



# Soundcheck

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## A Quick Look Back

*A few words from Gary Churgin, HFA President & CEO*

As the year draws to its close, I want to share with you a quick snapshot of where HFA stands as we prepare to begin our 80<sup>th</sup> anniversary year.

Overall, though we continue to see a continued overall decline in the mechanicals market, HFA's total royalty collections are looking better than last year, when we collected \$371 million. Our year to date performance as of late November/early December includes:

- 1.67 million licenses issued
- 10.5 million licenses administered
- Over 30,500 music publishers represented
- 1.59 million songs listed in catalog

In early Spring, we completed our major "Transformation 2" initiative. Technology and business process improvements are now a part of our normal operations. 2006 was the first full year of utilization of the online tools we created for our publishers and licensees, and we've seen great results. For example, HFA Songfile, launched in late 2005, has seen a 25% increase in the number of licenses issued and a 15.9% increase in collections over 2005. Since these licenses are pre-paid, this translates into immediate royalties for our publishers. Further, as you can read about more in these pages, we're **eliminating the commission on HFA Songfile licenses in 2007**.

Collectively, these technology improvements have removed much manual labor from HFA's processes. With that time savings, we have redeployed our Licensing and Publisher Services resources to focus more of their efforts on reducing unprocessed and unclosed requests, which now average at an all-time low for the company.

Our Business Development team has continued to deliver great new licensing opportunities for our publishers. The LyricFind licensing agreement was a landmark for us, as it not only expanded our business from mechanicals to lyrics licensing, but it was also offered to publishers on a **no-commission** basis. We also offered a number of licensing arrangements this year, including those for ringtones with the Orchard, Quios, SingleTouch, and TouchM; a renewal of the EMI Mastertone/ringbacks arrangement; one for a new digital background music service, PLR; and also one with Sankyo for musical movements.

We've come a tremendously long way in the past 5 years, and I'm particularly proud that HFA was selected as one of the top Digital Entertainment stakeholders by Billboard earlier this year – a great recognition of the importance of the music publisher. It's our privilege to represent so much of the music publishing community in the United States, and you can be assured we will be working hard to continue to deserve your trust in 2007 and beyond.

Happy holidays and best wishes for a healthy and prosperous 2007 from all of us at HFA!

## **The Harry Fox Agency to Offer HFA Songfile Licensing to Affiliate Publishers on Commission-Free Basis**

Starting January 1, 2007, HFA will introduce two important changes to its HFA Songfile online licensing service: it will provide HFA Songfile licensing services to its publishers on a commission-free basis, and in response to publisher and licensee requests, it will reduce the minimum quantity of physical product licenses available through the service from 500 to 250 copies.

HFA Songfile, available at [www.harryfox.com](http://www.harryfox.com), is an online song search and mechanical licensing tool designed for those who need to obtain licenses to make and distribute 2,500 copies or fewer CDs, cassettes, LPs, or permanent digital downloads (DPDs).

“No other U.S. company offers a limited product quantity online licensing service like HFA Songfile,” said Gary Churgin, HFA’s President and CEO. “The licensing process can be completed within minutes, and since the mechanical royalties are collected upfront, payments are issued to publishers at the end of each month. Following our launch last year of an enhanced version of HFA Songfile, we’ve increased the number of licenses issued through the service by 24% in 2006 compared to 2005.”

“Music publishers not currently affiliated with HFA should know that they can affiliate with us just for HFA Songfile licensing,” added Ed Hunt, Senior Vice President of Publisher Services. “Our goal is to reduce as much of our publisher’s administrative burden and eliminating the commission from HFA Songfile transactions is consistent with that effort.”

Mechanical licenses are required under U.S. Copyright Law if one wants to duplicate and distribute a recording of a song that is owned by someone else. Proper licensing ensures that publishers and songwriters are compensated for the use of their work. Reputable replicators and online music sites require copies of licenses before duplicating recordings or offering them online.

HFA Songfile makes obtaining the required mechanical license easy. By using a credit card, customers can request their licenses through the HFA website ([www.harryfox.com](http://www.harryfox.com)). Royalties are calculated at the statutory mechanical rate (currently 9.1¢ per copy for songs 5 minutes or less in length, or 1.75¢ per minute (or fraction thereof) per copy, for songs over 5 minutes). If a user just wants to conduct research, there is a separate HFA Songfile Public Search tool available free of charge.

