



# NEWSLETTER

An Entertainment Industry Organization

## Piracy Profiteers: Time to Walk the Plank

By Kathy Wolfe

### The President's Corner

Last month, the CCC made its triumphant return to the Sportsmen's Lodge. Those of you who attended our panel entitled "EARGASM: The Explosion of Music in TV, Film and New Media" were treated to moderator Robert Linden's bravura performance a la Phil Donahue. Thanks very much to Anne Cecere of BMI and Dan Rimas of NBCUniversal for all their behind-the-scenes work.

I'd also like to offer my heartfelt thanks to Steve Windogradsky and Ron Sobel for presenting a great panel we sponsored at CSUSA's Mid-Winter Meeting entitled "Pitching Music for Film and Television: Agreements with Reps & Publishers." Way to represent guys!

Tonight's panel is moderated by veteran entertainment attorney Jay Cooper and is entitled "How Spotify, Facebook, Pandora and Other Services are Changing the Music Industry (and impacting its bottom line)," which I think pretty much sums up what it's all about. Jay's notable panelists include David Ring – EVP @ eLabs, Mark Goldstein – USC, and Gary Stiffelman – Ziffren Brittenham. Thanks to me for all my behind the scenes work (just checking to see if anyone is reading this).

Tomorrow, at this very same venue, the CCC, in conjunction with the AIMP will be holding the 2<sup>nd</sup> Annual Music Industry Toolbox featuring 21 companies and organizations that provide products and services targeted at publishers, labels, artists, and songwriters. They include CMRRA, Counterpoint Systems, Dashbox, Harry Fox, IODA, Royalty Share, Soundminer, Soundmouse, and all three PRO's living in peace under the same roof! We'll be here from 3pm to 8pm. Admission is free, so please join us.

Thank you for coming to tonight's panel. If you like what you see, and you're not already a member, please consider joining. Believe it or not, we don't make a lot on the dinners. Your membership fees go a long way to supporting our not-for-profit organization in its mission to educate members of the entertainment industry on key issues pertaining to the owners and users of intellectual property.

**Eric Polin**  
President, California Copyright Conference.

In 1985, I began a company that distributed films through a simple mail-order catalog. My vision was more than simply fulfilling orders; I wanted to connect the LGBT (lesbian, gay, bi and trans) community to meaningful images through film. I hoped that experiencing these films would foster a sense of pride and understanding in and for my community. Though my company distributes some studio produced films, I have been honored to work primarily with independent filmmakers -- helping them connect their films with their audience. Now, more than 25 years later, my dream has been realized. Every day I receive feedback that affirms our mission that these films have helped people and families all over the world navigate some of the most difficult questions about relationships and identity.

Though my team and I are consistently amazed with the speed at which our world has evolved, we have been disheartened to witness the rapid rise of online piracy. Not only has piracy negatively affected our bottom line, but more significantly, it has undermined the careers of many talented aspiring filmmakers.

Those who finance films generally don't view LGBT storylines as box office winners. As a result, filmmakers who want to tell these stories often turn to creative forms of financing. The process can be a long and brutal one. Filmmakers often risk their personal finances in the process. When online thieves undermine the market for their films these artists have no chance to compete. Once their film is posted illegally online, their investment can disappear in an instant. Suddenly these independent filmmakers are competing against FREE versions of their own films. Online strangers, whose only goal is to profit from theft, show no regard for the hard work, creativity, and financial sacrifices made by these filmmakers. The public generally supports security to prevent and stop theft in stores that sell DVDs. Why not support measures to stop this theft online?

As a distributor, I've been forced to devote resources to searching for and removing pirated copies of our films online (by sending DMCA notices). It is a time-consuming and expensive process. On one recent weekend, we removed over 300 links to a newly released title from a U.S. based cyber locker (each link can represent 1000s of downloads). The next day another 180 new links for the same film appeared on the same cyber locker. We found another 100 links to the film on a gay movie blog (a site which features free download links for more than 2,000 titles). This is just in the U.S., where sites are required under

current law to take down links when they receive infringement notices. Multiplying that problem by a factor of 10 would not begin to cover the volume available via offshore sites, which are currently out of the reach of U.S. law.

