

Bolt Burdon Commercial Enews 29 January 2007

That's Rock and Roll (subject to contract)

It isn't considered particularly "Rock and Roll" for a band to sit around talking about synchronisation and cover royalties, the more contentious issue of a band agreement or the procedure relating to copyright protection in the UK.

But perhaps if the members of romanticist rockers *Procol Harum* had sat down in 1967 and had a chat about their own personal contributions to their most famous of songs "*Whiter Shade of Pale*", maybe they could have all avoided a very expensive and rather unfriendly legal battle. In the High Court last month, the band's organist, Matthew Fisher, was awarded 40% of future royalties from the song. The haunting organ solo was described by Mr Justice Blackburne as "*a distinctive and significant contribution to the overall composition and, quite obviously, the product of skill and labour on the part of the person who created it.*"

Where music is written as a group effort, we recommend that you draw up an agreement to clarify copyright issues, such as which rights belong to which member and how royalties should be distributed in the event that members of your band leave. Who owns the songs? Were they composed by an individual, with minor input from the band, or were they truly a group effort? Is there a need to set down each person's contribution, or are all the band members equal partners with equal rights? If a member of the band leaves, do they give up all rights to the songs, or should they retain an entitlement to future royalties (and if so, on what terms)?

Putting a band agreement in place at the start will avoid potentially disastrous in-fighting later on. Having an informal understanding might be fine when you are performing on a Tuesday night at *The Whippet and Dragon*, but when the big bucks start rolling in, a properly drafted band agreement will afford hell-raising band members far more time to spend on smashing up hotel rooms, crashing the tour bus and going on (and escaping from) *Celebrity Big Brother*.

The new media and entertainment law division at Bolt Burdon is offering a free copyright protection service for any artists who would like to copyright their work. We will provide you with a declaration, prepared and executed by a solicitor, to establish the date and nature of ownership of the relevant work. This proof of ownership could be invaluable and, at the very least, will provide the artist with peace of mind when it comes to protecting their original works.

For more information on our copyright protection service, or if you have an enquiry relating to media or entertainment law generally, please call Adam Greenup on 0207 288 4748 or email adamgreenup@boltburdon.co.uk Or, for further details of the various different services that we provide to our range of business and private clients, please visit our website at: www.boltburdon.co.uk

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