

12:59:31 >> We will be getting started in just a  
12:59:32 couple of minutes here.

13:00:52 >> Hi to everyone that's just joined. This  
13:00:56 is Andy for springboard for the arts, we are  
13:00:58 going to get started in just a moment, just to  
13:01:01 make sure that everybody that registered has a  
13:01:03 chance to get in here. At that time, I will go  
13:01:10 over a quick couple housekeeping things, just for  
13:01:12 folks to know about in terms of the format and  
13:01:15 how we are going to spend the hour. And then  
13:01:18 we'll just jump into it. There's lot to cover in  
13:01:21 an hour, everyone. I want to make sure we get as  
13:01:22 much as possible.

13:02:06 >> Another hello to those who just joined.  
13:02:09 We're going to get started in just a minute or  
13:02:12 two here. Just giving everybody a chance to get  
13:02:13 in and get settled.

13:03:32 .

13:03:37 >> All right. What we're going to do is get  
13:03:39 started. It looks like a large number of people  
13:03:41 have come in. Which is great. Hello to  
13:03:44 everybody. Thank you for continuing our webinar  
13:03:46 today on streaming and legal considerations.  
13:03:48 These are the kinds of questions we've been  
13:03:52 getting a lot of in the last six weeks. So we  
13:03:56 have some folks here that are able to speak to  
13:04:02 those. In terms of some house keeping for  
13:04:07 everyone. I'm sure many of you have been on Zoom  
13:04:10 webinars for the last couple weirs, those who  
13:04:13 haven't. This meeting is being captioned live  
13:04:16 lie a live captioner. If you hit the closed  
13:04:18 caption button on the bottom of your screen, you  
13:04:20 will see captions.

13:04:23 If you submitted a question, prior to last  
13:04:28 night or so, we got all of those together, and we  
13:04:32 will be addressing those as well.

13:04:35 And if you have questions as we go, my  
13:04:38 colleague, John Munson will be moderating. So  
13:04:41 what I would ask everybody to do is to use the Q  
13:04:46 and A function. If you hit Q and A at bottom of  
13:04:48 your screen, it gives you an opportunity to put a  
13:04:49 question in there.

13:04:51 You're welcome to use the chat if you have  
13:04:55 links to share or notes or anything else.

13:04:58 But we also ask that you try to keep the  
13:05:02 questions focused on the Q and A section so we  
13:05:06 can find them all. From here, I am going to

13:05:11 vanish behind a screen of privacy, and just run  
13:05:18 the technical stuff behind the scenes.  
13:05:20 >> WALT LEHMAN: Before you go, thank you for  
13:05:22 the opportunity to do this. But will have be  
13:05:23 recorded?  
13:05:25 >> Yes. That's a great point.  
13:05:31 So yes, this will be recorded. And it will  
13:05:34 be available on the springboard website, and we  
13:05:38 will also have a transcript and some follow-up Q  
13:05:42 and A for anything that we couldn't get to.  
13:05:45 Yeah. I'll still be here. I'll just be  
13:05:47 invisible so you don't have to look at me. For  
13:05:53 now, I will turn it over to Alex, Walt, and John  
13:05:56 and have you introduce yourselves and we'll jump  
13:05:59 'into the program. If you have questions, feel  
13:06:02 free to contact me via chat or use the Q and A  
13:06:03 function. Thanks.  
13:06:06 >> JOHN MUNSON: Thanks, Andy. And thanks  
13:06:11 everybody for joining us today to find out more  
13:06:15 about this topic of the legality of streaming.  
13:06:18 It's interesting, because we've had so many of  
13:06:23 these tools available to us for a long time. I  
13:06:27 think Facebook live has been out there for us to  
13:06:29 use for quite a while, and there's been live  
13:06:34 functions on other services also. And I think  
13:06:39 that they never really gained the attention that  
13:06:42 they have garnered now in this moment when we are  
13:06:47 all social distancing. And I think that's  
13:06:50 because, given the option of actually going to a  
13:06:55 performance versus viewing a streamed performance  
13:06:59 on your computer, by and large, you're probably  
13:07:01 going to try and get to a performance.  
13:07:05 But here we are. And now we have to figure  
13:07:09 out what this means for us as performers and  
13:07:16 presenters legally with these streaming  
13:07:19 performances.  
13:07:23 Walt Lehmann is a good old friend of mine.  
13:07:25 We've known each other for probably close to 30  
13:07:27 years or more.  
13:07:28 (laughter).  
13:07:32 And Alex Mueller is a new friend introduced  
13:07:37 to me by Walter, an these guys are both lawyers,  
13:07:40 and entertainment lawyers andic ports in the  
13:07:45 topics that we're going to address here, and I  
13:07:49 think, given how much material we have to cover,  
13:07:52 I should turn it over directly to you guys to  
13:07:56 talk about the legality of streaming

13:07:59 performances.

13:08:00 >> WALT LEHMAN: Sounds good. Thanks, John,  
13:08:04 for being our moderator. And thanks, Alex for be  
13:08:07 being available as well. I thought I would start  
13:08:12 out maybe by just giving some real basic  
13:08:14 copyright information so that we're all kind of  
13:08:17 on the same page, because I don't know how many  
13:08:20 of you are new to this and how many of you are  
13:08:23 probably professionals and very aware of it.  
13:08:26 Real quickly I'm going to give you a little  
13:08:29 overview about the copyright issues involved with  
13:08:34 streaming and then I want to touch briefly on  
13:08:39 theatrical performances, not only are my sessions  
13:08:43 screaming online, but so are our theater groups  
13:08:44 too.

13:08:48 So first of all, the key here is unless a  
13:08:51 work is in the public domain or there's some kind  
13:08:54 of prescriptive license, like a copyright commons  
13:08:57 license, or there's some exception to and right,  
13:09:01 such as fair use, you're going to need permission  
13:09:03 from the copyright owner to use a work in your  
13:09:06 recording.

13:09:09 Copyrights arise on creation when an original  
13:09:13 idea is put in a tangible form. So when you  
13:09:18 record a performance or livestream a performance,  
13:09:21 you're putting it into a tangible form, and the  
13:09:24 person who made that recording is the one who  
13:09:29 owns the copyright in the recording. But the  
13:09:32 recording may also contain a number of other  
13:09:36 layers of copyrights. For example, you have a  
13:09:40 recording of a play or a musical composition, or  
13:09:45 a visual work of art or all of the above, so the  
13:09:49 elements in a recording are the recording itself,  
13:09:53 the underlying work, the script, play, musical  
13:09:56 composition, whatever, and then the elements of  
13:10:01 the background. So the set dressing, the things  
13:10:04 that are also included in the recording itself.  
13:10:07 And each of those may have a separate copyright  
13:10:10 or no copyright at all.

13:10:12 But the key is that you need permission from  
13:10:16 a copyright owner when you include copyrighted  
13:10:19 materials in your recording. And it doesn't  
13:10:21 matter whether you charge admission or whether  
13:10:25 the performance is for charity. The basic black  
13:10:28 letter law is you need permission.  
13:10:35 So streaming a performance of a copyrighted  
13:10:38 work is really generally not going to be

13:10:43 considered fair use unless you're doing some kind  
13:10:46 of comment or criticism and using small amounts  
13:10:50 of material, that McCall fee for the exception of  
13:10:52 fair use, otherwise streaming a performance, a  
13:10:55 whole work, very unlikely that you'll be able to  
13:10:59 rely on fair use as an exception to getting that  
13:11:01 permission from the copyright owner.

