



Media & Entertainment Group Of The Year: Pryor Cashman

By Jonathan Randles

Law360, Los Angeles (January 12, 2012, 7:40 PM ET) -- **Pryor Cashman LLP** drew on years of experience in the entertainment business to help guide titans of the industry through several high-profile disputes in the past year, from resolving copyright feuds for several artists and record labels to assisting EMI Group through its ongoing battle over digital music storage services, earning the firm a place on Law360's list of Media & Entertainment Groups of 2011.

The firm used that experience to also help EMI win dismissal of two lawsuits brought by the grandchildren of Duke Ellington, who accused the record company of improperly calculating and distributing the jazz musician's royalties. Additionally, Pryor Cashman helped rapper Kanye West and singer Nelly Furtado beat copyright infringement lawsuits over their songs "Stronger" and "Do It."

But Pryor Cashman's work in the media and entertainment field over the past year wasn't limited to copyright protection as attorneys also assisted independent record label group Merlin BV resolve its breach of contract dispute with file-sharing service Lime Wire LLC, which was accused of cutting the group out of a \$105 million settlement

Pryor Cashman has about 128 lawyers in New York and Los Angeles. The firm's vertically integrated media and entertainment practice group allows it to handle a large volume and breadth of litigation and entertainment-related transactions, said **Jim Janowitz**, chairman of the entertainment, media and communications group.

"We have deep expertise built on over 50 years of experience in the media and entertainment space," Janowitz said. "Our attorneys have been doing this type of work for a long time and have developed an excellent reputation as lawyers who can handle a wide range of work."

The firm represents companies of all sizes, including nearly all of the largest record companies and music publishers in the industry as well as a laundry list of some of the top performers in entertainment — including Lil Wayne, Lady Gaga and Justin Timberlake.

By combining the resources of a large firm with the knowledge, experience and teamwork of a small boutique firms, Pryor Cashman is able to build strong working relationships with the clients it represents, Janowitz said.

That experience paid off in October when attorneys helped Merlin BV reach a deal resolving a dispute with file-sharing service Lime Wire, which was accusing of breaching an agreement to pay Merlin a portion of a \$105 million copyright infringement settlement with Warner Music Group Corp. and others.

Merlin, a nonprofit group that represents more than 12,000 independent record labels, sued Lime Wire in July, claiming the company and its founder Mark Gorton violated an agreement to include the the group on the settlement. In exchange, Merlin had agreed not to proceed with its own litigation against Lime Wire.

Both sides are still hammering out the details of the settlement but have reached agreement in principal on the major terms of the agreement resolving the case, said **Frank Scibilia**, an intellectual property and entertainment partner at the firm.

The firm helped settle a separate lawsuit in March against Lime Wire brought by a group of music publishers including Sony Corp. and Warner Music Group, EMI and others.

In a different case that may go to trial later this year, Pryor Cashman is representing EMI and dozens of other record labels who claim music storage websites operated by MP3tunes Inc. and the company's founder Michael Robertson infringe the labels' copyrighted recordings.

The suit, which counts nearly 30 record labels as plaintiffs, alleges that MP3tunes and company founder Michael Robertson infringed the labels' copyrighted recordings through a pair of music storage websites.

The record labels claim Sideload.com and MP3tunes.com offer an integrated service that allows users to listen to music on their computers, obtain copies of songs online, transfer files to their computers and portable devices, and distribute music to others, all in violation of digital copyright law.

Both the MP3tunes and Lime Wire cases are similar in that in each case, the companies have attempted to build websites by offering popular copyrighted music to its users, Scibilia said. Questions over the protection and limits afforded to copyright holders has changed as the technology that powers these file-sharing services has continued to evolve, he said.

"There are always going to be some people who act lawfully and obtain licenses so that artists, writers and copyright owners are fairly compensated, and others who try to take a shortcut and build businesses off of others' copyrights without compensation," Scibilia said. "Those people often try to use try to use the Digital Millennium Copyright Act as a sword in their attempt at theft. We don't think that's what the DMCA is about. It was a compromise between content owners and Internet service providers that provided a means for them to work together to ferret out and prevent infringement. It was not intended to allow people to design a business based on obviously infringing content,

while avoiding liability.”

In 2011, Pryor Cashman was also able to settle copyright infringement lawsuit brought against Kanye West and Nelly Furtado. West, Roc-A-Fella Records LLC and UMG Recordings Inc. were accused of stealing lyrics from one of rapper Vince Peters' songs in his 2007 hit song “Stronger.”

That case, brought in an Illinois federal court, was dismissed in March.

In October, Pryor Cashman won dismissal of two lawsuits against EMI brought by the heirs of Duke Ellington. In one complaint, the grandson of the jazz musician alleged EMI was improperly deducting royalties to its affiliated subpublishers before calculating the fees owed to its songwriters. The other lawsuit alleged breach of contract and fraudulent concealment over a 50-year-old contract with Ellington divvying up a portion of his income to his heirs.

While attorneys at Pryor Cashman handled a bevy of litigation related to digital music licensing rights, the firm also handled major motion picture studio television and cable networks, book publishers and production companies.

In November, the firm helped television production companies 19 Entertainment Inc. and Dick Clark Productions Inc. reach a settlement in a lawsuit brought by two professional dancers who claimed the companies stole the idea for the TV show “So You Think You Can Dance.”

The dancers, John Cassese and Brian Nelson, sued in 2006, claiming the companies breached an implied contract by stealing a television treatment they wrote and registered with the Writer’s Guild of America in May 2003, using it to create the television show.

Janowitz said attorneys in the firm have worked to build connections within the industry and foster strong working relationships with clients. Pryor Cashman's growth is based largely on investing in associates and allowing them to begin developing their own areas of expertise, he said.

“We take what we do very seriously,” said **Bill Charron**, a partner at the firm. “We involve our associates early on in litigation matters, and that allows them to develop their own expertise. This investment in our associates establishes an infrastructure that enables a next generation of seasoned attorneys to form and carry the torch, so to speak.”

Methodology: In November, Law360 solicited submissions from over 500 law firms for its practice group of the year series. The more than 550 submissions received were reviewed by a committee of Law360 editors. Winners were selected based on the significance of the litigation wins or deals worked on; the size and complexity of the litigation wins or deals worked on; and the number of significant, large or complex deals

the firms worked on or lawsuits the firm had wins in. Only accomplishments from Dec. 1, 2010, to Dec. 1, 2011, were considered.

--Editing by Lindsay Naylor.
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