Copyright and Licensing in Music
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LAST MODIFIED: 26 JULY 2017
DOI: 10.1093/OBO/9780199757824-0219

Introduction

Copyright law as it applies to the performance and study of existing works and to the creation of new musical works is complex, with gaps in the law in light of new technologies that are often open to differing interpretations. In general, copyright includes the exclusive rights to reproduce and to distribute a created work, as defined by the laws of individual countries. In many countries, these exclusive rights are limited in time and by exceptions such as fair use in an attempt to balance author’s (or copyright holder’s) rights with the rights of the public to use intellectual property in a variety of ways. Additional complexity applies to sound recordings, because these generally involve at least two separate and distinct copyrights, one for the musical composition itself and one for the recording of the composition, which may well be the joint work of several “authors,” including performers, recording and sound engineers, and so on. Copyright and intellectual property legal traditions are considered territorial rights, that is, specific to the jurisdiction of each country. Beginning in the late 19th century, several international conventions and treaties have been developed to harmonize copyright practice among countries. Today, most countries’ copyright laws correlate with the Berne Convention and the World Intellectual Property Organization’s (WIPO) Copyright Treaty. The use of music in public performance, recordings, new creative works, or in scholarship generally requires permission and/or payment of licensing fees. Digital technologies and new practices based on those technologies have increased attention on copyright laws over the past decade or two as the balance between commercial interests and the perceived rights of the public has been challenged, especially regarding recorded music. Increasingly, works of creativity are seen by commercial entities as intellectual property equivalent to physical property. As a result, the practice of borrowing from another’s music in creating new music has morphed from being generally viewed as acceptable fair use to potential infringement, prosecutable under the law. Licensing has therefore become one strategy for clarifying what permissions the copyright holder will grant, while open access aims to guide copyright holders who wish to give broader access to their works. Although there are many excellent resources on copyright published over the past several decades, because of the rapid pace of change in recent years, most sources cited throughout have been published since 2000, except for several historical studies.

General Overviews

Among the many general books on copyright law and its history, these resources collectively offer clear descriptions at a range of levels of detail. The United Kingdom Intellectual Property Office and the United States Copyright Office offer the texts of the governing laws that cover most of the English speaking world. US Copyright Office Circulars are among the most clearly written overviews for lay readers. LaFrance 2011 and Leaffer 2014 are both intended as a general overview of copyright law and legal cases for law students and lawyers; LaFrance is the less detailed of the two. Nimmer and Nimmer 1963 is the continually updated, detailed legal treatise relied upon by many judges and copyright lawyers in the United States. The British Academy and The Publishers Association Joint Guidelines 2008 is a readable overview and description of the components of British copyright law. Samuels 2000 describes the history of US copyright.


Begins with history and description of the components of UK copyright law and what it covers. Concludes with a useful list of “Further Sources of Information.”
A concise introduction to copyright law. Often used as a study guide to the topic in law schools. Topical chapters refer to and explain specific sections of the copyright and related laws and legislation as well as legal decisions.

The latest update to a standard text used in law school training. Focus is on US copyright law, but includes an extensive section on international treaties and the relationship of US to international laws. Progresses from historical development of copyright to detailed examination of copyright law and the economic rationale underlying it. Concludes with a broad overview of related issues of US trademark and patent laws.

Multivolume standard copyright legal treatise often cited in US federal and state courts, updated three times per year. Since 2014 available only online via subscription to Lexis. Comprehensive compendium of both primary and secondary source materials, including texts of the US Copyright Act, the Berne Convention, and other international treaties, and details of legal cases and decision related to copyright. Also provides forms, template agreements, and transactional documents.

An engaging historical overview for lay readers of how US copyright law has adapted to the effect of developing technologies on various publishing and distribution industries, including book publishing; music, sound recording, and radio; movie and television; computer industries; and the development and rapid growth of the Internet.

Includes links to the full text of the UK copyright law, amendments, and related official publications, as well as guides to various aspects of British copyright and related intellectual property rights. Updated 2014.

