

## Role of intellectual property rights in the music industry: International perspective

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### Abstract

The music industry plays a vital role in the global economy, providing entertainment, cultural expression, and employment opportunities to millions of people worldwide. With the rise of digital technologies and the internet, the music industry has undergone significant transformations, presenting both opportunities and challenges. In this context, intellectual property rights (IPRs) have become increasingly important for artists, record labels, and other stakeholders involved in the creation, production, and distribution of music. Intellectual property rights refer to legal rights that protect intangible creations of the human mind, such as inventions, literary and artistic works, trademarks, and trade secrets.

**Keywords:** Intellectual property, music industry, international perspective

### Introduction

In the music industry, IPRs primarily encompass copyright protection, which grants exclusive rights to the creators of musical works. These rights enable creators to control the use, reproduction, distribution, and performance of their music, ensuring they can reap the benefits of their creative endeavours. From an international perspective, intellectual property laws and regulations governing the music industry vary across countries. However, certain international agreements, such as the Berne Convention for the Protection of Literary and Artistic Works and the World Intellectual Property Organization Copyright Treaty (WIPO Copyright Treaty), have established minimum standards for copyright protection and enforcement. These agreements aim to harmonize copyright laws globally and ensure that creators enjoy similar rights and protections across different jurisdictions<sup>[1]</sup>.

The role of intellectual property rights in the music industry is multifaceted. On one hand, IPRs incentivize creativity and innovation by providing creators with exclusive control over their works. This encourages artists to invest time, effort, and resources into producing high-quality music, as they can expect a return on their investment through the monetization of their intellectual property. Furthermore, copyright protection fosters a vibrant and diverse music industry by allowing artists to negotiate licensing agreements, receive royalties, and enter into contracts with record labels and distributors<sup>[2]</sup>.

### World trade organization

The World Trade Organization (WTO) plays a role in shaping the global trade landscape, including the music industry. While the WTO does not have specific agreements or provisions solely dedicated to the music industry, its broader framework for international trade impacts the music industry in several ways<sup>[3]</sup>:

▪ **Trade in Music Products:** The WTO's General Agreement on Tariffs and Trade (GATT) and its successor, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), address trade in goods and intellectual property rights, respectively.

These agreements govern the cross-border trade of physical music products such as CDs, vinyl records, and other tangible formats. WTO members commit to reducing tariffs and trade barriers, promoting fair competition, and protecting intellectual property rights related to music products.

- **Digital Music Distribution:** The rapid growth of digital music distribution and streaming services has raised various trade-related issues. The WTO's framework for e-commerce and digital trade is relevant to the music industry, as it addresses issues like cross-border data flows, electronic transactions, consumer protection, and market access for digital services. The WTO's work in these areas has implications for the global trade of music streaming services, online music sales, and licensing of digital music rights<sup>[4]</sup>.
- **Market Access and Cultural Diversity:** The music industry is often intertwined with cultural expressions and diversity. WTO agreements recognize the importance of preserving cultural diversity while promoting trade. Members can take measures to protect cultural industries, including the music sector, through cultural exemptions and other mechanisms. These provisions acknowledge the need for governments to balance trade liberalization objectives with cultural policy objectives, allowing for the promotion and support of local music industries.
- **Dispute Settlement:** The WTO's dispute settlement mechanism offers a platform for resolving trade disputes related to the music industry. If a WTO member believes that another member's trade practices violate WTO agreements, it can bring a dispute to the WTO's Dispute Settlement Body. While specific music-related disputes have not been prominent at the WTO, the mechanism is available for addressing trade conflicts that may arise in the sector<sup>[5]</sup>.

- **Technical Assistance and Capacity Building:** The WTO provides technical assistance and capacity-building programs to help developing countries enhance their trade-related infrastructure and regulatory frameworks. These initiatives can support developing countries in building the necessary expertise and institutions to effectively participate in the global music industry, promote exports, and protect their interests in international trade negotiations <sup>[6]</sup>.

### World intellectual property organization (WIPO)

The World Intellectual Property Organization (WIPO) is a specialized agency of the United Nations responsible for promoting the protection of intellectual property (IP) rights worldwide.