To be clear, the Internet is essential to what I do as a business owner. I have readily embraced the changes in film distribution technology. As a company, Wolfe Video is constantly adding new and innovative online distribution avenues for our films to ensure their availability to eager audiences worldwide. Still, despite our best efforts, it's hard to compete with free. That is why I feel passionately about the need for legislation to protect this vital marketplace for companies like mine and for filmmakers who are the most vulnerable to bad actors in the space. The artists I work with and the films I have been privileged to be associated with have changed countless lives. Without a secure, fair and functioning online market, these stories of diversity will cease to be told and this "Freedom of Speech" will be compromised. American companies that are in the business of creating and distributing content shouldn't be sacrificed to protect large-scale pirate profiteers who knowingly and blatantly flout the law and common sense.

I was happy to see that Congress has recently taken up this issue. I'm not a policy expert, but I do recognize that this is a critical first step in addressing this serious and growing threat. I encourage all creative persons to become educated and involved in this fight. And, I challenge our friends in the "Tech" world to actively assist Congress in finding solutions to reduce online piracy and profiteering. Effective legislation will ensure my colleagues, our customers and my talented and creative business partners will succeed or fail based on the merits of our products and services, rather than the whims of digital thieves.

*Kathy Wolfe is the founder and CEO of Wolfe Video and Wolfe Releasing. Established in 1985, it is the oldest and largest exclusive distributor of LGBT films in the world.*

*Published by The Huff Post Tech on January 17, 2012*

## Panelist Biographies

### JAY L. COOPER

Vice-Chair, Global Media & Entertainment Practice

Jay L. Cooper's practice focuses on music industry, motion picture, television, multimedia and intellectual property issues.

Former President, National Academy of Recording Arts and Sciences

Member and Former President, California Copyright Conference

Former Chairman, American Bar Association Forum Committee on the Entertainment and Sports Industries

Co-Chairman, Alliance of Artists & Recording Companies

Board Member, Sound Exchange

Named in *Legal Media Groups' The Best of the Best USA 2009* for Media Law

Selected, *Super Lawyers* magazine, 2004-2011

Featured in *Daily Variety's* List of Top Dealmakers in the Entertainment Industry, September 2008

Listed as one of the Top 10 Copyright Lawyers in California by the *Daily Journal*, 2008

Listed, *Chambers & Partners USA Guide*, an annual listing of the leading business lawyers and law firms in the world

Honored by peers and listed in Best Lawyers in America continuously since 1987

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### MARK GOLDSTEIN

Mark Goldstein has been working in the business and legal areas of the music and entertainment business for over 30 years.

After retiring in August 2004 as Senior Vice President, Business and Legal Affairs at Warner Bros Records Inc., Mr. Goldstein began devoting himself to full-time teaching at the University of Southern California, where he is now Associate Professor, Practice at the Thornton School of Music at USC and has been Adjunct Professor of Entertainment Law at the Gould School of Law at USC, together with continuing his career as a consultant in the entertainment industry and as principal of Elizabeth Delane Music.

Mr. Goldstein graduated *magna cum laude* from Harvard University with a bachelor's degree in 1975, and from law school at the University of Southern California in 1978. He worked as a lawyer in private practice, at the firms of Pacht Ross Warne Bernhard & Sears, Mason & Sloane, and Garey Mason & Sloane, concentrating in entertainment law, from 1978 until 1983 when he began working at CBS Records in Los Angeles as a lawyer. He left CBS in 1987 to begin work at Warner Bros Records, where he eventually headed up the Business and Legal Affairs department for over a decade prior to his retirement in 2004. During much of the time he was at Warner Bros, he was involved in analyzing new media initiatives and digital delivery strategies.

In addition to his work as an attorney and executive, Mr. Goldstein maintained a busy teaching schedule. He taught a popular course on "Contracts in the Music Business" from 1993 to 2000 at the UCLA Extension program and lectured at USC beginning in 1996, where he first joined the faculty in 2000, while still at Warner Bros Records. He has lectured at UC Davis Law School, Loyola Law School in Los Angeles and at Southwestern Law School. From 2000 to 2002 and in 2008 and 2009 he was and is a part of the faculty of the American Law Institute-American Bar Association Entertainment and Sports Law Program in Los Angeles and from 1996 to 2000 was part of the faculty of the Professional Law Institute in Los Angeles in the Entertainment and Sports Law area. He has also spoken regularly as a panelist for organizations ranging from the Beverly Hills Bar Association to the Songwriters Resource Service as well as at conclaves such as Comdex, the National Association of Record Merchandisers ("NARM") and the California Copyright Conference.

