



LAW ADVOCATE GROUP, LLP

9701 Wilshire Blvd. Suite 1000 Beverly Hills, CA 90212

Phone: 310-651-3065 Fax: 310-601-7110

www.LawAdvocateGroup.com

Doron F. Eghbali Entertainment Law

Some BASICS of Rights Clearance in Entertainment Deals

Thursday, May 5, 2011 by [Doron F. Eghbali](#)

Clearing world rights of an underlying source for translation, adaptation or republication is invariably a cumbersome complicated lengthy process. Clearing rights serves a very important purpose in entertainment transactions, as such rights supplant and serve as future sources of income. Hence, it behooves entertainment participants to ascertain their salience and take proper methodical steps to implement them.

SALIENCE OF RIGHTS CLEARANCE

Clearing rights is a sine qua non to financing and distribution of any legitimate entertainment-related product. In fact, such rights are as lofty, worthy and valuable as property rights and, as indicated, serve as future sources of income for their rightful owners.

SALIENCE OF DETERMINING WHICH RIGHTS TO BE CLEARED

Most probably, it is rather financially and practically impossible to clear world rights of an entertainment product for all uses thinkable, imaginable and available. Hence, it is incumbent to first ascertain what the available budget for rights licensing is and the urgency expected to implement such rights clearances.

Most probably, the rights to be cleared are the ones needed to generate sufficient income to recover investment and be profitable, too.



SALIENCE OF REPUBLICATION RIGHTS AND ADAPTATION RIGHTS

Most generally, clearance of rights could be divided into two major groups:

1. REPUBLICATION RIGHTS

Republication rights encompass rights of reproduction, display and publication where the underlying source material is reused in the form of the original work.

CLEARING RIGHTS FOR REPUBLICATION

Generally, clearing rights for republication relatively involves less cumbersome procedures. Often, the publisher through contractual agreements aspire to share in the proceeds of subsidiary-rights licenses for the underlying work it owns. It is imperative to note republication of the underlying work PER SE does NOT create a new copyrightable product. The latter point has some exceptions including but not limited to possible copyrights for: organization, layout, epilogue, design or a new preface, among other things.

Nevertheless, it is imperative to still review the subsidiary rights previously granted to ensure no violation or conflict with previous licenses.

2. ADAPTATION RIGHTS

Adaptation rights encompass the transfer of rights from the underlying source material to a totally new work where the new work possesses its own rights to copyright protection.

CLEARING RIGHTS FOR ADAPTATION

Clearing rights for adaptation is relatively much more complicated cumbersome and lengthy as a new work has its own copyrightable rights and privileges. Therefore, for such rights, it is VITAL to establish. among other things:

- Whether the rights to adapt for the underlying work is available
- Whether the rights to adapt conflict with other subsidiary rights already granted to others in the underlying work.



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SALIENT NOTE

This article presents a very rudimentary general understanding of such complicated subject matter.

***DORON EGHBALI** is a Partner at the Beverly Hills Offices of Law Advocate Group, LLP. Doron Primarily Practices Business, Real Estate and Entertainment Law. Doron Can Be Reached at: 310-651-3065. For More information, Please, Visit: [HERE](#).*