fast-paced world of daily television shows, music supervisors may have to race to track down who owns the rights to a composition slated for inclusion in an upcoming show. To representatives of hit songs, it is common to receive dozens of last-minute requests for television synchronizations during the short window of time that a song is new and considered "hot." Given the short turnaround required for daily and many weekly television programs, the parties involved need to have well-functioning relationships so that the music can be delivered and the rights cleared in time to broadcast the program.

On the other hand, the numerous companies that offer pre-cleared music to producers of audio-visual projects increasingly offer automated tools that let potential customers digitally filter, listen to, and sometimes download, license and pay for music.

Business Considerations

This section will address business considerations that arise when an owner contemplates making her music available for synchronization placements in one of two ways—first, when the owner authorizes a licensing company to seek placements for her music, and second, when the owner has the opportunity to license a specific piece of music for a specific use.

Licensing Companies

There are numerous companies that license recorded music (often called production, stock or library music) to customers for use in films, television programs, and other projects. These companies (what I'll call "licensing companies") vary widely in



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terms of their business models, target customers, and offerings. For example, some licensing companies focus on smaller-scale uses like wedding and non-corporate event videos, while others emphasize higher-profile uses like television programs and advertising; some licensing companies only handle music that is newly composed for that company, while others take on music that has previously been commercially exploited. Licensing companies which deal in pre-cleared music tend to rely on volume of business: doing more, cheaper deals, rather than fewer, higher-paying deals.

Licensing companies often handle music that is owned or controlled by one person, such as independent artists who own both their compositions and master recordings. Some licensing companies will only deal with solo creators who write, perform, and produce their own music.

It is important for an owner of the music to investigate a licensing company's business model and terms before agreeing to do business with it. While the terms offered by the licensing company to the owner may be standardized and non-negotiable, in some cases they can be negotiated. In addition to finding out general information such as how big the company's catalog is and how many placements (and of what type) it has made, the owner might want to think about:

- Is it free for the owner to post music to the licensing company's website? Most reputable licensing companies get their payment from the music users, not the owners. As a general rule, an owner should not have to pay to submit music for possible synch placements.

- Does the licensing company want exclusive or non-exclusive rights to the music? In other words, will the owner be allowed to seek (or authorize others to seek) other licenses, or not? If the licensing company only seeks non-exclusive rights to the music, will it "re-title" the individual tracks when submitting cue sheets to performance rights organizations ("PROs")? While re-titling is a common practice, it can lead to confusion and is not ideal from the perspective of the owner.

- How does the licensing company charge its customers? Will the licenses granted by the licensing company be for specific uses of the music, or will they be valid forever? If the company has a "rate card" for different types of uses, what are

the various rates charged? Will the user pay for the music per use, or buy an "all-you-can-eat" monthly subscription? If the licensing company offers prospective users a standard license fee, how much does it cost, and what does it cover?

- How does the licensing company pay the owner? If the licensing company pays the owner a percentage of what it earns per placement, what will that rate be? Are all other owners paid the same rate? Ideally, the owner will earn at least 50% of what the licensing company earns per placement (after expenses). In theory, the best scenario from the perspective of the owner is for the licensing company to take a percentage of any upfront fee(s) paid to the owner and not take a percentage of any public performance royalties. However, many licensing companies will also ask for a percentage of back-end income. In fact, the owner should find out whether she will receive *any* performance royalties in connection with placements made by the licensing company. Some licensing companies only deal with owners who are not affiliated with a PRO. Some licensing companies buy the music outright from the owner, so that the owner will not receive any performance royalties. If the licensing company will buy the music outright, will it pay the owner upfront and regardless of whether or not it ever makes any placements of the music? Some potential users, such as certain U.S. television networks, are not signatories to the PROs and do not pay performance royalties. Some licensing companies want to be able to offer music to potential customers for a flat fee with no back-end payments, so that the upfront fee paid to the owner is deemed to include the performance royalties.

- Does the licensing company have different divisions for different types of music and licenses? If so, how do they differ?

- Does the licensing company have "creatives" on staff to help potential users select music for their projects, or is the service automated only?

- Does the licensing company place any restrictions on how the music can be used? In general, since the pre-cleared status of its music catalog is one of the licensing company's main selling points, the owner will have no say over which licenses are granted once the company takes on the material; the owner will be deemed to have

agreed to any and all placements ahead of time. That being said, the terms of the licensing companies' licenses may forbid "pornographic," "obscene," and "immoral" uses by its customers, as well as those that are illegal or violate the rights of any third parties.