United States Copyright Office.
Includes both the full text of the US copyright law and related legislation, as well as other reports and studies, and links to register a work for copyright. Particularly useful are Copyright Office Circulars and brochures available for download. Circular 1: Copyright Basics offers a clear description of current US copyright protection in lay terms, covering basic definitions, what can and cannot be protected by copyright, length of copyright protection, copyright registration and deposit, and how to search copyright office records.

General Works on Music and Copyright
The topic of copyright as it applies to music is treated from various perspectives in the literature. Monath 2006 focuses on legal uses of music by other musicians and music teachers. Moser and Slay 2012 and Rosen 2008 cover the topic from the perspective of commercial music business. Lessig 2004 explores the cultural context of music and copyright, advocating for favoring users over commercial entities in applying copyright law to creative works. Frith and Marshall 2004 approaches the subject topically.

Through a series of essays by several individual contributors, describes the conceptual and historical background behind current US copyright law and explores how copyright is experienced and impacts various music practitioners, primarily those in the music business.


Considers the impact of the Internet and other technologies on recorded music in the context of cultural works overall, with specific examples of ways in which the impact is similar and different from other media. Of primary concern is the fragile balance between ownership and creativity.


A succinct, practical guide to using copyrighted music. Easier to read than more detailed overviews.


The latest revision of a book developed for teaching copyright law classes in college music business programs. Aims to provide a general understanding of law as it applies to music and music industries. While focusing primarily on US copyright, includes a chapter on international copyright. Covers history and basics of copyright, infringement and public performance, and the significance of specific legal cases.


Focuses on music-infringement litigation issues and processes, but includes history of copyright as it applies to music and explanation of key concepts like fair use as they apply to music.

**Reference Works**

These sources include bibliographies of additional resources on specific topics and links to copyright laws and calculators. UNESCO provides links to copyright laws worldwide. SPARC's bibliography focuses on resources related to scholarly publishing, while the Music Library Association and National Association for Music Education focus on resources useful for those professional areas. The Free Expression Policy Project bibliography sources document issues related to and advocating for the societal values of using of copyrighted materials. *Copyright Term and the Public Domain in the United States*, the Europeana Foundation, and the Open Knowledge Foundation all offer ways to determine the current copyright status of works of intellectual property.

**Europeana Foundation Europeana Awareness Project. Out of Copyright: Determining the Copyright Status of Works.**

Interactive website that enables calculation of copyright status of works in thirty European countries in the European Union by type of work and publication date.

**The Free Expression Policy Project: A Think Tank on Artistic and Intellectual Freedom. Copyright.**

Website provides links to information on "research and advocacy on free speech, copyright, and media democracy issues." Page on copyright includes links to articles on music among other topics.
Hirtle, Peter B. *Copyright Term and the Public Domain in the United States.*
First published by Peter B. Hirtle in *Archival Outlet* in 1999, now updated online. A clear chart, by format and type of material, for determining public domain status of a work of any type in the United States.

**Music Library Association. Copyright for Music Librarians.**
A compilation of resources useful to music librarians, including law, court decisions, reports and studies, links to online resources, bibliography, and so on.

**National Association for Music Education. Copyright.**
Quick links and guidance on use of copyrighted music and performance rights management customized for music educators in the United States.

**Open Knowledge Foundation’s Working Group on the Public Domain. Public Domain.**
A collaborative effort to build calculators to determine copyright status for works in countries worldwide.

**SPARC, the Scholarly Publishing and Academic Resources Coalition. Author Rights.**
A resource page with links to information about authorship and copyright, including options for retaining copyright, ensuring open access to works of scholarship, and basic information on copyright for authors and institutions.

Links to national copyright and related intellectual property rights legislation of UNESCO member states. Currently about 150 laws, organized by geographical zone, regularly updated.

### International Copyright

Copyright laws are specific to each country, and generally the laws of a country determine copyright within the country regardless of the country of the author. The Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention establish minimal levels of protection for protected works and creators, and also establish mechanisms for the reciprocal protection of intellectual property under national copyright laws. Kleiner, et al. offers a good overview of national and international copyright laws as they apply to music (Copyright). WIPO provides links to search national laws and international treaties. Blomqvist 2014 and Goldstein and Hugenholtz 2013 are both textbooks for those wanting to delve into details.

