

# VETERAN ATTORNEY **JESS L. ROSEN** **TALKS CATALOG SALES:** A RISING TREND IN THE MUSIC BUSINESS



By LB Cantrell

Since the beginning of 2021, *MusicRow* has published multiple news items detailing major country catalog sales.

Hipgnosis Song Management acquired 80% of Kenny Chesney's recorded music royalties, covering his discography from his 1994 debut album *In My Wildest Dreams* through 2017's *Live in No Shoes Nation*.

Spirit Music Group bought 90% of Jason Aldean's recorded music catalog, encompassing nine albums in total and including neighboring rights and SoundExchange royalties.

HarbourView Equity Partners acquired Lady A's publishing catalog and Brad Paisley's recorded music rights catalog.

Concord Music Publishing acquired catalogs from Nashville songwriters Andy Albert and Josh Miller. Anthem Entertainment acquired a catalog of country hits from songwriter Kelly Archer. Hit country writer Sharon Vaughn sold her songwriter rights and co-publishing interests to Mojo Music & Media.

Outside of Nashville, Paul Simon sold his song catalog to Sony Music Publishing, while Warner Chappell Music acquired the song catalog of the late David Bowie. Sting sold his career's catalog of music to Universal Music Publishing Group (UMPG), and Linda Ronstadt sold her catalog to Irving Azoff's Iconic Artists Group. Neil Diamond sold the entirety of his song catalog to UMPG, as well as the rights to all recordings from his career.

All of the massive catalog sales have begged the question: why? And why now?

According to Greenberg Traurig LLP's Jess L. Rosen—the attorney who represented Chesney, Lady A and Paisley in the aforementioned deals, as well as hundreds of other artists and songwriters in various business transactions over the last three decades—it is a byproduct of the current music business climate.

“Since COVID hit, a lot of artists were obviously stagnant with no income coming in. They started looking around at how to generate income. At the same time, there was a wealth of buyers out there that had made the realization that buying these assets creates a return on their fund's investment that lines up with other assets they may be buying,” Rosen says. “All of a sudden, all of these funds came up with \$600 million to a billion dollars. They're all funded and looking to spend the money, because if you don't spend it, you basically lose it as a buyer. There was this convergence.”

When it comes to selling assets, artists and songwriters have a variety of pieces of the pie to sell.

“There's a variety of assets that artists either own or control,” Rosen says. “If you look at the publishing side, there's the writer's share of the copyrights or songs that they've written. An asset that songwriters can sell is their share of the copyright, along with their share of administration of that piece of the copyright. There's also ASCAP or BMI income that can go along with it.

“If you don’t own your masters, which most artists don’t, you can basically sell or assign your record royalties or your SoundExchange income,” he continues. “If the artist owns their masters, that could be coupled with the sale of the underlying masters that create those royalty streams. Basically, it’s whatever the artist has the stomach for selling.”

Rosen, who splits time between his Atlanta office and his second residence in Nashville, has decades of experience selling catalogs, but says that the players in the marketplace have changed.

“At one point in time, there were only a few buyers outside of the majors. The [most common] flip that I do from a publishing company or record company perspective is if they want to buy back rights from the artist. That’s pretty simple. There’s not a lot of due diligence that’s involved in that because the record company or the publisher has been doing all the accounting, so there’s no analysis that goes on in the diligence. It has expanded significantly past that.”

With private equity groups such as HarbourView now looking for catalogs to purchase and exploit, it opens the marketplace and creates more opportunity for artists and songwriters to make a buck on their catalogs, even if it is more work on the legal side of things.

“I have a list of relationships with about 20 different funds or buyers,” Rosen says. “Certain buyers have a certain appetite for certain things. Some want to buy record royalties, some want to buy publishing, some want to buy performance income, and some

want to buy SoundExchange income. Some want to buy it all. You have to match the buyer with the seller.

“These equity groups are paying a premium multiple to be able to acquire and build their funds,” he continues. “They ultimately want to plant the flag in their yard to be able to attract more acquisitions for their company. I took advantage of that to the benefit of the artists and writers that I represent.”

While it’s not abnormal to see country artists sell their catalogs later in their careers, it’s a bit more rare to see current hitmakers such as Chesney or Aldean sell a large portion of their rights while they’re still having No. 1 hits. Rosen says it’s a good move.

“In the country music genre, there’s a pretty finite arc of earnings that flatlines much quicker than other genres of music because of the lack of recurrent use of the songs,” he says. “There’s not a lot of synchronization uses. There’s not a lot of recurring big uses. There are some, but not a lot.

“There are, however, quite a few benefits [to selling catalogs throughout your career]. There’s the tax benefit and there’s the current value of money in your pocket now, as opposed to it coming in over time,” Rosen highlights. “If you do the calculations of what the money in your pocket now would be worth 10 or 15 years from now even at a modest interest rate, there’s a great value of having that working for you now.”

Rosen adds that some of his clients are on a cyclical schedule of writing hits, then selling them.

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“Without naming names, I’ve got three or four different writers that are the top guys in town that I work with. I say, ‘You continue to write hits, I can continue to sell your catalog every four years.’”

He adds, “A lot of the back and forth with the writer is them saying, ‘I don’t want to let it go.’ I tell them that no one is taking away from you the fact that you’ve created this. You will always be the creator. You’re just getting prepaid by 15 or 20 years, whatever the multiple is, of the earnings that you would otherwise have.”

As for the companies that are acquiring these iconic catalogs, Rosen says that they have a benefit that no human does: time to see their investment pay off.

“From a company or a fund’s perspective, they have the luxury of time. Say they pay a 20 multiple on something—after 20 years, it’s all gravy to the buyer. You’ve paid for it and now you have the luxury of time [for it to appreciate],” Rosen says.

“If they’re not a long-term buyer, they’re a flipping buyer, where they’re building a company and then selling it to somebody else. That’s where the value comes to them,” he adds.

Because of the work that is involved, Rosen recommends building a healthy catalog before selling.

“There’s certain thresholds of where it makes sense financially. It certainly should be somewhere north of \$3 million to \$5 million of value before you sell,” he says. “Whether you’re doing a sale

for a million dollars or a hundred million, the same amount of work is involved from a technician like myself, business people or accountants. You have to have the same level of diligence, so from a financial perspective based on fees, it only makes sense to get to a certain level [before you sell], because anything lower than that is just a lot of work for a little money.”

He also says that even if you aren’t certain that you want to sell a catalog, it’s good to know what your work is valued at in the marketplace.

“I’ve gone into the marketplace and brought the biggest number that I can find back to the artist. At the end of the day, sometimes the artist says, ‘I think I’m going to hold onto it.’ That’s their prerogative and I respect everybody who does that. I’m never going to force a sale,” Rosen sums. “But some people want to know what their catalog is worth in the marketplace, to get some valuation. It’s not for everybody, but there’s a lot of benefits to selling, especially over the last several years given where the music business has been.” *MR*

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