Doing some research, asking some questions, and seeking the advice of a lawyer, if necessary, may help the owner avoid entering into a business relationship with a company that is not a good fit. The owner should also be clear about which tracks the licensing company is interested in. The company might want to take on all of the music she has created to date, all of the music she will create within some specific timeframe, a specific list of titles, or something else. The owner should be careful to hand over to the licensing company only those titles she truly wishes to (and is able to) have it license.

Conventional Licensing

In the conventional process, each synch and master use license is negotiated on a case-by-case basis for a specific use.

When both a composition and a recording embodying that composition are being licensed, the owners of the composition and the sound recording each negotiate separately with the producer regarding their respective properties. Generally, however, the license fees for the sound recording (the master use license) and the composition (the synch license) are equivalent. For example, if a television producer plans to license a piece for a total budget of \$1,000, typically half of the license budget (\$500) is paid to the owner of the master recording, and the other \$500 is paid to the owner(s) of the composition. If, as in many cases, there are multiple parties that own or control the composition—for example, where the composition was co-written by four writers, each of whom has her own publisher—then these parties customarily split the synchronization license fee based on their respective pro rata shares of the underlying musical composition.

In many cases a music supervisor, film producer or other individual will become interested in licensing a specific composition or master recording for a specific use. The inquiring party (I'll refer to this person as the "producer") may ask the owner(s) of the composition and the recording for a "price quote."

Preliminary Questions

An owner of a composition or recording, or her representative, such as a lawyer, should start by finding out some preliminary information about the proposed use. For example:

Musical Selection: Which composition does the producer of the audio-visual project want to use? The title and composers should be identified so that the parties can be sure they are talking about the same composition. Which master recording does the producer of the film or television program want to use? Is the producer seeking to use the original master recording, or a re-recording or “sound-alike” recording? The title, composers, and performers should be identified.

Territory: What is the geographical territory covered by the license? Will the producer require rights for the whole world or universe, or a more limited territory? The owner might not be able to license the rights for certain territories.

Term: What is the desired length of time of the license? Will it be just for a few weeks or months; for example, during the initial broadcast cycle of a short-run reality television program? Or does the producer seek a license for the entire length of copyright?

Exclusivity: Will the grant of rights in the music be exclusive or non-exclusive? In other words, may the owner seek placements of the composition (master recording) in other audio-visual projects in the future?

Budget: What is the total budget of the project? What is the music budget?

Usage and Grant of Rights: The producer will generally need to have the rights to publicly perform, reproduce, and distribute the composition (recording) as contained in the audio-visual project, in addition to the right to synchronize the composition (recording) into the project. The lawyer will also want to know:

- How will the music be used in the project? If in a television or Internet ad, what is the ad for? If in a website, what kind of website is it? If in a film or television program, what is the scene in which the music will be used? A television or film music supervisor or other producer’s representative will usually provide a short description of the scene in which the music will be used, and on request he or she might provide actual script excerpts or footage so

that the owner knows exactly what will be seen on screen while the music plays. Regardless of the type of audio-visual project, the owner will want to make sure that the use of the music in the proposed context will enhance, not detract from, the stature of the composition. If in a film or television show, will the music be vocally performed by an actor on camera, performed visually by musicians in the background of the scene, or used as mere background to the action on screen, either with vocals or without? Does the producer want to change the lyrics? Will the music be used during the opening or closing credits? Will the music be used during a particularly important scene which advances the plot forward or serves as a climax of the story? Will the title of the composition also be used as the title of the film or television program?

- Will the audio-visual project use the vocals of the recording, or will the vocals be removed or mixed at such a low volume that the viewer only hears the instrumental portion of the recording?

- How many times within the project will the composition (recording) be heard? What will the duration of each use be? Will the producer use the entire composition (recording), or only a small portion of it, for example, up to 30 seconds?

- If the request is for a television program, does the producer wish to license the music for just one episode, or for an entire season, or for use within every episode of the program it produces, for many years to come?

- Will the music also be used in advertisements or trailers for the project? If so, what kind? For example, will the music be contained in television ads for a videogame? In the realm of film or television, an “in-context” use means that the music is used in the trailer or promo exactly as used in the project itself; an “out-of-context” use means that the music is used over a scene other than the one in which it is used in the film or television program itself. Does the producer want to use the music in a soundtrack? If so, will the producer guarantee to use the music in the soundtrack album or release it as a single?

