



A quick guide to understanding your rights as a musician

As part of the Abram Wilson Career Development Programme, leading lawyer Tom Frederikse delivered a masterclass and question and answer session about **music and the law**.

Here we share some of Tom's answers on **understanding your rights**, which every emerging musician should understand.

Tom is a Principal at [Clintons](#), specialising in digital media and technology related matters with clients including music and entertainment companies, artists, managers, producers and film-makers. He also spent 15 years as a music producer and engineer.

What are IP rights?

IP rights are '**intellectual property**' rights. There are actually six different types of IP rights: copyright, trademark, patents, designs, confidential information and image rights. But for the music business we only ever talk about copyright, trademark, and image rights.

What are trademark and image rights?

Trademark is about marks of trade. And when you're a musician, that's usually the name of the band or your own name. Trademark is important because you are trading as a business. And it's important that people associate your name with you and no one else. And then **image** rights are also important because you don't want anyone else appropriating your name or image for their commercial purposes without your approval.

What is copyright?

Copyright literally is the right to stop other people from copying your music. Every musician is concerned primarily with copyright, because they're very concerned that nobody else should copy their music.

Copyright is a largely misunderstood thing. Copyright arises in certain circumstances without anybody doing anything, so you don't register it. You don't have to take any action for copyright to happen. Copyright arises the moment you've finished writing a song, as soon as you've written the song and written it down on paper, copyright arises at that moment in your ownership, like magic!

The moment that a song has been recorded, the copyright in that sound recording arises as soon as you've done it. So there is no need to ever register a copyright. It's possible to register a copyright and you'll sometimes find that people offer you the ability to register a copyright for some amount of money, but you don't have to do that: the copyright is yours automatically.

You will have probably heard in the past about ways to protect your copyright and the most famous one is to make a recording of your song and put it into a postbox and send it to yourself. That is, of course, totally unnecessary. As soon as you've written a song, it's probably stored in your computer somewhere with a date stamp, you've probably already played it to people, it's unlikely that you'll ever be challenged on when you wrote the song. So there's nothing to do. There's no need to spend any time or money trying to protect your copyright in that way - you've got what you need.

What countries are covered by copyright law?

Copyright law is a national beast, meaning in every case, it always is about your own country. So when you write a song in the UK, as a British citizen, then you are protected by British copyright. When you write a song in the EU, as an American, you're protected by American copyrights. And each one of these is only for that country. But there is an overarching global treaty where almost every country in the world has agreed that they will do what's called a reciprocal agreement, so that every Brit will get copyright protection equivalent to what you would have had at home. And, for example, every American will have copyright protection in Britain. This is a decent system for creating global copyrights.

See:

<https://www.gov.uk/government/publications/protecting-your-uk-intellectual-property-abroad/protecting-your-copyright-abroad>

What are the two types of music copyright?

For the purposes of music, there are two types of copyrights that concern us. The first one is the **composition**. That's the underlying song that you write. And the second one is the **sound recording**. That's the record that you make of that. And these two copyrights are completely separate. They very often are protected by different companies. And sometimes they never meet each other at all. For instance, there are songwriters who write songs with a pencil, and they never record anything. And then they don't have any recording copyrights. They're just a music songwriter. And then there are other recording artists who never write a song. So they will never have any composition copyrights.

How long does copyright last?

The above two copyrights are so different that they even have different protection terms. So if you're a songwriter, your song is going to remain in copyright protection for your entire life plus 70 years after your death. And that's always the case, compositions will always outlive the songwriter by 70 years in the UK and at least 50 in other countries as well.

For the recording side, it lasts for 70 years, no matter when you die. So sound recordings have a shorter term of copyright of 70 years.

What are moral rights?

There's a third part of copyrights that you may have heard of called **moral rights**. The word 'moral' in this case refers to the reputation of the songwriters. In other words, if you are a songwriter or a recording artist, you want the world to know that you wrote this song, or that you recorded this song, because that's your livelihood. And if nobody knows that it's your song, then how are you ever going to build a career? Well, the law wants to help you there. So moral rights are created as a law that requires everybody to credit everybody who wrote the song, and who recorded the song.

Moral rights is probably the least respected of all laws, because the law actually says that every time, for example, a song is played on the radio, you have to identify the artist and the songwriter. But we all know that when you listen to the radio they don't tell you that. And that's actually an infringement of law, they should be doing it correctly by telling you, the artists and the songwriter. But it's very hard to enforce.

What are performer's rights?

The last part of copyrights is very rarely talked about, called **performer's rights**. It's not actually a copyright. It's a separate part of the legal music protection regime. And it is the right for somebody who performs on a recording to be paid, called 'equitable remuneration'. This has been in the news a lot in recent years because of the UK parliament thinking about making a change to the system to give performers 'equitable remuneration' for streaming.* But in short, if you perform on a record, then you should get paid for when that song is played.

There are two different types of performers. There's the folks that are in the band themselves that we call '**featured performers**'. And then there are those who are not in the band, but they still record on the record, and they're called '**non featured artists**'. By way of example, if a Beatles record is played on BBC Radio One, then the featured artists are John, Paul, George and Ringo. They each get a certain amount of money paid to them, because their performances have been used on the radio. But if the song *Eleanor Rigby* gets played, the non featured artists have to get paid as well. And here's a trivia fact for you. The song *Eleanor Rigby* has only Paul McCartney singing and four men playing string quartet. There's no John, George or Ringo playing anything, just these four guys that they hired for a string quartet with Paul singing over it. And obviously, these four guys that played the string quartet were very brilliant musicians, and they should get money every time that song is played on the radio as non featured artists.

*For more on this see:

Musician and Ivors Academy Chair Tom Gray's #BrokenRecord campaign:
<https://thequietus.com/articles/29077-tom-gray-broken-record-campaign-interview-musicians-in-crisis>

UK Government update: <https://www.gov.uk/guidance/the-governments-work-on-music-streaming>

How do you distinguish between a featured performer and non featured artist?

If you are signed as a member of the band or as the artist, then you're a featured artist. But if you're not signed to the record label, but you're simply contracted to come in and play a session, then you're a session player and you're a non featured artist. Now there are a few niceties there, such as if you are singing a lead vocal, then you have an argument for calling yourself a featured artist. Or if you are doing a solo that is so important that you think that you qualify as a featured artist, then you can appeal. The best thing to do is to say to the artist, I think I'm a featured artist, even though I'm not in the band. My contribution is of such a size that I think I should be called a featured artist and I want you to register me that way.