- **Objectives:** WIPO's primary objectives include promoting the use of IP for economic, social, and cultural development, encouraging the protection of IP rights, facilitating the transfer of technology, and fostering international cooperation in the field of intellectual property.
- **Functions:** WIPO performs several functions to fulfil its objectives. It administers various international treaties and conventions related to intellectual property, including the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works. WIPO also provides services such as registration systems for patents, trademarks, and industrial designs, as well as arbitration and mediation for IP disputes.
- **Policy Development:** WIPO plays a significant role in developing international IP policies and norms. It facilitates discussions and negotiations among its member states to create international agreements and treaties that harmonize IP laws and establish minimum standards of protection. WIPO also conducts research, publishes reports, and provides technical assistance and capacity-building programs to help countries develop effective IP policies and systems <sup>[7]</sup>.
- **International Cooperation:** WIPO encourages international cooperation and collaboration in the field of intellectual property. It fosters partnerships with governments, organizations, and stakeholders worldwide to address global IP challenges, exchange knowledge and best practices, and promote the use of IP for development and innovation. WIPO also supports developing countries in building their IP infrastructure and utilizing IP for economic growth.
- **WIPO's Member States:** As of September 2021, WIPO has 193 member states, making it one of the largest specialized agencies of the United Nations. Member states participate in the decision-making processes of WIPO, contribute to the development of international IP laws and policies, and benefit from the services and resources provided by the organization <sup>[8]</sup>.
- **WIPO Copyright Treaties:** WIPO has developed and administers several international treaties related to copyright protection, including the WIPO Copyright Treaty (WCT) and the WIPO Performances and

Phonograms Treaty (WPPT). These treaties set standards for copyright protection in the digital age and address the rights of creators, performers, and producers in the digital environment.

### Trade-related aspects of intellectual property rights (TRIPS) agreement

TRIPS is a global agreement under the World Trade Organization (WTO) that sets minimum standards for intellectual property protection, including copyright, trademarks, and patents. India, as a member of the WTO, is obligated to comply with TRIPS standards. TRIPS encourages the enforcement of IP rights, promotes fair trade practices, and facilitates international protection and enforcement of copyright in the music industry. The Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement is an international treaty administered by the World Trade Organization (WTO). It sets out minimum standards for intellectual property (IP) protection and enforcement that member countries must implement within their national legal systems. Here are some key points about the TRIPS Agreement <sup>[9]</sup>:

- **Scope:** The TRIPS Agreement covers various forms of intellectual property, including copyright and related rights, trademarks, geographical indications, patents, industrial designs, and trade secrets. It establishes minimum standards for the protection and enforcement of these rights.
- **Minimum Standards:** The TRIPS Agreement sets out minimum standards that member countries must incorporate into their national laws. These standards include providing adequate and effective protection for IP rights, granting exclusive rights to IP owners, establishing fair and equitable procedures for enforcing IP rights, and ensuring that IP rights are enforceable and not subject to unjustified barriers.
- **National Treatment and Most-Favoured-Nation Treatment:** The TRIPS Agreement requires member countries to provide foreign IP rights holders with the same level of protection and benefits as their domestic rights holders (national treatment). It also ensures that member countries extend any advantages, privileges, or exemptions they provide to one WTO member to all other WTO members (most-favored-nation treatment) <sup>[10]</sup>.
- **Flexibilities and Exceptions:** The TRIPS Agreement recognizes certain flexibilities that member countries can employ to address public health, access to medicines, and other public policy concerns. These flexibilities include compulsory licensing, which allows governments to grant licenses for the production or importation of patented products without the patent owner's consent in certain circumstances, such as public health emergencies <sup>[11]</sup>.
- **Dispute Settlement:** The TRIPS Agreement provides a dispute settlement mechanism through the WTO's Dispute Settlement Understanding (DSU). It allows member countries to bring disputes regarding the interpretation or application of the TRIPS Agreement to the WTO's dispute settlement body for resolution.

### **Berne convention for the protection of literary and artistic works**

The Berne Convention for the Protection of Literary and Artistic Works, often referred to as the Berne Convention, is an international agreement governing copyright protection. It was first adopted in 1886 in Berne, Switzerland, and has since been revised and updated several times. The Berne Convention establishes minimum standards for copyright protection and aims to provide creators with consistent rights and protections across different countries <sup>[12]</sup>.