Written as an overview for students and practitioners, topically organized. Although there is no specific section on music, it provides a context and comparison for application of Berne international copyright convention elements internationally.

Extensive appendix includes full text of Berne Convention, WIPO, and other international copyright agreements. Comprehensive commentary on US and EU copyright law and its relationship to trade, territoriality, variations in national treatments of international agreements, definitions of “moral” and “neighboring” rights. Written as a law textbook for advanced students.

Kleiner, Peter, E. P. Skone James, Gavin McFarlane, Melville B. Nimmer. “Copyright.” In *Grove Music Online. Oxford Music Online*. Beginning from the perspective that “copyright law is at once domestic and international," provides a general overview of international copyright conventions, followed by a comprehensive overview of national copyright history and provisions as they apply to music country-by-country.

World Intellectual Property Organization (WIPO). *Copyright.* FAQs and links to information about copyright globally, including links to laws and several WIPO Handbook publications on various aspects of intellectual property.

**World and Indigenous Musics**

Ethnomusicologists have been concerned about ethical questions regarding study, recording, and reusing world and indigenous musics for some decades. Intellectual property rights (including copyright) laws have generally been grounded in Western music practices, assuming known creator(s), and fixed in some form. Much of the musical heritage of interest to ethnomusicologists does not fit these characteristics, however, and copyright laws are generally either silent or specifically exclude folk and other communal cultural heritage works as being in the public domain. Nettl 2015 considers the questions broadly for the field of ethnomusicology. Sandler 2009 offers a summary of international legal framework and the ongoing work of the World Intellectual Property Organization (WIPO). Anthony Seeger, Seeger 2006 and “Copyright” (Moreno Fernández, et al. 2012), has been one of the most consistent voices raising and exploring issues regarding protection of world and traditional musics.


Introduction and three articles reflect on intellectual property issues related to world and popular musics through specific examples and case studies from ethnomusicological research. Most copyright law does not effectively address indigenous, folk, or cultural musics, field recordings, nor production or stock library music frequently used for background music.


The book is the latest edition of a standard in the field. This chapter considers ethical issues of music ownership from several perspectives. Good companion discussion to legal analysis in Sandler 2009.


Summarizes the impacts of international copyright agreements, explores ways in which cultural rights are inadequately balanced, and examines the promise of the ongoing work of WIPO’s Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore to improve this balance.

Summarizes intellectual property issues related to folk and traditional musics and why the fact that folk musics and other anonymous works are generally omitted from copyright protection is problematic.


Reviews proposals by indigenous communities, scholars, and some nongovernmental organizations (NGOs) and the state of progress toward changes in how intellectual property laws might better protect traditional knowledge and cultural heritage.

World Intellectual Property Organization (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore.

Maintains current reports on conferences, discussions, and explorations toward a goal of reaching agreement on an international legal instrument(s) that will ensure the effective protection of traditional knowledge, cultural expressions, and genetic resources.

Music Licensing

Licensing, whether as a composer to authorize performance by others or to use the music of others, is often a complex process. Kohn and Kohn 2010 is considered by many the standard guide to understanding the topic. Sparkler and Polinaik 2010 offers a succinct guide for use in teaching music. Wentz 2007 and Wilsey and Schwartz 2010 offer guidance to those with music to license or market for commercial use. Pitt 2010 is a more exploratory study in the economic effects of licensing music. Tremblay 2011 offers a more historical and theoretical understanding of the topic. United States Copyright Office 2015 provides both history and analysis of the many challenges in the current licensing system.


The latest of several editions originally entitled The Art of Music Licensing. Comprehensive practical guide intended to help copyright owners and those who wish to use their music for commercial purposes understand how to best obtain the necessary licenses. Includes history of music publishing and the development of licensing.


Framed by the “long tail” economic analysis by Chris Anderson that demonstrates that obscure books available through online vendors comprise a significant portion of sales, explores whether the same effect holds true for distribution of licensed music. Concludes that it does not.


