

# Interview: Damian Rinaldi

**Sasha Ognjanova**, Graduate Lawyer, Legal and Business Affairs at Sony Music Entertainment Australia, sits down with **Damian Rinaldi**, Founder and Principal, Sonic Lawyers & Sonic Rights Management, to talk about his career at the forefront of music law. Damian is an internationally experienced executive, legal and business adviser and IP rights manager, predominantly in the music industry and, among other things, manages the estate of the late AC/DC frontman Bon Scott. Prior to his current role, Damian was the Head of Legal & Business Affairs at Alberts, and VP, Legal & Business Affairs at Sony Music Entertainment Australia. Damian is also a past President of the Copyright Society of Australia.



For many years after that, though, the dream of being a music lawyer felt unattainable. I was in a large firm in Perth, and didn't know anyone who genuinely did copyright work, let alone music business work – because in those days, virtually nobody in Perth did. My first recording agreement was for a band with whom my own band played often – they had been told by the record company to get independent legal advice and I was the only lawyer they knew. They were an incredible band, but also a bunch of stoners, and the wry

Having moved to Sydney, I became the very first hire of Banki Haddock Fiora, who did APRA's legal work. However, my first assignment was to be seconded out to Telstra Multimedia, the incubator part of Telstra based in North Sydney. That in turn led to being poached by the US software company Oracle (yes, of Oracle v Google fame!). I spent 3 years in pure tech and loved it, so much so that I had pretty much abandoned the music law aspiration.....until I saw an ad in the paper for a business affairs role at Sony Music. To be frank, I had put the ad in the in-tray and left it there for about 2 weeks, but eventually applied and got the job. It turned out that Sony needed a reasonably experienced lawyer with a demonstrated interest in music, and my tech background would be a bonus given music companies were just starting to think digital. Lucky for me!

**SASHA OGNJANOVA:** How did you get into music law; which came first the music or the law?

**DAMIAN RINALDI:** Tough question to kick off! Which came first, the chicken or the egg?! Probably the law, but as always, it's a bit more complicated than that.

I'd been dabbling in both music and law at UWA, playing in bands and chipping away at the law degree. My lightbulb moment came when I was reading the liner notes of a CD I'd just bought which had "Legal" buried in the credits, and the name of the band's lawyer (that CD, by the way, was "Copper Blue" by US band Sugar – I still play it whenever I need to block out noisy neighbours!). Up to that point I'd always assumed that music and law were mutually exclusive, but that CD suggested otherwise.

juxtaposition of the ivory tower law firm and the Perth alternative music scene led to many funny moments.

Knowing that I was never going to make it as a music lawyer staying at the firm, I tried to cobble together any relevant experience and take steps all designed to edge me closer to my goal. I offered to do the legal work for our band, and through that, the label to which we signed. I joined the board of the local music industry association. Through friends and colleagues, I started building the beginnings of a network of people who were already doing my dream job (working in a record company). Most importantly, I relocated from Perth to Sydney – my network was saying to me "if you're really serious, you'll need to move to Sydney, because that's where the music business is based". That was in 1996!

**OGNJANOVA:** What is a 'day in the life' of a music lawyer at Sonic Lawyers?

**RINALDI:** Models, jacuzzis, midnight-to-dawn parties....honestly, if I see one more velvet rope, I reckon I'm gonna puke! But there's also a glamorous side...

[Back in the real world] Because our firm's background is largely in-house, and because of our extensive industry experience, we tend to interact with our clients more as part of their virtual in-house team - part of their "brains trust". Breaking it all down, a day in the life is about tapping into that deep experience and deep relationships across the music industry to leave clients and their business partners better off.

The other "day in the life" aspect not to forget is that we also have a rights management business separate to the

law firm, so we spend a considerable part of the day managing clients such as the estate of former AC/DC frontman Bon Scott. In a way, we are running a mini-music company for those types of clients.

**OGNJANOVA:** You have held positions such as Head of Legal & Business Affairs of music rights management company J. Albert & Son, General Manager of Legal & Business Affairs at Sony Music Entertainment Australia and President of the Copyright Society of Australia. Can you tell us more about your previous roles and experiences both on a local and international level?