- **Automatic Protection:** One of the fundamental principles of the Berne Convention is the automatic and inherent protection of copyright. Under the convention, copyright protection is granted to literary and artistic works without the need for formal registration or compliance with any formalities. As soon as a work is created, it is automatically protected by copyright.
- **Duration of Protection:** The convention establishes a minimum duration of copyright protection. Generally, the minimum term of protection is the life of the author plus 50 years after their death. However, some countries provide longer durations.
- **Moral Rights:** The Berne Convention recognizes moral rights, which are the non-economic rights of authors to be identified as the creators of their works and to object to any modifications or distortions that may harm their reputation. Moral rights are considered inherent to the author and cannot be transferred or waived.
- **Enforcement:** The Berne Convention also addresses the enforcement of copyright, emphasizing the obligation of member countries to provide effective legal remedies and enforcement measures against copyright infringement. This includes civil and criminal penalties for infringement, as well as the power to seize and destroy infringing copies.

### **International copyright licensing**

International licensing agreements play a crucial role in the global distribution and commercialization of Indian music. Indian music labels and publishers enter into licensing agreements with foreign counterparts to allow the use of their music in films, television shows, advertisements, and digital platforms worldwide. These agreements ensure that Indian artists receive appropriate royalties and recognition for their works in international markets.

International copyright licensing refers to the process of granting or obtaining permission to use copyrighted works across national borders. It allows rights holders to authorize others to use their copyrighted works in different countries and enables licensees to legally use those works in their respective territories. Here are some key points about international copyright licensing <sup>[13]</sup>:

- **Collective Management Organizations (CMOs):** Collective management organizations play a crucial role in international copyright licensing. CMOs, such as copyright societies or performance rights organizations, act as intermediaries between rights holders and licensees. They negotiate and administer licenses on behalf of multiple rights holders and collect licensing fees or royalties, ensuring that rights holders are fairly compensated for the use of their works in different countries <sup>[14]</sup>.

- **Territorial Licensing:** Copyright licensing is often organized on a territorial basis, where rights holders grant licenses for specific geographic regions or countries. This approach allows rights holders to control and monetize the exploitation of their works in different markets. Licensees seeking to use copyrighted works internationally may need to negotiate separate licenses for each territory they wish to operate in <sup>[15]</sup>.
- **Bilateral and Multilateral Agreements:** Bilateral and multilateral agreements play a role in facilitating international copyright licensing. For example, reciprocal agreements between collective management organizations in different countries enable the licensing and collection of royalties for performances and broadcasts of copyrighted works across borders. International treaties, such as the Berne Convention and the WIPO Copyright Treaty, provide a framework for copyright protection and licensing practices among member countries <sup>[16]</sup>.

### **Anti-piracy and enforcement cooperation**

International cooperation is crucial in combating music piracy and infringement across borders. India collaborates with other countries and enforcement agencies to tackle copyright infringement, unauthorized distribution, and digital piracy of Indian music. Mutual legal assistance treaties (MLATs) and bilateral agreements facilitate information sharing, joint enforcement actions, and the prosecution of infringers operating in foreign jurisdictions <sup>[17]</sup>.

- **International Cooperation:** Cooperation among countries is vital to combat piracy, as copyright infringement often transcends national borders. Countries collaborate through various channels, including bilateral agreements, multilateral treaties, and international organizations such as Interpol and the World Customs Organization. These collaborations aim to facilitate information sharing, coordinated enforcement actions, and harmonization of legal frameworks.

- **International Treaties and Agreements:** International treaties and agreements establish a framework for cooperation and enforcement of intellectual property rights. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) under the World Trade Organization (WTO) sets minimum standards for IP protection and enforcement, including anti-piracy measures. The WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty also address digital piracy and provide mechanisms for international cooperation and enforcement.

- **Enforcement Tools and Measures:** Various tools and measures are employed to enforce intellectual property rights and combat piracy. These include targeted enforcement actions, such as raids on physical and online piracy operations, customs controls to prevent the import/export of pirated goods, and the establishment of specialized intellectual property enforcement units. Digital rights management technologies, watermarking, and content recognition systems also aid in identifying and tracking unauthorized use of copyrighted works <sup>[18]</sup>.

- **Voluntary Cooperation:** Voluntary cooperation initiatives among internet service providers (ISPs), content creators, and technology companies have emerged to combat online piracy. These initiatives involve measures such as notice-and-takedown procedures, website blocking, and content filtering to prevent the dissemination of infringing content.

