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Piracy, Policy, and Pandora: Outdated Copyright in a Digital World

Stephanie Caress

Chapman University, cares101@mail.chapman.edu

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Caress, Stephanie
Chapman University, Orange, CA
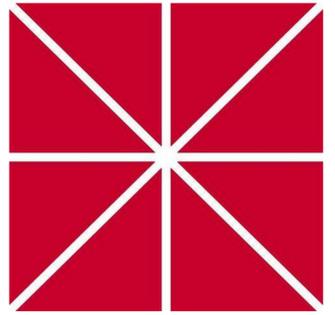
Introduction

The copyright law that governs our digital music atmosphere are outdated. Two big problems that plague the music industry are inaccurate **ownership information** and **piracy**. To understand the scope of these problems and subsequent repercussions, it is imperative to understand the ownership of songs under US copyright law.

There have been many failed attempts to solve both of these problems. The Recording Industry Association of America (RIAA) has tried litigation, educational campaigns, and technology innovations (DRM) to combat file sharing. Additionally, an effort to create an international database of song ownership, called the Global Repertoire Database, was declared a failure in 2014.

Recent lawsuits of Spotify, YouTube, and other media platforms create urgency around the need for a better system. **Blockchain** technology and proposed **policy** changes have the potential to solve these demanding issues.

Ownership Information

When Spotify was sued by David Lowery and Melissa Ferrick for $200 million in unpaid royalties, the company released a statement claiming they simply did not know who to pay. Others argue that the information was there, Spotify just did not want to look. Regardless of who was in the wrong or right, it is clear that the necessary information is not transferred effectively. How can a song even make it to a platform with 100 million users when the copyright information is not known?

Commonly used files such as WAV and MP3 are easy to edit. A user can change the title, album, artist, year, or any other aspect associated with the track. Furthermore, there is no global reliable source for ownership information. Websites run by societies such as ASCAP and BMI are often inconsistent within themselves and between each other, making it difficult to track down appropriate shareholders.
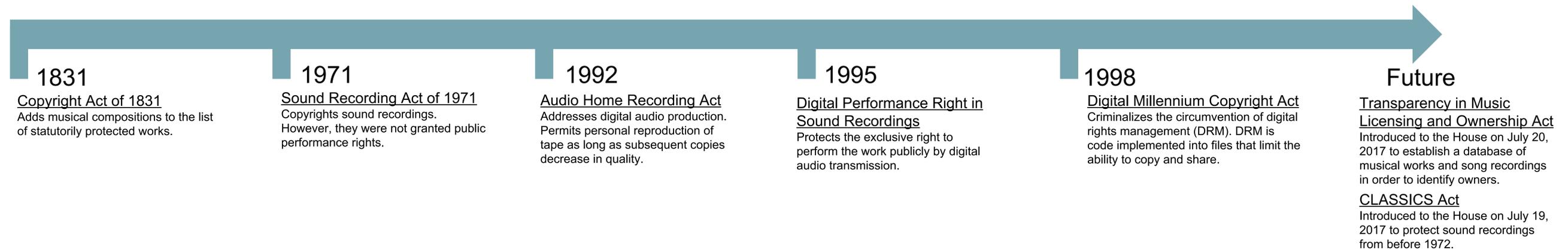
Piracy

Piracy is a term that has come to be synonymous with copyright infringement. Coined by the music industry, piracy of music has been around since the invention of sheet music. However, the internet and other technological innovations have created the ability to produce and share unlimited copies of a work with little to no costs incurred. The RIAA estimates that piracy costs the music industry $12.5 billion annually.

One of the key problems with anti-piracy legislation is that it is reactionary not proactive. Also, the adjustments that are made reflect the interests of big corporate companies that lobby congress members rather than the artists that suffer from these acts. Most changes have been ineffective. For example, the addition of DRM to consumer files did not impact pirating habits because it was only on files that were obtained legally, not those being pirated.

Piracy persists because of the attitudes and beliefs of those who pirate. Many think only large corporations are impacted or believe there is no victim at all. Scholars suggest that to change this habit, copyright law will have to align with the morals of consumers.