13:11:06 We'll probably have a conversation about  
13:11:10 this. But the idea of asking forgiveness in my  
13:11:15 opinion as a lawyer generally not a good idea.  
13:11:19 We are in unprecedented times, I understand that,  
13:11:22 but using someone's copyrighted work without  
13:11:25 their permission, it's unfair to the copyright  
13:11:29 owner. It seems to me it's unprofessional. It  
13:11:31 may harm your reputation if people find out that  
13:11:35 that's what you're doing. It may violate the  
13:11:40 streaming service terms of use if you're using  
13:11:45 material that's not cleared and the streaming  
13:11:47 service finds out about it.

13:11:50 And then also, given the nature of the  
13:11:56 Internet, you're exposing yourself to a cease and  
13:11:59 desist level for a demand for some kind of  
13:12:01 retroactive licensing from the copyright owner.  
13:12:05 In this day and age, it's hard to hide, I have  
13:12:07 seen many situations where someone will come off  
13:12:11 the blue and tell you you're using their work and  
13:12:14 you wonder how they found out about it, but they  
13:12:15 did.

13:12:18 So with that, Alex, do you want to add  
13:12:20 anything on that sort of copyright basics?  
13:12:24 >> ALEX MUELLER: No. Just highlight again  
13:12:28 that with music, there's a lot of angles to it,  
13:12:29 because we're always dealing with two works,  
13:12:32 eventually. There's the underlying composition  
13:12:35 or what would be on a sheet music, even if  
13:12:38 there's no sheet music that exists, that still  
13:12:40 has a copyright, and that work goes along with  
13:12:43 any recording. But it's also possible foreign  
13:12:46 composition to go places without a specific  
13:12:50 recording. So just keep that in mind as we're  
13:12:53 going through discussions, we'll try and clarify  
13:12:55 whether you're using someone else's recording or  
13:12:59 making your own recording, but with someone  
13:13:00 else's work.

13:13:02 >> JOHN MUNSON: I just might add, if I  
13:13:08 could, if you find what is being suggested by  
13:13:12 Walt and Alex to be far-fetched, the other day I

13:13:17 was on my YouTube studio account, and I found  
13:13:21 that video that I had put out of the new  
13:13:25 standards had been blocked and was not accessible  
13:13:31 by anybody. And one of the consequences of that  
13:13:33 is that I was digging around trying to figure out  
13:13:37 what exactly had happened or what copyright I had  
13:13:42 violated, and I couldn't find out anything. Just  
13:13:45 I had violated their terming, and that video that  
13:13:48 I had spent a fair amount of time actually  
13:13:51 putting together, that was inaccessible and that  
13:13:55 work was wasted, because I had violated the  
13:13:57 copyrights.

13:13:59 >> WALT LEHMAN: We're going to get back much  
13:14:03 more into the weeds with the music side of this.  
13:14:07 I thought there's a lot more going on on the  
13:14:09 theatrical, on the stage as well. I haven't seen  
13:14:14 it yet, but a complaint a theater is broadcasting  
13:14:18 the diary of Ann Frank, they are doing a Zoom  
13:14:22 presentation of the diary of Ann Frank, which is  
13:14:29 apparently pretty amazing. So stage production  
13:14:31 asks I think fairly straight forward compared to  
13:14:36 the music world. And if you were preparing a  
13:14:38 live stage presentation and you had gotten a  
13:14:42 license to do a live stage production, the only  
13:14:45 point I want to make here is if you decide now  
13:14:47 you're going to record it, or you're going to  
13:14:52 livestream it, very likely that live stage  
13:14:55 license that you had isn't going to apply.  
13:14:58 You're going to need to go back to the publisher  
13:15:05 or to the author or the author's agent and  
13:15:07 negotiate for a livestreaming or a recording  
13:15:10 license.

13:15:16 Obviously, that's a hurtal to get over, but I  
13:15:20 think most play writes or publishing companies  
13:15:23 are receptive to that idea right now. I was  
13:15:26 looking at Samuel French's website and they are  
13:15:28 saying they will help facilitate that  
13:15:29 conversation with the author. There are other  
13:15:33 publishing companies, dramatic publishing, for  
13:15:36 example, which has quite a few works that already  
13:15:39 have a livestream license available for them.  
13:15:43 So really, that's all I want to say about  
13:15:48 theatrical or stage performances. And so from  
13:15:51 that, maybe we should turn it over to Alex and  
13:15:55 you can give us an overview on music licenses and  
13:15:58 then webinar we can get to the questions.

13:15:59 >> ALEX MUELLER: So generally with music

13:16:02 licenses in a live performance setting the venue  
13:16:05 is responsible for those licenses. So the band  
13:16:07 just shows up and they can play whatever they  
13:16:08 want to.

13:16:11 That could be original pieces, that could be  
13:16:19 cover songs. The venue plays a bang Chet  
13:16:22 license, and ideally the venue is paying a  
13:16:24 license fee to each one of those performance  
13:16:26 rights organizations so they have the broadest  
13:16:28 selection of music possible.

13:16:31 And then the performers don't have to do  
13:16:33 anything. You just show up at the restaurant or  
13:16:36 the bar or the concert hall, play your set and  
13:16:38 that's it.

13:16:42 When you're going online, you no longer have  
13:16:44 the same benefit of a middleman that's done the  
13:16:48 licensing for you. And we won't have time today  
13:16:51 to get into the nuances of every single digital  
13:16:55 platform, but basically, the license situation is  
13:16:58 different, and we'll talk particularly about  
13:17:01 YouTube and about Facebook, because those are  
13:17:03 two -- and Zoom, those are some of the ones that  
13:17:10 are coming to the fore. So YouTube, if you do a  
13:17:12 performance, it doesn't seem to matter if it's  
13:17:16 live or you create the video and up load it, they  
13:17:17 have created a blanket license with the  
13:17:20 performing rights organizations, and what's  
13:17:22 unique about that is because usually when you're  
13:17:26 in a video context, you need what's called a  
13:17:29 synchronization license, that's different than a  
13:17:31 public performance license, that's the right to  
13:17:34 be able to combine music with video. And  
13:17:36 normally you can't get those licenses from the  
13:17:39 performing rights organizations. Have you to go  
13:17:42 directly to the publisher, and get those directly  
13:17:45 from them. Because they are all negotiated  
13:17:46 rates.

