

Ownership of Digital Data



Jordan Briede, Amos Heifner, Eric Uphold,
Kael Race-Kryger, Bryce Ballew



General Survey (Out of 100 Oregon Students)

1. Have you illegally downloaded a movie? (67 YES)
2. If downloading a movie illegally was made easier and safer would you? (82 YES)
3. Have you illegally downloaded music? (73 YES)
4. Would you illegally download music if it was made safer and easier? (86 YES)
5. Is the legality of downloading music/a movie a bigger problem for you or the threat of contracting a computer virus and or the morality of the situation?
(61 Computer Virus/Morality, 39 Legality)

The Legality of Covering Music (JB)



Today there are countless amounts of people that enjoy taking a song that they like and then re recording themselves singing it. Then what many of them do is upload it to a website like Youtube to show it off to their friends or the entire world, not realizing if what they had done was necessarily legal.

Copyright laws in regards to covering music falls under a peculiar category that can be confusing to distinguish legality. This leaves many people wondering if they are safe from lawsuits and not always getting a straightforward answer.

The simplest answer is: As long as you are not a Multi million dollar recording label or a top one hundred singer, most organization don't care. The only real cases that are typically brought to court have large sums of money involved.

But that does not mean what you are doing is Legal just because no one will file a lawsuit against you.

Is it legal? (JB)

In respects to time I will only go over the most popular of the media sharing sites: Youtube. This is not all inclusive for every website, because each has different parameter by which they act within. To list all websites policies would be overwhelming technical, which is not this projects point.

First off when YouTube receives a claim they just distribute info to both parties and remove themselves from the situation. That is when it does not fall under the deal that they made back in 2012 with Harry Fox Agency and the National Music Publisher's Association. This deal was created to allow for songs on youtube to be covered by creators and still give 50% of generated revenue to producers. If this solution was all inclusive it would protect everyone, but unfortunately it is only certain groups that agreed to this. The full list can be found by searching <http://www.nmpa.org/legal/legal.asp> and Harry Fox Agency (HFA).

If not you can always purchase a mechanical license which allows you to cover the music, as long as you are not trying to make money off of it
Apart from this situation, to be fully sure that a you are acting within the law it can require some time and effort.

How do I find Out? (JB)

This depends on several things:

A) The music label: Find their specific policy, B) The recording artist: Checking if the band specifically is ok with it. C) Which song or songs was used.

YouTube has in their databases of copyrighted music.

OR you could just get in contact with the person in charge By: emailing the artist or company specifically asking if it is ok.

OR you could do none of this if this, because you are most likely not going to get sued, that is as long as you are not selling the music or using it for some type of profit. If that tends to be the case what you are then doing is completely illegal without a license. You are not only stealing the ideas of another individual, but selling them for your own benefit which is legally and morally wrong.

SOURCES:"Worried Your Cover Song On YouTube Is Illegal? Here's Everything You Need To Know About It." *New Media Rockstars*. NMPA, 10 Aug. 2013. Web. 13 Mar. 2015.

"Posting Cover Songs on YouTube Legally - Music Licensing Law Explained."*DIY Musician Blog*. DIY Musician Blog, 28 Mar. 2012. Web. 13 Mar. 2015.

Music Covering Survey (JB)

1. Have you ever covered a song or heard a covered song that was posted online: **yes(20) no(0)**

2. Are you aware that it is illegal to cover music without a permit and then post it on the internet in most cases : **yes(10) or no (10)**

3. What do you believe should be the criteria for covered music to be illegal (all that apply)

- if user is selling the covered music: **(19)**
- if it gains popularity: **(7)**
- if they the user covering the song has no license: **(8)**

will you ever consider buying a license for a song so you can put it up on the internet.

yes(3) or no (17)

Music and media sharing



The majority of the music and media that we enjoy everyday is available for free online. However, just because there is a way to acquire it doesn't mean that it's legal. Hosted on foreign servers, sites like The Pirate Bay and Kickass Torrents are essentially just providing a road map to the files you want to download.

Once a torrent has started downloading, you are actually receiving little pieces of the file from many different peers. The problem is that once you connect to another person's file, your IP address is listed out in the open for others to see.

So, whats legal or illegal?

Short answer: If the item is copyrighted and you don't own it, then torrenting it for free is illegal.