### Digital Platforms and Global Exploitation

Digital platforms and streaming services have opened up new opportunities for the global exploitation of Indian music. International copyright laws and agreements provide a legal framework for licensing Indian music on platforms such as Spotify, Apple Music, YouTube Music, and other global streaming services. These platforms ensure that royalties are collected and distributed to Indian artists based on their international streams and listenership.

- **Monetization Opportunities:** Digital platforms provide monetization opportunities for content creators. Platforms typically offer various revenue models such as subscription-based services, ad-supported models, pay-per-view, or revenue sharing arrangements. These models enable creators to monetize their content on a global scale, reaching audiences in different countries and generating income from multiple markets <sup>[19]</sup>.
- **Localization and Cultural Adaptation:** Digital platforms allow content to be localized and culturally adapted for different markets. Localization involves translating the content into different languages, adapting it to local cultural norms, and tailoring it to specific market preferences. This localization process enables content to resonate with international audiences and increases the chances of success in diverse markets.
- **Copyright and Digital Rights Management:** With the global nature of digital platforms, copyright and digital rights management (DRM) are crucial for protecting content from unauthorized use and piracy. DRM technologies and measures help control access to and usage of digital content, ensuring that it is distributed and consumed in compliance with copyright laws and licenses. Content creators and platforms implement DRM systems to protect their intellectual property rights and secure revenue streams.
- **Challenges and Opportunities:** While digital platforms offer significant opportunities for global content exploitation, they also present challenges. These include issues related to copyright infringement, piracy, revenue sharing models, content moderation, and the impact on traditional distribution channels. Balancing the interests of content creators, platforms, and consumers while respecting intellectual property rights and ensuring fair compensation remains an on-going challenge.

### USA

#### Copyright Act, 1976

Copyright is the primary form of intellectual property right that protects musical works. In the US, copyright protection is granted automatically upon the creation of an original musical work fixed in a tangible medium of expression. It gives the copyright holder exclusive rights, such as reproduction, distribution, public performance, and creation of derivative works.

- **Original Works:** The Copyright Act protects original works of authorship that are fixed in a tangible medium of expression. This includes literary works, musical compositions, sound recordings, pictorial or graphic works, motion pictures, and other creative works.
- **Copyright Ownership:** Under the Copyright Act, copyright ownership initially belongs to the author or creator of the work. In cases of works made for hire or when copyrights are transferred through an agreement, the ownership may vest with the employer or the party to whom the rights are transferred.
- **Copyright Protection:** The Copyright Act provides automatic copyright protection upon the creation of an original work. Registration with the U.S. Copyright Office is not required for copyright protection, but it provides additional benefits, such as the ability to sue for infringement.
- **Exclusive Rights:** Copyright holders are granted exclusive rights over their works, including the rights of reproduction, distribution, public performance, public display, and creation of derivative works. These rights allow copyright owners to control and monetize the use of their copyrighted works.
- **Duration of Copyright:** The Copyright Act defines the duration of copyright protection. For works created by an individual, copyright generally lasts for the author's lifetime plus 70 years after their death. For works made for hire or anonymous works, copyright lasts for 95 years from publication or 120 years from creation, whichever is shorter.
- **Digital Millennium Copyright Act (DMCA):** The DMCA is an amendment to the Copyright Act that addresses copyright protection in the digital age. It provides a safe harbour for online service providers against liability for copyright infringement by their users, under certain conditions. The DMCA also establishes provisions for takedown notices and counter-notices regarding online copyright infringement.

#### Mechanical licensing

The US music industry uses a mechanical licensing system to regulate the reproduction and distribution of musical compositions. The Copyright Act mandates that anyone who wants to reproduce and distribute a musical work must obtain a mechanical license from the copyright owner or a designated licensing agency <sup>[20]</sup>.

- **Scope of Mechanical Licensing:** Mechanical licenses cover the reproduction and distribution of the musical composition itself, including the underlying musical notes, lyrics, and arrangement. They do not include the sound recording, which is a separate right controlled by the owner of the recording (e.g., the record label) <sup>[21]</sup>.
- **Statutory Royalty Rates:** Under the compulsory licensing system, mechanical licenses are subject to statutory royalty rates. In the United States, these rates are set by the Copyright Royalty Board (CRB) and periodically updated. The CRB determines the mechanical royalty rates for different formats, such as physical products, digital downloads, and interactive streaming.