- What kind of distribution will the audio-visual project have? For example, if the audio-visual project is a videogame, will the game be released in digital format only? Will it be an Internet-based massive multiplayer game? If the audio-visual

project is a film or television production, does the producer seek rights for worldwide television of all types, or for free television only? U.S. theatrical distribution? Ex-U.S. theatrical distribution? If a film, will it be released by a major or major independent film studio, or a smaller company? Does the producer seek rights for home video/DVD, downloads, and streaming? If so, the producer will likely want DVD, download and similar rights on a buy-out basis. Does the producer seek the broadest rights possible?

The answers to the above questions may “make or break” the deal, and at the least will inform the price quote.

Consideration

Once they reach the stage of negotiating exactly how much money or other “consideration” (something of value) will be paid for the license, the parties can use their creativity in structuring a deal.

One possible deal type is a “flat fee” deal. In a flat fee deal, the producer of the audio-visual project pays the owner a one-time price at the inception of the synch or master use license. A flat fee is appropriate when the distribution and term aspects of the license are fairly straightforward, such as when a producer wants to use a recording in a local television advertisement for a period of six months. A flat fee is also appropriate when a producer has the financial means to obtain the widest territory, longest term, and most flexible license possible by making a one-time payment upfront. This is also the most desirable type of deal for the owner.

The license fee “per side” (i.e., for each of the compositions and the recording) can range from a couple hundred dollars for a low-budget television show or film to hundreds of thousands of dollars or more for major motion pictures. Recent synch license fees for video games vary from \$1,000 to \$10,000. A national U.S. television advertising campaign synch license generally ranges from \$50,000 to \$100,000 for thirteen weeks. A recent use of a few seconds of a piece by a classical crossover act in a three-day U.S. broadcast and basic cable television promotion for an upcoming sports event paid \$250. Use of a hit song in a promotional campaign on a cable television channel (and the affiliated website) recently paid \$2,500 to \$3,000 per week in synch license fees. Average recent synch license fees for weekly episodic tele-

vision programs range from \$250 to \$18,000 (the latter a current hit song featured prominently in a scene, with a character lip-syncing to the recording). Average Hollywood film prices vary from \$10,000 to \$40,000 for compositions contained in recordings by mid-level artists. A recent placement of a new pop song by an up-and-coming international artist in the end credits of a major studio film paid \$50,000 per side.

Logic dictates that expanded rights and uses result in higher license fees. If the recording is to be used several times in the project, over opening or closing credits of a film, as the title of a film, or in out-of-context trailers, then the license fee would tend to be on the higher side. Generally speaking, the more notable the artist and the recording, the higher the price, and of course new hit songs command higher fees.

In some cases, however, the producer does not have a large enough budget to obtain such an array of rights. The project may be a low-budget independent film, a documentary, or just a production that has run out of money. Alternatively, the producer may be well-financed but needs the flexibility to make decisions about the exploitation of the project in the future. In such instances, the parties may negotiate what is called a "step" deal. In a step deal, the producer usually pays the owner an upfront license fee, and promises to make a series of additional payments to the owner if and when certain sales or distribution milestones are achieved, such as the project earning a certain amount of box office gross revenue, or its distribution being expanded into a new territory or format or extended on a television network.

Step deals are primarily used in films and television shows. Such an arrangement can be satisfactory if the owner is willing to take a leap of faith regarding the project, but particularly if the upfront fee and exposure make the deal worthwhile in any event. Recently, the use of a hit song on a broadcast network television awards show paid a synch fee of \$550 to \$3,000, depending on the nature and duration of the use within the show, whether the term was renewed, and whether the territory was expanded. A recent six-month TV, Internet, and trade show ad campaign paid an initial synch fee of \$120,000 per side, with an additional payment of \$143,750 payable per side if the producer extended the campaign. The use of a hit song on a TV contest show

recently paid an initial synch license fee of \$1,700 to \$3,300, depending on the broadcast territory and the duration of the use, with an additional \$1,300 to \$2,900 payable if the song were used in subsequent episodes; a similar TV contest show use paid an initial synch fee of approximately \$4,400, with additional payments of up to \$21,000 each payable for other uses within the show and expansions of the term, territory, or format.