13:17:49 Well, YouTube, pushing the boundaries of  
13:17:55 technology as it did in creating a video user up  
13:17:57 loaded video experience, they were able to  
13:18:01 negotiate with the PROs that they had a specific  
13:18:04 situation where artists are up loading what would  
13:18:06 otherwise be covers, it's just a video of them  
13:18:10 performing, you just see the performers playing  
13:18:13 their instrument, singing or whatever, so it's a  
13:18:15 special situation with YouTube specifically where  
13:18:18 you're allowed to do that and you don't have to

13:18:22 get a separate sync license usually.  
13:18:25 The problem is that not all the publishers  
13:18:28 opted into that agreement. So you really don't  
13:18:30 know for sure whether you're going to be covered  
13:18:32 by that unless you upload it and you find out  
13:18:36 what happens. If it is in the blanket agreement,  
13:18:39 you'll get a copyright claim, so you upload the  
13:18:44 video, the bot will flag it and say this contains  
13:18:49 material, and whatever the publisher is.  
13:18:51 Sometimes it says, we think this is s and we're  
13:18:54 not sure what song it is, this is who we think it  
13:18:58 belongs to. Even if your channel is not main  
13:19:01 tied, you can still get copyright claims, they  
13:19:05 don't hurt your channel. It's the strike that do  
13:19:09 hurt your channel. Usually if the publisher is  
13:19:12 not in the blanket agreement, they'll take the  
13:19:14 video down, it's kind of like oops, but nothing  
13:19:16 else is going to happen from that.  
13:19:19 Facebook is more of a problem, because they  
13:19:21 don't have a music licensing agreement with the  
13:19:25 PROs, so anything you put on Facebook could get  
13:19:28 caught by their -- they call it the rights  
13:19:32 manager, and what that is is a library where and  
13:19:34 right owners have uploaded things and told  
13:19:39 Facebook's bots to watch, basically it's is  
13:19:42 system that looks for a wave form that is  
13:19:45 identical to the wave form of your recording.  
13:19:47 It's especially good at catch things if you're  
13:19:50 streaming live on Facebook from a cafe and  
13:19:52 there's radio or something playing in the  
13:19:54 background, it will almost certainly catch that,  
13:19:57 because it's a customer you shully released  
13:20:01 recording and it has that copy in its archive  
13:20:03 it's looking for. If you're playing a cover  
13:20:06 song, depending on your instrumentation and how  
13:20:09 good your performance is, you might trigger that  
13:20:11 system to catch it and flag it. But what does  
13:20:14 happen on Facebook in particular, because of how  
13:20:17 that system works and it's all automated, is it's  
13:20:20 catching things that are actually original  
13:20:24 content, but it sounds like your chore  
13:20:27 progression, your rhythm or beat is a little too  
13:20:29 close to one of the things it has in its system,  
13:20:33 it's close enough of a match, and so your video  
13:20:37 gets muted. The main thing about Facebook that's  
13:20:40 very frustrating is that you really can't dispute  
13:20:44 it. On YouTube, there's a built-in process to

13:20:47 dispute it, reinstate it and go this is my  
13:20:51 original work, I'm performing it, not using  
13:20:54 someone else's recording or composition, and you  
13:20:56 should put the video back up. Facebook, it's  
13:21:00 basically impossible to reach a real person, even  
13:21:02 for lawyers that try to reach I say, this is --  
13:21:08 we own it, and Facebook also doesn't have a huge  
13:21:10 incentive to fix the problem, because there's an  
13:21:13 area of copyright law called the digital  
13:21:16 millennium copyright act. Under this act, the  
13:21:19 Internet service providers, like Facebook, like  
13:21:23 YouTube, have a loophole, called a safe harbor in  
13:21:26 the law, where they are not responsible for  
13:21:28 copyright infringement that happens on their  
13:21:31 platform so long as they are quick and efficient  
13:21:34 about taking stuff down when they find it.  
13:21:38 So they have every incentive to err on the  
13:21:41 side of the big publishers with the big money and  
13:21:45 the lawyers that have the clout to pursue things  
13:21:49 rather than for the little artist that up loads  
13:21:55 something that is their original work, and the  
13:21:58 bot wrongly caught it and took it down, so they  
13:22:01 err on the side of everything we find as  
13:22:05 infringement and it's hard to dispute otherwise,  
13:22:06 particularly with Facebook.  
13:22:10 >> JOHN MUNSON: I have question.  
13:22:12 >> ALEX MUELLER: I see questions coming in.  
13:22:13 >> JOHN MUNSON: Yeah. There's few questions  
13:22:18 coming in. I had a question about Instagram live  
13:22:21 and Facebook live, are they effectively the same  
13:22:22 thing, Alex.  
13:22:24 >> ALEX MUELLER: I believe that Facebook  
13:22:27 owns Instagram, so I think Instagram is using  
13:22:33 that exact same algorithm to hunt for wave forms  
13:22:36 using the same manager. I'm not positive about  
13:22:39 that, but that's my +SAU suspicion.  
13:22:40 >> JOHN MUNSON: I have a question here from  
13:22:43 somebody that sent one in prior to our meeting  
13:22:46 and I think it does bear on a couple of the other  
13:22:50 questions that we're getting too. It is this:  
13:22:52 The writer writes, I'm interested to know about  
13:22:56 the legality of recording a cover song and  
13:22:59 posting it on Facebook or YouTube, and also the  
13:23:03 legality of livestreaming cover songs on Facebook  
13:23:07 or YouTube. I have a friend who's been doing  
13:23:12 this every week in kind of a piano bar  
13:23:15 formatment. Normally he would be doing it down



13:23:19 at a place they've gate down in northeast  
13:23:23 Minneapolis, and now he's doing it from his  
13:23:26 living room. It's a livestreaming performance of  
13:23:28 piano bar style covers.  
13:23:29 >> ALEX MUELLER: Yeah. There is kind of  
13:23:32 going off on a tangent, I think, but that is an  
13:23:35 interesting question about, you know, if you're a  
13:23:38 venue and you're streaming something live, does  
13:23:43 your license cover it? And they can provide  
13:23:46 licenses for that situation, but when you're  
13:23:48 streaming through your living room you're  
13:23:51 probably not going through the process to get one  
13:23:54 of those, I tried to look into it. I think can  
13:23:58 you get one from your own website. It's only a  
13:23:59 couple hundred bucks, assuming you're not making  
13:24:04 a lot of money on your website and not having  
13:24:06 500,000 people watching it. They are not  
13:24:10 terribly expensive, but it is a process.  
13:24:17 As far as YouTube live, so YouTube for sure  
13:24:20 has a blanket license for the content once it's  
13:24:23 recorded and up loaded. I don't know how  
13:24:26 aggressive they are being right now about  
13:24:29 policing live streams or what's happening while  
13:24:32 you're actually streaming live.  
13:24:35 Facebook has been notorious lately for  
13:24:38 interrupting live streams, and even muting them.  
13:24:42 Plus they mute them after the fact, when it's  
13:24:44 just archived on your time line.  
13:24:44 >> JOHN MUNSON: Interesting.  
13:24:46 >> ALEX MUELLER: As far as cover songs on  
13:24:49 YouTube, it's a little bit of a gamble. You  
13:24:52 don't know for sure whether it's in that blanket  
13:24:55 license or not. Assuming it is, you should be  
13:24:58 fine on YouTube. On Facebook, no one's fine no  
13:25:00 matter what you do, it's not an ideal platform  
13:25:06 because much. You have the risk of getting into  
13:25:08 you said or not have be your performance saved  
13:25:09 for later.  
13:25:10 >> JOHN MUNSON: So YouTube is a little bit  
13:25:14 of a safer platform it sounds like for doing  
13:25:17 streaming performances.  
13:25:18 What I'm gathering.  
13:25:19 >> ALEX MUELLER: Yeah. It could be a  
13:25:23 better -- it's a better option than Facebook  
13:25:24 Facebook for a lot of people, because we've been  
13:25:31 seeing more issue with Facebook's bots.  
13:25:32 >> JOHN MUNSON: Very cool. Should we