Customers must be conducting business in the U.S., and have a valid credit card with a U.S. billing address. Users are asked to create an HFA Songfile account, with a user name and password. Licenses for songs on physical products and for DPDs must be obtained in separate transactions. For physical products, users are able license multiple songs for one physical album at a time, or users can obtain up to 50 separate DPD licenses in a single transaction.

Those that wish to obtain licenses for more than 2,500 copies of their recording should open an HFA Licensing Account, which will enable them to use HFA’s larger-market licensing application, eMechanical.

## Copyright Royalty Board Update

*The following is from a letter by NMPA President & CEO David Israelite that was sent to NMPA members and HFA affiliate publishers in early December, to provide an update on the ongoing mechanical rate proceedings:*

Music publishers and songwriters are facing their most critical fight in years. The NMPA, the Songwriters Guild of America (SGA) and the Nashville Songwriters Association International (NSAI) are currently participating in a rate-setting proceeding before the Copyright Royalty Judges (CRJs) in Washington, DC. Our adversaries in the proceeding are those who use your musical works – the record labels, represented by the Recording Industry Association of America (RIAA), and the digital media companies, represented by the Digital Media Association (DiMA).

By the end of 2007, the CRJs will announce new statutory royalty rates for physical products, digital downloads, digital subscription services and certain ringtones. These new rates will go into effect January 1, 2008.

This rate proceeding may be the most significant event for music publishers and songwriters in a generation. Mechanical rights comprise a significant part of the income stream for our industry. The NMPA is battling for rates that accurately reflect your contribution to the world of music. We are fighting on your behalf for fair compensation for your hard work.

The NMPA has just taken a major step in this battle. Along with SGA and NSAI, we filed our written case explaining the crucial importance of fairly compensating songwriters and music publishers. To read more, go to <http://www.nmpa.org/music101/legal.asp>.

This proceeding is vitally important to you. The current statutory mechanical royalties for the distribution of music is 9.1 cents — a mere 7.1 cents above the rate set nearly a century ago, at the time of the enactment of the compulsory license. Music publishers and songwriters agreed to the current rate structure a decade ago, when the CD market was thriving, and much of the digital market did not exist.

But clearly times have changed. With respect to the digital distribution of music, what was in the 1990s a nascent market has now flourished into a vibrant and rapidly growing market. The record labels and digital music companies want to pay us less. Now is the moment for music publishers and songwriters to insist upon fair compensation in both the physical and digital world.

Ultimately, this rate-setting process will determine the compensation received by songwriters and music publishers from the reproduction and distribution of their songs. These are the rates that will govern through the end of 2012.

The musical work is the heart of the music industry, from which all value ultimately flows. Without the musical work, there would be no song for recording artists to perform and no song for record companies and digital music providers to sell. Songwriters and music publishers must be fairly compensated for their essential creative contributions.

In the past, our struggles against record labels to secure fair compensation for those who write music already seemed like a David vs. Goliath fight. But now it's not just the record labels – we find ourselves facing giant digital media companies, such as Apple, Microsoft, Yahoo! and AOL. All of these companies have a business interest in low cost for our music.

The NMPA is on the front lines in this struggle. Your membership and participation is crucial in this fight. Every additional voice helps us be heard as we make our case for fair compensation.

## **MUSIC PUBLISHERS REACH PROPOSED SETTLEMENT WITH KAZAA**

In late October, counsel for the music publisher plaintiffs in the ongoing litigation against the operators of the Kazaa peer-to-peer network informed the U.S. District Court in Los Angeles today that the music publishers have reached an anticipated settlement of the publishers' class action litigation against the operators of the Kazaa peer-to-peer network.

The settlement, reached after months of negotiations, is subject to final approval of the formal agreement by the board of the National Music Publishers' Association (NMPA), which sponsored the litigation on the publishers' behalf, the representative class plaintiffs and the court.

Under the terms of the settlement, Kazaa has agreed to pay a substantial sum to compensate music publishers and songwriters for the infringement of musical works on the Kazaa network.

