

EXECUTIVE SEMINAR SERIES
School of Management and Business
St. Edward's University
MGMT 6199.01 - Fall 2005

Course: MGMT 6199.01
Date: Monday, October 3, 2005
Time: 6:50-9:40 pm
Location: Ragsdale Center, Mabee Ballroom B
Info: <http://www.stedwards.edu/business/graduate/ess/fall2005.htm>
Instructor: J. Craig Barker, J.D.
Email: jessb@admin.stedwards.edu or craig@craigbarkerlaw.com
Office Hours: By appointment

TITLE: Money, Music, and Copyrights
(or ... Is this the death of Copyright as we know it, and how will music be
"monetized" in the new millennium?)

"Governments of the Industrial World, you weary giants of flesh and steel, I come from Cyberspace, the new home of Mind ... I declare the global social space we are building to be naturally independent of the tyrannies you seek to impose on us. You have no moral right to rule us nor do you possess any methods of enforcement we have true reason to fear."

--John Perry Barlow from "A Declaration of the Independence of Cyberspace"

"Form is emptiness...emptiness is form."

--Siddhartha Gautama, the Buddha

"This too shall pass."

--Source unknown--Hebrew parable of Solomon

"Burn, burn, burn..."

--June Carter, "Ring of Fire," performed by Johnny Cash

Some might say that Napster revolutionized the music industry by introducing peer-to-peer file sharing to the world. Estimates of total users ranged wildly from 30 million to 50 million. On the one hand you had millions of gleeful young music lovers gorging themselves on the greatest of banquets ever set. On the other hand, you had legions of Gucci-wearing label heads, music lawyers, and aging rock stars and a worried industry says "Uh oh."

Actually, some might say we started down the slippery slope several years ago with the advent of the first consumer-friendly format for carrying digital music files: the compact disc. But the "who's gonna know" factor took several quantum leaps forward in the late 90's with what John Perry Barlow claims to have dubbed "cyberspace" and with what a college code-writing music lover called "Napster." Sweet: perfect digital copying in the anonymity of a cyberspace community of millions where nobody uses their real name. Copyright became virtually unenforceable (pun intended).

Claims on both sides are wild and hard to substantiate or accurately quantify. Some say digital and peer-to-peer have reinvigorated the public's thirst for recorded music and that whatever may have been lost to pirate sharing and copying has been more than made up for in

new consumers with more developed interests. This digital freedom contingency says there are other economic models to “monetize” the music rather than the old way of paying a high retail price for every single copy. The amount of water from each transaction will be smaller but, oh, what a flood level of a river. All boats will rise. More creative opportunities, more business opportunities, more consumers, mo betta music... and anybody can buy passage on any boat.

On the other side, the music industry establishment (including many artists) fears it has already suffered permanent market loss to all the free files and CDs out there and that this will only get worse, stifling artistic development and careers and businesses.

Anybody who says they know the answers is probably selling something. But in this course, we do want your theories. How will rights management change in the digital-cyber age? Will art get better or just more ubiquitous and mediocre? What kinds of businesses will thrive in the new era? What will record labels do to adapt before they are extinct? How will this affect the small indie labels and musicians – will they have greater access to distribution and marketing or does “free” copying steal their lunch money?

We will cover a little about “Copyright As We Now Know It,” along with some of the main “deal points” in the traditional contracts and licenses in the music business. We will discuss the original intentions and assumptions and social theory behind the limited monopoly that is copyright. Then we will bravely face the new world that is emerging where the monetization of music moves beyond our previous assumptions and institutions of copyright.

Students attending this Executive Seminar students will learn about the excitement and promise of digital distribution of entertainment properties with an emphasis on music. Students will also learn about the challenges of “monetizing” art (creative entertainment properties) in the era when traditional enforcement of copyright laws is changing and indeed may no longer be realistic in some respects.

After the presentation, you will work with Craig Barker to conduct research in an area of your interest based on the presentation. Your proposed research should be related to the topic of presentation, but you have the liberty of selecting the topic of the research consistent with your own interest. **While the focus of the presentation will be on issues related to digital distribution in the music industry, students may choose a different industry in which creative/intellectual property is being or will be digitally distributed. The topic of your research, however, should be first approved by the instructor.**

Required Text: None

Course Learning Outcomes

- 1. Describe the overall advantages or opportunities presented by digital distribution of creative/intellectual properties and the overall disadvantages or challenges so presented.**
- 2. Discuss a potential decision-making process to locate a segment of business or to develop a business model in the emerging world of digital distribution of creative/intellectual properties.**
- 3. Analyze success factors within the integrated frameworks of ethics, law, politics, and human behavior.**