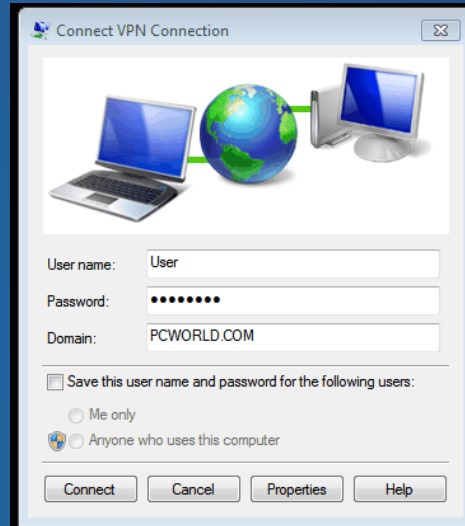
Long answer: The line of intellectual property theft and free distribution can often become blurry. As it stands now, each instance of torrenting varies from case to case. Most countries (United States included) have common laws about copyrighted works that don't take whether you knew the media was copyrighted at the time of download into account.

Under federal law in the US, the damages you may owe can range from \$750 to \$30,000 per work. Downloading a measly 10 songs can result in over a \$300,000 penalty.

Avoiding the Law

The easiest and most effective way to avoid the downfall of torrenting is to use a Virtual Private Network (VPN). Put simply, a VPN is a group of computers networked together over the internet that when connected to, will encrypt all internet communication and secured from even your internet provider.

Because all of the information sent over the internet is encrypted, it cannot be proven that it was your specific computer that accessed a torrent. They range from \$10 to \$20 a month and are the best investment one can make when considering downloading potentially copyrighted files.



File sharing responses at UO

- 1) Have you ever used peer to peer file sharing (torrents)? Y(16)/N(4)
- 2) Has an internet provider ever taken action against you? Y(9)/N(11)
- 3) What types (if any) of files do you generally torrent? Choose all that apply.

- Movies (12)
- Music (16)
- Software (7)

- 4) How much data have you collectively downloaded?

- 0 - 10gb (1)
- 11- 50gb (7)
- 50- 100gb (5)
- 100- 200 gb (3)

- 5) Do you feel that a file downloader should be fined up to \$30,000 per song acquired?
Y(3)/N(17)

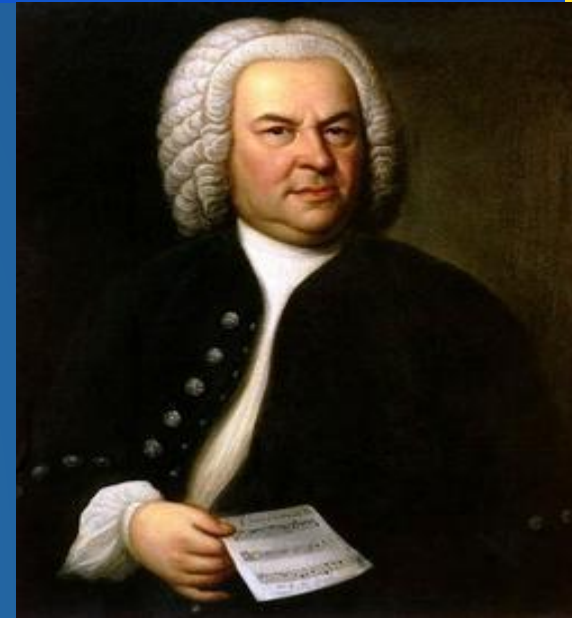
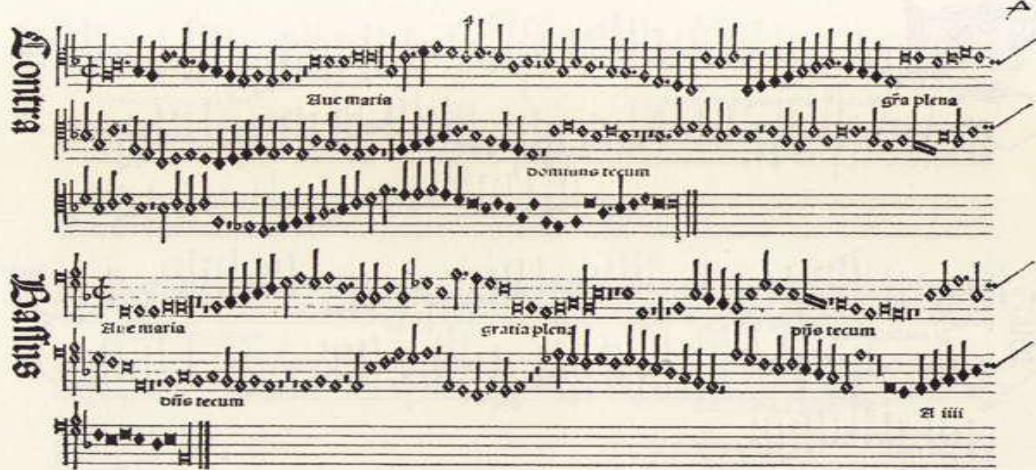