13:25:35 continue with questions or alter is there more  
13:25:37 material you wanted to cover in terms of getting  
13:25:40 those clearances? I guess I find myself, you  
13:25:43 know, as a performing artist thinking like Jesus  
13:25:46 Christ, if I have to get permission for every  
13:25:48 single thing I do, I'll never do anything, I  
13:25:52 might sit in my closet for the rest of my life.  
13:25:55 >> WALT LEHMAN: Right. All I would say, I  
13:25:59 approach this stuff from a film and television  
13:26:02 production point view. Think about this as a  
13:26:05 production. When you're setting up your camera  
13:26:08 and thinking about what your background is, do  
13:26:11 you want that poster in there? Is that going to  
13:26:13 raise concerns? When you actually place things  
13:26:16 specifically behind you, are you creating set  
13:26:20 dressing in which case that may raise some  
13:26:23 issues? So neutral backgrounds, eliminating  
13:26:27 material that is not really necessary helps a  
13:26:32 lot. Removing logos from your hat, John.  
13:26:32 (laughter).  
13:26:38 >> JOHN MUNSON: I happen -- Munson feeds is  
13:26:42 no longer an ongoing operation, I think I'm all  
13:26:42 right.  
13:26:44 >> WALT LEHMAN: If you're bringing people  
13:26:47 on, technically in the film production standpoint  
13:26:50 of view, you get an appearance release from  
13:26:53 somebody if you were performing in a location,  
13:26:55 and recording it, would you get a location  
13:26:55 release.  
13:27:00 So these are just things to sort of be  
13:27:04 keeping mindful of as you set up your cameras and  
13:27:07 you set up how you're going to do this. Yeah.  
13:27:09 Let's get back to the questions, because we're  
13:27:12 sort of halfway through already.  
13:27:13 >> ALEX MUELLER: I'm answering some in the  
13:27:18 side bar here. So there's a question from Jesse,  
13:27:23 if we're streaming from our venue, then we have  
13:27:29 ASCAT VMIC license, is Facebook still going to  
13:27:32 mute us? The answer is maybe, they don't know  
13:27:36 that you have a license. Right now, we're really  
13:27:41 hoping for some more guidance from the performing  
13:27:43 rights organizations on this and sorting out the  
13:27:47 licensing details, but yeah, Facebook controls  
13:27:49 Facebook. So they can do whatever they want in  
13:27:52 their platform. In fact, under their terms of  
13:27:57 service, they could just arbitrarily delete your  
13:27:59 content because they decide they don't like it.

13:28:02 They don't have to let it be there at all.  
13:28:06 >> JOHN MUNSON: Is there -- is it possible,  
13:28:08 as you mentioned that you could get some kind of  
13:28:14 a blanket right to perform a collection of songs  
13:28:17 that were controlled by any of the performing  
13:28:19 rights organizations, like you mentioned, you  
13:28:23 know, if you're doing it through your website,  
13:28:26 can you pay a couple hundred dollars, it grants  
13:28:28 you license to use this material and perform it  
13:28:33 freely, as if you were a bar or club or something  
13:28:37 like that. I mean, do you think there might be  
13:28:40 an opportunity to do that with some of these  
13:28:43 streaming services like Facebook or YouTube?  
13:28:45 >> ALEX MUELLER: Hopefully. Hopefully. Or  
13:28:49 using other platforms that are more tailored to  
13:28:54 these purposes. I know there's services that  
13:28:58 like you pay the subscription fee to them. I  
13:29:01 don't know how the licensing arrangement works,  
13:29:04 but you pay a subscription fee to them, and they  
13:29:10 blast it out to YouTube, Twitter, Facebook, all  
13:29:10 at the same time.  
13:29:12 >> JOHN MUNSON: What is that service?  
13:29:13 >> ALEX MUELLER: One is called stream yard.  
13:29:17 >> JOHN MUNSON: I'm totally not familiar  
13:29:21 with it. That sounds like an interesting service  
13:29:24 definitely, in the kind of current environment  
13:29:26 pretty cool. Stream yard.  
13:29:27 >> ALEX MUELLER: Another thing I know  
13:29:29 artists are using is Zoom, because there's  
13:29:32 nothing built into Zoom right now to track what's  
13:29:35 happening in real time. So it's kind of more  
13:29:38 like you have a closed room and you're inviting  
13:29:41 people into it. So there's not a bot sitting  
13:29:43 there watching what's going on.  
13:29:46 As far as livestreaming. Yeah.  
13:29:47 >> JOHN MUNSON: Yeah. Okay.  
13:29:50 >> ALEX MUELLER: So you're less likely muted  
13:29:52 than you are on Facebook.  
13:29:57 >> JOHN MUNSON: A question was -- came in  
13:30:02 relative to streaming -- people streaming their  
13:30:05 own work. Are there any precautions people  
13:30:07 should take either to protect their rights to  
13:30:10 their work or, you know, is there anything that  
13:30:14 you need to look after in that regard?  
13:30:17 >> ALEX MUELLER: Yeah. So as far as  
13:30:18 protecting your rights, you should always  
13:30:25 register your copyright in your work. I know

13:30:27 Walt talked earlier about copyright is automatic,  
13:30:29 but the trouble is that you don't have ability to  
13:30:33 access the court system until you have the  
13:30:35 registration in your hand, and so from a  
13:30:38 litigation standpoint, even if you can't feasibly  
13:30:41 afford to go to court because it's hundreds and  
13:30:44 hundreds of thousands of dollars to pursue,  
13:30:46 particularly a music case, the copyright cases  
13:30:50 are very expensive and very prolonged, but  
13:30:53 anyway, if you don't have the registration, you  
13:30:56 can't even really threaten litigation against  
13:30:58 other party, because they know you can't get into  
13:31:00 the court system. We don't have -- there's  
13:31:03 discussion about a copyright small claims court,  
13:31:06 and we don't have like a determination on when  
13:31:11 that would be available, but that's something  
13:31:13 being talked about right now. So it would be an  
13:31:17 avenue that doesn't cost hundreds of thousands of  
13:31:21 dollars, but to access those systems, you're  
13:31:23 going to have the registration, first and  
13:31:26 foremost, file the register station, you can do  
13:31:29 10 works at a time if they are not published.  
13:31:37 The sound recording and together in one  
13:31:40 application, check the it out from the copyright  
13:31:42 office. They have a walk through video to walk  
13:31:45 you through the form. Really great A lot of  
13:31:48 artists are doing that right before they release  
13:31:51 their album, they will register the whole set of  
13:31:53 10 at a time.  
13:31:57 As far as protecting your works on the  
13:32:00 platforms, I think for contend ID, have you to be  
13:32:03 a YouTube partner, which means you have to have a  
13:32:07 certain number of subscribers before they'll let  
13:32:10 you access that system and register it there.  
13:32:15 It's hard to use YouTube's built in tools. You  
13:32:18 still have the options under the DMCA, if you  
13:32:21 find something that's infringing you can use that  
13:32:23 process and say that's mine, take it down, that  
13:32:26 requires you to be looking constantly. I found  
13:32:29 music of mine on websites available for download,  
13:32:32 but they are based in Singapore or someplace,  
13:32:35 it's not like I would have just found them  
13:32:38 casually. You have to be looking constantly and  
13:32:42 see what's being infringed. Another aspect to  
13:32:46 that, so like on Facebook, there's no way you're  
13:32:48 going to get into that rights manager system as a  
13:32:52 registrant, because they are really only talking

13:32:55 to the large publishers right now, they haven't  
13:32:58 gotten around to making it feasible to deal with  
13:33:01 music licensing for everyone else. You might get  
13:33:04 muted on your own songs that are original, that  
13:33:07 you're play, and you're going to have a very hard  
13:33:09 time getting them to reinstate that video,  
13:33:12 because it's very hard to reach a real person.  
13:33:18 There's also no royalties for you to have to  
13:33:21 you do it on Facebook, you won't generate any  
13:33:22 money.