- **Controlled Composition Clause:** In some cases, music publishers and songwriters include a controlled composition clause in contracts with recording artists. This clause typically limits the mechanical royalty rate payable to the songwriter for compositions that are controlled by the recording artist. The controlled composition rate is often lower than the statutory rate.
- **Termination of Transfer:** The termination of transfer provisions under the Copyright Act allows songwriters or their heirs to reclaim the rights to their compositions after a specific period. This may impact the on-going mechanical licensing of those compositions, and subsequent licensing may need to be negotiated with the original copyright owners or their representatives.

### Performance rights organizations (PROs)

PROs play a crucial role in the licensing and collection of performance royalties on behalf of songwriters, composers, and music publishers. PROs, such as ASCAP (American Society of Composers, Authors, and Publishers), BMI (Broadcast Music, Inc.), and SESAC (Society of European Stage Authors and Composers), negotiate licenses with music users (such as radio stations, concert venues, and digital streaming platforms) and distribute royalties to their member songwriters and publishers. Performance Rights Organizations (PROs) are collective management organizations that play a crucial role in the music industry. They are responsible for the licensing, collection, and distribution of performance royalties on behalf of songwriters, composers, and music publishers [22]. Here are some important points about Performance Rights Organizations (PROs) [23]:

- **Licensing and Royalty Collection:** PROs negotiate licenses with music users, such as radio stations, television networks, concert venues, restaurants, bars, and digital streaming platforms. These licenses authorize the public performance of musical compositions in their respective territories. PROs collect fees or royalties from these licensees for the use of the music and distribute the collected royalties to the appropriate rights holders.
- **Major PROs:** Some of the major PROs operating worldwide include:
  - **ASCAP (American Society of Composers, Authors, and Publishers):** One of the largest PROs in the United States, representing a vast number of songwriters, composers, and music publishers.
  - **BMI (Broadcast Music, Inc.):** Another prominent US-based PRO representing a wide range of songwriters, composers, and music publishers.
  - **SESAC (Society of European Stage Authors and Composers):** A PRO with a focus on representing songwriters and composers across various genres.
  - **PRS for Music (Performing Right Society):** A PRO based in the United Kingdom, representing songwriters, composers, and music publishers.
  - **SOCAN (Society of Composers, Authors, and Music Publishers of Canada):** A Canadian PRO responsible for the licensing and distribution of performance royalties.

### Digital millennium copyright Act (DMCA), 1998

The DMCA is a US law that addresses copyright protection in the digital environment. It provides a framework for addressing online copyright infringement and establishes a notice-and-takedown system, enabling copyright owners to request the removal of infringing content from online platforms [24].

- **Implementing a notice-and-takedown system:** OSPs must promptly remove or disable access to infringing content upon receiving a valid notice of infringement from a copyright holder.
- **Designating a DMCA agent:** OSPs must designate an agent to receive notices of claimed infringement and provide the agent's contact information to the U.S. Copyright Office.
- **Counter-Notification:** The DMCA also provides a counter-notification process that allows the user who posted the allegedly infringing content to contest the takedown. The user can submit a counter-notification to the OSP, asserting that the takedown was erroneous or mistaken. If the OSP receives a valid counter-notification, it must notify the copyright holder and restore the removed content within a specified timeframe, unless the copyright holder files a lawsuit.
- **Anti-Circumvention Measures:** The DMCA includes provisions that prohibit the circumvention of technological measures used to protect copyrighted works (e.g., encryption or digital rights management systems). It is illegal to bypass these measures to access or copy copyrighted content, even if the intended use falls within fair use.
- **DMCA Reform and Criticism:** The DMCA has been subject to criticism and calls for reform. Some argue that the notice-and-takedown process can be abused and that the safe harbour provisions favour OSPs over copyright holders. Others have raised concerns about the effectiveness of the DMCA in addressing emerging issues such as online piracy and the use of copyright-protected content on user-generated platforms.

### Sound recording performance rights

In the US, the copyright law does not grant performance rights to sound recordings on traditional terrestrial radio. This means that terrestrial radio stations do not need to obtain licenses or pay performance royalties to the owners of sound recording copyrights. However, digital transmissions of sound recordings, such as internet radio, satellite radio, and streaming services, require licenses and payment of performance royalties to the recording artists and record labels [25].