Early “Sharing”

Ottoviano Petrucci (1455-1539)

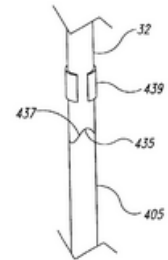
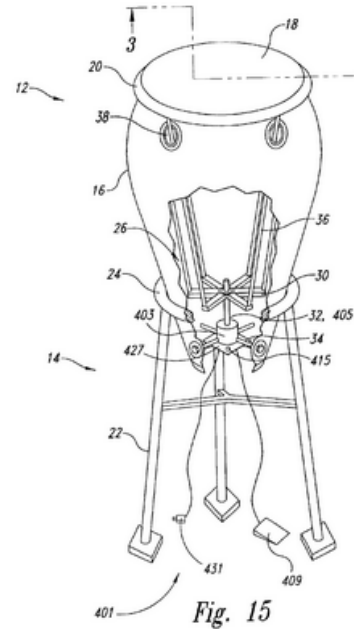
Petrucci appealed to the pope for exclusive printing rights for sheet music in 1510 and the Pope agreed. This exchange forced the next 6 years of musicians (only interrupted by a war) to purchase all of their sheet music from Petrucci. He had officially laid claim to drawing five parallel lines and a clef.

The next few hundred years would be consumed by musical theorists sharing notes and opinions attempting to find a more capable tuning system for instruments. People were at one point legally obliged not to create sheet music, but for the greater good a tuning system was needed and no one would refuse to share what they had learned.



Musical Patents Today

In 2002, two years before his death, Marlon Brando patented a new way to keep drum heads taut. The patent will last until 2016. In that time Brando's family has been making money from any drum using this process that is sold. The creator of this new, more efficient system only reaped the benefits for two years then passed away. A utilitarian might think the mechanism should be more accessible upon the creator's death. Unfortunately this is only a mechanical patent.





This is Reinhold Gliere.

Gliere (1875-1956) composed around the turn of the century.

Some smaller parts of the world have creative patents that last until 50 years after the creator's death.

The European Union and the U.S. among other large parts of the world have creative patents lasting up to 70 years after the creator's death.

Gliere is relevant, because he currently falls into the crack between the two opinions on patent length. The internet allows anyone with a network connection to Canada to access all of his sheet music freely, but it is illegal to download or print his music within the United States borders.



I asked my survey participants these three extra questions:

1. How long do you think creative patents last?
After informing them the actual lengths I asked:
2. Do you think either length of time is fair?
3. If you agree with the concept, how long after death do you think is fair?

Their answers to question 1 ranged from 10 years to one person who actually knew and said 70. 18/20 people assumed it was below 35 years.

Question 2 was a little more unanimous. 20/20 people thought both 50 years after death and 70 years after death were unfair. In question 3, nine people thought that any after death worth was unfair. Eight people had answers ranging from two years to twenty years and the other three people believed that there should be a system here you can decide for yourself (within bounds) for how long you want. I equate their choice to life insurance, in that you can pay more to have more, but there are certain imposed limits.

Modifying Music and the Law

The general elements of modifying content fall under either Fair Use, or Derivative Works.

Fair Use: The copyright owner cannot control how their product is used, so long as it doesn't infringe or damage their copyright. This is frequently used to defend parodies, should the original subject decide to sue, as was the case with *Campbell v. Acuff-Rose Music Inc.*

Derivative Works: A derivative work is something that has elements of something else (be it song samples or design elements), but can be still be copyrighted on it's own, so long as it contains enough original and creative elements to be something different.

Modification and Copyright cont.



In general, these lawsuits vary case by case, so there's no absolute clear line to tread. Important elements that are looked at are the nature, purpose, amount of borrowed material, and the effect on the original work. By looking at these elements, judges then decide whether or not the a copyright was infringed, and if harm was done to the affected party.

