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DJING THROUGH A PANDEMIC

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Scholars have classified DJs as cultural mediators and gatekeepers. Nowhere is this truer than in Washington, DC, the Black business mecca. For decades, DJs have provided live entertainment and safe spaces to community members of all walks of life. But the abrupt intermission of live music caused by the pandemic impacted DJs on a new level. With limited options for unemployment assistance, live entertainers were forced to find other avenues for monetization. Illegal rave scenes took off during the pandemic. However, most DJs shifted online, creating new challenges for DJs. Online, sponsorship structures limited the spaces in which they could work and express their creativity.

COPYRIGHTED CONTENT

Copyright protects original works of authorship. It gives copyright holders the right to distribute, make copies of, display or perform their original work. Online content creators need permission to use the creative works of others in their social media posts unless their content falls under the Fair Use Doctrine. Fair use permits the limited use copyrighted material without obtaining permission from the copyright holder. However, a major factor considered when using a fair use defense, is that the content that includes copyrighted material is non-commercial. This puts social media users and content creators in a tough position because it can be difficult to distinguish whether their content is for informational or entertainment purposes or if they are promoting a product or brand.

Exercising caution and due diligence is important for creators to protect their work and avoid being sued for copyright infringement.

Illegal distribution includes copying and pasting excerpts of original work, restating something someone has written, playing music in the background, or copying and pasting images or design codes for your own social media profile or website. However, the popularity of online footprints and the frequency of which content creators post on social media, make it difficult to obtain copyright protection and licenses. The terms and conditions of the platforms used by content creators further complicates intellectual property rights.

In December 2020, Congress passed the U.S Copyright Alternative in Small Claims Enforcement Act, also known as the CASE Act. The act was created as a new way to protect the copyright works of online creators as well as a new way to bring on an infringement claim.

This act is important for Black content creators because it provides an accessible way to address appropriation and copied works by influencers and corporations with a larger audience.

But a key question is: What does this mean for DJs online?

IP IN THE AGE OF STREAMING AND ONLINE BUSINESSES

The age of technology and the pandemic has transformed the way we look at intellectual property laws. Streaming services and the rise of online platforms have introduced a new domain for policymakers to address the rights of content creators in digital spaces. In order to fairly and accurately track and manage the intricate intellectual property of online content requires advancements in technology.



HOW IT WORKS

STEP 1:

A claim is discovered and discussions between the parties fail to resolve the issue.

STEP 4:

If the claim meets the CASE Act requirements, the Claimant notifies the Respondent about his or her claim by serving the Respondent (consistent with the Federal Rules of Civil Procedure) and explaining the proceedings and the claim (as required by the CASE Act). The CCB sends a follow-up notification to make sure the Respondent understands the proceedings and the consequences of not responding.

STEP 6:

If the Respondent has not dropped out, the CCB issues a scheduling order, supervises limited discovery relating to any claims and counterclaims, conducts conferences, and facilitates settlement conferences. The process is simplified and done remotely, so that neither party needs to hire an attorney and travel is not necessary.

STEP 8:

If the case is not dismissed and the parties have not settled, the CCB considers the facts and legal issues at stake in the case and renders a decision based on relevant federal court precedent.

STEP 10:

After reconsideration and review have been completed or the deadlines have ... the losing party has a limited right to appeal the decision to federal district court. If the losing party does not comply with the CCB's judgment, the prevailing party can bring an action in federal court to enforce the CCB's judgment.

STEP 2:

The Claimant files a claim (or claims) with the Copyright Claims Board

STEP 3:

The CCB attorneys examine the claim to make sure it meets the CASE Act's requirements. If it does not, the Claimant has an opportunity to amend the claim.

STEP 5:

The Respondent has 60 days to decide whether to opt out or participate in the proceeding.* If the Respondent opts out, the case is immediately terminated.

*This 60-day period may be extended for another 60 days under exceptional circumstances, if the Respondent does not respond in a timely fashion, there is a lengthy process before a default judgment can be extered. For a detailed discussion of when and whether a default judgment can be entered see the separate default judgment paper.

STEP 7:

Any time before a decision is rendered the CCB can dismiss the case for various reasons, such as a lack of evidence. The CCB can also dismiss claims brought for harassing or other improper purposes (and can order the party acting in bad faith to pay the other party's costs), or the claims exceed the competence of the CCB.