In some cases, the producer cannot offer any money to the owner. Nevertheless, the owner might still elect to grant the license. Such a license is known as a "gratis" license. In such an instance, the owner may feel that the promotional value of being in the project will likely lead to other licenses and future revenue for this particular piece of music, and/or for the musical artist and composer. A gratis license might be granted for a project such as a low-budget independent film, low-budget television program, student film, or audio-visual project made for charitable purposes; or for a limited use such as "festival license," which allows a producer to screen a film at a film festival in hopes of securing distribution.

Another possible payment arrangement is a "trade" deal. As in a gratis deal, no money changes hands. However, the producer might be able to offer something of value to the owner in exchange for the license; for example, footage from the project so that the owner can create a promotional, short-form music video for the piece at little or no production expense.

Different types of payments are collected and paid in various ways. Generally, the synch license fee (master use license fee) is paid upfront, and is payable upon commercial release of the audio-visual project. In the instance that the license calls for a "step" payment or some other type of future or contingent compensation, the license agreement would control the frequency and method of payment of additional compensation. In some territories, additional performance royalties stemming from the use of the composition within the audio-visual production are also collected by the local PRO, which in turn passes the performance royalty along to the composer/writer and publisher/administrator.

Other Important Issues

Several other issues arise when the synch and master use licenses are being drafted and negotiated:

Credit: The owner will want to ensure that correct and detailed credits are included in the credit portion of a film or television program, as verifiable credits are vital to a composer's or artist's career and of promotional value to publishing companies and labels. The producer's attorney may seek to limit the producer's obligations regarding credits and her liability for any breach of those obligations.

Remedies for Breach of Contract:

What rights does the owner have if the producer fails to honor the terms and conditions of the license, and vice versa? Is the license terminated? Are the remedies limited to money damages in court, or can the owner enjoin the further distribution of the audio-visual project in a court of equity? The producer will seek to limit the owner's remedies to money damages, and will almost always insist that the owner waive any right to enjoin distribution of the project.

Audit Rights: If the financial aspect of the license is based on a "step" arrangement, does the owner have the ability to retain an accountant to examine the financial books and records of the producer in order to verify whether or not money is owed? Who bears the cost of this audit, and where does it take place? Does the owner need to give advance warning in order to conduct the audit?

Venue and Jurisdiction: Most audio-visual projects are distributed in multiple nations. Therefore, it is essential to include dispute resolution, venue, jurisdiction, and choice of law provisions in the license to ensure the swift and efficient resolution of any potential future disputes.

Taxes: Each party to the license should agree to pay its respective share of taxes due in connection with the consideration paid. In the situation where the parties are from different nations, the lawyer should be mindful of international tax treaties and the potential for "at source" income taxes, which might be levied by the tax authorities. (If the owner is collecting payment on behalf of and distributing money to co-owners, she should also be aware that she will have to file tax documents to ensure that the appropriate tax liability is passed on to the co-owners.)

Warranties and Representations: What if the owner does not hold the rights she claims to hold? The producer will want the owner to warrant that she controls the property being licensed, and to indemnify

the producer in the event of any breach of such warranties.

Performance Rights: What about ensuring that performance royalties are paid? The owner of the composition will want to ensure that any performances of the audio-visual project on television or (outside the U.S.) in movie theaters generate appropriate performance royalties. The producer will need to provide a cue sheet to the owner's PRO. It is advisable for the owner's lawyer to insist on getting a copy of the cue sheet, both to check it for accuracy before it is delivered to the PRO, and to be able to follow up with the PRO if necessary to make sure that the owner is paid (and credited) properly.

New Use Payments: What about union obligations? Normally, the owner of the master recording will expect the producer to make any payments required under union agreements to be paid to the musicians or producers on the recording in connection with a "new use" of the recording in a film or television program.

Conclusion

Synchronization and master use licenses are an important part of today's music business. Existing compositions and recordings are used widely in films, television programs, and other audio-visual projects. Today's songwriters, composers, publishers, administrators, musical artists, and labels rely on the exposure and fees generated by synch and master use licenses more than ever before, and the use of music in an

appropriate project and pursuant to a well-negotiated synch or master use license can bear fruit for many years. Owners who are considering making their music available to a licensing company for pre-cleared placements in audio-visual projects should carefully evaluate the company's business model and terms to avoid unwanted surprises and ensure a mutually beneficial relationship. Synch and master use licenses, which are negotiated in the conventional way, can take many forms and result in diverse types and amounts of payment. Attorneys who are knowledgeable about the relevant issues can help their clients avoid pitfalls and participate in successful collaborations in this active corner of the music industry.