13:33:25 >> JOHN MUNSON: And in most cases that's one  
13:33:27 of the big frustrations is you know that you're  
13:33:29 not going to realize anything from the things  
13:33:33 that you're posting, and so the idea of paying  
13:33:38 for permission to post those things feels like,  
13:33:41 well, what the hell? What's the point? Do you  
13:33:42 know what I mean?

13:33:44 >> ALEX MUELLER: Yeah. Personally, I don't  
13:33:47 know if we said this, I'm a composer and  
13:33:49 musician as well. Personal froes stations with  
13:33:52 Facebook really took off probably four years ago.  
13:33:56 They removed the embedded player feature for both  
13:33:59 you took and sound cloud. If you went through  
13:34:01 the trouble to have a license and is it on  
13:34:05 YouTube or sound cloud, you can no long embed it.  
13:34:07 It just links back out. So you don't get traffic  
13:34:11 on Facebook for your recordings, because no one  
13:34:13 wants to get linked out to another site.

13:34:14 >> JOHN MUNSON: Right.  
13:34:18 They are busy making the Internet worse and  
13:34:18 worse, right?

13:34:18 (laughter).  
13:34:22 >> JOHN MUNSON: There's some more questions  
13:34:31 coming in here that are pretty interesting.  
13:34:38 One, Joshua asked, does Vimeo have similar  
13:34:41 sync licenses as YouTube?

13:34:46 >> ALEX MUELLER: So Vimeo is primarily like  
13:34:51 private uploads of films. I'm not aware if they  
13:34:53 have a livestream function at all.  
13:34:58 But you would still need to have a sync  
13:35:01 license for any music that's in a video that's  
13:35:04 posted to Vimeo.

13:35:06 To my knowledge, they don't have a blanket  
13:35:09 agreement with the PROs. I don't know that for  
13:35:12 sure. Like we get into areas I don't know every  
13:35:16 detail about every platform that exists, but one  
13:35:19 thing that Vimeo does, and also you can do this

13:35:23 on YouTube, if you have a private video that's  
13:35:26 password protected or unlisted so that you're  
13:35:29 limiting who can see it, that might be a way to  
13:35:33 not get it flagged for copyright reasons, but  
13:35:35 that's not -- to say that you're in the clear  
13:35:37 that you didn't do anything infringe being, it's  
13:35:41 just that you're trying to limit the audience  
13:35:43 +SOE that it doesn't get you into trouble. I  
13:35:47 know artists will do that with portfolio pieces,  
13:35:50 like film score composers, we don't have the  
13:35:52 rights to the film, but we want to be able to  
13:35:56 show it to clients, so you'll have a private  
13:35:59 video on Vimeo and send the client the password  
13:36:02 and go look at the movie I made that I can't show  
13:36:05 you on YouTube.

13:36:05 >> JOHN MUNSON: Right right.

13:36:09 There's another question here that I think is  
13:36:14 interesting. Do we need to buy rights to video  
13:36:16 perform any covers that we stream ourselves in I  
13:36:21 think that really gets down into the crux of  
13:36:21 this.

13:36:25 I mean, what alternatives are there? I play  
13:36:30 in a group that the large body of our work is all  
13:36:37 covers. And to put out a record, we always  
13:36:41 purchase rights. But if it's existing in this  
13:36:44 other sphere, do we need to buy separate rights  
13:36:51 in order to stream it? Or if we were going to do  
13:36:54 a -- stream a performance, we need to rebuy the  
13:36:56 rights to use those songs.

13:36:57 >> ALEX MUELLER: In a live performance  
13:37:00 context, again usually the artists are shifting  
13:37:02 that responsibility to the venue.

13:37:04 Because the venue is more able to handle the  
13:37:08 licensing process. Right now, we're in a time of  
13:37:12 uncertainty with whether those venue licenses can  
13:37:16 be effectuated of their premises, if they are  
13:37:19 streaming, but they are not in their building at  
13:37:22 the time, does that license cover that activity?

13:37:25 We don't really know.

13:37:27 Possibly, you can go get these licenses  
13:37:30 yourself. You're basically just acting like a  
13:37:32 venue now. The trouble is, depending on volume  
13:37:38 of your streaming and what platforms you're use,  
13:37:41 it might not be worth the cost to you to do that.

13:37:43 >> WALT LEHMAN: The other issue this raises  
13:37:48 is with synchronization licenses, right, Alex.

13:37:49 >> ALEX MUELLER: Yeah.

13:37:53 >> WALT LEHMAN: When you put music in sync  
13:37:56 with a visual image, with a video, there's a  
13:37:58 different licensing issue there that isn't  
13:38:02 covered by the public performance license.  
13:38:05 >> ALEX MUELLER: Usually it's an add-on.  
13:38:08 So, like, say you're hosting a festival, and you  
13:38:11 know you're going to stream it too, you'll have a  
13:38:12 performance license that would be for everyone  
13:38:17 that's sitting in the hall during the festival,  
13:38:20 but then you have an add-on an additional cost to  
13:38:23 be able to simultaneously stream that  
13:38:24 performance, that still didn't give you the  
13:38:27 rights to archive that video and do anything else  
13:38:30 with the finished product that you record and  
13:38:33 broadcast, it's gets very complicated very  
13:38:35 quickly depending on what you're doing. That's  
13:38:39 why YouTube's blanket license is really great,  
13:38:41 because they are able to figure out how to deal  
13:38:44 with what is essentially a cover, it would have  
13:38:46 been licensed under mechanicals if it was audio  
13:38:49 only, now it exists in video form and we can see  
13:38:52 the perform uns while they are playing. I  
13:38:57 wouldn't use that as an jaws to do a story format  
13:39:00 music video, that could get you in trouble. If  
13:39:02 it's a video of you and the band playing your  
13:39:04 instrument, that's considered a cover as far as  
13:39:07 YouTube is concerned, even if you change the  
13:39:10 instruments like if you make i right for bag  
13:39:13 pipes instead of maw actual caw, then it's a  
13:39:16 cover as far as YouTube is concerned.  
13:39:19 >> JOHN MUNSON: MTV type video.  
13:39:21 >> ALEX MUELLER: Then you're in sync  
13:39:23 territory, and they would expect you to get that  
13:39:24 license yourself.  
13:39:26 >> JOHN MUNSON: One of the things that's  
13:39:29 kind of interesting here is the number of  
13:39:31 streams. A lot of these cases you're talking  
13:39:36 about in the hundreds of viewers. Maybe in some  
13:39:40 cases the 10s or, you know, hundreds of of  
13:39:43 viewers as opposed to millions or thousands of  
13:39:45 viewers.  
13:39:49 Now, for example, licensing music for the  
13:39:51 purposes of putting out a record, there's  
13:39:54 specific parameters around what you anticipate  
13:39:57 the license being used for. Now, is it going to  
13:40:02 be for a thousand records? Is it going to be for  
13:40:04 10,000 records? And the fee is different

13:40:08 according to what your projections are for how  
13:40:10 many copies you're going to sell. You think that  
13:40:13 they could create some kind of parameters in  
13:40:15 terms of streaming too where it's like if you're  
13:40:19 going to be streaming to under 100 people, give  
13:40:21 us a nickel. You know.