Step-by-step guidance for music teachers, offered by representatives of United States performing rights and publishing companies, on how to seek permission to use copyrighted music in various common situations, for example, arranging it, recording it, and making and posting video of a performance.

Three chapters by Brian T. Yeh offer historical context and current description of copyright licensing in music distribution, reproduction, and public performance; statutory royalty rates for digital performance in various media; and a legal analysis of the US Performance Rights Act. Theoretical examples and several charts clarify the information presented.


Analyzes the current system of music licensing in the United States, describing the history and challenges of the current system, and makes recommendations for reforms in both music copyright law and licensing.


A guide to the licensing process for using musical content in film, TV, ads, games, and online entertainment from the perspective of a music supervisor, that is, an individual who assists musicians, filmmakers, and others with properly securing licenses for the music they wish to use in their own work.


Guide to strategies for marketing and licensing one’s music for commercial purposes.

**Fair Use (a.k.a. Fair Dealing) and Public Domain**

Fair use, or fair dealing, provisions are exceptions or exclusions to the ownership rights granted to an author or creator by copyright laws. Public domain describes the category of works no longer covered by copyright restrictions. Band and Gerafi 2013 indexes and links to fair use provisions by country. Fishman 2012 guides how to find music in the public domain. Code 2012 guides the application of fair use rights. Aufderheide and Jaszi 2011 clarifies the definition of fair use and advocates for using that right. Hirtle (*Copyright Term and the Public Domain in the United States*), Europeana (*Out of Copyright*), and Open Knowledge sites provide specific assistance in determining the copyright status of individual works.


Aims to provide clear understanding of fair use and to encourage creators, teachers, librarians, and the general public to use that right confidently. Includes examples and a template for creating codes of best fair use for communities of practice.


Lists and quotes the fair use or fair dealing clauses from the copyright statutes of over forty countries that include such limitations to copyright ownership.


Although aimed at the specified audience, many of the best practices and principles described are informative for scholarship and instruction as well. Explores specific situations and general consensus among US libraries on best application of fair use rights regarding
use of copyrighted material for research, study, preservation, and digital reproduction, among other uses.

Europeana Foundation Europeana Awareness Project. Out of Copyright: Determining the Copyright Status of Works. An interactive website that enables calculation of copyright status of works in thirty European countries in the European Union by type of work and publication date.


Hirtle, Peter B. Copyright Term and the Public Domain in the United States. A clear chart, by format and type of material, for determining public domain status of a work of any type in the United States.


Impact on Scholarship

Copyright law and its interpretation and implications can affect research and published scholarship in music. While focusing on British copyright, the British Academy 2008 guidelines (Joint Guidelines on Copyright and Academic Research: Guidelines for Researchers and Publishers in the Humanities and Social Sciences) offer some useful guardrails for scholarship more broadly. Cook 2012 focuses on copyright issues related to the use of recordings for research and scholarship. Copyright in historical editions was the focus of the legal case Sawkins v. Hyperion in Britain; the implications of this case are examined in both Gossett 2005 and Sim 2011. The same case is studied in relation to copyright questions and issues around restoration and preservation of works of cultural heritage by both Rahmatian 2010 and Torremans 2007. Whiteley 2004 offers a cautionary tale about the restrictions interpretations of copyright can have on scholarship on popular music in particular.


Cook, Nicholas. “Sound Law and the Scholar.” Popular Music and Society 35.5 (December 2012): 603–615. Recounts his personal experience as an author, journal editor, and director of the Research Centre for the History and Analysis of Recorded Music with music scholarship and the application of fair dealing and fair use provisions. Explores both the ways in which fair use/fair dealing support music research and the problems presented by the fact that sound recordings fall outside fair use and fair dealing provisions.

Explores the case for copyright protection and performance rights of composers’ collected works editions in terms of the economic interests of scholar editors, publishers, and performers and the implications of the British court decision supporting Lionel Sawkins’s claim of royalties from Hyperion Records for use of his critical editions.


Although not primarily focused on music, uses the example of *Sawkins v. Hyperion* to explore the question of how and whether copyright should apply to preservation and reconstruction of works of cultural heritage.