Modification/Sampling Survey (Out of 20)

1. If a song is modified so that it sounds entirely different, to whom does it belong?
(Original Owner, 2/20) (Modifier, 1/20) (Both, 4/20)
(Depends on the amount, 13/20)
2. What percentage of a song do you feel, can be 'borrowed' from another song, while still remaining new a new creation?
(0-25%, 10/20) (25-50%, 5/20) (50-75%, 1/20) (75-100%, 4/20)

Division of Profits In the Music Industry

- There are three major groups that contribute to getting music out to the masses:
- Musicians- The individuals who compose and perform the music.
- Record Label- The brand or trademark that is in charge of marketing the music.
- Distributors- The companies in charge of getting the music in venues where it can be sold.

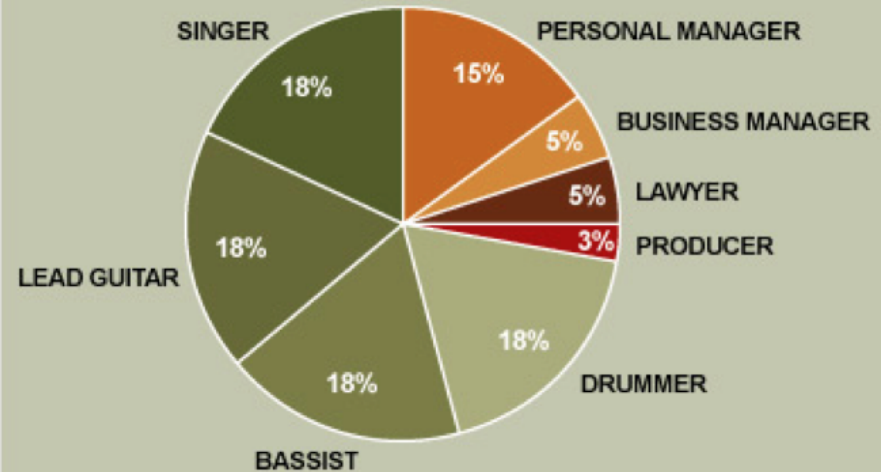
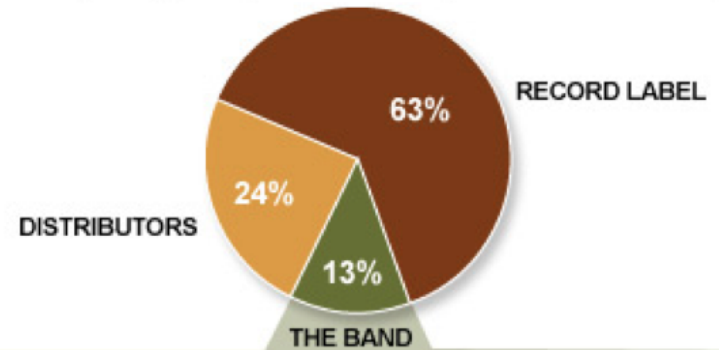
Profit Distribution Survey (N=20)

1. What percentage of the profits that accompany music should go towards the artist? (Average=56%)
2. What percentage of the profits that accompany music should go towards the Record Label? (Average=23%)
3. What percentage of the profits that accompany music should go towards the Distributor? (Average=21%)
4. When listening to music you are familiar with, do you believe that you can confidently distinguish between what the producer is contributing to the music and what the artist is contributing? 13 Y
5. Do you think artists should be paid more for their music than they are currently being paid? (10 YES, 10 NO)

This survey was conducted by the Nielsen Group, a leading global information and measurement company that provides insight and data about what people watch, listen to and buy.

The Great Divide

Who's getting paid (and how much) in the music industry.



For every \$1,000 in music sold, the average musician makes \$23.40.

Further Examination of Music Profits

- SRP: The suggested retail price of a CD is currently \$16.98. Standard wholesale price is about \$10. Superstars can get up to 20% in royalties while most artists get only 12-14%.
- Packaging Charge: 25% of the SRP goes back to the record label for what's called a "packaging charge". This essentially means the label is charging the artists for the plastic case in which the CD is sold.
- Free Goods: "Free goods" are a roundabout way for labels to discount records to stores will be more willing to buy them. Rather than charging Best Buy 100,00 records at wholesale price, the label will sell the 100,000 for the price of 85,000. The artist is then payed for the 85,000 CDs, not the actual 100,000 sold to the retailer.

The End