13:40:25 >> ALEX MUELLER: Yep. That is how the ASCAP  
13:40:28 license works if it's on your own website, they  
13:40:31 have you estimate how views you're going to have  
13:40:33 visitors to that site, they ask you how much  
13:40:36 money you're generating through that activity on  
13:40:39 that website. It is a little peculiar that they  
13:40:42 ask you to estimate what your traffic is going to  
13:40:44 be before they give you a license, but it made  
13:40:47 much more sense when we were talking about  
13:40:50 pressing vinyl, because the record company knew,  
13:40:54 like, we're pressing however many thousand disks,  
13:40:57 and that's how many there are. So they were able  
13:41:00 to estimate more accurately than now, where you  
13:41:04 can get a license, and then exceed the usage that  
13:41:07 was permitted under that license and they are  
13:41:09 going to come back and be like, we need to get  
13:41:11 more money from you because you exceeded what  
13:41:13 your license allowed.

13:41:19 >> JOHN MUNSON: Sudden Levy recallty of your  
13:41:21 post becomes toxic to your bank account, you  
13:41:21 know.

13:41:22 >> ALEX MUELLER: It could, yeah, depending  
13:41:26 on -- that's another thing, you can't get just  
13:41:29 one license from 1PRO unless you know for sure  
13:41:32 that you're only doing music that's in that PRO's  
13:41:35 catalog, and that's a whole other issue  
13:41:37 researching who owns what and who controls which  
13:41:41 parts of those rights. So most venues have  
13:41:44 licenses from all three. Just to be safe. So  
13:41:46 then they don't have to worry about anything when  
13:41:50 someone comes in and plays a set of covers that  
13:41:55 are -- they are just like, yep. We know those  
13:41:58 are controlled by some entity we paid a license  
13:42:01 to and we're fine, but for an independent artist  
13:42:04 to research all much or limit their set list or  
13:42:06 get a separate license from each performing  
13:42:09 rights organization, that's when you start  
13:42:12 talking about a lot of fees up front, and you're  
13:42:14 maybe doing these for free.

13:42:16 >> JOHN MUNSON: Right.

13:42:19 >> WALT LEHMAN: To talk a little about stage



13:42:22 rights for livestreaming sort of have some of the  
13:42:25 same questions, again it's going to be negotiated  
13:42:27 on a case-by-case basis usually the questions  
13:42:31 they ask are the estimated number of  
13:42:34 participants, how are people going to  
13:42:38 participate? Are you going to sell tickets or is  
13:42:40 this going to be for free? So a number of sort  
13:42:46 of the same considerations about how the design  
13:42:48 the livestream license.

13:42:53 >> JOHN MUNSON: Here is a question relative  
13:42:58 to what if these streams are being used to raise  
13:43:05 money for a charitable organizations, is there  
13:43:07 any special arrangements that can be reached in  
13:43:10 order to do that?

13:43:12 >> ALEX MUELLER: There's nothing like as  
13:43:15 blanket rule. There's nothing that exists in  
13:43:18 those circumstances. But charitable  
13:43:21 organizations are going to have a lot of success  
13:43:24 right now reaching out to rights holders,  
13:43:27 assuming you can get in touch with someone at the  
13:43:29 company, they are probably going to be willing to  
13:43:33 work with you, and even wave license fees.  
13:43:36 There's been a number of situations that have  
13:43:40 come up in my work, where just reaching out to  
13:43:46 the publisher and educational space is coming to  
13:43:48 mind teachers got -- music teachers got locked  
13:43:50 out of their their building and they are  
13:43:54 basically go home, leave the stuffs, leave the  
13:43:57 sheet music stay home, don't come back. How are  
13:44:00 we supposed to teach our classes when all the  
13:44:02 sheet music we purchased is locked up in the  
13:44:04 building. They reached out to some of the that  
13:44:10 publisher and they are like, have this stuff, use  
13:44:14 it, we don't mind at all. JW pepper went back  
13:44:17 and everybody that purchased physical copies of  
13:44:19 sheet music and not digital, they gave them  
13:44:22 digital copies, they are like, here you go, use  
13:44:25 that. It's an exception right now. We know it's  
13:44:27 a weird time. We're not going to come after you  
13:44:31 for making illegal duplicates.

13:44:33 >> WALT LEHMAN: The basic bottom line is  
13:44:36 whether you charge or not doesn't matter for  
13:44:38 copyright purposes, but you can work with the  
13:44:41 rights holder probably and come up with some way  
13:44:44 to do it. I'm not involved with park square  
13:44:48 theater. But I know with this diary of Ann  
13:44:49 Frank, they are offering it free to the public,

13:44:52 they had intended to do it as an educational  
13:44:55 program for the school, so that's kind of the  
13:44:58 edge in on that, but I can tell you their  
13:45:03 donations apparently have skyrocketed. So it's  
13:45:05 been very valuable for them to do that, and I'm  
13:45:08 sure they are compensating the rights holder for  
13:45:12 the play as part of that process as well. So it  
13:45:15 would be fun, and I know we've talked about it,  
13:45:17 the three of us at some point doing another  
13:45:20 program where we talk more about business, the  
13:45:23 business model that we are talking about here.  
13:45:25 Because I think this is a whole new world for how  
13:45:28 do you monetize this? How do you make a living  
13:45:28 at it?  
13:45:32 >> JOHN MUNSON: Let's hope we don't have to  
13:45:33 go too far down that road.  
13:45:34 (laughter).  
13:45:37 I mean, I think it's very interest being,  
13:45:41 because I think for -- there are people who have  
13:45:43 really made the most of it, and it's really  
13:45:46 working for them. I think that's very cool,  
13:45:50 because it feels so uncertain in terms of how  
13:45:54 this situation resolves itself, you know, it's  
13:45:56 difficult to say.  
13:45:58 So boater to kind of figure out ways to make  
13:46:03 it work for you. I think that goes to some  
13:46:06 extent for venues too, I think there are people  
13:46:10 who are figuring out how to present music in this  
13:46:12 context too. Not always something that artists  
13:46:16 themselves are the best at. So it's nice to have  
13:46:19 some help in terms of how to do an effective  
13:46:23 streaming performance, you know, where it feels  
13:46:26 like something is special and not shabby in your  
13:46:28 living room.  
13:46:32 Not that your living rooms are shabby. I'm  
13:46:34 sure your living rooms are very nice.  
13:46:39 Another question here asks if the music  
13:46:43 modernization act is going to change how licenses  
13:46:45 work. I'm not aware of this, but I'm sure you  
13:46:46 guys are.  
13:46:49 >> ALEX MUELLER: So the music modernization  
13:46:53 act was legislation that was passed in late 2018.  
13:46:57 There's a couple prongs to it, but it's mainly  
13:46:59 concerned with digital audio performance on the  
13:47:02 Internet, which is not what we would be talking  
13:47:08 about here with livestreaming. Digital audio  
13:47:11 performance only covers it if it's some service