Presents the significant facts of the case *Sawkins v. Hyperion,* analyzes the legal, musical, and socioeconomical implications in both the United States and Britain, and offers suggestions for constructive actions to allow “members of American musical communities” to understand their responsibilities and what to expect in creating and using scholarly editions internationally.


Reviews the case of *Sawkins v. Hyperion* in detail as a case study to illustrate the legal issues of musical copyright related to historical editions internationally.


Recounts experience of book publishers’ reluctance to publish a book on popular music without seeking permission to include quotations of lyrics and the difficulties of identifying copyright owners and obtaining permissions.

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**Open Access Author’s Rights**

As an alternative to reliance on copyright for authors and creators who wish to share their work, generally for non-commercial re-use and primarily via the Internet, there is a growing use of open access practices. Creative Commons’ motto is “keep the Internet creative, free and open.” SHERPA/RoMEO is of most use to authors of journal articles who wish to also deposit their work in an institutional or other open access repository. SPARC also serves authors of books and articles.

**Creative Commons Website.**

Enables authors to create a copyright license to clearly grant rights of their choosing to use of their works. Also provides an interface for search engines and websites, such as Google and SoundCloud, to find music and other content made available under the Creative Commons copyright licenses.

**SHERPA/RoMEO.**

A searchable database of publisher’s policies regarding author self-deposit in Open Access institutional repositories, maintained through collaborative partnership among UK research institutions. Search by journal publisher or title for information about specific archiving rights.
Copyright and Licensing in Music - Music - Oxford Bibliographies

granted by individual journals.

**SPARC Author Addendum to Publication Agreement.**

A template that can serve as a model for modifying and supplementing standard author-publisher agreements to allow researchers to retain certain rights to works of scholarship, including the right to redistribute.

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**Music Sampling and Borrowing**

Borrowing or sampling is a particularly complex concept as it relates to “ownership” and “creativity” in music. Much of the literature seeks to explore and clarify the often conflicting issues of creativity and commercial interests. Burkholder documents the long history of musical borrowing. Cummings 2013 and Kernfeld 2011 offer two historical overviews of the impact of technology on the interpretation of reuse of existing musical material. Vaidhyanathan 2011 explores case studies of legal tussles among blues and folk musicians in the United States. Marshall 2005 examines the sociological aspects of the practice common in the 1960s of issuing unauthorized recordings of rock music. Franzen 2010 offers varying perspectives through documentary interviews with principal participants in the music business. McLeod and DiCola 2011 explores the same issues and proposals for realigning copyright law with current popular music practices. Waldfogel 2011 examines the economic effects of music file sharing on the creation of new recorded music.

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Outlines the practice of using or referring to existing music in the creation of new musical compositions in various genres and over time, articulating how the practice has been viewed and responded to in different eras.

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History of the practice of piracy of sound recordings, recounting how shifting laws and legal cases have changed as technology has advanced, beginning with invention of the phonograph.

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**Franzen, Benjamin, dir. Copyright Criminals. DVD. New York: Indiepix Films, 2010.**

Documentary interviews with performers and producers who represent a variety of perspectives on the difference between “borrowed melody” or sound and copyright infringement in hip-hop and other popular music created through audio sampling techniques. Screenplay by Kembrew McLeod.

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Explores the history of illegal copying and mass distribution of printed music and sound recordings throughout the 20th century as a pattern of technological advances that enable unauthorized mass distribution of popular songs, resulting in disputes between the music industry and “pirates,” and ultimately assimilation or obsolescence as the music industry adapts.

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Seeks to offer some explanation for why copyright has developed as it has, particularly as it relates to and is used in the popular music industry and to popular music scholarship. Covers sociological analysis of authorship and copyright related to music and historical examples of piracy as background to the practice of bootlegging rock music recordings in the 1960s.

With a primary focus on the development, techniques, and influence of hip hop, examines the variety of often-conflicting perspectives on current copyright law, how legal decisions have shaped how copyright law applies to disputes over sampling and led to a system of required licensing. Examines several proposals for reform in the licensing system and proposes strategies for redesigning copyright law in light of the sound collage practices.


