

“IP AND MUSIC: FEEL THE BEAT OF IP”

by

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INTRODUCTION

In the world where melodies and rhythms have no borders, music stands as a timeless expression of human creation. Behind every lyric and note lies an intellectual spark of creator, an essence critically protected by Intellectual property (IP) rights. The rise of digital technology has revolutionized the global music creation, composition, distribution and production making it easier to access world-wide. However, the rapid transformation has led to raising concerns of the protection of Intellectual property rights (IPR) of creators. IPR are the legal rights granted to creator and owners of the work that are products of human intellect. These rights are crucial for protecting innovations, artistic works and music works, guaranteeing that rights are upheld and not misused without the permission. This essay looks at how intellectual property rights and music are connected and says that rights are needed for innovation to go with the competitive surroundings.

1. UNDERSTANDING INTELLECTUAL PROPERTY (IP) RIGHTS IN MUSIC

Intellectual property rights are granted to creators for their Innovations. This Intellectual property (IP) on Music is protected under the various forms like Copy right, Trade Marks and patents.

2.1. Copy Right: It is a form of legal protection granted to the creators of original works of authorship. Provides creators with an exclusive right to use, distribute and destroy. In India copy right protection is granted under the Copy Right Act, 1957¹. Which authorise the rights of authors and creators of musical work.² Section 13 of the Act “Protects original literary, dramatic, musical and artistic works. Section 14 “enumerates the exclusive right conformed to copy right holders, including right to reproduce, distribute and make derivative work”.

¹ <https://www.copyright.gov.in/Documents/Copyrightrules1957.pdf>

² *Copyright Laws And Their Impact In Indian Film Industry*, Ijert org, (2024), <https://www.ijert.org/papers/IJCRT24A4215.pdf>

Additionally, Section 51 outlines the penalties of infringement. Its main role is allowing musician to license their work, earning Royalty each time their music is used.³

2.2. Patents: can be applied to innovation related to music technology such as sounds, audio composition and digital production tools, while the music itself cannot be patented, but the technological advancement that enhance musical protection can be patented. The Patent Act, 1970,⁴ governing the patenting process. Section 3 and 4 of the Act specify “what cannot be patented”, while Section 48 grants patentee’s exclusive rights over their innovation. In this context of the music industry patents encourage the development of new tools that improve the efficiency and quality of music production.

2.3. Trade Marks: It protects name, logo and other distinctive symbols related to musical works and their creations. For examples: trademarks can be used to protect the musical band names, their symbols and albums ensuring that band uniqueness remains with the creators. The Trade Mark Act, 1999⁵, Section 29 outlines “the legal implication pf trademark infringement”. Through trademarks, artists and music businesses can safeguard their brand identity, increase consumer trust and build a loyal following.

2. THE ROLE OF INTELLECTUAL PROPERTY (IP) IN MUSIC

Intellectual property in music acts as a legal shield for creators, enabling them to have rights, control and profits of their original works. In the absence of IP protections, artists would be exposed to the unauthorized exploitation of their creations which ranges from unauthorized copies and performances to illegal reproductions⁶.

IP creates an environment necessary for fostering creativity and innovation. IP creates room where artists empowered to go beyond the limits, trying first all possible genres and tech, in order to discover new sounds due to the protection of rights of the creators. This protection cultivates a space wherein artists feel secure about their creative expression so that musical

³ Dev, R. (2022) *Understanding intellectual property rights in the music industry*, Rahul Dev - Patent Attorney in Asia Pacific, US and EU. Available at: <https://patentbusinesslawyer.com/understanding-intellectual-property-rights-in-the-music-industry/> (Accessed: 25 April 2025).

⁴ <https://www.indiacode.nic.in/handle/123456789/1392?locale=en>

⁵ https://www.indiacode.nic.in/bitstream/123456789/15427/1/the_trade_marks_act,_1999.pdf

⁶ Dev, R. (2022) *Understanding intellectual property rights in the music industry*, Rahul Dev - Patent Attorney in Asia Pacific, US and EU. Available at: <https://patentbusinesslawyer.com/understanding-intellectual-property-rights-in-the-music-industry/> (Accessed: 25 April 2025).

styles and form can further develop. The role of IP goes beyond mere protection but rather drives growth of the industry by ensuring that creators can get rewards of ingenuity and labour⁷.

3. THE IMPACT OF INTELLECTUAL PROPERTY (IP) ON MUSIC

Intellectual property (IP) rights serve to guard the content of creators from exploitation. It is a major factor in predicting creativity and innovation in the musical field. This law gives a creator an exclusive right to his work ensuring that artists can earn a living from their innovation. IP impact on Musical work fosters⁸:

4.1. Recognition of original work: Intellectual property (IP) rights ensures that proper recognition and reward has been given to the creator of the innovation.

Firstly, it validates the creative efforts of musician work. When a piece of music is recognised as original, it enhances the reputation of the creator and establish identity within the industry. This recognition helps the creator to encourage and invest resource to craft the creation.