Important Dates:

Monday, October 3, 2005:	Instructor/Executive Guest Presents You must attend this presentation and complete the assignments to receive credit for this course
Monday, October 17, 2005:	Research Paper Proposal Due (no late papers accepted)
Monday, December 5, 2005:	Final Research Paper Due (no late papers accepted)

Course Structure:

Following this executive seminar, you will have slightly over two weeks to prepare a two-page proposal of that describes the topic of your research paper. One page describes your research, and one page lists your references. References must include a minimum of two (2) articles from scholarly publications or law reviews/journals in addition and at least two (2) reference works or treatises. The topic you select must require you to do additional research in support of or taking exception to concepts covered during the seminar. Your research paper for one ESS course must differ substantially from your paper in another ESS course. One paper cannot be used for two ESS courses.

Your proposal must be received by the instructor NO LATER THAN 11:00 p.m. on Thursday, October 20, 2005 and is to be uploaded to Digital Drop-box in Blackboard. You may wish to also send a file to the instructor as backup. You **MUST** receive a confirmation notice from the instructor for the proposal before you will know that your proposal has been received. If you wish to have initial feedback that can be incorporated into your proposal, the instructor must receive it prior to 11:00 pm on Wednesday, October 12, 2005.

Your final research paper must be received by the instructor NO LATER THAN 11:00 pm on Monday, December 5, 2005. You will be permitted to submit a draft of your research paper for one general review and feedback by the instructor prior to the final submission deadline if received no later than Tuesday, November 29, 2005 at 5:00 pm.

The final research paper should contain 15-20 pages including references and follow the APA (5th ed.) style guide. APA Style manuals are available through the Bookstore. Helpful information regarding online citations is available in the St. Edward's University Library. APA information (sample and template) are also available on the School of Management and Business area of www.stedwards.edu. The final research paper should contain a minimum of three scholarly references (e.g., peer-reviewed).

Classroom Etiquette:

Divergent points of view will be presented during this seminar. Lively debate is anticipated and will be encouraged. Please allow your colleagues to present their position fully before presenting yours. Additionally, as a courtesy to the Executive Speaker and other students, cellular phones and pagers must be turned off prior to entering the classroom. There will be a five-point penalty assessed for each violation of the cell phone/pager policy.

About the Instructor / Executive Guest Craig Barker:

Craig is an entertainment lawyer who has represented many of Austin's top recording artists, producers, managers, studios, and record labels, including New West Records (Delbert McClinton, Billy Joe Shaver, Stephen Bruton, Jon Dee Graham), Ray Benson (Asleep at the Wheel), Ray Wylie Hubbard, Tish Hinojosa, Terri Hendrix, Peter Rowan, Don Walser, Sara Hickman, Rick Trevino, Billy Joe Shaver, James McMurtry, Alejandro Escovedo, Cedar Creek Recording (whose records include the Dixie Chicks, Shawn Colvin, Jerry Jeff Walker, et al.), Ruben Ramos (also member of Los Super 7), Lara & Reyes (2001 Latin Grammy nominee for Best Pop Instrumental Performance), MAS Entertainment (Flaco Jimenez' 1999 Grammy-winning record and Texas Tornados' live record), Jimmy LaFave, Studio M Recordings (Freddie Fender's 2002 Grammy-winning album), Mitch Watkins (producer Abbra Moore, Bob Schneider; guitarist for Lyle Lovett), Big House Sound, Brillante (Sony Discos), Hot Club of Cowtown (HiTone Records), Trout Fishing in America, Robert Skiles (Beto and the Fairlanes), Tary Owens/PriMary Productions (licensed collections to EMusic include recordings by Lead Belly, Freddie King, and Mance Lipscomb), Merel Bregante (producer Reckless Kelly), et al.

Craig has negotiated agreements and other matters with major and national independent record labels, publishing companies, booking agencies, managers, producers, et. al, including Warner Bros., Sony, Sony Discos, Sire, A&M, Rounder, HighTone, Sugar Hill, Virgin imprints, Valley Entertainment, CRS (Europe), Munich (Europe), Warner-Chappell Music, Maverick Music, Rondor (Almo-Irving) Music, PolyGram Music, PolyGram Film, Disney Studios, Monterey Peninsula Artists, William Morris Agency, et al.

Craig is the current Secretary of the Entertainment and Sports Law Council of the State Bar of Texas. He is on the Advisory Board of Center for Texas Music History. He was a 2-term Governor on the Board of Governors for Texas Chapter of National Academy of Recording Arts and Sciences (the Grammy organization). He also served on the board of La Pena Cultural Arts Organization (Austin's oldest Latino Arts organization) from 1990 to 1993.