History of Copyright in Music

1831
Copyright Act of 1831
Adds musical compositions to the list of statutorily protected works.

1971
Sound Recording Act of 1971
Copyrights sound recordings. However, they were not granted public performance rights.

1992
Audio Home Recording Act
Addresses digital audio production. Permits personal reproduction of tape as long as subsequent copies decrease in quality.

1995
Digital Performance Right in Sound Recordings
Protects the exclusive right to perform the work publicly by digital audio transmission.

1998
Digital Millennium Copyright Act
Criminalizes the circumvention of digital rights management (DRM). DRM is code implemented into files that limit the ability to copy and share.

Future
Transparency in Music Licensing and Ownership Act
Introduced to the House on July 20, 2017 to establish a database of musical works and song recordings in order to identify owners.

CLASSICS Act
Introduced to the House on July 19, 2017 to protect sound recordings from before 1972.

What is Blockchain?

The same technology behind bitcoin with the following key features:
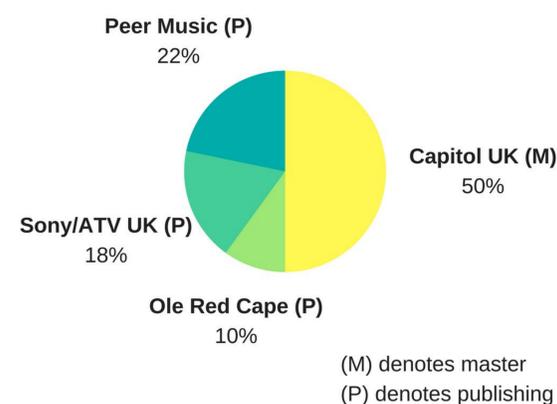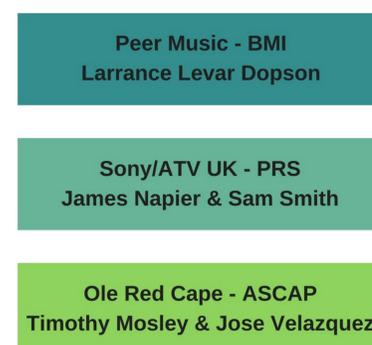
1. **Distributed -** Operates on the idea that no one person or entity controls the information.
2. **Direct -** Could hold "smart contracts" that limit middlemen in music distribution making the transaction direct from creator to consumer.
3. **Transparent -** Has the ability for all records to be seen by anyone with access to the system.
4. **Irreversible -** Information stored in blockchain cannot be tampered with.
5. **Computational Logic -** Code can be implemented to trigger certain reactions.

Blockchain is exciting in the world of music because it has the potential to provide reliable information and fast transactions. Some companies that are developing this technology for music are **Ujo**, **Dot Blockchain**, **Mycelia**, **PeerTracks**, and **Bittunes**.

Who Owns a Song?

"Pray" by Sam Smith

Publishers by Writer/PRO:

Peer Music - BMI
Larrance Levar Dopson

Sony/ATV UK - PRS
James Napier & Sam Smith

Ole Red Cape - ASCAP
Timothy Mosley & Jose Velazquez

Peer Music (P) 22%
Capitol UK (M) 50%
Sony/ATV UK (P) 18%
Ole Red Cape (P) 10%

(M) denotes master
(P) denotes publishing

Based on information from ASCAP and BMI Repertoire databases

Suggested Policy Changes

Some alternative methods that scholars have proposed:

1. **Artist Owned Copyrights -** Author Danwill David Schwender argues that if the artist owns the copyright to his or her work, piracy habits will change because it will no longer be seen as a victimless crime.

2. **Government Administration -** Professors Jessica Litman and William Fisher favor a system in which the government administers blanket licenses and collects taxes for artists.

3. **Removing Copyright Law -** Authors J.J. Arias & Cameron Ellis claim that the money used to enforce copyright law would be better spent elsewhere. Instead of profiting from music directly, artists could utilize complementary markets.