Secondly, helps to distinguish the genuine work from the plagiarized or copied content. In the era where digital technology makes it easy for seamless transfer of the work, the originality of the work is critically more important. IP Laws empower users to challenge the unauthorised reproduction and ensure work is recognised appropriately.

Thirdly, when the creator is confident that their innovation is protected it helps them to encourage and come up with new ideas which enriches global musical landscape.

4.2. Ownership and Exclusive rights: Intellectual property (IP) provides creators with the exclusive right to control and monitor their musical work. This ownership is not merely for legal recognition, it is a means for artist to sustain their careers and achieve financial stability.

IP allows music creator with an exclusive right to how to use it, distribute it or public performance. It helps to resolve dispute and give fare opportunity to creators⁹.

⁷ (2019) *Youth Music*. Available at: <https://www.youthmusic.org.uk/resources/short-guide-intellectual-property-rights> (Accessed: 25 April 2025).

⁸ *The impact of intellectual property on the music industry - 1 VoteCloser (2023) 1 VoteCloser - Defining the Issues One at a Time*. Available at: <https://1votecloser.org/es/the-impact-of-intellectual-property-on-the-music-industry/> (Accessed: 25 April 2025).

⁹ Musicbed, I. (2024) *Exploring IP rights in the music and film industries*, *Musicbed Blog*. Available at: <https://www.musicbed.com/articles/resources/intellectual-property-in-music-and-film-industries/> (Accessed: 25 April 2025).

4.3. Growth of Music Industry: Additionally, IP protection helps in the growth of the global music industry due to licensing and commercialization on so many different platforms like radio, TV, films, commercials, and digital streaming services. Without strong IP protections the music industry will be exploited with no or little compensation to its creators.

5. CONTROVERSY SURROUNDING INTELLECTUAL PROPERTY IN MUSIC

Intellectual property (IP) laws lay down the foundation of music industry, by granting creators vital safeguards and financial motivations, but this modern era has sparked with various controversies. These problems frequently arise from the convergence of creativity, business and technology, resulting in discussions regarding the equity, range and efficacy of IP safeguards in music. Some of the major controversies surrounding IP are:

5.1. Copy right infringement and plagiarism disputes

One of the best-known disputes in music is that of plagiarism or copyright infringement. Copyright infringement occurs in music when one uses the original work of a creator without permission and this act violates the right to have exclusive use of that work as laid down by the law of copyright. The subjective of music is inspiration often overlaps with works already there; hence distinguishing between inspiration and originality becomes a complex legal and creative matter since music is made up essentially shared elements: chord progressions, melodies, and rhythms.

In India **Bappi Lahiri** also know as “Disco King” of the Bollywood industry accused the Dr. Dre for plagiarizing his song “Thoda Resham Lagata Hai” in the hit tract “Addictive”. Later the case was settled out of court where Dr. Dre credited Lahiri for the use of the song. Through this we can understand the nature of copyright in the Music¹⁰.

“*Williams v. Gaye, No. 15-56880 (9th Cir. 2018)*” it is a famous and major copyright dispute in U.S., it was claimed that the “blurred lines - 2013”¹¹ copied the musical style

¹⁰ When Bappi Lahiri’s song was copied by hip-hop hit addictive and the composer filed a lawsuit (2023) OTTPlay. Available at: <https://www.ottplay.com/news/when-bappi-lahiris-song-was-copied-by-hip-hop-hit-addictive-and-the-composer-filed-a-lawsuit/97179142b6489> (Accessed: 25 April 2025).

¹¹ *Williams v. Gaye, no. 15-56880 (9th cir. 2018) (2018) Justia Law*. Available at: <https://law.justia.com/cases/federal/appellate-courts/ca9/15-56880/15-56880-2018-03-21.html> (Accessed: 25 April 2025).

of Marvin Gaye's classic song "Got to give it up - 1977". Gaye's family sued for infringement of copy right claiming the two-song claimed similar "feel" and "vibe". U.S., Court gave the verdict that "blurred lines" song has infringed the copy right and owner of song is held to be guilty for copy right infringement and awarded the Gaye's family with compensation for the damages occurred. This case highlighted the need for clear guidelines on what constitute infringement in music and importance of documentation of the process to demonstrate originality if dispute arose.

5.2. Digital Piracy and unauthorized use

Piracy means unauthorised reproduction or distribution of copyrighted music. Such piracy is often done by illegal streaming performances, peer-to-peer-sharing, unauthorized downloads etc, which significantly impact artist. This digital piracy has significantly affected the music industry in India through online platform. Where large populations use such music, it become easy access to digital piracy which raises concerns regarding like revenue diversion, rightful owner of such music.

"*Super Cassettes Industries Ltd. v. Myspace Inc. (2011)*" Super cassettes industry ltd, one of the India's biggest music production companies and owner of t-series brand, filled a case against Myspace Inc., a social media platform that allowed users to upload and share music video. Super cassettes alleged that myspace was hosting its copyrighted songs and videos without authorization. Enabling users to access and share content which lead to infringement of copyright. The Delhi high court ruled in favour of super cassettes industry holding myspace liable for copyright infringement¹².