13:47:14 like spot afire or Pandora, things like that.  
13:47:19 One thing that it did affect Spotify in  
13:47:21 particular, because they are required to pay  
13:47:24 mechanicals, because they are considered an  
13:47:27 interactive streaming service, can you call up a  
13:47:30 specific song you want to listen to and hear it,  
13:47:34 whereas a service like Pandora is more like radio  
13:47:38 where someone else is cure rating what is going  
13:47:41 to be played and what comes up next and so you  
13:47:44 don't -- you can't type in a specific song on  
13:47:48 Pandora and get it to come up.  
13:47:50 Interactive are required to play mechanicals,  
13:47:53 which are associated with down loads, and that  
13:47:57 came to pass because of a court do you vision.  
13:48:00 The music modernization act is dealing with  
13:48:03 mechanical licensing and the myriad of issues  
13:48:06 that arose keeping track of where those are  
13:48:09 supposed to go, what amounts are owed and who is  
13:48:13 supposed to pay. That doesn't affect end users  
13:48:17 like us, that affects platforms like Spotify.  
13:48:18 >> JOHN MUNSON: Okay.  
13:48:20 >> WALT LEHMAN: Other thing that the music  
13:48:24 modernization act, and Alex correct me because  
13:48:26 this is out of my area, doesn't it clarify too  
13:48:32 the copyright ownership of older music of  
13:48:33 pre-1972 --  
13:48:34 >> ALEX MUELLER: Yeah.  
13:48:36 >> WALT LEHMAN: Brings it into the federal  
13:48:37 copyright act.  
13:48:37 >> ALEX MUELLER: Kind of.  
13:48:40 >> WALT LEHMAN: There's a process now by  
13:48:45 which very old music will go into the public  
13:48:48 domain. So anything before 1923 will be  
13:48:51 available is it next year or something?  
13:48:54 So if you're looking at really early music,  
13:48:58 there might be more opportunities to have public  
13:48:59 domain material.  
13:49:01 >> ALEX MUELLER: It's created some issues  
13:49:04 because of the -- there was a gap period, which  
13:49:07 has to do with international treaties and a lot  
13:49:11 of complex things, but so it's more relevant for  
13:49:14 like film makers to know, if you're trying to use  
13:49:18 a recording that you previously would have been  
13:49:21 able to use because it wasn't pro tented, now  
13:49:23 have you a potential claim on your hands, it  
13:49:26 doesn't affect those of us that are wanting to  
13:49:28 perform a song, but it would affect people who

13:49:30 are trying to use a particular recording.  
13:49:34 >> WALT LEHMAN: Right right. Yeah.  
13:49:38 >> JOHN MUNSON: One person asks -- that we  
13:49:42 address dance, choreography and movement in terms  
13:49:47 of streaming performances. I'm not exactly sure  
13:49:53 about how rights around those work. So maybe you  
13:49:54 guys can address that.  
13:49:58 >> ALEX MUELLER: Can ocular I fie? Who is  
13:50:01 that? Can you clarify the question? Are you  
13:50:04 creating choreography or is the question about  
13:50:06 using someone else's choreography?  
13:50:11 >> JOHN MUNSON: We'll look for a  
13:50:14 clarification there.  
13:50:18 Natalie asks about performing folk music,  
13:50:23 traditional music where maybe the rights are not  
13:50:26 clear. Is it most likely that that stuff is in  
13:50:29 the public domain? I'm always surprised with  
13:50:32 like since I do this big holiday show every year,  
13:50:35 how much of the holiday music is actually --  
13:50:38 there are rights holders, and you have to deal  
13:50:41 with those rights holders if you're going to put  
13:50:44 out a holiday record or do a performance.  
13:50:46 >> ALEX MUELLER: A lot of holiday music  
13:50:48 isn't actually that old, like a bulk of it was  
13:50:53 written from 1950 onward, so folk music is  
13:50:56 tricky, because even if it's the composition is  
13:50:58 in the public domain for sure, like it's from the  
13:51:02 1800s or earlier, there may be a recording that  
13:51:06 was made of it before you come a long, and that  
13:51:11 recording is what is in that copyright library  
13:51:13 that I was talking about, like Facebook has one,  
13:51:15 YouTube has one.  
13:51:17 So when you're performing, it's matching up  
13:51:20 wave forms of the audio files, remember, so it  
13:51:22 might flag your performance even though there's  
13:51:27 no basis for it to flag that at all, because the  
13:51:29 composition is public domain and you're not using  
13:51:31 someone else's recording. You're making your  
13:51:34 own. So that's the main issue with stuff that's  
13:51:36 actually in the public domain.  
13:51:39 I always think that's a compliment, like my  
13:51:45 quartet has gotten flagged for Mozart stuff. We  
13:51:51 played this so well they tall we were the London  
13:51:54 fill hermania.  
13:51:56 >> WALT LEHMAN: There's lesion public domain  
13:51:58 stuff out there too that's ripe for using, it  
13:52:01 does eliminate the concern about getting

13:52:05 permission from the copyright owner.  
13:52:06 >> ALEX MUELLER: If you get flagged for  
13:52:09 something, because this was happening a lot with  
13:52:12 Bach pieces. I think it was recordings owned by  
13:52:16 Sony were causing every Bach piece to get flagged  
13:52:19 on YouTube. If that happens, use the counter  
13:52:22 claim system and dispute it. It does take a  
13:52:26 little bit of time to get it sorted out, but if  
13:52:28 you're right, they'll put it back.  
13:52:30 >> JOHN MUNSON: I have a creating from Chris  
13:52:36 here relative to theater performance.  
13:52:40 As I understand the question, he's talking  
13:52:45 about a performance which is an original work,  
13:52:49 but has prerecorded material in it. Chris, maybe  
13:52:55 I'm getting that wrong, but alter, how would you  
13:52:59 deal with the kind of layered copyright issues  
13:53:02 that you mentioned earlier in terms of  
13:53:03 performance?  
13:53:04 >> WALT LEHMAN: Right. So the parts that  
13:53:08 are original to you, you don't need anyone else's  
13:53:10 permission, because you're the copyright owner.  
13:53:13 It's your original screen play or original  
13:53:17 script. But if you are adding material that is  
13:53:20 under copyright, whether it's adding sound  
13:53:28 recording or doing set pieces, things like that,  
13:53:32 back drops and stuff, though potentially would  
13:53:35 need to be addressed. And getting permission  
13:53:39 from the and right owner.  
13:53:42 Again to get back to fair use, I don't know.  
13:53:46 In a certain context, I can see, say, you need to  
13:53:50 use short pieces of music or something as part of  
13:53:53 the commentary that you're making in your play.  
13:53:56 And to that extent, perhaps. I would be very  
13:54:01 careful with it, but perhaps you could find some  
13:54:03 basis for claiming fair use, but fair use is very  
13:54:06 limited. It depends on the context and how the  
13:54:08 material somebody used, the amount that's  
13:54:13 being used, and whether that has an impact on the  
13:54:17 copyright owner's market for the use.  
13:54:19 So there are contexts where you might be able  
13:54:23 to do a snip, like a tiny little background music  
13:54:26 of something because it has some relation with  
13:54:31 the subject that you're talking about, but you  
13:54:34 have to be pretty care awful with how you do  
13:54:37 that. -- careful about how you do that.  
13:54:37 >> JOHN MUNSON: Okay. Hopefully that  
13:54:42 addresses your question, Chris. Kai asked the

13:54:44 question that is kind of interesting, kind of a  
13:54:48 multi layered question. What if you upload  
13:54:52 material to YouTube and then link that material  
13:54:55 to Facebook? Are you basically just doubling  
13:55:01 your chances of being in violations of someone's  
13:55:05 terms of use? How does that work exactly? Could  
13:55:07 there be a violation?

