

Novelty Products



Introduction

'Novelty Product' is the term used to describe toys, gifts and other products made available to the public for retail sale which include a musical element. The music involved is often associated with the overall theme or purpose of the product but may simply be a special feature or "gimmick" to attract a purchaser. Typical novelty products contain simple musical chips that recreate short extracts from musical works, but some may contain more sophisticated mechanisms for playing music. A musical chip might be used in a mug, pen, clock, hat or pair of socks, whereas a more advanced music mechanism might be used to animate a doll replicating a cartoon character or pop star. Products containing wind-up music devices such as music boxes are also licensed as novelty products.

Regardless of the duration, the use of commercial music in a novelty product requires prior approval from all of the relevant copyright owners, and MCPS can assist you in obtaining this. It is important to remember however, that if you are using an extract from a commercially available sound recording then separate arrangements must also be made with the sound recording owners, although again, MCPS may be able to help you to identify these.

Information Required

MCPS represents all our members in this area of licensing and producers are obliged to supply MCPS with the following information well in advance of the proposed production date.

- List of the musical works required, including composer/artist information
- Full description of the product
- Description of music use within the product including duration
- Details of the sound recording to be used.
- Description of the music reproduction mechanism
- Initial number of units to be manufactured
- Forecasted number of total units to be produced
- Territory of both manufacture and intended distribution
- Intended dealer price for the product
- Intended retail price for the product

The best way of providing this information is by completing an information supply form, a sample of which can be referred to overleaf. Please contact MCPS Licensing Services for a blank copy, which can be emailed, faxed or sent to you accordingly. **It should be noted however, that clearances handled by MCPS are subject to our members' approval at all times, and failure to provide full or correct details could result in your application being delayed or even refused.**

Licensing Procedure

Upon receipt of this information, MCPS will discuss the level of an appropriate fee with the copyright owner(s). It is important to be aware that rights owners give careful consideration to proposals for the use of their music in novelty products, so producers must leave as much time as possible for clearance to be given and form realistic expectations regarding fees. Once a request has been approved by the copyright owner(s), MCPS will confirm to you as such, and inform you of the fee that has been requested. Once an agreement has been reached, you will then be asked to complete an 'Application For Music Licence' (AFML) which provides final confirmation that you intend to use the music in your product. Upon receipt of the AFML, MCPS will issue a conditional licence which comes into effect upon payment, which must be received within the period stated.

For general information on licensing procedures and on the licensing of production music you are referred to the general 'MCPS Guide To Media Licensing' or invited to ring a Licensing Services Advisor on 020 8378 7500.

Other Useful Information:

Fees for the use of MCPS members' musical works in novelty products will generally be set in relation to the overall value of the product itself and not in relation to the value of a musical chip or other mechanism which may be produced by a separate manufacturer. It is unlikely that a copyright owner would consider allowing a work to be used on a musical chip if they did not know in what product the chip would ultimately be placed.

The number of units to be manufactured also plays a role in determining fees. Low manufacture runs might be subject to an absolute minimum fee, whereas fees paid for significant numbers of units may be more negotiable.

Distributors or retailers of novelty products should be aware that the sale or distribution of unlicensed product is an infringement of copyright. Buyers should take great care when agreeing to distribute or retail products containing music, to be sure they are not engaging in secondary infringement of copyright.

Example Of Information Required:

INFORMATION SUPPLY FORM NOVELTY PRODUCTS



Company applying for a licence:	Novelties 'R' Us
Contact name and phone number:	John Smith - 01111 222333
Song title(s) / Composer(s):	"Doggy Fever" (Brown)
Full description of product:	Plush toy dog which barks and wags its tail
Description of music reproduction mechanism and context of music use:	There is a musical chip located in the dogs paw. When the paw is squeezed the music plays for 10 seconds
Sound recording(s) used:	Electronic chip
Number of units (guaranteed and forecast):	10,000 guaranteed 50,000 forecast
Territory of manufacture and distribution:	UK manufacture, European sale
Dealer and retail price of product:	Dealer price £8.16 Retail price £11.99
Additional information:	Sold exclusively in 'Jones Department Stores' throughout the UK

MCPS Licensing Services
Mechanical-Copyright Protection Society Limited
Direct Tel: +44 (020) 8378 7500
Elgar House, 41 Streatham High Road
Direct Fax: +44 (020) 8378 7501
London, SW16 1ER

This document is confidential. If you are not the intended recipient of this document please notify us immediately and do not copy or use it for any purpose nor disclose its contents to any other person

REMEMBER:

Step 1 – Identify Copyright Owners

Step 2 – Complete Information Supply Form

Step 3 – Upon confirmation from MCPS that approval has been granted, complete AFML

Step 4 – Ensure approval to use the sound recording and any other rights has also been given

Step 5 – Upon receipt of the AFML, MCPS will issue a conditional licence which comes into effect upon payment, which must be received within the period stated.

For further information, contact the Media Licensing Dept. on 020 8378 7500