**RINALDI:** Happy to. I spent my first four years gaining general commercial law experience at what was then the national law firm Phillips Fox. I moved to Sydney to be closer to IP generally and music specifically, and found myself (not unhappily) in a detour that included Telstra and Oracle, both of which had very large legal teams, and in the case of Oracle, a genuinely global one too. A music opening appeared at Sony Music, and I spent close to a decade there in Sydney and London, following by the best part of another decade with Alberts.

Sony Music Australia was a fantastic experience – as the general counsel, I was a direct report to the CEO and was in a group of general counsel in key territories around the world for Sony Music. International business affairs conferences were always a major highlight, where one could finally drink at the well of shared experience and come back refreshed and revived. Sony UK was enjoyable too, being in the epicentre of some of the greatest modern music ever, but it was also a much bigger company, and the energy levels there were just different compared to Australia.

When my family returned to Australia, I joined Alberts, whom I'd known from my Sony days. Not that I remembered saying it, but my wife insists that I'd previously said "I'd love to work for Alberts", which seemed a strange thing to say as they hadn't had a full-time business affairs role there before I

joined. Nevertheless, what seemed appealing, and proved to be so, was being the "global general counsel" of an Australian-based music company which, through the success of artists such as AC/DC, exported to every corner of the earth. You see a news story about a mudslide in a remote part of Brazil, and the neighbour/rescuer being interviewed will have an AC/DC T-shirt on! Having charge of those catalogues meant doors were always open to meeting interesting people and expanding networks, something that has since proved very valuable in the Sonic Lawyers years (I still act for Alberts in relation to their music catalogues, by the way).

**OGNJANOVA:** Music law is quite a unique and niche area of law to be involved in. Having worked in the IT and telecommunications industries for companies such as Oracle Corporation and Telstra, how did you find the transition into music law and was your prior legal background useful?

**RINALDI:** A very niche area indeed! When asked "what sort of law do you do?", the answer "music" gets all manner of quizzical looks. There are only a handful of lawyers in Australia and NZ who would say they predominantly do music law. That said, in the US, I know lawyers who specialise not just entirely in music law, but in (say) just the music publishing portion of music law.

Although IT/telecoms and music both deal with copyright, I was probably not as prepared for the transition as I expected it to be. The two sectors were, in truth, quite different from each other, on many levels. At Oracle, if you were young and had been there for more than 3 years, you were assumed to be lacking ambition – ambitious employees were constantly in and out the door, on to the next lucrative dotcom opportunity. When I joined Sony, the person in the office next to me had been there for 15 years, and the guy on the other side, for 25 years.

Then there were the negotiation "rules of engagement". In IT/telecoms, contract negotiations could be wars of attrition, with no sense of win-win. Conversely, in music,

because the industry is so small and tight-knit, it was far too risky to be making enemies. I recall, soon after I started at Sony, the then general counsel said "this artist wants to renegotiate his deal – we'll probably need to give him more money and higher royalties and accept less albums". "Can't we just say 'no, you signed the agreement, that's deal done'?" Only afterwards did I come to understand that cajoling creative services from an artist requires an ongoing sense of empathy and not just pointing to the signed contract.

It was interesting that, just as I transitioned from tech to music, my boss was expanding his GC role to include "new technology". As mentioned earlier, I suspect it was because of my experience in tech and interest in music that he employed me, as his profile was the other way around and mine complemented his.

How the software industry managed copyright proved very useful to me as the music industry transitioned from physical to digital. When consumers bought music, they purchased an elaborate CD with multi-page booklet, photos, artwork – the whole box and dice. When companies licensed software from Oracle, they also received a CD, but apart from a few words explaining what was on the CD, there was no other "fanfare" – all the value was stored on the CD, intangible. It turned out that the software industry was well ahead of the music industry in understanding this IP intangibility, but through downloads and now streaming, the music industry has well and truly caught up, to the point where I sometime mourn the disappearance of available album artwork and liner notes.

**OGNJANOVA:** With the benefit of hindsight and your extensive experience, what is your advice for young lawyers hoping to pursue a career as a music lawyer?

**RINALDI:** If you had asked me 10 years ago for advice on pursuing a music lawyer career, I would have said "DON'T!". The music industry was on a steep decline from 2005-2015 as sales decreased and streaming was yet to reach critical

mass. Thankfully, streaming is now the dominant consumption format and the industry is in better health.