"The anticipated settlement represents an important victory for songwriters, music publishers and music fans alike," said David Israelite, NMPA President and CEO. "It will be another key milestone in the ongoing transformation of the digital music marketplace to one that will allow legal services to thrive."

In June 2005, the U.S. Supreme Court unanimously ruled that unauthorized peer-to-peer networks could be held liable for inducing massive copyright infringement. Earlier this year, the Kazaa defendants settled with the record labels and movie studios and agreed to introduce filtering technologies to end distribution of copyright-infringing files.

### **Have you tried. . . eMechanical?**

Introduced in September 2004, eMechanical is HFA's primary online system for licensees. Through eMechanical, licensees can request mechanical licenses for physical and digital releases, sign processed licenses that were submitted to HFA in any format (paper, bulk files, or eMechanical), and review their entire licensing history, including any additional documentation. A transaction for a non-first use statutory rate license can be completed in a few minutes, and the electronically signed license is then available for download.

More than half of HFA's license requests are submitted through eMechanical, and 75% of licenses are signed electronically through the application. Using the tool saves licensees time and reduces the amount of paper and handling in the licensing process – the only paper generated is the final signed license.

Further, since the licenses are maintained digitally, it saves storage space, and the search functionality makes it easy to retrieve a specific license quickly without having to wade through paper files.

If you're an HFA licensee and would like to sign up for eMechanical, contact your HFA Licensing Agent, or call 212-834-0100.

## **HFA and NIDEC Sankyo Shoji Corp. Enter Licensing Arrangement for Imported Musical Movements**

*Opt-In Deadline January 19, 2007*

In December, HFA announced that it has entered into a licensing arrangement with NIDEC Sankyo Shoji Corp., a musical movement manufacturer, for the use of musical compositions in their products that are imported and distributed in the U.S. Musical movements are the wind-up mechanisms that produce music in products such as music boxes, figurines, and toys. HFA's over 30,000 affiliated publishers will have the option of authorizing HFA to represent them for this licensing arrangement.

Under the agreement, U.S.-based distributors of Sankyo Brand musical movements will be able to obtain licenses directly from HFA for the importation of musical movements from Sankyo affiliates. License rates will be based on the number of notes utilized in the excerpt, starting from 20¢ per 18-note movement. In connection with this arrangement, copyright infringement litigation pending in the Southern District of New York has been dismissed.

"HFA is happy to have reached this arrangement with NIDEC Sankyo to offer musical movement licensing on behalf of our publishers," said Gary Churgin. "This is another opportunity for HFA to offer services that streamline the licensing process for the underlying composition and promote the legal use of music."

"Sankyo is pleased to establish a relationship with HFA that will facilitate the proper licensing of music for our imported musical movements," said Tony Bernardo, the U.S. manufacturer's representative for NIDEC Sankyo Shoji Corp.

### **\*\* *HFA Licensing Agreements Reminder***

HFA is currently providing licensing for over 20 different companies for products such as ringtones, digital jukebox services, and background music, including the commission-free arrangement for lyrics with LyricFind and the reduced commission EMI mastertone and ringback arrangement.

If you're not sure if your company is participating in these licensing arrangements and you have an HFA Online account, you can check your status through our website. Go to [www.harryfox.com](http://www.harryfox.com) and click on the gray "Registered User Login" button on the upper left. Enter your login name and password, as indicated. Once you are logged in, click on the "Authorizations" tab in the upper right, and then click on "View Agreements History" in the menu bar. If the "Action Type" is "Opt In," your company's catalog is available for licensing under that arrangement. You can also review all the information about the agreement in this area of the website.

If you want to change your company's status in an agreement, or have any other questions, please contact HFA Publisher Services at [publisherservices@harryfox.com](mailto:publisherservices@harryfox.com) or call 212-834-0100.

## “A Day with HFA” in Nashville

The Harry Fox Agency hosted its Nashville “A Day with HFA” event at the Downtown Hilton on November 14. Over 100 HFA publisher and licensee affiliates participated, attending training sessions throughout the afternoon and meeting with members of HFA’s Publisher Services, Licensing, Distribution, Royalty Compliance, IT and Business Development teams.

Pictured from left to right are Bob Doyle and Wendi Crosby of Major Bob Music, HFA President & CEO Gary Churgin, and Fred Knobloch of J. Fred Knobloch Music.