- **Digital Performance Rights:** Sound recording performance rights are recognized and protected for digital transmissions, such as internet radio, satellite radio, and streaming services. Digital transmissions of sound recordings require licenses and the payment of performance royalties to the recording artists, session musicians, and record labels. The rates and terms for these licenses are typically negotiated between the digital service providers and the rights holders or their representative organizations.

- **International Differences:** The recognition and regulation of sound recording performance rights vary across countries. Some countries provide performance rights for both terrestrial radio and digital transmissions, while others may have different licensing structures and regulations. The specifics of sound recording performance rights depend on the copyright laws and regulations of each jurisdiction.
- **Need for Direct Licensing:** In the United States, sound recording performance rights are typically licensed through direct agreements between digital service providers and the rights holders (recording artists, session musicians, and record labels).

### Music licensing collective (MLC)

The Music Licensing Collective is a new entity established under the Music Modernization Act (MMA) in the US. It serves as the designated collective management organization for administering mechanical licenses for digital uses of musical works. The MLC is responsible for collecting and distributing mechanical royalties to songwriters and publishers for digital streaming and downloads [26].

- **Purpose:** The MLC's primary purpose is to administer and distribute mechanical royalties for the streaming and digital uses of musical compositions. It operates as a central database and licensing body for digital service providers (DSPs) to obtain mechanical licenses for the reproduction and distribution of musical works.
- **Licensing and Royalty Collection:** The MLC licenses digital service providers that offer interactive streaming or digital downloads of musical works. It collects royalties from these DSPs based on their usage data and distributes the collected royalties to the appropriate rights holders, including songwriters, composers, and music publishers.
- **Song Matching and Royalty Allocation:** The MLC employs advanced data and technology systems to match sound recordings with musical compositions. This process helps ensure that the correct rights holders receive their respective shares of royalties. The MLC also utilizes data provided by DSPs to track and allocate royalties accurately.
- **Governance and Representation:** The MLC is governed by a board of directors consisting of representatives from music publishers and songwriters. The board ensures that the MLC operates in the best interests of rights holders and meets its statutory obligations.

### UK

Intellectual Property Rights (IPRs) play a crucial role in the music industry in the United Kingdom (UK).

### Copyright

Copyright protects the original expression of ideas in musical compositions and sound recordings. In the UK, copyright automatically applies to original musical works as soon as they are created, without the need for registration. Copyright grants the owner exclusive rights, including the

right to reproduce, distribute, perform, and communicate the work to the public. Copyright in musical works generally lasts for the lifetime of the creator plus 70 years. In the case of sound recordings, the copyright term is 70 years from the year of release or publication. In the United Kingdom, the primary legislation governing copyright is the Copyright, Designs and Patents Act 1988 (CDPA) [27].

- **Copyright duration:** The duration of copyright protection varies depending on the type of work. In the case of musical works, copyright generally lasts for the lifetime of the creator plus 70 years after their death. For sound recordings, the copyright term is 70 years from the year of release or publication.
- **Moral rights:** The CDPA also recognizes moral rights, which are separate from copyright. Moral rights include the right to be identified as the author or performer of a work and the right to object to derogatory treatment of the work that may harm the creator's reputation.
- **Infringement and remedies:** The CDPA provides remedies for copyright infringement, including injunctions, damages, and account of profits. Criminal penalties may also apply in cases of commercial-scale copyright infringement.
- While patents are not as common in the music industry, they can be relevant for innovations in music technology, instruments, or audio processing. Patents provide exclusive rights for a limited period, usually 20 years, to the inventor, enabling them to prevent others from making, using, or selling the patented invention without permission.

### Performance rights

Performance rights are a subset of copyright that specifically protect the public performance or communication of music. In the UK, music performances in public places, such as concerts, clubs, and radio broadcasts, require licenses from collective management organizations like PRS for Music or PPL. These organizations collect royalties on behalf of copyright holders and distribute them as compensation for the use of copyrighted music [28].

- **Public performance:** Any public performance of a musical work, such as live concerts, music festivals, club performances, and background music in public spaces, requires permission from the copyright holder. This includes both the composition (musical and lyrical elements) and the sound recording.
- **Licensing:** PRS for Music represents the rights of composers, songwriters, and music publishers for the public performance and communication of musical compositions. PPL represents the rights of record companies and performers for the public performance and communication of sound recordings.
- **Dispute resolution:** CMOs provide mechanisms for dispute resolution and handle cases of unauthorized use or non-payment of royalties. They have procedures in place to investigate complaints, mediate disputes, and take legal action if necessary.