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NOTES

¹ © 2015 Priscilla J. Mattison. This article combines, expands on and updates two articles co-written and previously published by Priscilla J. Mattison and Bernard M. Resnick.

² This article assumes that the compositions and sound recordings in question are currently under copyright protection. The question of whether a particular composition or sound

recording is or is not currently under copyright protection is beyond the scope of this article.

³ Global sales of recorded music were less than \$15 billion in 2014 (Tim Ingham, *Global Record Industry Income Drops Below \$15BN for First Time in Decades* [April 14, 2015] <<http://www.musicbusinessworldwide.com/global-record-industry-income-drops-below-15bn-for-first-time-in-history/>>), compared to over \$38 billion in 1999 (IFPI, *2000 Recording Industry World Sales* [April, 2001] <<http://www.ifpi.org/content/library/worldsales2000.pdf>>). Recorded music sales in the U.S. dropped from \$14.6 billion in 1999 (RIAA, *Scope of the Problem* [visited July 22, 2015] <https://www.riaa.com/physicalpiracy.php?content_selector=piracy-online-scope-of-the-problem&searchterms=1999&terminclude=&termexact=>>) to \$6.97 billion in 2014 (Joshua P. Friedlander, *News and Notes on 2014 RIAA Music Industry Shipment and Revenue Statistics* [visited July 22, 2015] <<http://riaa.com/media/D1F4E3E8-D3E0-FCEE-BB55-FD8B35BC8785.pdf>>). Worldwide, revenue from synchronization deals was up 8.4% in 2014 and accounted for 2% of total recorded music industry revenue (IFPI, *Facts and Stats* [visited July 22, 2015] <http://www.ifpi.org/facts-and-stats.php>); in the U.S., revenue from synchronization placements constituted 3% of recorded music revenues in 2014 (Friedlander).

⁴ Steve Knopper, *Why 'Breaking Bad' Chose Badfinger's 'Baby Blue'* (Oct. 1, 2013) <http://www.rollingstone.com/movies/news/why-breaking-bad-chose-badfingers-baby-blue-20131001>

⁵ *Breaking Bad Was Very, Very Good For Badfinger's "Baby Blue"* (Oct. 3, 2013) <http://www.hypebot.com/hypebot/2013/10/breaking-bad-was-very-very-good-for-badfingers-baby-blue.html#more>

A Week of Festivals Featuring Women Composers: Judith Shatin's *Glyph* and Jennifer Higdon's *Cold Mountain*

MARY KATHLEEN ERNST

This past August, I had the good fortune in a single week to hear Judith Shatin's *Glyph* at the Aspen Music Festival (Colorado) and Jennifer Higdon's first opera, *Cold Mountain*, a world premiere production commissioned by The Santa Fe Opera (New Mexico).

Aspen Mountain was lush and green from higher than usual summer rainfall. During a visit to the spectacular Maroon Bells peaks and Maroon Lake, the clouds broke just long enough for a peek at the

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peaks, the most photographed in North America. Their reflection in the crystal clear lake below, with the sky's dramatic thunderheads in the background, was an unforgettable sight.

That evening, I attended a chamber concert at Harris Concert Hall performed by faculty and students of the Aspen Music School in a well-constructed program including three major works sharing great virtuosity, rich textural effects, and emotional depth: Faure's Piano Quartet No. 2, Brahms' Sonata No. 1 for Viola and Piano, and Shatin's *Glyph* (1984) for Viola, Strings and Piano, with faculty artist James Dunham as soloist. Although it was composed thirty-one years ago, *Glyph* is still fresh, inventive, and deserving of the many performances it has garnered. A glyph is a

carved relief and refers to "the carving of sound in relief through time and on oneself," according to the composer.

In concerto-like form, its four movements evoke different qualities of light. "Luminous" displays sustained, gossamer sound colors against the solo viola's warm, lyrical lines. "Flickering" is a fast, fantastical interchange between instruments that ends all too soon in a flurry of pizzicato that vanishes into thin air. "Ecstatic" showcased Dunham's voluptuous sound in the romantic solo lines, embellished by crystalline glissandi in the piano. "Incandescent" implies a white-hot, fiery light. Here, there were impassioned exchanges between instruments, followed by a virtuosic viola cadenza. With increasing intensity and driving rhythms, the movement