13:55:08 >> ALEX MUELLER: Yeah. I think that I saw  
13:55:12 that question come up a couple times over here in  
13:55:16 the Q and A. So if you start in YouTube, then  
13:55:20 you are in YouTube's jurisdiction, so to speak  
13:55:24 for their license. So it's okay on YouTube.  
13:55:27 As far as Facebook is concerned, that could  
13:55:31 be a violation on Facebook, in Facebook, you  
13:55:33 know, world, because you don't have a license  
13:55:36 there. But it's kind of a gray area whether that  
13:55:40 is a link or whether that's a new post, you know.  
13:55:43 So if you're just linking something to a  
13:55:46 place where it is licensed, that's probably not  
13:55:48 infringement. But if you're doing that  
13:55:50 simultaneous stream thing, it's like you do have  
13:55:52 a license here and you don't have a license here,  
13:55:55 so this one's a violation and this one's okay.

13:56:02 >> JOHN MUNSON: Interesting. It looks like  
13:56:05 there's a clarification here as far as the dance  
13:56:07 choreography and movement and licenses relative  
13:56:12 to that. That they would be using other people's  
13:56:14 choreography.

13:56:23 Can I take George Balin scene's choreography  
13:56:28 and present that or is he a copyright holder.

13:56:29 >> WALT LEHMAN: I believe you'd have to get  
13:56:33 permission from the choreographer to do a  
13:56:35 performance of their piece.

13:56:40 It's no different than doing a stage play or  
13:56:42 performing someone else's music.

13:56:44 >> ALEX MUELLER: Yeah.

13:56:45 >> WALT LEHMAN: The choreography will be  
13:56:49 copyrighted, and you need permission to use it.

13:56:51 >> ALEX MUELLER: If they notated it or  
13:56:55 recorded it, they have copyrighted it. I'm not  
13:56:57 super familiar with choreography, but I do  
13:57:01 remember there was a case a couple years ago.  
13:57:07 I'm forgetting the name. The Carlton dance from  
13:57:09 fresh prince of bell air, the court determined  
13:57:14 that that was that original enough to warrant  
13:57:17 copyright in choreography.

13:57:19 >> WALT LEHMAN: Right. Alex mentioned

13:57:23 another important twist much, it has to be done  
13:57:25 in a tangible form. The choreography, if you  
13:57:29 just do a dance and don't actually put it into a  
13:57:32 tangible form, it's actually not protectable by  
13:57:35 copyright, but the minute it is put in a tangible  
13:57:37 form, somebody writes down the moves and  
13:57:40 everything, then it is copyrightable, and of  
13:57:44 course the recording of it might be copyrightable  
13:57:47 as well. So...

13:57:48 >> JOHN MUNSON: Jesse has a question here  
13:57:52 about an archival license. I guess I don't know  
13:57:55 exactly what that is. The whole question is do  
13:57:59 you know if a venue that carries licenses, do  
13:58:04 those still cover live streams? Are those  
13:58:08 current licenses just for live performances.  
13:58:09 >> ALEX MUELLER: Yeah. So I'm not a  
13:58:13 licensing specialist in that I don't work for one  
13:58:16 of the PROs. I can't tell you every possible  
13:58:19 option they have. You'd have to contact them and  
13:58:22 ask one of their agents what you can get.  
13:58:25 But you can definitely get licenses that  
13:58:29 cover what's happening in your room at the time,  
13:58:33 and there's some type of add-on to that that  
13:58:34 lets you broadcast separately.  
13:58:38 Most of the time, people are not doing  
13:58:41 archival recordings because then have you to deal  
13:58:46 with sync and you can't get that from ASCAP or  
13:58:49 BMI or the PROs. Sometimes they are putting it  
13:58:51 on YouTube to get around it and use that  
13:58:54 exception. If it's a concert stream, you can  
13:58:57 maybe put it there. But not all publishers have  
13:59:00 agreed to that. There's even festivals that  
13:59:04 did live streams, they are not archiving it  
13:59:05 because they can't get the rights from the public  
13:59:09 domain to have that recording permanently on  
13:59:11 their website.

13:59:12 >> JOHN MUNSON: Right. That sync license,  
13:59:17 that's a big negotiation. That's a lot of money  
13:59:19 tied up in that. You guys, I think we're kind of  
13:59:21 at the end of our hour here.  
13:59:25 I really want to thank you both for having so  
13:59:27 much information to share around these issues. I  
13:59:32 didn't realize how much there was to all this.  
13:59:36 And I want to really thank springboard for  
13:59:39 the arts for hosting us today. Thank you, Andy  
13:59:42 and thank Laura and everybody over at springboard  
13:59:45 for helping us to clarify some of these issues

13:59:46 around copyrights.  
13:59:49 >> Yeah. Thanks everybody. I want to do a  
13:59:52 couple of final sort of pieces here. I know  
13:59:54 there were a couple questions we couldn't get to.  
13:59:56 Here is what we are going to do. This will be  
13:59:59 recorded. This entire session. We will  
14:00:02 structure the questions into kind of an FAQ  
14:00:05 format that will be available on the website for  
14:00:08 you to take a look at. If you do have kind of  
14:00:10 pressing questions that are very specific in  
14:00:14 nature, please e-mail me at legal@Springboard for  
14:00:20 the Arts.org, which is in the chat, and we will  
14:00:23 get those answered to the best of our ability.  
14:00:25 I'm not an attorney, but I work with a lot of  
14:00:28 attorneys, we will find somebody.  
14:00:29 >> ALEX MUELLER: We know there's too much to  
14:00:31 cover here in a short amount of time, when we  
14:00:35 were prepping for this, we were like,  
14:00:37 unfortunately there is a lot more questions than  
14:00:41 we have answers, as attorneys, this is new  
14:00:45 territory and there's no rules yet in some cases.  
14:00:47 >> Springboard's program something driven by  
14:00:49 what we're hearing directly from artists as they  
14:00:53 are experiencing it. So if you find yourself in  
14:00:57 situations, find your peers in situations that  
14:00:58 seem to be kind of same sorts of challenges,  
14:01:01 please let us know, and we will put something  
14:01:03 together that addresses those.  
14:01:07 Yeah. Otherwise, be in touch. Thanks to  
14:01:10 Alex, thanks to John, thanks to Walt. Thanks to  
14:01:15 our live captioner, who always ACS, they do great  
14:01:19 work. Be in touch, let us know if we can help  
14:01:22 with anything, one last thing, I will put in a  
14:01:24 link to the part of the website where this will  
14:01:26 appear so you can keep an eye on that.  
14:01:29 I will do that right now.  
14:01:34 There's a link there.  
14:01:39 >> JOHN MUNSON: Cool, guys, take care.  
14:01:42 >> WALT LEHMAN: Thanks, John, thanks, Alex,  
14:01:44 thanks springboard.  
14:01:46 >> There's everyone.  
14:01:52 Thanks everyone.