

November 12th, 2019

Fair Use. Is It Really Free? When is Fair Use Not Fair

NEWSLETTER

An Entertainment Industry Organization



President's Corner

Dear Friends and Members,

You are cordially invited to our next panel discussion on **November 12, 2019** entitled, *Fair Use. Is It Really Free? When is Fair Use Not Fair*. There are so many myths and misconceptions surrounding Fair Use. Get the facts from a panel of experts and find out when a use is free and when it's not.

Don't forget to mark your calendars! We will be hosting our annual *Holiday Party and Apollo Awards* on **December 4th (note the DATE CHANGE)**. I am glad to announce that this year's Apollo Award Recipients are Michelle Lewis, and Jeff and Todd Brabec. Join us for an evening of networking and celebration.

I look forward to seeing you there!!!

Sincerely,

David Quan, MBA
CCC President 2019-2020

Suggested Reading

"Music Licensing: What is Considered Fair Use?"

Joy Butler — Copyright Clearance Center

[View Here](#)

"Copyright Law for 30 Seconds of Music"
Scott Shpak — *Chron*

[**View Here**](#)

"U.S. Copyright Fair Use Index"

[**View Here**](#)

Special Announcement!

Our very own James Leach makes the 2019 Billboard R&B/Hip Hop power list!

"Billboard's 2019 R&B/Hip-Hop Power Players List Revealed"

Billboard Staff — *Billboard*

[**View Here**](#)

Moderators

Paula Savastano | Sr. Director Copyright and Royalties | Angry Mob Music, LLC

Specializing in Copyright, Licensing, Royalties, and Publishing, Paula Savastano has worked in the music business for more than 25 years. As a classically-trained musician, she began her career in Opera Management, but quickly made the switch to the popular music realm. She has worked in administrative management, intellectual property, and royalty departments for several notable companies including Broadcast Music, Inc. (BMI), Spirit Music Group, RykoMusic, Cherry Lane Music, Musical Heritage Society, and Turn Up the Music.

For many years, Ms. Savastano's knowledge and experience has been sought after by publishers, record companies, and music creators to assist them with audits, royalty collection and processing, licensing, and copyright issues. After significant and continued demand, she started her own company, SSA Music, which provides licensing, copyright, financial, auditing, and royalty consulting services to a diverse clientele ranging from independent musician to major music publishers and record companies. In 2012, SSA Music expanded to a full-service publishing entity, providing full administration, royalty collections, catalog pitching

and song placements. In 2018, SSA Music was disbanded, and Ms. Savastano went back to her roots as a freelance service provider and worked with several notable clients including Angry Mob Music Group, PEN Music Group, Reach Music Group, and McJames Music. In July 2019, she was hired full-time by Angry Mob Music LLC, as the Senior Director of Copyright and Royalties, where she oversees all of the Copyright and Royalty duties for the company.

Ms. Savastano has been an active speaker at educational conferences and universities around the country for more than 15 years. She has held the position of Adjunct Professor in the Music Industry Departments at Drexel University and William Paterson University. She currently serves on the Board of the California Copyright Conference (CCC), and is an active member in Association of Independent Music Publishers (AIMP), Woman in Music (WIM), and Sigma Alpha Iota (Professional Music Fraternity). She is also an active musician who currently performs in the Los Angeles metropolitan area as a freelance flautist.

Judith Finell | Musicologist and President | Judith Finell Music Services, Inc.

Judith Finell is a musicologist and the president of Judith Finell Music Services Inc., a music consulting firm in New York and Los Angeles, founded 25 years ago in New York. Since then, she has served as consultant and expert witness involving music copyright infringement, advised on artist career and project development, and a wide variety of music industry topics. Recently, Ms. Finell was honored to be the 2018 commencement speaker at UCLA's Herb Albert School of Music. She was also interviewed by NBC/Universal for a 2018 documentary entitled "The Universality of Music," in which she discussed the ways in which she sees music as being an international language that can bridge cultural barriers that spoken language does not.

Judith Finell was the testifying expert for the Marvin Gaye family in the milestone "Blurred Lines" case in Federal Court. She has testified in many other notable copyright infringement trials over the past 20 years. She and her team of musicologists regularly advise HBO, Lionsgate, Grey Advertising, CBS, Warner, Disney, and Sony Pictures on musical works for their commercials, films, and television series. Ms. Finell also frequently advises attorneys, advertising agencies, entertainment and recording companies, publishing firms, and musicians, addressing copyright issues, including those arising from digital sampling, electronic technology and Internet musical usage.

Ms. Finell has been invited to teach the first course in the country on forensic musicology at UCLA this year. She holds an M.A. degree in musicology from the University of California at Berkeley and a B.A. from UCLA in piano performance. She has written numerous articles and a book in the area of contemporary music and copyright infringement and has appeared in trials on Court TV and before the American Intellectual Property Law Association. She is a trustee of the Copyright Society of the U.S.A., and has appeared as a guest lecturer at the law schools of Harvard University, UCLA, Stanford, Columbia, Vanderbilt, George Washington, NYU, and Fordham, as well as the Beverly Hills Bar Association, L.A. Copyright Society, and the Association of Independent Music Publishers. She may be reached either by e-mail at judi@jfmusicservices.com or by telephone at (310) 301-3338.