Examines the complexity of applying US copyright law to musical expression through exploring several case studies that illustrate the clash between US copyright law and the borrowing, sampling, and derivation techniques common to folk, non-Western, and digital popular music traditions.


Focuses on the questions of whether the advent of file sharing has weakened the effectiveness of copyright for recorded music and, if so, whether this weakening has interrupted the flow of new recorded music. Determines that there is no demonstrated correlation between the reduced revenues seen in the music recording industry since the advent of Napster and the ongoing supply of new recorded music.

**Sound Recordings**

Copyright for sound recordings is of particular concern in the United States. Unlike most countries, US recordings were not covered by federal law prior to 1972, leaving historic recordings in limbo. Even post 1972, US law leaves the status of fair use for sound recordings in some confusion. Sanchez 2012 explains the history of this situation. Besek 2005 and Besek 2009 along with *Protection of Pre-1972 Sound Recordings* provide guidance for libraries and archives regarding historic sound recordings in their collections. Brooks 2012 documents movements to reform copyright related to historical recordings. Taylor 2010 describes the murky implications of whether or not sound recordings are viewed by the courts as works for hire. Laing 2012 explores the situation in Europe, and Cook 2012 focuses on the impact of UK copyright on music scholarship.


Report on the legal status of historic commercial recordings in the United States and guidance on what libraries and archives are legally empowered to do to preserve historic sound recordings in their collections.


Reviews the legal status of unpublished historical recordings in the United States and offers recommendations for how libraries and archives can legally preserve historic sound recordings in their collections.

Along with earlier articles by Brooks ("Copyright and Historical Sound Recordings: Recent Efforts to Change U. S. Law." Notes 85.3 (March 2009): 464–474; and "Only in America: The Unique Status of Sound Recordings Under U. S. Copyright Law and How it Threatens Our Audio Heritage." American Music 27:2 (Summer 2009): 125–137) the author documents the legal circumstances related to reproducing historical sound recordings and progress in licensing strategies and proposals for copyright reform to cover historical sound recordings.


Recounts the effect of current copyright laws regarding sound recordings, particularly in the United Kingdom, on research, based on the author’s personal experience as musicologist, editor, and director of the Centre for the History and Analysis of Recorded Music. Useful for instruction on lessons learned and scholars’ responsibilities to know and apply the relevant laws rather than taking publisher or institutional advice for granted.


Detailed analysis of the impact of the increase of copyright duration to seventy years for sound recordings issued before 1964 in the European Economic Area. Reviews several legal disputes concerning the limits of fair use/fair dealing and recordings and concludes that Creative Commons solutions can help maintain the balance of rights between public and private interests in copyright.


The third report in the series that includes Besek 2005 and Besek 2009, prepared by the Washington College of Law at American University under the guidance of Peter Jaszi. Examines the legal status of pre-1972 sound recordings under several state statutes.


Summarizes the history of sound recording copyright law in the United States and analyzes the “idea/expression dichotomy” that initially kept sound recordings from copyright protection and has resulted in court decisions prohibiting the practice of sampling. The author finds that the US Copyright Act gives sound recordings more protection than any other category of copyrightable work and recommends how the law could be changed.


Explores the questions of authorship and ownership for sound recordings under the 1976 copyright act.

Copyright and the Music Industry

Most guides to what is typically referred to as the music business include some information on copyright as it applies to creators’ rights and the performance of the music of others. Krasilovsky and Shemel 2007 is considered by many the standard guide. Garon 2009 is among the most succinct overviews. Halloran 2008 provides more detailed information, including practical guidance for composers in particular. Passman 2013 offers three levels of detail, so it can be most useful for moving from an overview into specifics. Yeh 2011 is more theoretical and historical in focus. Wixen 2014 focuses on music publishing and related rights. Sparrow 2006 is the guide for Internet distribution of music. Carr 2011 offers a case study on how copyright can be used by specific interests in popular music.

