

NEWS & INSIGHTS

In the not-too-distant future, Mystery Science Theater 3000 and copyright licensing

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Full disclosure: I'm a MSTie.

As a native Minnesotan, I started watching "Mystery Science Theater 3000," the cult television show, when it was on KTMA, a UHF station that mainly broadcast Minnesota Twins home games. I followed the show when it hit the big time and moved to Comedy Central, then to the Sci-Fi Network, then to its crowd-funded run on Netflix.

For you “normies”: The contrivance of the show is that a person is forced to watch bad movies and make jokes to keep their “sanity with the help of their robot friends.” Give it a try.

The show is mostly silhouettes of a person and a couple of robots in front of a movie screen playing a bad movie. So, obviously, the critical step in producing such a show is to secure the proper rights to not only rebroadcast a movie, but to recut it, and completely reframe it so instead of just watching a young Pia Zadora in *Santa Claus Conquers the Martians*, the audience is watching someone make fun of a young Pia Zadora in *Santa Claus Conquers the Martians*.

Licensing copyrighted work

If you’ve ever tried to license a copyrighted work, you have some idea about how complicated it can be. It’s bad enough if you want to license a play for an elementary school production, but it can be an incredible ordeal if you want to license a movie so you can make fun of it.

It can be almost impossible to discover who owns the rights needed to license a movie, especially if the movie at issue is 50 years old, from a studio that’s been out of business for a few decades, and that has never turned a profit so no one has been paying attention to rights management. Even if you can find the rights owners, getting someone to agree to have their work mocked can be a challenge. Rights owners can also retain some rights while licensing others. So, a movie could be licensed to MST3K for a live show in a theater or for broadcast, but not for on-demand streaming or inclusion in a DVD collection. It’s also possible that the movie owner doesn’t have all the rights to the music or other content used in the movie to allow it to be licensed to MST3K. Music licensing issues are what’s kept Saturday Night Live and WKRP in Cincinnati from having complete DVD releases. In fact, if you’re ever wondering why some show you used to love isn’t streaming, it’s probably due to music licensing issues. The recent death of the great actor Andre Braugher has once again brought to light the [wildly complex music rights issues](#) keeping his cult darling “Homicide: Life on the Street” off of streaming.

There can be additional licensing issues complicating international use because the entity who controls the rights in the US might be different than the entity who controls the rights in any other country, which means the entire licensing ordeal might need to be repeated for several owners. Other times, the rights owner might agree to license their work for a limited time. This is the reason why *The Final Sacrifice* episode of MST3K is not available commercially (wink, wink).

The public domain

An obvious way around the licensing issue is to simply use a movie in the public domain. At least, one might think so. The problem is public domain isn’t necessarily absolute. A movie itself might fall into the public domain but still have other copyright issues. The biggest issue is probably jurisdictional – other countries have their own copyright laws, so just because something is in the public domain in one country doesn’t mean it’s in the public domain globally.

There is also the possibility of trademark and personality rights coming into play. Someone starring in a movie could

take offense to the movie being mocked and think it's somehow diminishing their reputation. It might not be the strongest case...but the threat of legal bills might be enough to scare away the producers of a show with a razor-thin profit margin. The difficulties aren't all necessarily legal in nature, something in the public domain might not be available for other reasons. In the case of older, B-movies, there may only be a few good quality copies of the movie available. In such a case, the owner of the physical copy can demand the same licensing conditions as the owner of a copyrighted work.

Nothing is ever as easy as it appears to be, but if you want to license someone's work or license your work to someone else, you can [contact me](#) or any member of the [Saxton & Stump Intellectual Property Group](#).

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