Mr. Goldstein is the author of "Record Label Tour Support", in *Business and Legal Aspects of Live Concerts and Touring*, published in the 1997 Proceedings of the International Association of Entertainment Lawyers, co-author of "Contracts in the Music Industry" in the 1997 through 2002 editions of *Counseling Clients in the Entertainment Industry*, published by the Practising Law Institute, and was a participant in the "Roundtable on Technology Issues in Music Law" symposium, a transcription of which was published in 2000 in the Loyola Law School Law Review. Mr. Goldstein prepared materials published in connection with the 2008 and 2009 American Law Institute-American Bar Association Entertainment and Sports Law Program in Los Angeles. In 1996 Mr. Goldstein was the Honoree at the Zafiris Distinguished Lecture Series, Berklee College Of Music, where he delivered an address entitled "The Surreal Book: The Record Business as it Approaches the Millennium."

## **DAVID RING**

As Executive Vice President, Business Development & Business Affairs for Universal Music Group's Global Digital Business, David has been instrumental in guiding the company into the next generation of emerging digital platforms, from downloads and on-demand streaming and subscription services to cloud based lockers, webcasting, satellite and interactive radio.

Since joining Universal Music Group nearly 16 years ago in March 1996, from his private entertainment law practice where he represented recording artists, labels, songwriters and producers, as well as film and television writers, David has been point for and overseen countless innovative, technology-driven deals that have kept UMG at the forefront of digital media and technology trends. He was, among other notable achievements, the creator and architect of one of the first ever music on-demand streaming services on the Internet (via Farmclub.com) and led UMG into the very lucrative mobile music business in 2003. More recently, David and his team led the business development and various infrastructure and distribution deal making necessary to launch the very successful Vevo service. In addition, David was instrumental in developing the innovative product and business model together with Cricket for their fast growing and immensely popular Muve Music service.

David and his team have completed literally hundreds of deals with a wide variety of companies including Verizon, AT&T, Sprint, T-Mobile, Amazon, Spotify, YouTube, Google Music, News Corp's MySpace, Microsoft, MTV and Apple – just to name a few.

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## **GARY STIFFELMAN**

Gary Scott Stiffelman received his Bachelors Degree in pre-medical studies from Kansas University in 1974, his Masters Degree in Film from USC in 1976 and his Law Degree from the UCLA School of Law in 1979. He joined the law firm of Ziffren, Brittenham LLP in 1981, where he has been a partner since 1984.

Together with his partners, Mr. Stiffelman represents or has represented some of the most prominent recording artists in the world, including David Guetta, Lady Gaga, Eminem, Justin Timberlake, Britney Spears, Toni Braxton, Prince, Michael Jackson, Nine Inch Nails and Aerosmith. He has also been counsel for significant independent record labels such as Rhino, Interscope, Death Row, LaFace and Octone, and been involved in ground-breaking transactions including the purchases of CBS Songs, Motown Records and Jobete Music Publishing.

He has also represented several companies including NetMovies, MP3.com, BuyMusic.com and Sandisk in overall, new media licensing arrangements with the major music labels and film studios.

Mr. Stiffelman is currently an Adjunct Professor at the UCLA School of Law teaching Music Industry Law, since 2008. He was also an Adjunct Professor at UCLA for three years in the 1980's teaching The Practice of Entertainment Law.

Mr. Stiffelman has been a member of the UCLA Entertainment Law Symposium Executive Committee since 1976 and was the chairman of the 1996, 1997 and 1998 programs. He has been on the advisory board for NARAS' Entertainment Law Initiative since its inception in 2001.

He is proud currently to serve as Chairman of the Music and Entertainment Committee for the City of Hope and he is on the Board of the Bogart Pediatric Cancer Research Program.

He is a Founding Director and on the Executive Board and audit committee for The Private Bank of California.

Mr. Stiffelman was honored to be named in The Hollywood Reporter as one of the 100 Power Lawyers in the Entertainment Industry every year in which the list has been published.

He has been married to Carmen since 1990 and has two wonderful children, Ethan and Lyssa.