In India "***Chuttamalle case***" serves as a prominent example, showcasing the complex interplay between artist creativity and legal compliance. the creators of pre-existing musical work accused the producers of chuttamalle of copying key melodic and structural elements composition from a Sri Lankan song, such original work was incorporated without licencing or authorization. The Chuttamalle dispute highlighted the need for alert in respecting intellectual property rights in the music industry. As the new technology makes

¹² *The intersection of copyright law and Digital Platforms: An in-depth analysis of Super Cassettes Industries Ltd. V. MYSPACE Inc. (2011) " Lawful legal.* <https://lawfullegal.in/the-intersection-of-copyright-law-and-digital-platforms-an-in-depth-analysis-of-super-cassettes-industries-ltd-v-myspace-inc-2011/> (Accessed: 25 April 2025).

music accessible to everyone, it becomes the responsibility of the music creators to balance the innovation with the legal and ethical balance¹³.

In “*Metallica, et al. v. Napster, Inc. was a 2000 U.S. case*”: Napster, a peer-to-peer file sharing service, became immensely popular for enabling users to share and download music for free. Metallica, one of the worlds famous heavy metal brands, discovered that their song “I Disappear”- intended for the “mission: impossible 2 soundtrack”- was circulating in Napster before its officially realised. Thus promoted the bank to take the legal action against Napster newspaper for copy right violation. Outcome: court found Napster liable for contributory and vicarious copyright infringement. The ruling stated that Napster had knowledge of the infringement occurring on its platform and had failed to take adequate measures to prevent them. Further, Napster was ordered to implement measure to prevent copyrighted material from being shared from its platform. Failing to comply the Napster was eventually shut down its services in 2001¹⁴.

5.3. AI and Machine-generated Music

Artificial intelligence (AI) has become transformative force in the music industry, enabling the creation of compositions, production enhancement and new approaches to sounds. AI helps them to identify pattern, styles and structures of music. Such new technological enhancement introduces concerns regarding intellectual property (IP). Such AI creates the IP challenges with regarding to ownership, ethical concerns and legal precedence. However, the section 2(d) of copyright act, 1957 defines “author” as a person who creates a work, implying that human involvement is essential for copyright protection. There are still gaps present in addressing ownership and rights of AI-generated music¹⁵.

In case of “*Naruto v. Slater, No. 16-15469 (9th Cir. 2018)*”¹⁶ the U.S. case didn’t involve music, it addresses the critical question of authorship. In this case the monkey

¹³ SpicyIP (eds.) (2024) *Copyright violations in derivative works and music sampling – the case of ‘chuttamalle’*, SpicyIP. Available at: <https://spicyip.com/2024/08/copyright-violations-in-derivative-works-and-music-sampling-the-case-of-chuttamalle.html> (Accessed: 25 April 2025).

¹⁴ *The metallica versus napster legal case: Law paper example* (2021) LawBirdie. Available at: <https://lawbirdie.com/the-metallica-versus-napster-legal-case/> (Accessed: 25 April 2025).

¹⁵ Jr, A.M. (2024) *The rise of ai-generated music: What it means for artists " flourish\$prosper Music Group, Flourish\$Prosper Music Group*. Available at: <https://flourishprosper.net/music-resources/the-rise-of-ai-generated-music-what-it-means-for-artists> (Accessed: 25 April 2025).

¹⁶ *Naruto v. Slater, no. 16-15469 (9th cir. 2018)* (2018) Justia Law. Available at: <https://law.justia.com/cases/federal/appellate-courts/ca9/16-15469/16-15469-2018-04-23.html> (Accessed: 25 April 2025).

names Naruto bought a claim of copyright infringement of photos named as “Monkey selfie”. In this case panel held that monkey cannot hold copyrights. The ruling reinforces the principle that copyright is tied to human authorship, raising doubts about whether AI-generated works can qualify for protection under current laws.

6. COUNCLUSION

To wrap up, Intellectual Property rights form the core of the music business since they ensure that creators are duly identified and rewarded monetarily in addition to their skills and endeavours towards creating good music-also resulting in more innovation and cultural exchange¹⁷. While critics argue that IP laws may reduce creative expression or add to costs, in reality, such protections are fundamental for maintaining an artistic atmosphere. Without robust IP structures, motivation towards originality as well as investment into music would be diminished leading to lesser creativity. Issues such as digital piracy fair royalties AI coming together with the creation of music by machines can help sharpen these IP laws to strike a balance between consumer access and creator protection. Ultimately, IP music not only safeguards individual rights but also helps in vibrant, collaborative global culture where the beat of the creative and innovation can thrive¹⁸.

¹⁷ Hançar, H. (2025) *Ip and Music: Feel The Beat of Intellectual Property*, Lexology. Available at: <https://www.lexology.com/library/detail.aspx?g=8a183d0c-9e50-4594-941f-2ca508c09663> (Accessed: 25 April 2025).

¹⁸ (2019) *Youth Music*. Available at: <https://www.youthmusic.org.uk/resources/short-guide-intellectual-property-rights> (Accessed: 25 April 2025).