Photo credit: Kay Williams

## HFA at CMJ in New York

HFA exhibited at the 2006 CMJ Music Marathon, which took place at Lincoln Center in New York City in late October.

Pictured at the HFA booth are Senior Licensing Agent Joe Bognanno and Publisher Services Agent Sara Yood.



## Word on the Street . . . HFA Affiliate Publisher News

**BMG Songs** has signed rocker **Chris Daughtry** to a worldwide, long-term co-publishing agreement. Daughtry, who was the fourth place finalist on the fifth season of *American Idol*, wrote or co-wrote 10 of the songs on his debut album, *Daughtry*, including the current single, "It's Not Over." The album also includes the songs "Home" and "What I Want," featuring Slash.

Award winning producer and songwriter **Quincy Jones** has signed a multi-year administration deal for copyrights with **Cherry Lane Music Publishing**. His catalog spans five decades and consists of over 1,600 songs, including works recorded by Frank Sinatra, Barbra Streisand, Tony Bennett, Michael Jackson and Ray Charles. Jones, who has won 27 Grammys and has been nominated for 7 Academy Awards, will also contribute to *Music Alive!*, Cherry Lane's music magazine for teenagers.

**Look's Music Publishing** has signed a five-year exclusive deal with digital music and video distributors **Matias & Archer**. The deal includes a total of 65 songs from the Look's Music library. Matias & Archer will represent the library of songs and videos to over 250 digital corporations.

In conjunction with their joint-venture publishing company, Leftwing, **peermusic** has signed Scottish singer-songwriter **Robert Shields** to an exclusive worldwide co-publishing deal. Shields, who was named "Young Scot of the Year" for his musical achievements, released his debut album *Skywriter* independently in Scotland on his Black Ivory Records label. He is currently in the studio recording with producer Mark Needham, who has also worked with Fleetwood Mac, Chris Isaak, and The Killers.

**Theodore Presser Company's George Tsontakis** has been chosen to receive the Charles Ives Living Award from the American Academy of Arts and Letters.

This award provides a composer an income of \$75,000 a year for three years. Tsontakis, who is Distinguished Faculty Composer-in-Residence at Bard College, will begin his three-year term in July of 2007.

**Spirit Music Group** has signed an exclusive, worldwide administration agreement with songwriter/artist **Drake Bell** and his co-writers **Michael Corcoran** and **Chris Abraham**. This multi-year agreement covers all songs written by the trio on Bell's debut CD, *It's Only Time*, as well as a prior independent release, *Telegraph*. The agreement also covers all songs composed for the Nickelodeon teen sitcom *Drake & Josh*, in which Bell co-stars, including the show's theme song, "Find A Way."



Henry Krieger (left) with *Dreamgirls* screenwriter and director Bill Condon

**Henry Krieger**, the Grammy Award-winning and Tony Award-nominated composer of the musical *Dreamgirls*, has brought a large portion of his catalog to Roger & Hammerstein's **Williamson Music** for representation. The four new songs written by Krieger for the major feature film *Dreamgirls*, "Listen," "Love You, I Do," "Patience," and "A Perfect World," will be joined with his scores for *The Tap Dance Kid*, *Side Show*, and two songs he contributed to *The Red Hat Society Show* for representation by Williamson.

"Word on the Street" is taken from press release material.

***“Return to Sender, Address Unknown”  
Publishers MIA: Can You Help Us Find Them?***

If you are a music publisher (or the assign, successor in interest, heir or beneficiary of a music publisher) that has been affiliated with HFA, and you’re not sure whether HFA has your current contact information, it is possible that HFA is holding royalties due to the lack of a valid mailing address.

To find out if HFA is looking for you and to provide current information so we can pay you any royalties we may be holding, visit “Help Us Find Publishers” at [www.harryfox.com](http://www.harryfox.com), or call HFA Publisher Services at 212-834-0100.

If you’ve moved, please remember to update your contact information with HFA. You can obtain change of address information from the website or by contacting HFA Publisher Services.

If you have any comments regarding HFA Soundcheck, please contact Laurie Jakobsen at 212-834-0133 or Shaliza Thomas at 212-922-3270, or email [soundcheck@harryfox.com](mailto:soundcheck@harryfox.com).

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