

MVP: Mayer Brown's A. John P. Mancini

By **Grace Dixon**

Law360 (September 24, 2021, 4:08 PM EDT) -- A. John P. Mancini of Mayer Brown LLP secured the reversal of hiked streaming royalty rates on behalf of Spotify and won a quick dismissal of a sprawling antitrust suit against the music streaming industry, earning him a spot as one of Law360's 2021 Media & Entertainment MVPs.

HIS BIGGEST ACCOMPLISHMENT IN THE PAST YEAR:

Securing a D.C. Circuit panel's reversal of a 2018 Copyright Royalty Board ruling that ordered streaming services to pay substantially more to songwriters was the high point of his year, Mancini told Law360.

Mancini co-led efforts on behalf of Spotify to overturn what the circuit deemed an "extreme" change in rates that came without warning. The board's ruling would have seen royalties gradually increase from 10.5% of revenue to 15.1% over four years.

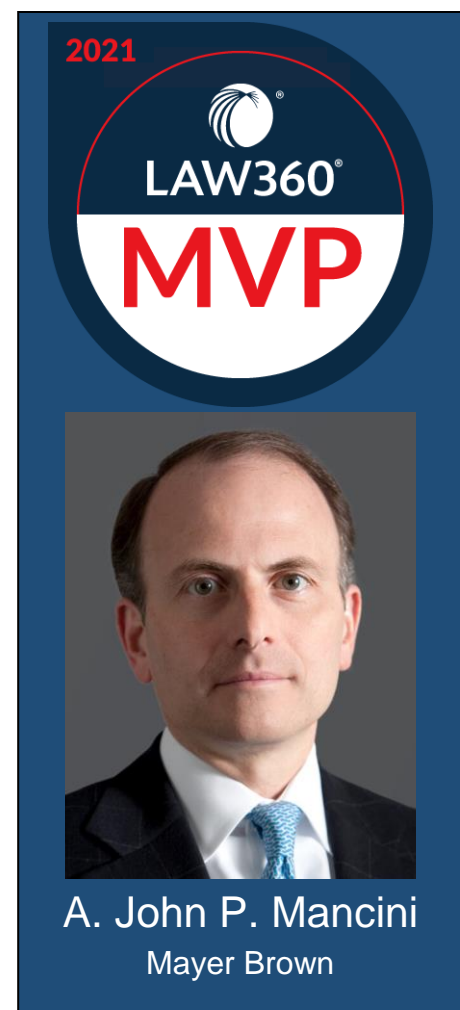
"The fact that streaming services had to pay such a large percentage of their revenue already and were being asked to then increase it by almost 44% over a five-year period was a significant impact on these streaming services and, potentially, their consumers," Mancini said.

In a decision favoring Spotify, Amazon, Google and Pandora, the appellate panel also questioned why the board rejected rates reached during a settlement between the services and copyright owners.

The panel's unanimous decision ordering the board to revisit the dispute stands out to Mancini for its rarity.

"It is a rare moment when the D.C. Circuit overturns the Copyright Royalty Board," Mancini said. "I think there's literally been single-digit numbers, maybe even less than five times in its history."

Mancini told Law360 he believes his team was successful in securing lower rates — not only for streaming services, but for the music industry and music listeners — because of the exhaustive record his team laid out at the trial court level and were able to leverage in their appeal.



"I think we laid out a record below which was very compelling: That the rates, as they were in place, were already making it difficult for streaming services to ever keep profitability, and the fact that they were now going to be increasing substantially was a significant issue," Mancini said.

WHY HE'S A MEDIA AND ENTERTAINMENT LAWYER:

Mancini started working in the nascent industry of online media in the '90s and tells Law360 he was drawn to the creative challenge of applying existing laws to a new space.

"I began in this area at sort of the dawn of the intersection between music and the internet, and one of my very first clients was one of the very first online music stores," Mancini said. "So I got into this space very early, where there was just a cottage industry of lawyers who are still trying to figure out the relevant legal metrics to apply to this new industry."

After years of representing some of the earliest clients in the industry, Mancini said his fascination with the practice area was solidified when he represented Google in a 2007 dispute challenging YouTube's protection under the Digital Millennium Copyright Act.

"Without that ruling, the internet in large respect and online music and online video would likely have not been able to achieve what it's achieved today," Mancini said. "So to me, it's always been a passion of mine and an interest of mine."

HIS PROUDEST MOMENT IN THE LAST YEAR:

When Pro Music Rights launched a sprawling antitrust suit against Google, YouTube, the Television Music License Committee and others in March 2020 over allegations that the companies illegally refused to negotiate for a license to its music catalog, Mancini secured a dismissal right off the bat.

"We got the case dismissed at the pleading stage, which is quite rare and very difficult to achieve in an antitrust or copyright case," Mancini said. "But the case involved some pretty substantial risks to the digital music services and other defendants, including Google, if plaintiffs were able to prevail in their theory, which we thought was ill-founded."

Positioning itself as a performing rights organization — an entity that aggregates and licenses performance rights on behalf of publishers and songwriters — Pro Music Rights had accused large swaths of the music streaming industry of coming together to shut it out of the market. Mancini, leading the joint defense group, secured the dismissal in December 2020.

"The thing that we did that was very creative. I'd like to think one of the hallmarks of what I've done in my profession is ... to identify a path that would be the only way that the complaint could ever be rescued if plaintiff could properly plead it — we didn't think it could — and the court agreed with that," Mancini said.

WHAT MOTIVATES HIM:

Mancini immediately pointed to his five kids when asked what motivates him.

"I love the work I do in the media and entertainment space, where not only is it something that my kids can understand and relate to, but they can see the results of. And they think it's kind of cool that Dad worked on the YouTube case, Dad represents Spotify and things of that sort," Mancini said.

He added that his kids, between the ages of 14 and 22, are "heavy, heavy" consumers of media and entertainment products.

Mancini told Law360 that the ever-changing nature of the media and technology industries is also a source of inspiration for him.

"It does motivate me because I feel like I'm making a difference in what we, as a consumer, as society, can achieve as technology continues to grow and develop and improve, and benefits people in so many ways," Mancini said.

— *As told to Grace Dixon*

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2021 MVP winners after reviewing nearly 900 submissions.

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