

Copyright – Trademarks

In the January edition of the International Musician, the article on registering your band name as a trademark or service mark, brought up some interesting points. Since the article dealt with the U.S. procedure, I thought I'd do some checking around to see what the process was here in Canada.

What I discovered was that the procedure in Canada is similar to that in the United States. First, you must do proper searches, which would include trade name, corporate name, NUANS reports, etc. This is necessary to make sure that no one else has registered, or is waiting registration of, a trademark or is using a similar trade name. What I also discovered is that registration of a trade name does not offer any right of ownership of the name and only provides protection within a specific geographical area. There have been cases where someone has registered a trade name and later finds that another is operating under the same name. Regardless of the registration, protection of the name goes to whomever was the first to operate under that name. It is also specific to the nature of the work connected with the trade name. Therefore you can have two people operating under the same name but offering different services.

If this all sounds too confusing, there is a service available in Calgary that can help you sort through the questions. The company is Arvic Search Services. You can contact them at: #1710-505 3rd St. SW, T2P 3E6; (403) 234-0844 or visit their website: www.arvic.com The process is not inexpensive. To register in Canada it costs somewhere around the \$1200 mark, so it's best to discuss it with your band mates to see if you want to proceed in that direction. It is also suggested that you operate for a period of time to determine how well you are doing and whether you actually have an operation that needs to be protected. Arvic can assist in registering incorporations and trademarks provincially or federally and has a U.S. service. They can also file copyrights.

Copyrights of your original music is something that is definitely an important issue. Copyright automatically occurs when you create an original work, but to insure that you can prove when you created the work, registration of a copyright is advisable. This can be accomplished in various ways.

Initially you can do what is called 'the poor man's copyright'. This can be done by mailing a copy of the song by registered mail, to yourself. The postmark will provide a date and as long as you don't open the package, the seal will prove the date is legitimate. The version of the tune can be in the simplest of forms. It must contain the lyric, the chord pattern, melody and rhythm of the song. Production or arrangement of the material is not a necessity. You can officially register your work in Canada with the Canadian Intellectual Property Office at: Industry Canada, Place du Portage I, 50 Victoria St.- 2nd Fl. Hull, Que. K1A 0C9; (819) 997-1936 or visit the website: www.cipo.gc.ca You can register in the United States by contacting the Library of Congress, Copyright Office, 101 Independence Ave. S.E., Washington, D.C. 20559-6000; (202) 707-9100; website: www.loc.gov/copyright The cost is \$65 in Canada and \$20 in the U.S.A. For performers playing or sending demos to the States, registration in both countries is advisable.

I hope this has cleared up some of the mystery. You can always call me to discuss these topics further.

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