STEP 9:

The parties have 30 days to request reconsideration by the CCB and another 30 days to request review by the Register of Copyrights.

Developing a process that protects all creators' and entrepreneurs' intellectual property rights is complex and remains flawed. And technological mistakes can result in a failure to protect intellectual property, on one hand, and undue enforcement on the other.

According to a survey done by Pirate Studios, 70% of DJs have retrained in another field or learned a new skill in response to the pandemic. This is because DJs, like DJ Cuzzin B, Miss H.E.R, Malcolm Xavier, Les the DJ, and Jermone **Baker III** lost up to 90% of their income.

Many live entertainers transitioned to online streaming as a means to make ends meet. However, they were faced with many challenges as streaming often requires one person to perform multiple professions at once. For example, independent streamers are responsible for their own marketing, technical support, and navigation of intellectual property laws. Before the pandemic, DJs would rely on venues and promoters to cover these logistics and licensing fees. But the pandemic forced DIs to become internet entrepreneurs, which meant quickly learning new technology and how to generate revenue in a digital space.

Current online monetization modules rely not only on reach but also on the partnership between and big tech companies creators corporations. There are industry giants who have monopolized online advertising, content creation, and licensing usage. For example, Instagram allowed **D-Nice**, a public figure, to launch "Club Quarantine." Instagram and licensing holders worked closely with D-Nice throughout the pandemic which allowed him to play copyrighted music during the DJ sets he streamed on the Instagram platform, using their "live" feature. However, this preferential treatment is reserved for public figures.

This flowchart was created by the following organizations:





















STAKFHOLDER ARCHETYPES



Content creators

- · take on the creative role and are the original producers of content
- are dependent on excellent revenue models to ideally monetise content
- · place their content either directly or (usually) via aggregators.



Digital platform companies (DPCs)

- · have a strong position as global content aggregators and technology providers
- · increasingly offer own and exclusive content
- · sometimes cross-finance content via other business activities (e.g. e-commerce).



Advertisers

- · are the payers in advertisementfinanced revenue models
- become increasingly independent of formerly indispensable partners in a digital and tech-focused advertising environment.



Advertising and media agencies

Content aggregators · are often traditional media

to content

from DPCs.

Infrastructure providers

network providers

aggregators.

companies (e.g. broadcasters,

act as important access points

publishing houses, radio stations)

potentially come under pressure

· providers of those infrastructures transmitting digital media content

can be fixed, mobile or cable

often also act as (local) content

- · create, plan and manage all aspects of advertising; their competencies range from creativity to media space transactions
- their traditional business model is increasingly threatened by digital skills of advertising technology (adtech) companies and DPCs.





Media consumers

- content
- usage patterns have heavily changed towards digital media services over the past years.



Regulators

- · can have an enormous impact on shaping the respective media market environment
- interventions can relate to competitive contours, but also protect the diversity of local

Instagram's inequities have led to many users switching to other social media platforms with hopes that their audience will follow. Platforms like Twitch, Fite TV, and Patreon have become more popular because they are more creator-friendly for all influencer tiers. digital content ecosystem is a complicated one. Forcing consumers and creatives to navigate numerous platforms at

In particular, are the regulators. This crucial player of the ecosystem can greatly impact how art is shared, protected, and distributed.

But these platforms can increase the earning potential for creators as users of these platforms are more willing to pay for content. The more we can do support our creatives, including DJs the better. The art of DJing is a intricate one, mixing new with new. And our copyright laws should be able to do the same.

About Take Creative Control:

Take Creative Control (TCC) is an initiative of the Institute for Intellectual Property & Social Justice, a nonprofit organization that works to ensure creators of color are empowered to protect, share, and monetize their creative works.



About The Series:

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Take Creative Control Launched "The Series" to highlight the unique challenges that black and minority creators, artists and entrepreneurs faced during the early stages of the COVID-19 pandemic. We received dozens of stories from entrepreneurs, artists, and shop owners about how they have had to adapt because of the crisis, what support they received, if any, and what assistance they will need in the future. The video series can be found on our website at:

https://takecreativecontrol.org/takecreativecontrol-the-series/