Although Frank Zappa is shown to have adapted and appropriated his own and other composers’ music in his creative work, the Zappa Family Trust (ZFT) fiercely protects his copyright and commercial rights through “cease and desist” orders to tribute artists to prevent others from performing Zappa’s music under a blanket-license agreement without obtaining a license from the ZFT.


Basic definition and description of US copyright law, how to register published music and recordings, roles of publishing and recording companies, and the distinctions among performance, mechanical, and statutory rights, posted on the website of a legal firm that includes these specializations.


Several essays on copyright law, infringement, sampling, collaborator agreements, copyright issues relating to digital downloads and streaming, and international copyright aimed at professional musicians in the popular music business. Includes specific guidance on registering a composition for copyright and protecting rights as an author or composer.


This latest edition of a frequently updated work is still considered “the bible” of the music industry. Written from the commercial US perspective, covers US copyright history and concepts, including fair use, practical details of registering and transferring copyright for music compositions and recordings. Also covers performing rights organizations, mechanical and audio reproduction rights, finding and using music in public domain, distinctions of ownership and works for hire, and specifics of how the international Berne Convention applies to music.


Also see “Advanced Copyright Concepts” (pp. 313–326) and “Even More Advanced Copyright Concepts” (pp. 327–340). Explains clearly US copyright law in the context of songwriting and publishing, in three levels of detail to serve various needs in light-hearted chatty prose. Describes compulsory mechanical licenses, defines specific terms, for example, “non-dramatic musical work,” and current royalty rates for compulsory licenses. Through examples, explains such concepts as joint ownership, works for hire, termination and extension rights, and sound recording copyrights.


Provides guidance, including checklists, for all aspects of using the Internet to promote, sell, and distribute music. Intended for music industry audience and those involved in providing legal support to musicians. Primarily based on British legal perspective.


Widely used as a college and university textbook and by music creators as a guide for navigating music publishing and licensing. Focuses on music publishing as the ownership of compositions and as rights management for compositions, with reference to copyright throughout.

Offers historical context and current description of copyright licensing in the United States. Theoretical examples and several charts clarify the information presented.

**Legal Analysis**

Works in this section take more analytical and theoretical approaches to the topic. Atkinson and Fitzgerald 2011 explores how technological developments have changed perspectives on artistic property and authors’ rights. Parks 2013 takes a similar historical perspective toward understanding the intersections between technology and musical practice. Tschmuck 2009 focuses specifically on the intersection of the digital age and the music industry. Demers 2006 and Eble 2013 both advocate for privileging creativity over property rights in popular music, while Rahmatian 2010 argues that copyright does not support musical creativity. Sanjek 2012 (*Popular Music and Society*) offers several important essays on the relationship between copyright laws and contemporary popular music creation and scholarship. The Music Copyright Infringement Resource offers a comprehensive index to copyright cases involving music and resources analyzing the results of those cases.


This volume deals with the application of copyright to creative industries in the 20th century. Includes historical summary of the societal developments from the second half of the 19th century through the 20th that changed views of artistic property and authors’ rights, and the resulting effect on and of copyright laws in the United States and United Kingdom regarding music, recordings, and other artistic products.


Discusses the shift in intellectual property (IP) law from a protective stance against piracy while supporting transformative uses of existing music to an overriding “shadow” that effectively inhibits transformative creativity. While explicating the shift, Demers advocates for and describes ways in which musical artists can work “under the shadow of the law” to legally and affordably make transformative musical appropriations.


Discusses the history of mash-up music, the relevant history of copyright law, and current “safe harbors” for mash-up artists. Advocates for expansion of the interpretation of the fair use exception to protect mash-up artists.

**Music Copyright Infringement Resource.** Sponsored by Columbia Law School and the USC Gould School of Law.

The site collects information on legal cases involving claims of music copyright infringement in the United States and common law nations, from the 19th century forward, and includes a summary, the judicial ruling, and often links to recordings and scores of the complaining and defending works.


Explores the history of technology’s disruption and influence on music and copyright in the United States, drawing on the lessons of historical developments to analyze possibilities for balancing composer and performer rights with comprehensive online technological
access to the universe of recorded music.


