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NOTES & COMMENTS

Law is a Battlefield: Why Musicians and Politicians Both Lose with Blanket Licensing

Laura E. Schrauth.....46

When musicians allege that politicians they dislike have used their music without authorization, those allegations make the news, but rarely, if ever, do those news sources mention when the politicians have purchased licenses for that music. Unsurprisingly, copyright law is never a topic of media mention.

Licensing is a straightforward, nondiscriminatory procedure that allows anyone who pays the necessary fee the right to exercise the license. When it comes to political uses, however, copyright law loses in a landslide to public opinion, which dictates how vocal opponents think licenses should work without acknowledging how licenses do work. Academia can count on one hand the number of times legal scholars have attempted to reconcile these misconceptions and misrepresentations with reality, though those few attempts have yet to strike a chord. Those that have proposed changes to licensing have not been able to do so without implementing biases for the benefit of musicians, nor without unintentionally proposing reforms that set up the possibility of discrimination in licensing.

This Comment explores the need for music licensing reform specifically for political uses, and suggests means of implementing reforms into licensing practice that do not write discrimination into the necessarily neutral process.

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