- **International rights:** CMOs in the UK have reciprocal agreements with similar organizations worldwide to manage international performance rights. These agreements ensure that international performances of UK music are tracked, licensed, and the royalties are distributed appropriately.

### Trademarks

Trademarks are essential for protecting the distinctive brands associated with musicians, bands, record labels, and music-related goods or services. Trademarks provide exclusive rights to use specific names, logos, or symbols in connection with the music industry. Registering a trademark in the UK provides legal protection against unauthorized use or infringement by others<sup>[29]</sup>.

- **Trademark registration:** To obtain trademark protection in the UK, individuals or businesses can register their music-related trademarks with the Intellectual Property Office (IPO). Registering a trademark provides legal protection and exclusive rights to use the mark in connection with specific goods or services.
- **Distinctiveness:** For a trademark to be registered, it must possess distinctiveness, meaning it should be capable of distinguishing the goods or services of one entity from those of others. Trademarks that are generic, descriptive, or common may face challenges in obtaining registration.
- **Types of trademarks:** In the music industry, trademarks can include names of bands, artists, record labels, logos, album titles, slogans, or any other distinctive symbols or designs associated with musical entities or their merchandise.
- **International protection:** Trademark protection can also extend beyond the UK through international trademark systems and agreements. For broader protection, trademark owners can consider filing for international trademarks under systems like the Madrid Protocol or seeking protection in individual countries where they conduct business.

### Conclusion

Intellectual Property Rights (IPRs) play a crucial role in the music industry, both domestically and internationally. They provide legal protection and incentives for creators, artists, and businesses in the music sector. The World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO) are international bodies that promote and protect IPRs, including those in the music industry. In the UK and the USA, specific laws and regulations govern IPRs in the music industry. IPRs, such as copyright and trademarks, protect the original musical compositions, sound recordings, and associated brands in the music industry. They grant exclusive rights to creators, artists, and businesses, ensuring they have control over the use, distribution, and commercial exploitation of their works. IPRs provide economic incentives for artists and creators to invest in new music, innovative technologies, and musical expressions. By granting exclusive rights and potential financial rewards, IPRs encourage the creation of new music and foster a vibrant music industry. The WTO establishes

international trade rules, including intellectual property provisions under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS set minimum standards of protection for IPRs, ensuring a level playing field and encouraging global trade in music. WIPO is a specialized agency of the United Nations that promotes the protection of intellectual property worldwide. It provides forums for international cooperation, establishes norms, and offers services related to IPRs. WIPO works with member states to develop treaties and facilitate the protection and enforcement of IPRs, including in the music industry. In the UK, the Copyright, Designs and Patents Act 1988 provides the legal framework for copyright protection in the music industry. It grants exclusive rights to creators and copyright holders and establishes remedies for infringement. In the USA, copyright protection for music is governed by the U.S. Copyright Act, which provides similar rights and protections. IPRs in the music industry are enforced through legal mechanisms, such as civil litigation and administrative proceedings. Copyright owners can seek remedies, including injunctions, damages, and account of profits, to protect their rights. Alternative dispute resolution methods, such as mediation and arbitration, may also be utilized.

