

The Basics of Entertainment Law Q&A with Entertainment Lawyer and Drummer for One Bad Son: Kurt Dahl

Entertainment law plays a large and important role in the music industry; from obtaining rights to your songs, making sure you sign a *good deal*, hiring a producer, and getting paid for your music for the rest of your life. Knowing the ins and outs of entertainment law is tricky, so it's important to hire a professional to assist in making a career out of your art. The music industry is messy, and a good knowledge of the basics of law is a key tool to succeeding in it.

Kurt Dahl is both a successful musician and Entertainment Lawyer - he knows the business from every side. We asked him a few questions to assist in teaching you some basics you will need to know for your music career:

MB: When starting out, what, if anything, should an artist hire an entertainment lawyer for?

KD: *"You know, that's a good question. A lot of artists think of getting an entertainment lawyer when they're handed a contract. I like to think of an entertainment lawyer as being a key member of your team, along with your manager, record label, booking agent, and publicist. That's how I feel with my clients anyway. I'm involved with most aspects of their careers, not just reviewing and drafting contracts. That's important too, don't get me wrong...but I like being the lawyer you can call to get feedback on your next radio single, to get advice on the right manager or booking agent to choose, etc....because I've lived it on the band side of things. I've landed film/tv placements for clients, and secured opening slots on major tours for them, so there's that as well.*

My advice: get in contact with an entertainment lawyer early in your career, if you take your career seriously and want it to be more than a hobby. If you're in a band, a Band Agreement is highly recommended in the early stages of the band. If you're a solo artist that works with other musicians, a Co-Writer Agreement is a crucial starting point. Both these agreements are relatively inexpensive, and will save you a lot of headache (and money) down the road."

MB: What's the deal with the 360 Deal?

KD: *"The 360 Deal is a record deal that includes publishing and live revenue. Meaning the record label takes income from other revenue streams besides record sales. Any time I see this sort of deal, my first question is: what is the label doing to justify these new percentages? Are they working the catalog and actively involved in touring to justify a cut of publishing and live revenues? Are they involved in the development and manufacturing of merchandise? If not, it's just a money grab, plain and simple.*

On the other hand, you need to be realistic. People aren't buying much music anymore, and labels need to survive somehow. It's a reflection of the modern music industry. It's not 1990 anymore, and the real money is coming from live and publishing, not record sales. So it's a matter of striking the right balance between artist and label, which a good entertainment lawyer

should do.”

MB: What are artists rights when it comes to the music they’ve written?

KD: “Well, until those rights are assigned to a publisher, they remain 100% with the writers. But the real question is: what constitutes songwriting? If you write music with band members or other co-writers, it is crucially important that you reach an agreement on a fair songwriting split. Even solo artists need to be careful if they hire a backing band; many lawsuits have been commenced by back band members who claim to have written a big part of a hit song. I’ve blogged lots on this issue, as it’s likely the most contentious issue in the business. It’s what breaks up bands and causes million-dollar lawsuits. Start with my blog [here](#), and then call me with questions.”

MB: What are the legal implications of being an independent artist?

KD: “I feel like independent artists are the ones that can benefit the most from a good entertainment lawyer. Without a label or manager on your team, the advice of a good lawyer can be the difference between a career musician and a hobby musician.”

MB: Publishing deals: there are multiple, what type should you shoot for?

KD: “The big three publishing deals are: Publishing Administration, Co-Publishing, and Publishing.

I analyze all three in detail in my blog [here](#). The Admin agreement is the lowest level of commitment for the artist, and doesn’t involve a full assignment of copyright. Co-Pub deals typically involve a 25/75 split of publishing revenue in favor of the artist, and full Publishing deals are 50/50 and involve an advance of some sort. As with the other members of your team, the real question is: what will your publisher do for you? You want a publisher who is excited about your music and your catalog of songs, and will work hard to make the most of your catalog. That includes pitching your songs for film and tv placements, pitching your songs to be covered by other acts, setting up co-writing situations, securing sub-publishing deals in other territories, etc. Signing with the biggest publishing company in the world won’t do you any good if they simply sit on your catalog and don’t do anything with it. I’ve worked with all sizes and types of publishing companies, and it’s all about finding the right fit.”

MB: What are the main legal concerns when signing a contract with a producer?

KD: “Producer/musician disputes are sadly quite common in the music industry, and it creates lots of work for entertainment lawyers. My advice to artists: agree to the terms of the production before recording starts. This isn’t always easy, and doesn’t usually happen. So artists find themselves trying to negotiate the terms after the fact, when the producer has them over a barrel with the masters in his/her hands. It goes both ways, and I have many producer clients who are amazingly talented and fair, but have also seen the other side.

The main points to consider initially are:

i) How many “points” will the producer get on the record? (i.e. what % of record sales go to the producer. 3-4 points is industry standard. See [here](#) for more).

ii) Will the producer be a co-writer of the songs? (the biggest question to consider! See my blog [here](#) on this issue.)

iii) How much will the producer be paid?”

MB: How does an artist go about protecting their name/brand/image once they have it?

KD: *“Before choosing a band name, do as much searching online as possible to ensure that the name is not being used already somewhere else in the world. Look for websites, Facebook pages, twitter accounts, and existing trademarks that are similar to the name you want. In theory, two artists with the same name can operate concurrently in different territories, so long as neither artist starts doing business in the other’s territory. In the digital world, however, every artist’s territory is the world, so using the same name as another band – even if they’re across the planet – will likely result in legal issues.*

So find a name that hasn’t been used and doesn’t infringe on existing brands (i.e. Billy Talent was originally called PEZ, but had to change because of the existing tasty candy), and start using it. “Established use” creates protection of your brand (i.e. use online, in print, etc.), and from there, a trademark strengthens that protection. We help bands trademark their name and/or logo all the time, and it’s not overly expensive. If you’re touring regularly in a territory, it’s worth registering a trademark in that territory.”

MB: If you are a band or duo, should you have some sort of band contract?

KD: *“Yes, and it’s called a Band Agreement, and it’s one of the most important agreements you will sign in your career. It outlines how songwriting is split, how revenue from touring and record sales is divided, who owns the band name, how decisions are made and conflicts dealt with, how members are hired or fired, and so many other issues. Eighty percent of the disputes that come across my desk could have been avoided with a proper Band Agreement in place. If you’re making music with other people and plan to release it in any form, you want a Band Agreement in place. They aren’t that expensive, and will actually open more doors than anything.”*

MB: Do you have any other words of wisdom you think are important for artists to hear?

KD: *“Pursue your passion with intensity and love and hard work, and don’t let anyone tell you otherwise. The days of the slacker musician with a team of handlers are gone; only the smartest, hardest working, most talented musicians make it today. I hope that’s you.”*

“Call or email me anytime to chat.”

Big thanks to Kurt for taking the time (while on the road!) to talk to us about this. Kurt Dahl is not only the drummer for One Bad Son, but a practicing Entertainment Lawyer with a Master of

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For more detailed information on entertainment law, and advice on legal issues, check out Kurt's Law Blog on his website: www.lawyerdrummer.com

