




# ***I400 - An Introduction to Copyright in the Digital Age***

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# *Approximate Timeline*



19th C.	notation, home music market
1870	early recordings / phonograph
1920	radio and film
1930	magenetic tape
1950	post-war recordings, singles
1970	LP records, “music industry”
1980	cassettes, digital recording
1990	widespread CD adoption
1998	internet distribution
2000	file sharing, P2P
2003	iTunes

# Copyright Law - I

Artistic copyright law is concerned with controlling the dissemination of a work of art.

Copyright laws are granted by government, and are generally concerned with the rights of authors.

However, it is possible for authors to transfer (sell) those rights to publishers, so many aspects of copyright now refer to publishers too

Has some overlap with intellectual property rights, although there are differences

IANAL (I am not a lawyer) . . .

# Copyright Law - II

Some facts about copyright laws:

- ⑥ usually they require the work to meet some sort of minimum standard of originality
- ⑥ the copyright will expire after a certain amount of time (public domain)
- ⑥ copyright grants the owner the ability to perform, display, reproduce, and adapt the work, and to charge fees for these services
- ⑥ copyrights can be transferred by an owner to another owner

# Copyright Law - III

- ⑥ under some conditions, small parts of works can be reproduced for educational or academic purposes (between 4 and 10 percent)
- ⑥ some jurisdictions may grant copyright to the person who paid for the creation of the work (the employer), not the artist

# *How musicians get paid for recordings*



Basically two ways:

They can get paid for physical sales of records. This is known as **mechanical rights**. However, there may be costs associated with the production of the recording that have to be paid, such as the cost of reproduction and distribution

Additionally, composers are paid **royalties** based on airplay or public performance. This has nothing to do with the physical medium, such as the CD or LP that the work is distributed on.

Royalties are distributed by organizations such as SOCAN and ASCAP, based on periodic monitoring of radio airplay, etc.

# *Important Copyright Acts - I*

- ⑥ **1710** first modern copyright law, the British Statute of Anne
- ⑥ **1886** berne convention: first major international agreement
- ⑥ **1976** The U.S. Copyright Act of 1976 provides protection for original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device
- ⑥ **1992** U.S. Audio Home Recording Act (AHRA), allowing owners of recordings to make copies of recordings for non-commercial use

# *Important Copyright Acts - II*



- ⑥ **1995** U.S. Digital Performance Rights in Sound Recordings Act, giving record companies the right to receive royalties for transmission of works they own
- ⑥ **1998** U.S. DMCA clarified issues from 1995, including some aspects of the streaming and distribution of audio over the internet (but mostly concerned with technological rights of industry in general)



# *The Moral Rights of an Artist*

As of the 1994 **WTO Agreement on Trade-Related Aspects of Intellectual Property Rights**, most jurisdictions recognize several “moral rights” of artists, including:

- ⑥ the right not to have the work altered or destroyed without consent
- ⑥ the right to be attributed as the author of the work

Unlike copyright rights, moral rights cannot be reassigned

However, this only applies to countries that signed the Berne Convention, as well as being part of the World Trade Organization . . .

# Sampling

Definition: sampling (in music) is the act of taking a portion of one sound recording and reusing it as an instrument or element of a new recording

First appears in Jamaica as part of the “Dub” movement in the 60’s

Later a general trend in the late 70’s and early 80’s as an alternative to drum machines (but fulfilling the same role), started by Jamaican immigrants in New York

Becomes a foundation for a new type of music: rap and later Hip-Hop (and many other sub-genres)

# *Sampling - I*



Early Rap mostly used samples from obscure funk records and KraftWerk (who also did early experiments with streaming)

Eventually, some of these techniques began to appear in songs that did well commercially

Various artists and rights-holders began to argue that this was not fair use and many legal actions ensued

This led to many changes, such as better approaches to licensing and “G-Funk”

# Sampling - II



Two famous sampling cases:

- ⑥ John Oswald's **Plunderphonics** (1985)
- ⑥ Negativland (1991)

Point of interest: Beastie Boys "Paul's Boutique" (1989)

# Similar Examples

There are many examples of composers or artists borrowing or quoting one another, to various degrees, that may be seen as related to sampling. Some examples are:

- ⑥ Marcel Duchamp and found art (objet trouvee)
- ⑥ Andy Warhol and “Pop Art”
- ⑥ William S. Burroughs and cut-up techniques
- ⑥ Pierre Schaeffer and “Musique concrete”
- ⑥ John Cage: Radio Music (1956)
- ⑥ Luciano Berio’s **Sinfonia** (1968)
- ⑥ Frank Zappa and “xenochrony”

# ***Something to Think About***



What is the difference between quotation, influence, borrowing, and “unfair use” of musical materials?

We’ll talk about this a bit more at the end of class. . .

# ***The Internet Riset***

Right in the middle of the “sampling wars”, the Internet began to gain popularity and become more commonly used

The provided a new medium for distribution of information, including audio

The early days of the Internet were generally not bound by many of the legal restrictions of other mediums, in part because very few people saw the significance of it

## First Internet music distribution site: The Internet Underground Music Archive (IUMA)

- ⑥ Founded in 1993 by a group of students at the University of California, Santa Cruz
- ⑥ Hosted thousands of MP2 recordings
- ⑥ Preceded the popularization of both the World Wide Web and MP3

Many different sites soon begin to appear that distribute music on the Internet.



# ***Napster and P2P - I***

- ⑥ Premieres in mid-1999
- ⑥ Internet-based service providing for direct transference of compressed music files through a peer-to-peer system
- ⑥ Easier to search for music than the existing search engines (dominant engine was AltaVista)
- ⑥ Immediately gets accused of harming the record industry and contributing to loss of sales
- ⑥ Also disliked by colleges because it increased bandwidth costs

## ***Napster and P2P - II***



- ⑥ First lawsuit: December of 1999
- ⑥ IU named in lawsuit: April 2000
- ⑥ Shut down by legal action on March 5, 2001.
- ⑥ Reason: they could not prove that they did not have copyrighted material on their system... this technology didn't exist (and still doesn't)

## ***MPAA, RIAA, P2P***

The dissolution of Napster led to an explosion of other Peer-to-Peer systems, such as Kazaa, Morpheus, Gnutella, and Bittorrent

The MPAA and the RIAA win important trials and begin various other legal actions (MP3.com)

The effect of these actions is unclear, but becoming increasingly international

Canada is not bound by the same agreements, and downloading of music by Canadians for private use is (still) legal.

# ***“The Future”***



- ⑥ Development of digital rights management, MPEG-21
- ⑥ Digital stores, iTunes
- ⑥ Mobile devices and wireless connectivity
- ⑥ Trusted computing
- ⑥ The world
- ⑥ “It’s not just a few people”

# ***Questions, Discussion***