The first tip I'd give is that, like any industry that's appealing, you really have to want to be involved in music. If your heart isn't in it, you're better off going into an area of law for which the demand and financial returns are greater. I moved from Perth to Sydney to do music law, so when hiring, I am generally looking for someone who is demonstrably committed to making an impact in the industry. I once had an applicant for a record company role who ticked most boxes but, curiously, had not listed "music" amongst their many interests. When I pointed this out, they said "yeah, I guess music's just always in the background somewhere." "Like a buzzing fridge?", I asked. "Yes" was the reply. Wrong answer!

The music industry has very particular business practices and structures, with its collecting societies, industry associations, and intertwining but distinct copyrights. For someone looking to break in who's up against an experienced music lawyer, it's almost impossible to bluff your way through. Thinking about my own experience and those of others I've encountered, there are broadly three avenues to becoming a music lawyer:

*Being employed directly into a music lawyer role:* This was my experience, and usually involves the employer advertising or recruiting because they have too much work for current resourcing, and the candidate having enough "adjacent" legal experience (mine was in tech and IP) to suggest the possibility of a smooth transition, coupled with a demonstrated desire and ambition to move into music law as an end destination.

*Taking a non-music law role and then moving into a music law role in the same organisation:* This may either be in a support role (intern, receptionist, PA, licensing manager) or joining a larger firm which includes music law but initially working in another department. If you use the opportunity to get in the "line of sight", impress the employer

and show initiative, you will be well placed if a music law role comes up. You're an example of that Sasha!

*Working in the music industry as a non-lawyer and developing your own clientele:* Typically, you would be an artist manager, music journalist or other music industry player, possibly on the side of your lawyer "day job", and then through the contacts you've made, hang your shingle out and develop your own clientele who prefer you because they know you personally and trust you. My music industry colleagues Brett Oaten and David Vodicka both did this – Brett's side hustle was artist management and David's was running an indie label.

**OGNJANOVA:** You have been at the forefront of some of the major turning points in the music industry, including the move from physical to digital music consumption. What practical and legal challenges did these technological advances bring to the music industry and your work?

**RINALDI:** The move from physical to digital was an interesting one, because the narrative at the time (and even more so, how history has written it) was that the music industry was slow to react to digital and resisted it every step of the way. My experience at Sony was anything but that. Having first tried to set up their own competing services, Sony and the other labels were desperate for a legitimate digital service to be available to compete with the likes of Napster and Kazaa. The stumbling block was that they had difficulty reaching agreement with APRA AMCOS on payment of publishing royalties. To be fair to APRA AMCOS, they in turn were in a difficult position themselves because they didn't want to set a bad rate precedent for every other country. Nevertheless, that, coupled with the delay in iTunes setting up in Australia, meant that by the time iTunes did launch it was well overdue.

Music has always been the "canary in the coalmine" of technological change due to its comparatively smaller file size compared to (say) films, which means that the music industry is always the industry that

has no template and has to hack the road through the jungle.

At a more micro level, the shift from physical to digital brought with it some interesting issues, particularly in relation to legacy artist agreements. Cunning artist lawyers and managers tried to argue that digital sales did not fall within the usual wholesale royalty base and should instead be treated as miscellaneous income and be split equally between label and artist, which was much more favourable to the artist. Also, the burden of paying for publishing royalties shifted from labels to DSPs as they (and not the labels) were the ones doing or overseeing the reproduction of recordings – this was a very foreign concept for labels and took a while to become accepted industry practice.

**OGNJANOVA:** It's great to see that you volunteer as a panel lawyer for the Arts Law Centre of Australia. I think it's really important that upcoming artists have access to free or low cost specialised legal services through these organisations. Do you think artists are aware of the basic rights and obligations related to their work? What are the most common legal issues that artists encounter and at what point should an artist engage a lawyer?

**RINALDI:** I think the Arts Law Centre and the Copyright Council both do a fantastic job of providing practical information for those who aspire to make a living out of music. Whether artists are aware of their rights and obligations is perhaps another question. I remember not so long ago dealing with one of the world's premier artists who, all these decades later, still appeared to be unclear about the difference between records and publishing!

Exactly when an artist should engage a lawyer is often a direct function of their ability to afford to pay a lawyer versus other competing priorities for their limited funds. Ideally though, the artist-lawyer relationship should be "home base" for the artist – managers, labels, publishers may all come and go, but the artist should have the bedrock of a solid, reliable lawyer who will always be there for them.