Craig occasionally teaches music industry courses at Austin Community College, including "Legal Aspects of the Entertainment Industry" and "Survey of the Music Business"

Prior to becoming a lawyer (and for while afterwards), Craig gained music industry experience in a variety of positions, including personal manager, musician and road manager. He managed all aspects of the career of Tish Hinojosa for 15 years until 1997, overseeing the national and international releases and supporting tours for nine albums and several videos and singles for labels such as Warner Bros. Records, A&M Records, Curb Records, Rounder Records, and Watermelon Records. He managed Hinojosa's publishing relationships at Maverick Music (Madonna's Warner-Chappell co-venture) and Almo-Irving (Rondor) Music (a whose catalogue includes the bulk of the Beach Boys compositions and other legendary songwriters). He acted as executive producer or co-producer on Hinojosa's nine albums through 1997. He played bass for Hinojosa for eight years (1981-88) and served as her road manager and sound engineer on several national and European tours. Craig was based in Nashville 1982-84 and worked with a number of nationally recognized producers, songwriters and other music industry personnel.

Craig received his J.D. University of Texas School of Law in 1990 and his B.A. from Texas Tech University in 1979. He has been a member of the Texas bar since 1991.

Special Circumstances:

If you have a specific physical, psychiatric, or learning disability and require accommodations, please let me know early in the semester so that your learning needs may be appropriately met.

You will need to provide documentation of such to the Learning Assistance Center (LAC). Tutors trained in working with students with disabilities are available to help you with study techniques or mastery of course content.

Academic Integrity:

In addition to the codes of conduct outlined in the Graduate Student Handbook, plagiarism is unacceptable. If you do not understand the meaning of plagiarism, consult the SEU Library. Any student caught violating the plagiarism policy will receive zero points for the product turned in. Additionally, any student who plagiarizes or who collaborates with others on individual assignments will be subject to disciplinary action pursuant to the rules set forth in the Student Handbook. Further, written work may be submitted to the website www.turnitin.com in pursuit of academic integrity. The following pledge must be affixed individual work submitted by each student.

PLEDGE

All written work accomplished on an individual basis must contain the following pledge written/typed, signed, and dated on the cover page:

I have neither given nor received aid on this assignment [or paper, or project, or examination, etc.], nor am I aware of anyone else having done so. I recognize that violations of this pledge diminish the value of the SEU MBA and will result in sanctions as outlined in the Student Handbook.

Date_____

Signed_____

Printed name_____

Grades:

Research Paper Proposal	25 POINTS
Final Research Paper	75 POINTS
TOTAL POINTS	100 POINTS

A=90-100 POINTS
B=89-90 POINTS
C=79-80 POINTS
D=69-70 POINTS

In general, the performance criteria or expectations for each letter can be spelled out as follows:

- A Exceptional or Outstanding Mastery
Students achieving this level will have demonstrated the following:
- Accurate and sophisticated understanding of readings and issues with the ability to do more than repeat what the text says or what was said in class, such as the ability to infer additional important information from sources

- Critical stance toward opinions communicated in class or in the readings and the ability to express individual views articulately and defend them well
- Originality of thought in expressing the critical stance, in drawing out additional implications from the readings and class discussions, and in finding personal meaning in the readings and issues discussed
- Clear expressions of ideas with papers containing very few grammatical or stylistic weaknesses

B Very Good Mastery

Students achieving this level will have demonstrated the following:

- All the elements of “A” work, but with fewer accomplishments
- Accurate understanding of reading and issues, with the ability to do more than repeat the text
- A critical stance, with some effort, but not always successful to defend that stance
- Some attempt to find personal meaning, with at least hints of originality and creativity of thought
- Very clear expression of thoughts and ideas

C Minimal Mastery (the minimum of what was expected)

Note: C-Level work generally is considered unsatisfactory at the graduate level. Students who earn a C in a course are not required to repeat the course. However, students who earn three grades below a B may be dismissed from the Program.

Students achieving this level will have demonstrated the following:

- A generally accurate grasp of the readings and issues, but with some inaccuracies; a lack of sophisticated understanding, such as the ability to infer from sources
- Some attempt to take a critical stance, but with little effort or success in defending that stance
- Some attempt to find personal meaning
- Sufficient clarity of expression to communicate ideas, but with stylistic or grammatical weaknesses which create some difficulties

D Unsatisfactory (generally inadequate and less than expected)

Students achieving this level will have demonstrated the following:

- Genuine efforts to understand, with some demonstrated understanding of readings and issues, but with serious deficiencies
- General lack in critical stance or in a defense of that stance
- Lack of understanding or an attempt to find personal meaning