Panelists

Michael Donaldson, Esq. — Attorney at Law | Donaldson + Callif, LLP

Michael Donaldson founded Donaldson & Callif with Lisa Callif in 2008. The firm focuses on all aspects of independent film with a special focus on fair use opinions and other clearance issues in both scripted and documentary films. In 2018 alone, the firm worked on over 350 films including 250 documentaries. Such films are festival favorites. Twenty-nine films, including (20) documentaries worked on by our firm were exhibited earlier this year at the Sundance film Festival – representing 71% percent of the documentaries shown at the festival. Sixteen (16) films worked on by our firm were exhibited at the SXSW Festival in March 2019. Thirty-nine films including thirty-one (31) documentaries worked on by our firm were exhibited at the Tribeca Film Festival in April-May 2019. The firm has worked on a number of Oscar nominees and winners, including recent films *Free Solo*(2019), *Minding the Gap* (2019), *Icarus* (2018), *O.J.: Made in America* (2017) and *20 Feet from Stardom* (2014).

In 2007, on a pro bono basis, Donaldson negotiated with insurance companies to provide errors and omissions policies to cover material used pursuant to fair use. The process – still used to this day – made insurance available by all companies offering errors and omissions insurance to filmmakers provided the insurance application is accompanied by an opinion letter from a recognized law firm indicating that the material contained in the film was used according to the statute and within the case law defining fair use.

Again on a pro bono basis, Donaldson successfully argued to the United States Copyright Office that Documentary filmmakers should be exempted from criminal portions of DMCA so that they could rip DVDs to obtain material to be used pursuant to fair use. The request for an exemption was approved in 2009. Three years later, in 2012, this exemption was expanded to include streaming services. In 2015, the scope expanded to including *Blue Rays*. In 2018, fictional films were also exempted so that any type of film is now covered except an unscripted fictional program.

In his portion of the panel, Donaldson will present a shorthand way for you to determine whether a use of material falls within the fair use doctrine or not. Too often, filmmakers who are not adequately represented claim fair use when it simply doesn't exist for the use in question.

Jacqueline C. Charlesworth, Esq. | Partner at Alter, Kendrick & Baron, LLP

Jacqueline C. Charlesworth, a partner at Alter, Kendrick & Baron, LLP, is a litigator and transactional attorney whose practice is focused on music, film and other intellectual property. Previously, Ms. Charlesworth served as General Counsel and Associate Register of Copyrights of the U.S. Copyright Office. She is also a visiting lecturer at Yale Law School, where she teaches music law with Lisa Alter.

In addition to litigating precedent-setting copyright cases, Ms. Charlesworth is a sophisticated dealmaker and advisor on legislative issues in the areas of music and copyright. In 2018, she was named Billboard Woman Executive of the Year for her critical role in crafting and securing passage of the Music Modernization Act, landmark legislation to update U.S. music licensing rules.

At the Copyright Office, Ms. Charlesworth had primary responsibility for interpretation of the U.S. Copyright Act. As General Counsel, she oversaw a wide range of litigation, legislative, regulatory, and policy matters, including the Office's participation in

Supreme Court cases, rulemaking proceedings, and copyright registration and termination issues. She also advised Congress on copyright-related legislation and policy concerns. During her tenure, she produced an influential study on the U.S. music licensing system, "Copyright and the Music Marketplace," which helped set the stage for legislative reform.

Before joining the Copyright Office, Ms. Charlesworth was in private practice, where she handled IP-related litigation and transactional matters. She also served as Senior Vice President and General Counsel of the National Music Publishers' Association and Senior Vice President and General Counsel of The Harry Fox Agency.

Ms. Charlesworth received a B.A. from Brown University and a J.D. from Yale Law School, where she was an Executive Committee Editor of The Yale Law Journal and a founding member of the Yale Journal of Law & Feminism. Following law school, she clerked for Judge Miriam Goldman Cedarbaum of the U.S. District Court for the Southern District of New York and Judge Betty B. Fletcher of the U.S. Court of Appeals for the Ninth Circuit.

Evan M. Greenspan | President and CEO | EMG Music Clearance

Evan M. Greenspan holds a B.A. in musicology from the University of Pennsylvania and an MFA from UCLA. He was the former head of music for Alan Landsburg Productions, Bob Banner Associates, and "Star Search." He is a guest lecturer at UCLA, USC, Southern Methodist University and the Boalt College of Law. He is also a composer/publisher member of ASCAP, Past-President of the California Copyright Conference and is biographed in Who's Who in the World.

Please visit our website, theccc.org, for more information soon!