**OGNJANOVA:** COVID-19 has certainly been an incredibly difficult time for artists who have been unable to tour due to the pandemic. From a legal perspective, has COVID-19 brought on a new set of challenges and if so, how have you navigated through them during this period?

**RINALDI:** One practical shift during COVID has been execution of documents. Most music companies were still keen on “wet ink”, but COVID has pretty much blown that out of the water, and I don’t think we’ll ever quite revert. I think recording and publishing agreements have generally been well equipped to handle scenarios where the artist’s obligations need to be suspended. Where I think things have become very interesting is in the live performance space – COVID has been disastrous for that sector of the music industry, and as lawyers, we’ve needed to find ways to keep our clients afloat, whether it’s pro bono advice, extended payment terms or the like. That said, for parts of the industry less affected, such as recorded music, there have been times during lockdowns when it’s seemed (and my colleagues have said likewise) that it’s rarely been busier.

**OGNJANOVA:** Are there currently any reforms or lobbying proposals that you hope will come into effect in the following years and do you have any involvement in this?

**RINALDI:** One of the unfortunate by-products of COVID has been that reforms and lobbying have taken a backseat while governments have tackled the crisis of the day, and some industry bodies have been winding back their lobbying activities as a result.

In March 2018, the Department of Communications and the Arts released its Copyright Modernisation Consultation Paper addressing key proposals for the reform (or rather “modernisation”) of Australia’s copyright laws and regulations. I checked the Department’s website recently and am none the wiser as to where the Government is at with its proposals. I’m not personally a big fan of a US-style “fair use” regime, as my experience dealing

with the US situation has been that it creates far more uncertainty and unpredictability for rightsholders. I do, however, believe that a robust and workable regime for orphan works could be a win-win all round, as the current uncertainty can result in creative works going ignored or neglected.

**OGNJANOVA:** Piracy and streaming were obviously major disruptors to the music industry. Do you anticipate any other notable technological changes and general developments to the industry?

**RINALDI:** You’re right that online piracy, primarily through the early file-sharing services, decimated the industry. However, that spurred the Australian music industry to lobby Apple to launch iTunes in Australia, which in turn provided a legitimate alternative to the Kazaas of the world. Spotify then made streaming so easy that it was preferable to piracy. It also “liberated” music from the physical medium, and consequently we have very few record stores anymore.

I think the streaming revolution was the biggest change, in that it heralded a shift for consumers from owning to renting. Critical mass has been reached now seemingly, so I think the next period will be one of maturation and consolidation in that regard.

The flow of money through the system is, however, still very fiddly and labour-intensive. Blockchain and NFTs have been buzzwords and gimmicky, but once they find their “true calling” in the music industry, I suspect they will make a difference.

I also think that globalization will continue, particularly with pressure on traditional national societies from private operators.

Finally, low interest rates globally have led to investors seeing music rights not only as a cool form of investment, but also one with a comparatively higher rate of return. The glut of catalogue acquisitions over the last 2 years has been unprecedented, and heralds perhaps the last bastion of commerciality.

**OGNJANOVA:** With your predictions about the future of the music industry in mind, how do you see the role of lawyers in this space changing over next 5 years?

**RINALDI:** Having been in the music business proper for over 20 years now, and law for closing in on 30 years, I’ve seen more than a few changes. One has to bear in mind that, when I joined Sony in 2000, CDs had been the dominant format for over 10 years, and music sales had during my entire lifetime been tied up in physical units. Since then, we’ve tackled Napster, Kazaa, ringtones, 360 deals, downloads and arguably the most existential change of all, the shift from consumers buying to renting music (i.e streaming services). In all those changes, the lawyers have been front and centre, inventing the new wheel so that the rest of the business can try it out. Given that the music business is always the canary in the coalmine, I don’t think music lawyers will ever see a day where they get to put their feet up and say “let someone else create the model for that”. Music companies and artists alike will continue to expect more and more thought leadership from their lawyers to make sure new opportunities are viable and sustainable. As one of my music company bosses once said to me: “Damian, my job is to ask the questions, and your job is to give me the answers!”



**Sasha Ognjanova**, Graduate Lawyer, Legal and Business Affairs at Sony Music Entertainment Australia