### References

1. Gary Myers. *Intellectual Property Law: Principles and* (St. Paul, Minnesota, USA, 2021, 78).
2. Tatsuo Tanaka, Tetsuji Okazaki. "The Impact of Digital Sharing Technologies on the Sales of Copyrighted Goods: A Case Study of the Music Industry," *Information Economics and Policy*, 2012, 24(2).
3. Vandana Mittal. *Intellectual Property Rights in India* 67 (New Delhi, 2019).
4. Felix Oberholzer-Gee, Koleman Strumpf. "Does pyright Piracy Pay? The Effects of Music Downloads on Sales," *The Journal of Political Economy*, 2007, 115(1).
5. Trevor Cook, Bernard Horowitz. *Intellectual Property Law: A Practical Guide to Copyrights, Patents, Trademarks, and Trade Secrets* 89 (Chicago, Illinois, USA, 2020).
6. Amarjyoti Borah. *Law of Intellectual Property Rights in India: Status, Issues, and Challenges* 84 (Guwahati, 2016).
7. Peter Tschmuck. "Digital Disruption and Copyright Law: The Case of the Music Industry," *International Journal of Music Business Research*, 2017, 6(2).
8. Paul Heald. "Copyright and Creativity in the Music Industry," *Journal of Economic Perspectives*, 2015, 29(1).
9. Raphaël Boleslavsky, Christopher Cotton. "The Effect of Digital Sharing Technologies on Music Markets: A Survival Analysis of Albums on Ranking Charts," *Information Economics and Policy*, 2015, 30.
10. Brett Danaher, Michael D Smith, *et al.* "The Effect of Copyright Enforcement on Online Music Piracy: A Panel Data Analysis," *Information Systems Research*, 2017, 28(2).
11. Luis Aguiar, Joel Waldfogel. "Digital Music Consumption on the Internet: Evidence from Clickstream Data," *Information Economics and Policy*, 2016, 37.
12. Available at: <https://www.wipo.int/treaties/en/ip/berne/> (last visited on July 31, 2024).

13. Joel Waldfoegel. "Copyright and Innovation in the Digital Age: Evidence from the Music Industry," *The Journal of Law and Economics*, 1999, 42(S1).
14. Ruth Towse. "Exploring the Relationship between Copyright Infringement and Legal Streaming Services: A Case Study of the Music Industry," *Journal of Cultural Economics*, 2018, 42(4).
15. KJ Greene. "Copyright, Innovation, and Cultural Policy: The Case of Music Sampling," *Journal of Popular Music Studies*, 2012, 24(3).
16. George S Ford, Brett M Frischmann. "Copyright Infringement and Digital Downloads: Empirical Evidence from the Music Industry," *Journal of Law and Economics*, 2006, 49(1).
17. Terttu Luukkonen. "The Impact of Copyright Infringement on Online Music Sales: A Cross-Country Analysis," *Journal of Cultural Economics*, 2016, 40(4).
18. Stan J. Liebowitz, Alejandro Zentner. "Copyright Policy and the Use of Music in New Media: Evidence from the Early Days of Napster," *Journal of Cultural Economics*, 2006, 30(1).
19. Jordi McKenzie, Richard Watt. "Digital Music Consumption and the Copyright Enigma: An Empirical Analysis of Music Consumption on the Internet," *Review of Economic Research on Copyright*, 2009, 6(2).
20. Available at: <https://www.copyright.gov/rulemaking/mma-designations/>(last visited on July 31, 2024).
21. Marina Azzimonti, Pierre Gervais. "Copyright and Creation: Evidence from Italian Opera during the Napoleonic Age," *Journal of Economic History*, 2018, 78(2).
22. Stan J Liebowitz. "Copyright Law, Digital Sharing, and the Music Industry: A Review of the Literature," *Journal of Economic Literature*, 2014, 52(4).
23. Available at: <https://soundcharts.com/blog/performance-rights-organizations/>(last visited on July 31, 2024).
24. Available at: <https://www.copyright.gov/legislation/dmca.pdf>(last visited on July 31, 2024).
25. Available at: <https://www.copyright.gov/music-modernization/sound-recordings-vs-musical-works.pdf>(last visited on July 31, 2024).
26. Available at: <https://www.themlc.com/our-story/>(last visited on July 31, 2024).
27. Available at: <https://www.legislation.gov.uk/ukpga/1988/48/contents> (last visited on July 31, 2024).
28. Available at: <https://www.gov.uk/government/publications/performers-rights/performers-rights>(last visited on July 31, 2024).
29. Available at: [https://www.offshorecompanycorp.com/us/en/company-formation/jurisdiction/united-kingdom/iptrademark?gclid=Cj0KCQjwqs6lBhCxARIsAG8YcDil2SzscZjkIGfmWM8xwvVDJmHzCfeYkbzLcFyekv\\_E9yWK\\_yCHAWQaAIUDEALw\\_wcB](https://www.offshorecompanycorp.com/us/en/company-formation/jurisdiction/united-kingdom/iptrademark?gclid=Cj0KCQjwqs6lBhCxARIsAG8YcDil2SzscZjkIGfmWM8xwvVDJmHzCfeYkbzLcFyekv_E9yWK_yCHAWQaAIUDEALw_wcB)(last visited on July 31, 2024).