Argues that there is no historical evidence that the existence of copyright has promoted the creation of musical works and that today music is viewed as a commercial asset that copyright is used as the instrument to protect.

Sanjek, Dave, ed. Special Issue: Copyright. Popular Music and Society 35.5 (December 2012).

Compilation of articles on several aspects of the interplay between copyright laws, primarily US and UK, and music scholarship, performance, and use of sound recordings.


Explores the impact of the digital revolution and advances in technology on the music industry, commercialization, and the relationship between artists and publishers, the influence of continental European copyright on the design of publishing contracts and US music industry.

Historical Studies

The literature on the history of how copyright and music have interrelated since the establishment of the 1710 Statute of Anne is both general and specific. Lichtenwanger 1994 surveys the history of copyright in music in the United States. Brennan 2011 studies how British law established protection of composer’s rights during the 18th century, and Coover 1985 provides primary source narrative on music publishing and copyright in late-19th century London. Tschmuck 2002 explores copyright in music in Vienna during the late 18th century, while Albinsson 2012 focuses on the early 19th century in Europe. Montgomery and Threlfall 2007 recount Delius’s experience as an example of how music and copyright intersected for a composer’s interests from the late 19th into the 20th centuries. Gitelman 1997 helps us understand the development of mechanical rights and compulsory licensing in the 1909 US copyright law. Kernfeld 2011 offers insight into 20th-century US copyright developments.


Examines the history of musical copyright in light of changes in the legal and business conditions related to the music publishing business between the 1790s and the 1840s and concludes that the answer to the question of the title is “yes,” in terms of enabling composers to make a living by publishing their music.


Published music was not explicitly included in the first copyright law. Brennan describes the background and context for the first legal case to test the application of the Statute of Anne to published music and establish the composer’s rights to copyright protection to publish and distribute his own music.

A collection and transcription of articles, letters, and notices related to music publishing and conflicts between publishers and music sellers who copied music illegally that ultimately led to the passage of the 1906 Copyright Act in England.


Although the article begins with a focus on racial perspectives of recorded music in the late 19th and early 20th centuries, of interest here is the detailed analysis of the issues and views debated in preparation for the Copyright Act of 1909, in which musical compositions were accorded copyright protection in recordings through mechanical rights, giving the copyright holder right of first recording and compulsory licensing that authorized that once recorded, others could record the music as well for a set royalty fee.


Explores the relationship between sequential technological advances that have enabled illegal copying and mass distribution of printed music and sound recordings and adaptation of the music industry and copyright law.


Surveys the history of American copyright as it pertains to music, including the links to British and international laws and agreements, with focus primarily on examples and impact on music publishing, beginning with William Billings’ petition to the Massachusetts General Court to grant sole privilege to print and vend his *New-England Psalm-Singer*. Concludes with a summary analysis of how the Copyright Act of 1976 pertains to music.


A history of Delius’s business relationships with his publishers, illustrating through his correspondence how the composer dealt with changing copyright and licensing laws during his life. Describes establishment of the Delius Trust and copyright and licensing agreements between the trust and publishers. Serves as a case study on 19th- and 20th-century music copyright law and how it affected the ability of one composer to make a living through his music.


Through brief historical overview and the examples of Joseph Haydn, Wolfgang Amadeus Mozart, and Vienna musical concert life, the author suggests that in 17th-century Austria, composers and publishers used copyright to certify authenticity and protect their moral rights against piracy rather than their economic interests.

**Preservation and Library Practice**

Copyright in music governs the legal preservation of both printed and recorded historical music, affecting one of the primary missions of libraries and museums. Hirte, et al. 2009 serves as guidebook for digitization policies and programs for cultural artifacts, including music and recordings. Besek 2005 and Besek 2009 specifically cover sound recordings.

Offers guidance on what libraries and archives are legally empowered to do to preserve historic sound recordings in their collections.

Focusing on unpublished historical recordings in the United States, offers guidance on what libraries and archives are legally empowered to do to preserve historic sound recordings in their collections.

An information manual to guide American cultural institutions in workflow and decision-making for digitizing historical materials in their collections. Music and sound recordings are mentioned throughout, but are not given particular focus.

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